

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter of the approval of a code of conduct)	
for CONSUMERS ENERGY COMPANY and)	
THE DETROIT EDISON COMPANY.)	Case No. U-12134
_____)	(WEPCo/Edison Sault)

At the October 3, 2002 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. Laura Chappelle, Chairman
Hon. David A. Svanda, Commissioner
Hon. Robert B. Nelson, Commissioner

OPINION AND ORDER

On December 4, 2000, the Commission issued an order adopting a code of conduct, as
required by Section 10a(4) of the Customer Choice and Electricity Reliability Act:

Within 180 days after the effective date of the amendatory act that added
this section, the commission shall establish a code of conduct that shall apply to
all electric utilities. The code of conduct shall include, but is not limited to,
measures to prevent cross-subsidization, information sharing, and preferential
treatment, between a utility's regulated and unregulated services, whether those
services are provided by the utility or the utility's affiliated entities. The code of
conduct established under this subsection shall also be applicable to electric
utilities and alternative electric suppliers consistent with section 10, this section,
and sections 10b through 10bb.

MCL 460.10a(4). Among other things, the order required the filing of compliance plans and
permitted the filing of requests for waivers.

On January 23, 2001, the Commission issued an order amending the code of conduct to
require the filing of compliance plans within 60 days after the issuance of an order on rehearing of

the December 4, 2000 order. On October 29, 2001, the Commission issued the rehearing order, and adopted a revised code of conduct. Wisconsin Electric Power Company (WEPCo) and Edison Sault Electric Company (Edison Sault) filed compliance plans and requested waivers.

WEPCo and Edison Sault request waivers for various services such as customer substation maintenance, right-of-way clearing, and power quality services. The services are listed at pages 7 and 8 of each company's compliance plan. The companies state that they typically provide these services at the request of customers and when an independent firm is unavailable to perform them or they cannot be performed by another party in a timely, safe manner. They say that they do not promote or market these services. They further state that the Upper Peninsula is a relatively small service territory and that if they did not perform some of these services, they might not be available. They also say that they are subject to Wisconsin law and regulations, which assure functional separation and prevent cross-subsidization. To replace otherwise operable portions of the Michigan code of conduct, the companies state that an affiliate interest agreement required by the Public Service Commission of Wisconsin and the Wisconsin affiliate transactions law (sec. 196.795, Wisconsin Statutes) both serve to prevent ratepayer subsidization of nonregulated activities, release of competitively sensitive information, or preferential treatment of affiliates.

The companies did not provide a specific list of code of conduct sections for which they were seeking waivers. The Commission is prepared to grant waivers for the services provided to customers and unaffiliated third parties and listed in each company's December 28, 2001 compliance plans once the companies specify specific sections of the code for which they seek waivers. In order to avoid any future ambiguity about which unregulated products or services are subject to waivers for a particular section of the code, WEPCo and Edison Sault must specifically identify the sections for which they seek a waiver for a particular product or service.

WEPCo and Edison Sault also request waivers of section VII.A to permit them to maintain documents in their parent corporation's Milwaukee, Wisconsin headquarters. They commit to making the documents available to the Commission in its Michigan offices upon request.

The Commission finds that the requested waivers are reasonable and in the public interest, and should be granted.

WEPCo notes that it provides various unregulated services in its Wisconsin service territory, but not in Michigan. It requests a waiver for these services.

Because the company's services in Wisconsin are subject to Wisconsin law and take place in Wisconsin, a waiver is not required.

Finally, WEPCo and Edison Sault have not requested a waiver for services that they may perform for American Transmission Company LLC (ATC) or that ATC may perform for them. The Commission would point out that ATC does not provide regulated service as defined by this code of conduct, but provides a service regulated by the Federal Energy Regulatory Commission (FERC). When a service or product is subject to a FERC code of conduct, or is otherwise regulated directly by the FERC or through a regional transmission organization like Michigan Independent Systems Operator, Inc., (MISO), this code of conduct may be duplicative. Under these circumstances, as long as the FERC or another governmental regulatory agency requires adherence to a code or regulatory requirements that are equivalent to the Michigan code of conduct, it will not be necessary to adhere to this code. However, the Commission will make a decision on whether an alternate code is equivalent, and therefore applicable, after a waiver request has been made by a utility.

The Commission FINDS that:

a. Jurisdiction is pursuant to 1909 PA 106, as amended, MCL 460.551 et seq.; 1919 PA 419, as amended, MCL 460.51 et seq.; 1939 PA 3, as amended, MCL 460.1 et seq.; 1969 PA 306, as amended, MCL 24.201 et seq.; and the Commission's Rules of Practice and Procedure, as amended, 1992 AACR, R 460.17101 et seq.

b. The compliance filings should be accepted, subject to the discussion above.

c. The requests for waivers from section VII.A of the code should be granted, as discussed above.

THEREFORE, IT IS ORDERED that:

A. The compliance filings of Wisconsin Electric Power Company and Edison Sault Electric Company are accepted, subject to the discussion above.

B. The requests for waivers from section VII.A of the code are granted, as discussed above.

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.

MICHIGAN PUBLIC SERVICE COMMISSION

/s/ Laura Chappelle
Chairman

(S E A L)

/s/ David A. Svanda
Commissioner

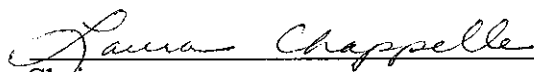
/s/ Robert B. Nelson
Commissioner

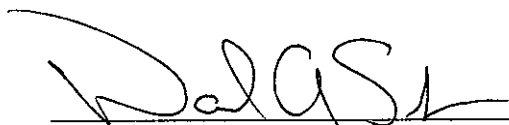
By its action of October 3, 2002.

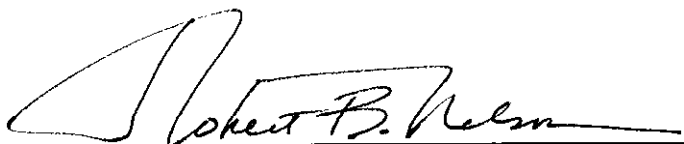
/s/ Dorothy Wideman
Its Executive Secretary

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.

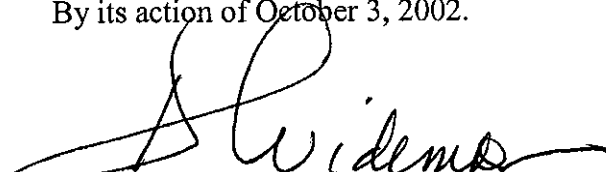
MICHIGAN PUBLIC SERVICE COMMISSION


Chairman


Commissioner


Commissioner

By its action of October 3, 2002.


Its Executive Secretary

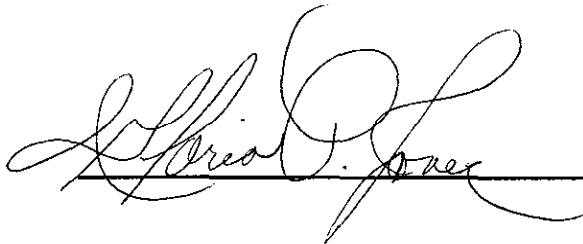
PROOF OF SERVICE

STATE OF MICHIGAN)

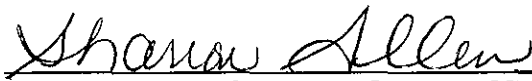
Case No. U-12134
(WEPCo waivers)

County of Ingham)

Gloria P. Jones being duly sworn, deposes and says that on October 3, 2002, A.D. she served a copy of the attached Order by mailing copies thereof by first class mail, postage prepaid, or by inter-departmental mail, to the persons as shown on the attached service list.

A handwritten signature in cursive script, appearing to read "Gloria P. Jones", written over a horizontal line.

Subscribed and sworn to before me
this 3rd day of October 2002

A handwritten signature in cursive script, appearing to read "Sharon Allen", written over a horizontal line.

Notary Public, Ingham, County, Michigan
My Commission expires August 16, 2004

SERVICE LIST FOR DOCKET # U - 12134-
DATE OF PREPARATION: 10/04/2002

CASE #

MR. THOMAS MCNISH
CONSUMERS ENERGY COMPANY
212 W. MICHIGAN AVENUE
ROOM 1074
JACKSON MI 49201

MS. SUSAN BEALE
THE DETROIT EDISON COMPANY
2000 SECOND AVENUE
DETROIT MI 48226

MR. DAVID M. GADALETO
ASSISTANT ATTORNEY GENERAL
6545 MERCANTILE WAY, 2ND FLOOR
LANSING MI 48910
ID MAIL

MR. HARAN C. RASHES
CLARK HILL PLC
2455 WOODLAKE CIRCLE
OKEMOS MI 48864 5941

MR. ROBERT A. STRONG
CLARK HILL PLC
255 S. WOODWARD AVE.
SUITE 301
BIRMINGHAM MI 48009

MR. JOHN C. SHEA
CONSUMERS ENERGY COMPANY
212 W. MICHIGAN AVENUE
JACKSON MI 49201

MR. ORJIAKOR N. ISIOGU
DEPT. OF ATTORNEY GENERAL
SPECIAL LITIGATION DIVISION
525 W. OTTAWA; 6TH FLOOR
G. MENNEN WILLIAMS BLDG.
LANSING MI 48933
ID MAIL

MR. JOHN M. DEMPSEY
DICKINSON WRIGHT PLLC
215 S. WASHINGTON AVENUE, SUITE 200
LANSING MI 48933

MR. ALBERT ERNST
DYKEMA GOSSETT PLLC
800 MICHIGAN NATIONAL TOWER
LANSING MI 48933

MR. MICHAEL S. ASHTON
FRASER, TREBILCOCK, DAVIS & FOSTER PC
1000 MICHIGAN NATIONAL TOWER
LANSING MI 48933

MR. JAMES D. FLORIP
GILLARD, BAUER, MAZUR, FLORIP,
SMIGELSKI AND GULDEN
109 EAST CHISHOLM STREET
ALPENA MI 49707 2817

MR. MICHAEL J. BROWN
HOWARD & HOWARD
222 WASHINGTON SQUARE, SUITE 500
LANSING MI 48933 1817

MS. SHERRI A. WELLMAN
LOOMIS, EWERT, PARSLEY, DAVIS
& GOTTING, P.C.
232 S. CAPITOL AVE., SUITE 1000
LANSING MI 48933

MR. GEORGE SCHANKLER
PSC ALJ DIVISION
6545 MERCANTILE WAY
LANSING MI 48909
ID MAIL

MR. BRUCE R. MATERS
THE DETROIT EDISON COMPANY
2000 SECOND AVENUE 688 WCB
DETROIT MI 48226

MR. ERIC J. SCHNEIDEWIND
VARNUM, RIDDERING, SCHMIDT & HOWLETT
THE VICTOR CENTER
201 N. WASHINGTON SQUARE, SUITE 810
LANSING MI 48933