

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter, on the Commission’s own motion, to)	
open a docket to implement the provisions of Public)	Case No. U-21547
Act 233 of 2023.)	
_____)	

At the July 10, 2025 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. Daniel C. Scripps, Chair
Hon. Katherine L. Peretick, Commissioner
Hon. Alessandra R. Carreon, Commissioner

ORDER

Public Act 233 of 2023 (Act 233), MCL 460.1221 *et seq.*, signed by Governor Gretchen Whitmer on November 28, 2023, provides a limited grant of siting authority under specified conditions to the Commission for certain utility-scale solar, wind, and energy storage facilities. Act 233 became effective on November 29, 2024. Under specified conditions, Act 233 allows electric providers and independent power producers¹ (IPPs) to apply to the Commission to obtain a certificate for an eligible energy storage facility, solar energy facility, and/or wind energy facility, as defined. MCL 460.1222(2).

On February 8, 2024, the Commission issued an order in this docket (February 8 order) opening this docket and directing the Commission Staff (Staff) to file recommendations on

¹ An “independent power producer” is “a person that is not an electric provider but owns or operates facilities to generate electric power for sale to electric providers, this state, or local units of government.” MCL 460.1221(k).

application filing instructions by June 21, 2024. February 8 order, p. 3. The Commission sought comments from interested persons regarding the Staff’s recommendations and set deadlines for the filing of initial and reply comments for July 17, 2024, and August 9, 2024, respectively. *Id.*

On October 10, 2024, the Commission issued an order in this docket (October 10 order) that adopted the Staff’s draft Application Filing Instructions and Procedures (AFIP), as specified by the order, attached to the October 10 order as Exhibit A. The Commission directed that the AFIP are to be used by electric providers and IPPs seeking to obtain a certificate from the Commission for authority to site an energy facility pursuant to Act 233. On October 21, 2024, the Commission issued an errata (October 21 errata) that made corrections to the approved AFIP.²

As stated in the October 10 order, Section 226(4) of Act 233 authorizes the Commission to “assess reasonable application fees to the applicant to cover the commission’s administrative costs in processing [an] application, including costs for consultants to assist the commission in evaluating issues raised by the application.” MCL 460.1226(4). Section 226(4) of Act 233 further provides that the Commission “may retain consultants to assist the commission in evaluating issues raised by the application and may require the applicant to pay the cost of the services.” *Id.*

The AFIP require applicants to pay an application fee to cover the Staff’s administrative costs for processing an application, including the cost for retaining experts. The application fee includes a one-time base application fee in the amount of \$10,000, which includes up to 150 hours for the Staff’s involvement in the application’s contested case proceeding and is due at the time of the prehearing conference. *See*, October 21 errata, AFIP, p. 4. The AFIP cap costs for processing the

² All references to the AFIP in this order relate to the corrected AFIP that were attached to the October 21 errata.

application as a contested case at \$250,000, excluding the costs associated with retaining consultants as needed. October 21 errata, AFIP, p. 7.

The AFIP further provide that applicants may be subject to additional fees. These fees include: additional hours for the Staff's involvement in the contested case proceeding (billed at an hourly rate); the actual fees associated with expert testimony, public meetings, court fees, and environmental reporting and testing; miscellaneous maintenance fees following the Commission's issuance of a certificate; formal complaints; and requests for exceptions to standard rules. *See*, October 21 errata, AFIP, pp. 4-7.

Further, the AFIP provide that regulated utilities are exempt from the one-time base application fee since these utilities are already subject to an annual public utilities assessment. October 21 errata, AFIP, p. 4; *see also*, MCL 460.112. However, the AFIP provide that regulated utilities are still subject to additional fees, as described above. *Id.*

In the underlying comment proceeding in this case, the Michigan Energy Innovation Business Council and Advanced Energy United (EIBC/United) encouraged the Commission to cap the total cost of application fees at \$150,000. In support of this position, EIBC/United cited the current iteration of the Ohio Administrative Code, which requires an upfront payment of \$10,000 at the time the case is opened followed by fees incurred, and billed at cost, not to exceed \$150,000. *See*, Case No. U-21547, filing #U-21547-0005, p. 24 (referencing Ohio Admin. Code 4906-3-12); *see also*, October 10 order, p. 43. EIBC/United stated that the rules were adopted by the Ohio Joint Committee on Agency Rule Review and went into effect on May 30, 2024. In turn, EIBC/United argued that it was “both reasonable to set an application fee cap and to align that fee cap with those set in other neighboring states such as Ohio.” Case No. U-21547, filing #U-21547-0005, p. 24.

Also in the underlying comment proceeding, DTE Electric Company (DTE Electric) expressed concern about the uncertainties of additional costs and how much higher the costs could be, particularly when considered in combination with the other costs required by Act 233 and incorporated into the AFIP. Accordingly, DTE Electric suggested providing a cap on these additional fees. *See*, Case No. U-21547, filing #U-21547-0013, p. 24; *see also*, October 10 order, p. 43.

In its October 10 order, the Commission found that Act 233 expressly permits the Commission to assess reasonable application fees to cover the costs of processing an application. October 10 order, p. 43 (citing MCL 460.1226(4)). The Commission further found that application fees among states that have authority to site energy facilities vary widely and may include application fees that are much higher than \$250,000. October 10 order, p. 43. Finally, the Commission found that the Staff's proposal to exclude the costs associated with retaining consultants for specialty issues from the proposed application fee cap was reasonable and appropriate since Act 233 expressly grants the Commission authority to retain consultants. *Id.*, pp. 43-44 (citing MCL 460.1226(4)).

Given the discretionary and permissive nature of Section 226(4) of Act 233, which states that the Commission "may" assess reasonable application fees, the Commission has decided to postpone collection of base application fees, additional Staff hours fees (billed hourly), and formal complaint fees until further notice. *See*, MCL 460.1226(4); *see also*, October 21 errata, AFIP, p. 5. However, given that additional fees associated with consultant expert testimony, external public meetings, court fees (including transcription and court reporting), and environmental reporting and testing represent actual costs incurred by the Commission, the Commission does not

include these additional fees in its decision to postpone collection. *See*, October 21 errata, AFIP, p. 5.

THEREFORE, IT IS ORDERED that:

A. For applications submitted to the Commission pursuant to Public Act 233 of 2023, the \$10,000 base application fee assessed under Section 5 of the Commission's adopted Application Filing Instructions and Procedures, which cover the Commission's administrative costs in processing utility-scale solar, wind, and energy storage facility siting applications, is hereby waived until further order of the Commission.

B. For applications submitted to the Commission pursuant to Public Act 233 of 2023, the additional fees assessed under Section 5 of the Commission's adopted Application Filing Instructions and Procedures for additional hours for the Commission Staff's involvement in the contested case proceeding (billed at an hourly rate) are hereby waived for both electric utilities and independent power producers until further order of the Commission.

C. For applications submitted to the Commission pursuant to Public Act 233 of 2023, the additional fees assessed under Section 5 of the Commission's adopted Application Filing Instructions and Procedures for formal complaints are hereby waived for both electric utilities and independent power producers until further order of the Commission.

D. All other fees adopted by the Commission in its October 10, 2024 order in this case, as corrected by the October 21, 2024 errata, remain in effect.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26. To comply with the Michigan Rules of Court's requirement to notify the Commission of an appeal, appellants shall send required notices to both the Commission's Executive Secretary and to the Commission's Legal Counsel.

Electronic notifications should be sent to the Executive Secretary at LARA-MPSC-Edockets@michigan.gov and to the Michigan Department of Attorney General - Public Service Division at sheac1@michigan.gov. In lieu of electronic submissions, paper copies of such notifications may be sent to the Executive Secretary and the Attorney General - Public Service Division at 7109 W. Saginaw Hwy., Lansing, MI 48917.

MICHIGAN PUBLIC SERVICE COMMISSION

Daniel C. Scripps, Chair

Katherine L. Peretick, Commissioner

Alessandra R. Carreon, Commissioner

By its action of July 10, 2025.

Lisa Felice, Executive Secretary

PROOF OF SERVICE

STATE OF MICHIGAN)

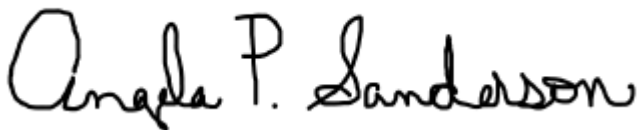
Case No. U-21547

County of Ingham)

Brianna Brown being duly sworn, deposes and says that on July 10, 2025 A.D. she electronically notified the attached list of this **Commission Order via e-mail transmission**, to the persons as shown on the attached service list (Listserv Distribution List).


Brianna Brown

Subscribed and sworn to before me
this 10th day of July 2025.



Angela P. Sanderson
Notary Public, Shiawassee County, Michigan
As acting in Eaton County
My Commission Expires: May 21, 2030

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RPA Energy d/b/a Green Choice Energy
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