

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter, on the Commission's own motion,	)	
to consider the restructuring of the electric	)	Case No. U-11290
utility industry.	)	
_____	)	

At the September 14, 1999 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. John G. Strand, Chairman
Hon. David A. Svanda, Commissioner
Hon. Robert B. Nelson, Commissioner

OPINION AND ORDER

On June 30, 1998, The Detroit Edison Company (Detroit Edison) filed a request for approval of a final retail access implementation plan, deferred accounting authority, and declaratory relief in Case No. U-11290 et al. In that filing, Detroit Edison requested that the Commission issue a declaratory ruling that DTE Energy's affiliates would be permitted to participate in the retail open access program. The filing did not include a code of conduct to govern Detroit Edison's relationship with its affiliates. In its March 8, 1999 order, the Commission stated it would "defer ruling on Detroit Edison's request . . . until the utility files a proposed code of conduct." March 8, 1999 order, p. 37.

On April 12, 1999, Detroit Edison filed a proposed code of conduct patterned after the code of conduct that the Commission had approved on March 8, 1999 for Consumers Energy Company

(Consumers). The proposed code, attached as Exhibit A, eliminates the distinction in Consumers' code between first and second tier affiliates because Detroit Edison anticipates that DTE Energy affiliates, and not Detroit Edison's affiliates, will participate in the retail open access program.

Because the code of conduct is consistent with the code approved for Consumers, the Commission concludes that it should approve Detroit Edison's proposed code of conduct on a provisional basis. Therefore, Detroit Edison's affiliates may participate in the retail open access program as provided in the Commission's prior orders. Consistent with the code of conduct provisionally approved for Consumers, DTE Energy affiliates are limited to "one-third of the total amount of eligible retail open access load per bid cycle." March 8, 1999 order, p. 37.

In a separate order issued today in Case No. U-12134, the Commission is initiating a contested case proceeding to investigate further what provisions should be included in a more permanent code of conduct.

The Commission FINDS that:

- a. Jurisdiction is pursuant to 1909 PA 106, as amended, MCL 460.551 et seq.; MSA 22.151 et seq.; 1919 PA 419, as amended, MCL 460.51 et seq.; MSA 22.1 et seq.; 1939 PA 3, as amended, MCL 460.1 et seq.; MSA 22.13(1) et seq.; 1969 PA 306, as amended, MCL 24.201 et seq.; MSA 3.560(101) et seq.; and the Commission's Rules of Practice and Procedure, as amended, 1992 AACR, R 460.17101 et seq.
- b. The proposed code of conduct should be approved on a provisional basis.
- c. Detroit Edison's affiliate may participate in the retail open access program as provided in prior orders.

THEREFORE, IT IS ORDERED that the code of conduct filed by The Detroit Edison Company on April 12, 1999, attached as Exhibit A, is approved on a provisional basis and affiliates of The Detroit Edison Company may therefore participate in the retail open access program.

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; MSA 22.45.

MICHIGAN PUBLIC SERVICE COMMISSION

/s/ John G. Strand
Chairman

(S E A L)

/s/ David A. Svanda
Commissioner

/s/ Robert B. Nelson
Commissioner

By its action of September 14, 1999.

/s/ Dorothy Wideman
Its Executive Secretary

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter, on the Commission's own motion,	)	
to consider the restructuring of the electric	)	Case No. U-11290
utility industry.	)	
_____	)	
	)	
In the matter of the proposal of the	)	
CHOICE ADVISORY COUNCIL for a	)	
statewide customer education program	)	Case No. U-12133
and other related matters.	)	
_____	)	

At the September 14, 1999 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. John G. Strand, Chairman
Hon. David A. Svanda, Commissioner
Hon. Robert B. Nelson, Commissioner

ORDER AND NOTICE OF HEARING

On June 3, 1999, the CHOICE¹ Advisory Council (Council) filed a "Statewide Customer Education Program Proposal" (Proposal) in Case No. U-11290. The Council is a voluntary working group whose members include the Michigan Community Action Agency Association, Engage Energy US, L.P., the Michigan Electric Cooperative Association, the Small Business Association of Michigan, Indiana Michigan Power Company, the Michigan Manufacturers Association, the Michigan Retailers Association,

¹The acronym CHOICE stands for Customers Have Options in Choosing Electricity.

the American Association of Retired Persons, Consumers Energy Company, the Michigan Electric and Gas Association, the Michigan League for Human Services, Nordic Electric, The Detroit Edison Company, The Heat and Warmth Fund, and the Commission Staff.

The Commission has approved a program that allows electric customers to choose an alternative electric supplier on a phased-in schedule beginning with 2½% on September 20, 1999 and concluding with choice for all customers by January 1, 2002. The Proposal recommends a comprehensive communications effort designed to advise electric customers in Michigan about this program. The Proposal includes a detailed outline of the communications strategy, a proposed budget, and an implementation plan, but does not recommend a funding mechanism due to lack of consensus.

The Council reached consensus on all aspects of the education program except on the issue of the method for the allocation and recovery of costs to fund the program. The Council requests the Commission to determine an allocation of the total program costs among regulated electric companies.

Council cover letter, June 3, 1999, p. 1.

The Commission is favorably impressed with the substance of the Proposal, and is aware of the time-sensitivity and sequential nature of some of the proposed activities. However, because the Proposal could have rate implications, the Commission concludes that it would be appropriate to commence a contested case proceeding to consider it. Accordingly, a prehearing conference shall be held on October 7, 1999 at 9:00 a.m. for the purpose of determining parties to this proceeding, setting a schedule, and other related matters. The administrative law judge should set a schedule that expedites this proceeding.

For purposes of administrative efficiency, future filings in this proceeding should be made in the docket in Case No. U-12133 rather than in Case No. U-11290.

The Commission FINDS that:

- a. Jurisdiction is pursuant to 1909 PA 106, as amended, MCL 460.551 et seq.; MSA 22.151 et seq.; 1919 PA 419, as amended, MCL 460.51 et seq.; MSA 22.1 et seq.; 1939 PA 3, as amended, MCL 460.1 et seq.; MSA 22.13(1) et seq.; 1969 PA 306, as amended, MCL 24.201 et seq.; MSA 3.560(101) et seq.; and the Commission's Rules of Practice and Procedure, as amended, 1992 AACCS, R 460.17101 et seq.
- b. A prehearing conference should be held on October 7, 1999 at 9:00 a.m.

THEREFORE, IT IS ORDERED that a prehearing conference will be held on October 7, 1999 at 9:00 a.m. at the Commission's offices, 6545 Mercantile Way, Lansing, Michigan.

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

MICHIGAN PUBLIC SERVICE COMMISSION

(S E A L)

/s/ John G. Strand

Chairman

/s/ David A. Svanda

Commissioner

By its action of September 14, 1999.

/s/ Dorothy Wideman

Executive Secretary

/s/ Robert B. Nelson

Commissioner, abstaining.

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter, on the Commission's own motion,	)	
to consider the restructuring of the electric	)	Case No. U-11290
utility industry.	)	
_____	)	
	)	
In the matter of the approval of a code of conduct	)	
for CONSUMERS ENERGY COMPANY and	)	Case No. U-12134
THE DETROIT EDISON COMPANY.	)	
_____	)	

At the September 14, 1999 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. John G. Strand, Chairman
Hon. David A. Svanda, Commissioner
Hon. Robert B. Nelson, Commissioner

ORDER AND NOTICE OF HEARING

The order issued on March 8, 1999 in Case No. U-11290 et al. directed the Commission Staff (Staff) to meet with Consumers Energy Company (Consumers), The Detroit Edison Company (Detroit Edison), and other interested parties to receive comments on a Staff paper entitled "Developing and Implementing Codes of Conduct for the Retail Electric Industry" and to attempt to develop a consensus on what actions, if any, are needed to develop a code of conduct applicable to electric retail open access in Michigan.

On June 4, 1999, the Staff filed a report on the code of conduct meetings. That report indicates that the Staff conducted a series of meetings with Consumers; Detroit Edison; Michigan Electric and Gas Association; Alpena Power Company; American Electric Power; Northern States Power Company-Wisconsin; Upper Peninsula Power Company; Wisconsin Electric Power Company; Wisconsin Public Service Company; Energy Michigan; Engage Energy; Enron Corporation; EnStar Energy Group; Greater Detroit Resource Recovery Authority; Kimball Power Company; Primary Power, Inc.; Russell and Russell, P.C.; WPS Energy Services, Inc.; Association of Businesses Advocating Tariff Equity; American Association of Retired Persons; Attorney General Jennifer M. Granholm; Competitive Utility Tariffs; Michigan Manufacturers Association; Perrigo; Michigan Alliance for Fair Competition; ACCA; SMACNA; Jonathon Washington; Karoub and Associates; Michigan Chamber of Commerce; Michigan Independent Power Producers Association; Michigan Retailers Association; Small Business Association of Michigan; Michigan Consumer Federation; Residential Ratepayer Association; Landfill Energy; Primary Power Management; and PG&E Energy Services.

The report indicated that agreement was reached on the following issues:

1. There should be a code and the preferred format is broad provisions with specific clarifying examples.
2. Discrimination should be prohibited.
3. If customer names and addresses or system operation information is provided to anyone, it must be contemporaneously provided to all marketing affiliates and alternate suppliers under the same terms and conditions.
4. Information on alternate suppliers held by the utility will not be shared with utility affiliates.
5. A speedy complaint or dispute resolution process should be adopted.

With respect to other issues, the report stated that:

Most of the other issues discussed produced differing opinions, which in some cases were expressed quite vehemently. While there are exceptions, in general the utilities share similar perspectives. Customer and alternate supplier perspectives are opposite to those of the utilities. Based on what Staff believes are strongly held positions presented by the participants in the meetings, Staff does not foresee the opportunity to reach a consensus on a code of conduct or even code components in the near future.

Staff Report, June 4, 1999, pp. 5-6.

The Commission has approved provisional codes of conduct for Consumers and Detroit Edison, but the informal meetings designed to develop a permanent code have proved unavailing and there appears to be little prospect for consensus to be reached. Accordingly, the Commission concludes that a contested case proceeding should be initiated for the purpose of determining what modifications, if any, should be made to the existing codes of conduct. A prehearing conference shall be held on October 7, 1999 at 1:30 p.m. for the purpose of determining parties to this proceeding, setting a schedule, and other related matters.

For purposes of administrative efficiency, future filings in this proceeding should be made in the docket in Case No. U-12134, rather than in Case No. U-11290.

The Commission FINDS that:

a. Jurisdiction is pursuant to 1909 PA 106, as amended, MCL 460.551 et seq.; MSA 22.151 et seq.; 1919 PA 419, as amended, MCL 460.51 et seq.; MSA 22.1 et seq.; 1939 PA 3, as amended, MCL 460.1 et seq.; MSA 22.13(1) et seq.; 1969 PA 306, as amended, MCL 24.201 et seq.; MSA 3.560(101) et seq.; and the Commission's Rules of Practice and Procedure, as amended, 1992 AACCS, R 460.17101 et seq.

b. A prehearing conference should be held on October 7, 1999 at 1:30 p.m.

THEREFORE, IT IS ORDERED that a prehearing conference will be held on October 7, 1999 at 1:30 p.m. at the Commission's offices, 6545 Mercantile Way, Lansing, Michigan.

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

MICHIGAN PUBLIC SERVICE COMMISSION

/s/ John G. Strand

Chairman

(S E A L)

/s/ David A. Svanda

Commissioner

/s/ Robert B. Nelson

Commissioner

By its action of September 14, 1999.

/s/ Dorothy Wideman

Its Executive Secretary

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BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter, on the Commission's own motion,	)	
to consider the restructuring of the electric	)	Case No. U-11290
utility industry.	)	
_____	)	
	)	
In the matter of the application of	)	
THE DETROIT EDISON COMPANY for	)	
authority to suspend implementation of its power	)	Case No. U-11449
supply cost recovery clause and related relief.	)	
_____	)	
	)	
In the matter of the request of	)	
CONSUMERS ENERGY COMPANY	)	
for approval of a retail open access tariff.	)	Case No. U-11451
_____	)	
	)	
In the matter of the request of	)	
THE DETROIT EDISON COMPANY	)	Case No. U-11452
for approval of a direct access tariff.	)	
_____	)	
	)	
In the matter of the request of	)	
CONSUMERS ENERGY COMPANY	)	Case No. U-11453
for authority to suspend its power supply	)	
cost recovery clause and related relief.	)	
_____	)	
	)	
In the matter of the request of	)	
CONSUMERS ENERGY COMPANY and	)	
THE DETROIT EDISON COMPANY for	)	Case No. U-11454
approval of a true-up mechanism in connection	)	
with the recovery of stranded costs.	)	
_____	)	

In the matter of the request of)
CONSUMERS ENERGY COMPANY for)
approval of a performance-based ratemaking) Case No. U-11456
mechanism and changes in standby rates.)
_____)

At the October 28, 1999 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. John G. Strand, Chairman
Hon. David A. Svanda, Commissioner
Hon. Robert B. Nelson, Commissioner

SCHEDULING ORDER

The March 8, 1999 order in the above-captioned cases directed the Commission Staff (Staff) to conduct a review of various aspects of the electric retail open access program and to file a report within 30 days of the deadline for the submission of bids for the initial block of capacity under that program.¹ On October 20, 1999, the Staff filed a "Staff Report on Bid Cycle One," which is attached to this order.² In that report, the Staff (1) summarized the results of the first bid cycle, (2) recommended that no major changes be made at this time, (3) recommended continuing the waiver of the minimum bid requirement, and (4) suggested a clarification to the voluntary bid forfeiture procedure.

Parties wishing to file comments on the Staff Report, including any proposed clarifications to the bid forfeiture procedure, should do so by November 18, 1999. After reviewing the comments, the Commission may make appropriate changes in the bid process beginning with the third bid cycle

¹The retail open access program has a phase-in schedule beginning with a 2½% block of capacity that was available September 20, 1999. The second block is scheduled for November 19, 1999.

²Copies of the report may also be obtained from the Commission's web site.

scheduled for January 20, 2000. The provisions of the March 8, 1999 order will continue to apply to the second bid cycle, including the continuation of the minimum bid at zero.

The Commission FINDS that:

a. Jurisdiction is pursuant to 1909 PA 106, as amended, MCL 460.551 et seq.; MSA 22.151 et seq.; 1919 PA 419, as amended, MCL 460.51 et seq.; MSA 22.1 et seq.; 1939 PA 3, as amended, MCL 460.1 et seq.; MSA 22.13(1) et seq.; 1969 PA 306, as amended, MCL 24.201 et seq.; MSA 3.560(101) et seq.; and the Commission's Rules of Practice and Procedure, as amended, 1992 AACs, R 460.17101 et seq.

b. Comments on the Staff Report should be filed by November 18, 1999.

THEREFORE, IT IS ORDERED that comments on the "Staff Report on Bid Cycle One" shall be filed by November 18, 1999.

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

MICHIGAN PUBLIC SERVICE COMMISSION

(S E A L)

/s/ John G. Strand
Chairman

By its action of October 28, 1999.

/s/ David A. Svanda
Commissioner

/s/ Dorothy Wideman
Executive Secretary

/s/ Robert B. Nelson Its
Commissioner