

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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| In the matter, on the Commission's own motion, |) | |
| of the investigation into methods to improve the |) | Case No. U-12270 |
| reliability of electric service in Michigan. |) | |
| _____ |) | |

At the November 25, 2003 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. J. Peter Lark, Chair
Hon. Robert B. Nelson, Commissioner
Hon. Laura Chappelle, Commissioner

ORDER APPROVING ADMINISTRATIVE RULES

Section 10p(5) of 2000 PA 141 (Act 141), MCL 460.10p(5), requires the Commission to adopt generally applicable service quality and reliability standards for the transmission and distribution systems of electric utilities and other entities subject to its jurisdiction, including, but not limited to, standards for service outages, distribution facility upgrades, repairs and maintenance, telephone service, billing service, operational reliability, and public and worker safety.

On December 11, 2001, the Commission submitted a request for rulemaking to the Office of Regulatory Reform (ORR), which was approved by the ORR on December 18, 2001. Thereafter, the Commission drafted a set of proposed administrative rules for informal consideration by the ORR and the Legislative Service Bureau (LSB). The ORR informally approved the draft rules on August 14, 2002. On August 23, 2002, the LSB informally approved the draft rules as to form, classification, arrangement, and numbering.

On November 7, 2002, the Commission issued an order and notice of hearing that scheduled a public hearing for January 8, 2003. The November 7 order also arranged for the publication of the proposed rules in the Michigan Register.

On January 8, 2003, Administrative Law Judge Daniel E. Nickerson, Jr., (ALJ) conducted a public hearing. Nancy Bellville of Prescott, Michigan appeared at the public hearing and read a statement into the record. Thereafter, the ALJ provided other interested persons until January 29, 2003 to submit written comments to the Commission. Such comments were received from The Detroit Edison Company (Detroit Edison), Consumers Energy Company (Consumers), the Michigan Electric Cooperative Association (MECA), and the Michigan Electric and Gas Association (MEGA). In addition, Detroit Edison, Consumers, MECA, and MEGA submitted a set of “Joint Comments”.

Nancy Bellville

Ms. Bellville expressed a variety of electric service quality complaints, including outdated distribution lines, stray voltage, and low voltage, which she attributed to her utility’s failure to properly maintain and upgrade the distribution system in her rural area. Many of her complaints were illustrated through anecdotal references. For example, Ms. Bellville stated that the lights at her neighbors’ homes would noticeably dim while the cows at her farm were being milked. She also stated that the distribution lines in her neighborhood were so poorly maintained that it was possible to propel a toy train around a track, illuminate a sign, and shoot off three rockets by harnessing the voltage returning through a primary downground.

Referencing remarks provided to a legislative committee in 1991, Ms. Bellville reported that storm related outages on her utility’s system averaged 94 minutes in 1974, but had climbed to 292

minutes in 1988. With regard to non-storm related outages, she reported an average system outage of 71 minutes in 1974 had increased to 281 minutes by 1991.

Her remarks were not limited to complaints associated with residential customers. She reported that farmers, milk equipment dealers, and persons at a grain elevator and a gypsum plant in her area routinely encountered problems associated with poor electric service. In so doing, she questioned how a community served by a poorly maintained system that desperately needs to be upgraded could ever hope to lure new businesses and new jobs to its area.

Finally, it should be noted that Ms. Bellville's statement was delivered while she was clutching a tree branch that bore multiple scars. She explained that the scars evidenced the branch's years of direct contact with a dangerously low power line despite repeated efforts to persuade the local utility to correct the situation.

Detroit Edison

Detroit Edison states that it does not oppose the Commission's efforts to adopt service quality and reliability standards for electric distribution systems. However, Detroit Edison insists that such standards should be company specific, customer driven, realistic, and consistent with present rate levels. According to Detroit Edison, it is economically unrealistic to require a distribution system to function at a 100% reliability level. Moreover, Detroit Edison asserts that it should not be held accountable for situations beyond its ability to control.

Specifically, Detroit Edison maintains that the proposed distribution system performance standards should not use financial incentives to motivate a utility's management to focus on service quality issues. Detroit Edison insists that it needs no motivation to increase service quality. Further, Detroit Edison contends that requiring it to provide credits to customers experiencing poor

service is counterproductive because it simply deprives the utility of funds that could be used to improve its infrastructure.

Detroit Edison also stresses that its outage system is currently incapable of accurately identifying individual customers experiencing either an outage or a return to service. According to Detroit Edison, the only existing methodology for accurately determining such information would involve direct customer-by-customer contacts, which presents a data management nightmare.

In any event, Detroit Edison argues that individual customer credits are completely inappropriate if the utility's overall system quality is at a satisfactory level. Because the proposed rules provide for individual customer credits without regard to the company's satisfactory performance levels, Detroit Edison insists that the Commission is attempting to impose a form of strict liability that is unjustified.

Next, Detroit Edison complains that defining a "catastrophic" circumstance as occurring only when more than 10% of its customers experience service interruptions, which equates to 210,000 customers for Detroit Edison, places the utility in an untenable situation. Detroit Edison insists that the historical demarcation between normal and catastrophic events was 5%, or 105,000 customer outages for Detroit Edison. According to Detroit Edison, out-of-state utilities might decline to provide emergency assistance to Michigan if the storm is officially categorized as normal for regulatory purposes. Likewise, Detroit Edison maintains that it would be reluctant to share its repair crews with other states because of the utility's obligation to restore service to 90% of customers suffering outages under normal conditions in 8 hours or less. Any reduction in mutual assistance efforts, argues Detroit Edison, would result in higher costs. For these reasons, Detroit Edison states that the Commission should adopt a three-tiered system rather than the two-tiered system currently in the proposed rules.

Consumers

Consumers states that the Commission should eliminate or replace the proposed customer credit and penalty provisions because the automatic imposition of such credits and penalties violates MCL 460.6a, which outlaws automatic rate adjustment mechanisms, and MCL 460.10c, which requires notice and an opportunity for comment prior to the imposition of a penalty. Consumers also insists that the imposition of credits and penalties owed to individual customers is not economical or practically feasible. Consumers estimates that the utility would need to upgrade its customers' meters at a cost of \$298,000,000 to \$340,000,000 to permit the utility to accurately identify the customers qualifying for credits under the proposed rules. According to Consumers, requiring it to invest hundreds of millions of dollars to effectuate \$25 customer credits is hardly a cost efficient form of regulation. In any event, Consumers maintains that any customer credit mechanism that fails to require independent verification is a recipe for disaster. Additionally, Consumers argues that individual customer credits are inappropriate if the utility is in full compliance with the stated compliance standards. Consumers is also concerned that the proposed rules will threaten current cooperative efforts electric utilities have for responding to storm damage.

Consumers echoes Detroit Edison's argument that utilities should not be required to pay customer credits because such funds would be better spent on distribution system upgrades. According to Consumers, its customers would prefer to have such funds spent by the utility to ensure higher quality service than to receive poor service and occasional \$25 credits. Moreover, Consumers contends that a \$25 credit for a 16-hour outage is too large given that the average customer's monthly bill is only \$52. Consumers also stresses that independent studies and actual

complaint experience verify that its customers are quite satisfied with the quality of service that they are receiving.

Consumers also believes that there should be more than two service interruption categories. According to Consumers, in addition to “normal” and “catastrophic,” the Commission should add an intermediate category for “adverse” conditions that would apply to events that result in outages affecting from 1% to 6% of the customer population. Consumers states that adoption of this revision would recognize how utilities actually operate and would lessen the threshold for “catastrophic” conditions. Additionally, Consumers maintains that consideration should be given to increasing the customer restoration time for “normal” conditions from 8 hours to 16 hours.

To illustrate its points, Consumers estimated that the January 31, 2002 ice storm, which interrupted service to 115,000 customers and resulted in \$4.5 million in restoration costs, would have resulted in 46,500 customer credits, at a total additional cost of \$1.1 million. According to Consumers, imposing a 24% cost increase on top of the January 31, 2002 ice storm restoration costs is unreasonable in the absence of additional study and consideration by the Commission. Consumers recommends adoption of the alternative position proffered in the Joint Comments, which would create a penalty structure that involves an investigation followed by a contested case hearing. Consumers also recommends that the Commission should involve the utilities in a “collaborative process” before proceeding towards implementation of individual customer credits.

Finally, Consumers contends that the definition of a repetitive outage should be modified. According to Consumers, at a minimum, a repetitive outage should be redefined as “multiple primary interruptions of the same protective device,” which would provide some clarification and be a more consistent measure for this performance standard.

MECA

Citing data from a September 13, 2002 report prepared by the Commission Staff (Staff), MECA maintains that there is no support for a conclusion that the member-consumers of the electric cooperatives in this state have suffered due to a decline in the quality of their electric distribution systems. Indeed, MECA contends that the data shows that service quality has actually improved for five of the cooperatives on a year-to-year basis. In light of this evidence, MECA suggests that there is no justification for service performance standards that require the cooperatives to meet any higher level of service than they are currently providing. According to MECA, scarce resources should not be focused on meeting new standards when there has been no showing that service quality is really deteriorating. For these reasons, MECA supports the positions taken in the Joint Comments.

MECA also expresses opposition to the automatic penalties or customer credits for a failure to meet a performance standard. According to MECA, MCL 460.10p(5)-(8) does not contemplate the imposition of automatic penalties by the Commission. Rather, MECA maintains that MCL 460.10p(5)-(8) requires the Commission to annually review each utility's performance and, in the exercise of its discretion, to mete out a financial incentive or penalty in accordance with MCL 460.10c(1), if necessary, to ensure satisfactory compliance with the service quality standards. Under this interpretation of MCL 460.10p(5)-(8), MECA insists that a financial incentive or penalty could only be imposed as the result of a contested case proceeding, as plainly required by MCL 460.10c(1).

Next, MECA argues that the additional cost and administrative burden necessary to administer a system of automatic payments as contemplated by the proposed standards would be excessive for the benefit conferred and unjustified by any cost-benefit analysis. MECA suggests that its

members would have to invest millions of dollars to upgrade metering technology, billing software, and accounting software to ensure compliance with the proposed standards. At a cost of \$295 per meter, MECA estimates that upgrading all 275,000 meters currently used by the cooperatives would require an \$81,000,000 investment. Absent such expenditure, MECA contends that it will be impossible for the cooperatives to validate outages or identify individuals entitled to receive billing credits.

MECA also stresses that the use of customer credits makes little sense for the member-consumers of cooperatives, which operate on a not-for-profit basis. It maintains that member-consumers have the ability to address service quality issues to the elected members of each cooperative's Board of Directors. Further, because all costs of a cooperative's operations are borne by its member-consumers, MECA insists that a billing credit paid to one member-consumer simply comes out of the pockets of the cooperative's other member-consumers.

MECA also concurs that any system that provides for billing credits tied to service restoration times will chill joint service restoration efforts by individual utilities.

Finally, MECA contends that the proposed wire down relief factor for areas outside of metropolitan statistical areas (MSAs), which is set forth in proposed R 460.723(2), should be the subject of further study because the proposed standards issued July 11, 2001 did not incorporate such a standard. According to MECA, because the Commission is currently collecting data regarding a proposed wire down relief factor only for areas within an MSA, it would be prudent to gather data for non-MSA areas before enacting a standard for such areas. However, if the Commission deems it appropriate to act without first accumulating any data regarding non-MSA areas, MECA states that the Commission should adopt the position set forth in the Joint Comments.

MEGA

In its comments, MEGA adopted the Joint Comments, but wrote separately to emphasize its position on several key issues. First, MEGA points out that the electric utilities that are members of its organization have not experienced any significant deterioration in the quality of service for their distribution systems. According to MEGA, the dearth of complaints and inquiries by customers indicates general satisfaction with the quality of the service provided by MEGA's electric utilities.

Second, MEGA urges the Commission to reconsider adoption of any system that involves a statewide automatic customer credit mechanism. MEGA insists that the cost of implementing systems to monitor and track the performance of an electric distribution system would likely overshadow any actual benefit to customers. Rather than obligate electric utilities to incur such costs at this time, MEGA asserts that the Commission should continue the information gathering process started by the December 20, 2001 order in this proceeding.

Electric Industry Joint Comments

In their Joint Comments, the electric industry urges the Commission to abandon the proposed system of customer credits and rate incentives. The electric industry stresses that such incentives should not be mandated by administrative rules. Moreover, the electric industry suggests that any decision regarding a system of customer credits and rate incentives is premature, given that the companies have only recently begun submitting such data to the Commission. According to the electric industry, there is no evidence to support a finding that there has been a general deterioration of electric distribution system performance levels or any public outcry urging the Commission or the Legislature to take drastic action at this time. Additionally, the electric

industry is concerned that a system of customer credits and rate incentives might lead to perverse incentives due to a utility's desire to avoid customer credit obligations.

The electric industry also argues that the proposed customer credit mechanism raises concerns regarding fairness and equity. According to the electric industry, although knowledgeable customers could benefit from the proposal, less knowledgeable customers might not be aware of the availability of the credit and could miss out on the intended benefit.

In any event, the electric industry contends that a better approach would be for the Commission to convene a collaborative effort to address other possible remedial measures, which would allow the Commission to place the proposed rules into effect while gathering additional data and allowing interested parties to work out the details of remedial measures that would be based on experience and consistent with applicable laws.

In addition to deletion of the system of customer credits and rate incentives, the electric industry believes that there should be three categories of conditions to which the performance measures should be applied rather than just "normal conditions" and "catastrophic conditions," and that the threshold for catastrophic conditions should be reduced. The electric industry proposes to insert an intermediate category identified as "adverse conditions" that would be defined as events where from 1% to 6% of a utility's customers experience service interruption. Additionally, the threshold for catastrophic conditions would be switched from service interruptions involving 10% of the utility's customers to service interruptions involving more than 6% of the utility's customers. According to the electric industry, these revisions are reasonable in light of the available benchmarking data.

Next, the electric industry maintains that the definition of a repetitive interruption should be changed. Under the Commission's proposal, the focus of proposed Rule 2(s) was on repetitive

interruptions that affect a grouping of more than 10 customers on the same circuit. The electric industry believes that the proposed rules should measure multiple primary interruptions of the same “protective devices,” which it argues is a single common denominator position that can be met by all utilities.

Finally, the electric industry offers a number of changes to proposed Rules 1, 2, 3, 21, 22, 23, 24, 31, 32, 33, 34, 51, and 52, which it maintains are reasonable and relatively non-controversial.

Discussion

1. Company specific rules

Detroit Edison argues that the Commission should adopt company specific distribution reliability standards. The Commission disagrees. The Commission finds that it will be easier and fairer to administer one set of rules applicable to all electric utilities rather than having a different set of rules that are applicable to each of the electric utilities in this state. Moreover, the Commission notes that the Legislature directed the adoption of “generally applicable” standards, not company specific ones.

2. Unrealistic expectations

Detroit Edison insists that the proposed rules are based on the premise that a utility’s electric distribution system should be reliable 100% of the time, which is unrealistic and inconsistent with present rate recovery. According to Detroit Edison, its customers are not paying for 100% reliability in their current rates, and rates would need to be set at prohibitively high levels to attain such a goal.

The Commission finds that these concerns should be rejected. On their face, the proposed rules do not require Detroit Edison or any other utility to ensure 100% reliability of its distribution

system. Rather, the proposed rules incorporate service levels based on reasonable expectations garnered from past performance.

3. Current acceptable service levels

Several of the comments insist that the Commission should not adopt performance standards with customer credits because there is no showing that customers are dissatisfied with the quality of service they are receiving.

The Commission finds that such arguments ignore the Legislature's directive in Section 10p(5) of Act 141, which requires the adoption of these service quality and reliability standards. Given the language of Section 10p(5), the Commission has no discretion to forego the adoption of service quality and reliability standards of some type.

4. Three-tiered system

Detroit Edison, Consumers, and the Joint Comments contend that dividing the universe of outages into only "normal" and "catastrophic" situations is too limiting. According to them, there should be a third category that covers the middle ground between these extremes.

The Commission finds that the argument for a third outage category should be rejected. Much of the concern in this regard is ameliorated by a company's ability under Part 5 of the proposed rules to seek a waiver or an exception under certain circumstances.

5. Mutual assistance efforts

Detroit Edison, Consumers, and MECA argue that the Commission should abandon customer credits because the possibility of being required to respond to a disaster in Michigan might render the utility reluctant to send repair crews to other jurisdictions.

The Commission is not persuaded that requiring a Michigan utility to abide by the proposed performance standards lessens its incentive to participate in mutual assistance efforts.

6. Exempt electric cooperatives

MECA argues that its members should be exempted because they are not-for-profit organizations.

The Commission finds that MECA's request should be denied. Member-consumers of electric cooperatives should not be deprived of benefits accorded the customers of investor-owned utilities. They are just as frustrated by outages as are customers of investor-owned utilities. Accordingly, the Commission finds that MECA's members should not be exempt from the proposed service quality and reliability standards.

7. Wire down relief factor in rural areas

MECA maintains that the Commission should postpone adoption of proposed Rule 23(2), which establishes a wire down relief factor for areas outside of MSAs. According to MECA, the Commission is not yet collecting data on that topic, and action should await further study.

The Commission notes that it has not proposed a customer credit associated with the performance standard set forth in proposed Rule 23(2). Accordingly, the Commission sees no harm to MECA's members in enacting this proposal at this time.

8. Collaborative

Consumers and the Joint Comments maintain that the Commission should require interested parties to collaborate with the Staff to reach a consensus on many of the disputed areas. The Commission disagrees. These rules have been under consideration since January 3, 2000. The Staff's March 31, 2000 interim status report indicates that industry members provided informal comments in February 2000. In addition, the file in this case demonstrates that industry members had opportunities to file written comment on these rules in July 2000, August 2000, August 2001,

September 2001, and January 2003. The Commission is not persuaded that additional discussions are necessary or will lead to productive changes.

9. Automatic adjustment mechanism

Consumers argues that the customer credit system is illegal because it constitutes an automatic adjustment mechanism. The Commission disagrees. The notice and hearing requirements in Section 6a(2) of 1939 PA 3, as amended, MCL 460.6a(2), which is relied on by Consumers, apply to rate alterations due to “automatic adjustment clauses.” Part 4 of the rules does not automatically adjust any customer’s rate. Rather, the customer may be entitled to a credit on his or her monthly bill due to the occurrence of a violation of the performance standards. The utility may request a waiver under certain circumstances, and it may also contest the legitimacy of a customer’s request for the credit. Further, the Commission has added language to proposed rules 44, 45, 46, and 52 to clarify that an electric utility may request a contested case hearing before being required to place a credit on a customer’s bill.

10. MCL 460.10c(1) penalty

Consumers and MECA argue that the Commission may only impose a penalty for violation of the proposed rules governing service quality and reliability standards for electric distribution systems through operation of MCL 460.10c(1), which requires a contested case proceeding. The Commission disagrees.

In adopting Section 10p(8), which clearly envisions a balanced approach of rewards and penalties for exceeding and for failing to meet the service quality and reliability standards, the Legislature did not indicate that the only penalty that could be handed out by the Commission had to be pursuant to MCL 460.10c(1). In addition, a careful reading of Section 10c(1) indicates that a person harmed by a utility would be entitled to be made whole, including, but not limited to, the

payment of “reasonable attorney fees.” MCL 460.10c(1)(c). The Commission doubts that the Legislature contemplated that the balanced system of rewards and penalties authorized pursuant to MCL 460.10p(8) should encourage or involve the litigation of individual customer complaints.

11. Necessity of costly upgrades

According to Detroit Edison, the approach to identifying customers entitled to a customer credit is flawed. Consumers argues that it could cost up to \$340,000,000 for the utility to install new meters that would provide information necessary to verify customer requests for credits. MECA places the cost in excess of \$81,000,000 for its members to upgrade 275,000 meters. These parties insist that it will be prohibitively expensive to retrofit all residential customers with meters capable of detecting outages. They also assert that entrusting customers to report an outage will only benefit those aware of the customer credit program and those predisposed to profit through the filing of a false report.

These rules do not require any utility to undertake such measures. Proposed Rules 44, 45, and 46 place a responsibility on the customer to report the occurrence of an outage to his or her utility. The utility is not required to discover the identity of the customers to whom it owes a credit. Rather, each customer has the burden of submitting such a report to the utility.

12. Proposed Rule 460.746(3)

This rule would require the customer credit associated with each successive outage to be doubled. Upon reconsideration, the Commission finds that this provision of the proposed rules is not appropriate at this time. Accordingly, the Commission finds that Proposed Rule 460.746(3) should be deleted.

13. Definition of repetitive interruption

Consumers and the Joint Comments maintain that the Commission should redefine repetitive interruption as “multiple primary interruptions of the same protective device.” The Commission disagrees. This revision would limit such interruptions to those involving the interruption of a protective device. The Commission does not wish to exclude other forms of repetitive interruptions that do not involve a protective device.

14. Minor revisions

The Commission finds that several of the minor, non-substantive changes proposed in the joint comments should be adopted.

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, 1999 AC, R 460.17101 et seq.

b. Adequate notice and opportunity for participation by interested persons have been provided as required by the Administrative Procedures Act of 1969, as amended, MCL 24.201 et seq.

c. The proposed rules governing service quality and reliability standards for electric distribution systems are reasonable and in the public interest, and should be adopted.

d. The rules should be submitted to the Legislative Service Bureau and the Office of Regulatory Reform for their approval.

e. If the Legislative Service Bureau and the Office of Regulatory Reform formally approve these rules, they should be submitted to the Joint Committee on Administrative Rules.

THEREFORE, IT IS ORDERED that:

A. The administrative rules governing service quality and reliability standards for electric distribution systems, attached to this order as Exhibit A, are approved and shall be submitted to the Legislative Service Bureau and the Office of Regulatory Reform for their approval.

B. Upon approval of the administrative rules by the Legislative Service Bureau and the Office of Regulatory Reform, the rules shall be transmitted to the Joint Committee on Administrative Rules.

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 issuance and notice of this order, pursuant to MCL 462.26.

MICHIGAN PUBLIC SERVICE COMMISSION

/s/ J. Peter Lark

Chair

(S E A L)

/s/ Robert B. Nelson

Commissioner

/s/ Laura Chappelle

Commissioner

By its action of November 25, 2003.

/s/ Robert W. Kehres

Its Acting Executive Secretary

THEREFORE, IT IS ORDERED that:

A. The administrative rules governing service quality and reliability standards for electric distribution systems, attached to this order as Exhibit A, are approved and shall be submitted to the Legislative Service Bureau and the Office of Regulatory Reform for their approval.

B. Upon approval of the administrative rules by the Legislative Service Bureau and the Office of Regulatory Reform, the rules shall be transmitted to the Joint Committee on Administrative Rules.

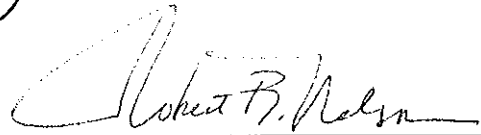
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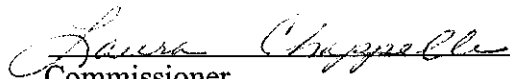
MICHIGAN PUBLIC SERVICE COMMISSION



Chair

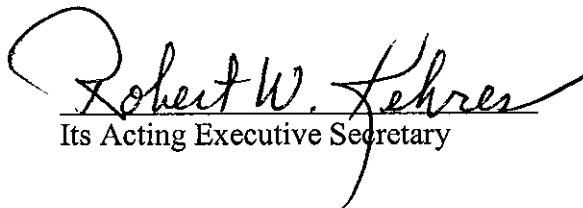


Commissioner



Commissioner

By its action of November 25, 2003.



Its Acting Executive Secretary

DEPARTMENT OF LABOR AND ECONOMIC GROWTH

PUBLIC SERVICE COMMISSION

SERVICE QUALITY AND RELIABILITY STANDARDS
FOR ELECTRIC DISTRIBUTION SYSTEMS

Filed with the Secretary of State on
These rules take effect 7 days after filing with the Secretary
of State

(By authority conferred on the public service commission by
section 10p of 2000 PA 141, section 7 of 1909 PA 106, section
5 of 1919 PA 419, sections 4 and 6 of 1939 PA 3, and sections
3, 9, and 231 of 1965 PA 380, MCL 460.10p, 460.557, 460.55,
460.4, 460.6, 16.103, 16.109, and 16.331)

PART 1. GENERAL PROVISIONS

R 460.701 Application of rules.

Rule 1. (1) These rules apply to electric utilities as
defined by

R 460.702(k).

(2) These rules do not relieve an electric utility that is
subject to the jurisdiction of the public service commission
from any of its duties under the laws of this state, including
all of the requirements of R 460.3101 to R 460.3908.

R 460.702 Definitions.

Rule 2. As used in these rules:

(a) "All conditions" means conditions reflected by data
derived through the amalgamation of data from both normal
conditions and catastrophic conditions. "All conditions" does
not mean only normal conditions or only catastrophic
conditions.

(b) "Answer" means that a utility representative, voice
response unit, or automated operator system is ready to render
assistance or ready to accept information necessary to process
the call. An acknowledgment that the customer is waiting on
the line does not constitute an answer.

(c) "Approved by the commission" means that a favorable
commission order has been obtained.

(d) "Call" means a measurable effort by a customer to
obtain a telephone connection whether the connection is
completed or not.

(e) "Call blockage factor" means the percentage of calls that do not get answered. The call blockage factor is calculated by multiplying the remainder obtained by subtracting the number of answers from the number of calls, multiplying by 100, and then dividing that value by the total number of calls.

(f) "Catastrophic conditions" means either of the following:

(i) Severe weather conditions that result in service interruptions for 10% or more of a utility's customers.

(ii) Events of sufficient magnitude that result in issuance of an official state of emergency declaration by the local, state, or federal government.

(g) "Commission" means the Michigan public service commission.

(h) "Complaint response" or "response" means a communication between the utility and the customer that identifies the problem and a solution to the complaint.

(i) "Complaint response factor" means the annual percentage of the complaints forwarded to a utility by the commission that are responded to within the time period prescribed by these rules.

(j) "Completion date" means the day on which service at a new installation is permanently energized. The provision of construction power does not affect a determination of the completion date.

(k) "Electric utility" or "utility" means that term as defined in section 2(d) of 1995 PA 30, MCL 460.562(d).

(l) "Interruption" means the full or partial loss of service to 1 or more customers for longer than 5 minutes. The duration of a customer's interruption shall be measured from the time that the electric utility is notified or otherwise becomes aware of the full or partial loss of service to 1 or more customers for longer than 5 minutes.

(m) "Meter reading factor" means the percentage of meters read within an approved billing period. An approved billing period is a "billing month" within the meaning of R 460.2102(b) of not less than 26 days, nor more than 35 days, or some other time period approved by the commission.

(n) "Metropolitan statistical area" means an area within the state of Michigan identified by the federal office of management and budget on June 30, 1999. A map of the metropolitan statistical areas was attached to the July 11, 2001, order in Case No. U-12270 as exhibit C and appears on the website of the United States department of commerce, economics and statistics administration, bureau of the census at <http://www.census.gov/geo/www/mapGallery/stma99.pdf>.

(o) "Minimum bill prorated on a daily basis" means the amount that results from dividing the customer's minimum bill amount by the number of days in the billing period and then by multiplying that quotient by the number of days during which the customer remained out of service.

(p) "MISS DIG activities" means the requirements imposed pursuant to 1974 PA 53, as amended, MCL 460.701 et seq.

(q) "New service installation factor" means the percent of new service hookups that are completed within the time period prescribed by these rules, from start date to completion date. New service hookups dependent on the construction of a line extension other than the service line shall be excluded from the calculation of this factor.

(r) "Normal conditions" means conditions other than catastrophic conditions.

(s) "Same-circuit repetitive interruption" means a grouping of more than 10 customers on a circuit who experience multiple interruptions under all conditions. At its option, an electric utility may report on specific identifiable circuit segments rather than whole circuits as long as the criteria for identification of the specific circuit segments are fully explained in its report. If an electric utility lacks the capability of independently tracking same-circuit repetitive interruption data, then the utility may rely solely upon notification provided by its customers to report the data to the commission.

(t) "Service restoration" means that the interruption condition has been corrected and that the interrupted customer or customers have regained the full use of their electric service.

(u) "Start date for new installations" means the first business day after all of the following events have occurred:

(i) All rights of way, easements, licenses, and consents have been obtained and are and remain physically unencumbered.

(ii) All permits have been received.

(iii) All joint use requirements have been met.

(iv) All required inspections have been completed.

(v) All commission-approved tariff payments have been received.

(vi) All MISS DIG activities have been completed.

(v) "Wire-down relief factor" means the annual percentage of the non-utility employee guarded downed wires that are relieved by a utility representative within the time period specified in Rule 23.

R 460.703 Revision of tariff provisions.

Rule 3. Not more than 30 days after the effective date of these rules, an electric utility subject to the commission's

jurisdiction shall file any revisions of its tariff provisions necessary to conform with these rules.

PART 2. UNACCEPTABLE LEVELS OF PERFORMANCE

R 460.721 Duty to plan to avoid unacceptable levels of performance.

Rule 21. An electric utility shall plan to operate and maintain its distribution system in a manner that will permit it to provide service to its customers without experiencing an unacceptable level of performance as defined by these rules.

R 460.722 Unacceptable levels of performance during service interruptions.

Rule 22. It is an unacceptable level of performance for an electric utility to fail to meet any of the following service interruption standards:

(a) Considering data derived through the amalgamation of data from both normal and catastrophic conditions, an electric utility shall restore service within 36 hours to not less than 90% of its customers experiencing service interruptions.

(b) Considering data including only catastrophic conditions, an electric utility shall restore service within 60 hours to not less than 90% of its customers experiencing service interruptions.

(c) Considering data including only normal conditions, an electric utility shall restore service within 8 hours to not less than 90% of its customers experiencing service interruptions.

(d) Considering data derived through the amalgamation of data from both normal and catastrophic conditions, an electric utility shall not experience 5 or more same circuit repetitive interruptions in a 12-month period on more than 5% of its circuits.

R 460.723 Wire down relief requests.

Rule 23. (1) It is an unacceptable level of performance for an electric utility to fail to respond to a request for relief of a non-utility employee guarded downed wire at a location in a metropolitan statistical area within 240 minutes after notification at least 90% of the time under all conditions.

(2) It is an unacceptable level of performance for an electric utility to fail to respond to a request for relief of a non-utility employee guarded downed wire at a location in a non-metropolitan statistical area within 360 minutes after notification at least 90% of the time under all conditions.

R 460.724 Unacceptable service quality levels of performance.

Rule 24. It is an unacceptable level of performance for an electric utility to fail to meet any of the following service quality standards:

(a) An electric utility shall have an average customer call answer time of less than 90 seconds.

(b) An electric utility shall have a call blockage factor of 5% or less.

(c) An electric utility shall have a complaint response factor of 90% or more within 3 business days.

(d) An electric utility shall have a meter reading factor of 85% or more within the approved period, including customer reads.

(e) An electric utility shall complete 90% or more of its new service installations within 15 business days.

PART 3. RECORDS AND REPORTS

R 460.731 Deadline for filing annual reports.

Rule 31. Not more than 120 days after the end of the calendar year in which these rules became effective, an electric utility shall file an annual report with the commission regarding the previous calendar year. For subsequent calendar years, an electric utility shall file its annual report not more than 75 days after the end of the year.

R 460.732 Annual report contents.

Rule 32. The annual report of an electric utility made pursuant to these rules shall contain all of the following information:

(a) The call blockage factor. If the call blockage factor is more than 5%, then the annual report shall contain a detailed explanation of the steps that the electric utility is taking to bring its performance to an acceptable level.

(b) The complaint response factor. If the complaint response factor is less than 90% within 3 business days, then the annual report shall contain a detailed explanation of the steps that the electric utility is taking to bring its performance to an acceptable level.

(c) The average customer call answer time. If the average customer call answer time is 90 seconds or more, then the report shall contain a detailed explanation of the steps that the electric utility is taking to bring its performance to an acceptable level.

(d) The meter reading factor. If the meter reading factor is less than 85%, then the report shall contain a detailed

explanation of the steps that the electric utility is taking to bring its performance to an acceptable level.

(e) The new service installation factor. If the new service installation factor is less than 90% completed within 15 business days, then the report shall contain a detailed explanation of the steps that the electric utility is taking to bring its performance to an acceptable level.

(f) The wire-down relief factor. If the wire-down relief factor is less than 90% within 240 minutes within metropolitan statistical areas or less than 90% within 360 minutes in non-metropolitan statistical areas, then the report shall contain a detailed explanation of the steps that the electric utility is taking to bring its performance to an acceptable level.

(g) The service restoration factor for all conditions. If the service restoration factor for all conditions is less than 90% of customers restored within 36 hours or less, then the report shall contain a detailed explanation of the steps that the electric utility is taking to bring its performance to an acceptable level.

(h) The service restoration factor for normal conditions. If the service restoration factor for normal conditions is less than 90% of customers restored within 8 hours or less, then the report shall contain a detailed explanation of the steps that the electric utility is taking to bring its performance to an acceptable level.

(i) The service restoration factor for catastrophic conditions. If the service restoration factor for catastrophic conditions is less than 90% of customers restored within 60 hours or less, then the report shall contain a detailed explanation of the steps that the electric utility is taking to bring its performance to an acceptable level.

(j) The same-circuit repetitive interruption factor. If the same-circuit repetitive interruption factor is more than 5% of circuits experiencing 5 or more same-circuit repetitive interruptions within a 12-month period, then the report shall contain a detailed explanation of the steps that the electric utility is taking to bring its performance to an acceptable level.

(k) A description of all catastrophic conditions experienced during the year.

(l) The number and total dollar amount of all customer credits provided during the year, broken down by customer class, for its failure to restore service to customers within 120 hours of an interruption that occurred during the course of catastrophic conditions.

(m) The number and total dollar amount of all customer credits provided during the year, broken down by customer class, for its failure to restore service to customers within

16 hours of an interruption that occurred during normal conditions.

(n) The number and total dollar amount of all customer credits provided during the year, broken down by customer class, for same-circuit repetitive interruptions.

(o) A summary table indicating whether the electric utility complied or failed to comply with each of the standards established by these rules.

R 460.733 Availability of records.

Rule 33. (1) An electric utility shall make available to the commission or its staff, upon request, all records, reports, and other information required to determine compliance with these rules and to permit the commission and its staff to investigate and resolve service quality and reliability issues related to electric distribution service.

(2) An electric utility shall make records, reports, and other information available to the commission or its staff within 5 business days, preferably in an electronic format available through the internet, accessible with standard browser software, identification, and password or as soon thereafter as feasible.

R 460.734 Retention of records.

Rule 34. An electric utility shall preserve, in detail, all records required by these rules for the previous 24 months and shall preserve, in summary form, all records for not less than 4 years, unless otherwise ordered by the commission.

PART 4. FINANCIAL INCENTIVES AND PENALTIES

R 460.741 Approval of incentives by the commission.

Rule 41. (1) The commission may authorize an electric utility to receive a financial incentive if it exceeds all of the service quality and reliability standards adopted by these rules.

(2) A request for approval of an incentive mechanism shall be made in either of the following proceedings and shall be conducted as a contested case under chapter 4 of 1969 PA 306, MCL 24.271 et seq.

(a) A rate case proceeding.

(b) A single-issue proceeding filed specifically to address adoption of an incentive program.

(3) An electric utility shall not file an application seeking approval of an incentive mechanism until it has exceeded all of the service quality and reliability standards

adopted by these rules continuously for a period of not less than 12 months.

R 460.742 Criteria for receipt of an incentive.

Rule 42. (1) If an electric utility qualifies for implementation of a previously approved incentive mechanism, it shall file an application seeking authority to implement the incentive mechanism at the same time that it submits the annual report required by R 460.732.

(2) An electric utility shall not apply for a financial incentive approved by the commission unless all of the following criteria were met during the previous 12 months:

(a) All required reports have been filed in a timely manner.

(b) All required reports fully comply with the requirements as determined by the commission.

(c) The electric utility's performance shall have exceeded all of the individual service quality and reliability standards.

(d) The electric utility shall have fully responded to any inquiries about the content of the reports made by the commission or its staff in a timely manner.

R 460.743 Disqualification.

Rule 43. An electric utility shall be disqualified from receiving an incentive if the commission issues an order finding that the electric utility engaged in any type of anticompetitive behavior within the 12-month period preceding the filing of an application pursuant to R 460.742(1).

R 460.744 Penalty for failure to restore service after an interruption due to catastrophic conditions.

Rule 44. Unless an electric utility requests a waiver pursuant to part 5 of these rules, an electric utility that fails to restore service to a customer within 120 hours after an interruption that occurred during the course of catastrophic conditions shall provide to any affected customer that notifies the utility of the interruption with a bill credit on the customer's next bill. The amount of the credit provided to a residential customer shall be the greater of \$25.00 or the customer's monthly customer charge. The amount of the credit provided to any other distribution customer shall be the customer's minimum bill prorated on a daily basis.

R 460.745 Penalty for failure to restore service during normal conditions.

Rule 45. Unless an electric utility requests a waiver pursuant to part 5 of these rules, an electric utility that fails to restore service to a customer within 16 hours after an interruption that occurred during normal conditions shall provide to any affected customer that notifies the utility of the interruption a bill credit on the customer's next bill. The amount of the credit provided to a residential customer shall be the greater of \$25.00 or the customer's monthly customer charge. The amount of the credit provided to any other distribution customer shall be the customer's minimum bill prorated on a daily basis.

R 460.746 Penalty for repetitive interruptions of the same circuit.

Rule 46. (1) Unless an electric utility requests a waiver pursuant to part 5 of these rules, a customer of an electric utility that experiences and notifies the utility of more than 7 interruptions in a 12-month period due to a same-circuit repetitive interruption shall be entitled to a billing credit on the customer's next bill. The amount of the credit provided to a residential customer shall be the greater of \$25.00 or the customer's monthly customer charge. The amount of the credit provided to any other distribution customer shall be the customer's minimum bill prorated on a daily basis.

(2) Following provision of the billing credit to a customer experiencing more than 7 interruptions in a 12-month period due to a same-circuit repetitive interruption, the electric utility's interruption counter shall be reset to zero to ensure that another credit to the customer will be processed only after the occurrence of another 8 interruptions in a 12-month period.

R 460.747 Multiple billing credits allowed.

Rule 47. An electric utility's obligation to provide a customer with a billing credit for one reason does not excuse the obligation to provide an additional billing credit in the same month for another reason.

R 460.748 Effect in other proceedings.

Rule 48. (1) The payment or nonpayment of a customer credit or an incentive award shall not affect the rights of a customer or an electric utility in any proceeding before the commission or in any action in a court of law.

(2) The finding of a violation of a service quality or reliability standard adopted in these rules shall not affect the rights of a customer or an electric utility in any

proceeding before the commission or in any action in a court of law.

PART 5. WAIVERS AND EXCEPTIONS

R 460.751 Waivers and exceptions by electric utilities.

Rule 51. (1) An electric utility may petition the commission for a permanent or temporary waiver or exception from these rules when specific circumstances beyond the control of the utility render compliance impossible or when compliance would be unduly economically burdensome or technologically infeasible.

(2) An electric utility may request a temporary waiver in order to have sufficient time to implement procedures and systems to comply with these rules.

(3) An electric utility need not meet the standards or grant the credits required by parts 2 and 4 of these rules under any of the following circumstances:

(a) The problem was caused by the customer.

(b) There was a work stoppage or other work action by the electric utility's employees, beyond the control of the utility, that caused a significant reduction in employee hours worked.

(c) The problem was caused by an "act of God." The term "act of God" means an event due to extraordinary natural causes so exceptionally unanticipated and devoid of human agency that reasonable care would not avoid the consequences and includes any of the following:

(i) Flood.

(ii) Tornado.

(iii) Earthquake.

(iv) Fire.

(d) The problem was due to a major system failure attributable to any of the following:

(i) An accident.

(ii) A man-made disaster.

(iii) A terrorist attack.

(iv) An act of war.

R 460.752 Proceedings for waivers and exceptions.

Rule 52. (1) A petition for a waiver of a customer credit provision filed by an electric utility shall be handled as a contested case proceeding. The burden of going forward with a request for a waiver shall be on the electric utility. To be timely, a petition for a waiver of a customer credit provision of these rules shall be filed not more than 14 calendar days

after conclusion of the outage giving rise to application of the customer credit provision.

(2) A petition for any other waiver or exception may be granted by the commission without notice or hearing.

P R O O F O F S E R V I C E

STATE OF MICHIGAN)

Case No. U-12270

County of Ingham)

Patricia A. Fronta being duly sworn, deposes and says that on November 25th, 2003, A.D. she served a copy of the attached Commission orders by first class mail, postage prepaid, or by inter-departmental mail, to the persons as shown on the attached service list.

Patricia Fronta

Subscribed and sworn to before me
this 25th day of November 2003

Notary Public, Eaton County, Michigan
Acting in Ingham County
My Commission expires November 22, 2004

**SUBSCRIPTION LIST
ALL ELECTRIC ORDERS**

Database Services
Lexis Nexis
P.O. Box 933
Dayton, OH 45401

Mr. Michael Peters
Michigan Electric Cooperative
2859 W. Jolly Rd.
Okemos, MI 48864

Mr. Phillip Cross
Public Utilities Reports, Inc.
8229 Boone Blvd., Ste. 401
Vienna, VA 22182

Ms. Monica Martinez
Senate Democratic Staff
Romney Building
Lansing, MI

ID MAIL

Mr. John Pestle
Varnum, Riddering, Schmidt & Howlett
Bridgewater Place
P.O. Box 352
Grand Rapids, MI 49501-0352

**Municipal Electric Utilities –
Unregulated by the MPSC
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City of Charlevoix

Edward Whitley, Superintendent
210 State Street, P.O. Box 550
Charlevoix, MI 49720-1345

Coldwater Board of Public Utilities

Dwight Woodman, Director
1 Grand Street
Coldwater, MI 49036

Daggett Electric Department

Keith Sorenson, Village President
Daggett, MI 49821-9999

City of Eaton Rapids

William LeFevere, City Manager
City Hall/200 S. Main
Eaton Rapids, MI 48827-1256

Grand Haven Board of Light & Power

Phil T. Trumpfheller, General Mgr.
1700 Eaton Drive
Grand Haven, MI 49417-2872

Hillsdale Board of Public Utilities

Rick Rose, Director
45 Monroe Street
Hillsdale, MI 49242-1236

Lansing Board of Water and Light

Joseph Pandy, Jr., General Manager
1232 Haco Drive, P.O. Box 13007
Lansing, MI 48901-3077

City of Marshall

Tom Tarkiewicz, Director
323 W. Michigan Avenue
Marshall, MI 49068-1547

Village of Baraga

Thomas Chatel, Village Manager
100 Hemlock Street, P.O. Box 290
Baraga, MI 49908-0290

Chelsea Electric and Water Department

Jack Myers, Village Manager
305 South Main Street, #100
Chelsea, MI 48118-1085

Croswell Light & Power Dept.

John Williams, Manager
120 E. Sanborn Ave., P.O. Box 197
Croswell, MI 48422-1224

Detroit Public Lighting Department

Mark Petty, Director
9449 Grinnell Avenue
Detroit, MI 48213

Escanaba Electric Department

Robert Headden, Superintendent
1711 Sheridan Road
Escanaba, MI 49829-1800

Harbor Springs Municipal Utility

Dennis Ory, Supervisor
204 E. Fairview St.
Harbor Springs, MI 49740

Holland Board of Public Works

Tim Morawski, General Manager
625 Hastings Avenue
Holland, MI 49423-5427

Lowell Light and Power

Tom Richards, Manager
127 N. Broadway St., P.O. Box 229
Lowell, MI 49331-0229

Michigan South Central Power Agency

Jack P. Bierl, General Manager
P.O. Box 62, 720 Herring Road
Litchfield, MI 49252-0062

Newberry Water & Light Board

Keith Nantell, Superintendent
307 E. McMillan Ave., P.O. Box 493
Newberry, MI 49868-1550

Bay City Electric Light & Power

Eric C. Dean, Director
900 S. Water Street
Bay City, MI 48708-7098

Clinton Board of Public Works

Kevin Cornish, Village Manager
119 E. Michigan Avenue
Clinton, MI 49236

City of Crystal Falls

Charles C. Nordeman, City Manager
401 Superior Avenue
Crystal Falls, MI 49920-1424

Dowagiac Department of Public Services

Donald Hallowell, Director
241 S. Front Street, P.O. Box 430
Dowagiac, MI 49047-0430

City of Gladstone

Thomas E. White, Superintendent
1100 Delta Ave., P.O. Box 32
Gladstone, MI 49837-0032

Hart Hydro Electric

Robert Dodds, Superintendent
407 State Street
Hart, MI 49420-1228

Village of L'Anse

Roy Kempainen, Village Manager
101 N. Main St., P.O. Box 166
L'Anse, MI 49946-1101

Marquette Board of Light and Power

David E. Hickey, Director
2200 Wright Street
Marquette, MI 49855

Negaunee Electric Department

Tom Manninen, City Manager
100 Silver Street, P.O. Box 70
Negaunee, MI 49866-1434

Niles Utilities Department

James Lehmkuhl, Utility Manager
322 E. Main St., P.O. Box 217
Niles, MI 49120-0217

**Municipal Electric Utilities –
Unregulated by the MPSC
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City of Petoskey

George Korthauer, City Manager
101 East Lake Street
Petoskey, MI 49770-2311

Sebewaing Light & Water Dept.

Jeffrey P. Schock, Superintendent
110 West Main
Sebewaing, MI 48759

Sturgis Municipal Electric Plant

City Manager
130 N. Nottawa
Sturgis, MI 49091

Wakefield Electric Light Dept.

Derald L. Whitley, City Manager
311 Sunday Lake Street
Wakefield, MI 49968

Norway Electric Department

Mark Isackson, City Manager
915 Brown Street, P.O. Box 99
Norway, MI 49870-1243

Portland Light and Power Board

Howard Penrod, City Manager
259 Kent Street
Portland, MI 48875-1458

South Haven Board of Public Works

Alan G. Vanderberg, City Manager
539 Phoenix Street
South Haven, MI 49090-1499

Traverse City Light & Power Dept.

Jeffrey Feldt, Executive Director
400 Boardman Avenue
Traverse City, MI 49684

Wyandotte Municipal Service Com.

Thomas M. Daly, General Manager
3005 Biddle Avenue
Wyandotte, MI 48192

Paw Paw Department of Public Services

John Ruiter, Director
111 E. Michigan Ave., P.O. Box 179
Paw Paw, MI 49079-0179

City of St. Louis

Dennis Collison, City Manager
108 W. Saginaw
St. Louis, MI 48880

Stephenson Utilities Department

Ken Marklein, Supervisor
W. 628 Samuel Street
Stephenson, MI 49887

Union City Electric Department

James E. Spencer, Superintendent
208 N. Broadway
Union City, MI 49094

Zeeland Board of Public Works

David Walters, Manager
350 E. Washington Avenue
Zeeland, MI 49464

**ALTERNATIVE ELECTRIC
COMPANIES
8-21-03
(26)**

**AEP Ohio Commercial & Industrial Retail Co.
LLC, d/b/a AEP Retail Energy**
110 W. Michigan Ave., Ste. 1000A
Lansing, MI 48933

CMS MS&T Michigan LLC
One Jackson Square, Suite 1060
Jackson, MI 49201-2277

CMS Marketing, Services and Trading Co.
One Jackson Square, Suite 1060
Jackson, MI 49201-2277

Constellation NewEnergy, Inc.
22201 Greater Mack Avenue
St. Clair Shores, MI 48080

Cook Inlet Power, LP
200 East Big Beaver, Suite 168
Troy, MI 48083
ATTN: Hugh McCaffery

Dynegy Energy Services, Inc.
c/o Michigan Power Limited Partnership
5795 West 6th Street
Ludington, MI 49431

Dillon Energy Services, Inc.
21312 Mack Avenue
Grosse Pointe Woods, MI 48236

Dorman Energy, LLC
41000 Woodward Avenue, Suite 395E
Bloomfield Hills, MI 48304

Energy International Power Marketing Corp
d/b/a PowerOne Corporation
6850 Haggerty
Canton, MI 48187
ATTN: Rami Fawaz

ElectricAMERICA
15901 Red Hill Avenue, Suite 100
Tustin, CA 92780

EMC Gas and Electric Company
21312 Mack Avenue
Grosse Pointe Woods, MI 48236

Duke Energy North America
ATTN: Barbara Johnson
2600 425 1st Street S.W.
Calgary Alberta T2 3L8 Canada

Exelon Energy Company
Charles Foreman
2315 Enterprise Drive
Westchester, IL 60154

FirstEnergy Solutions
395 Ghent Road
Akron, OH 44333

Metro Energy, LLC
c/o Detroit Metropolitan Airport
Building Number 821
Detroit, MI 48242
ATTN: Linda S. Ackerman

Mirant America Retail Energy Marketing, LP
1155 Perimeter Center West
Atlanta, GA 30338

North American Energy, LLC
4121 Okemos Road, Suite 17
Okemos, MI 48864
ATTN: Robert C. Evans

Nicor Energy, LLC
1001 Warrenville Road, Suite 550
Lisle, IL 60532-4306

Nordic Electric, LLC
2010 Hogback Road, Suite 4
Ann Arbor, MI 48105

Premier Energy Marketing L.L.C.
900 Victors Way
Ann Arbor, MI 48108
ATTN: Bruce Schlansker/George Deljevic

Quest Energy, LLC
173 Parkland Plaza, Suite B
Ann Arbor, MI 48103
ATTN: Mark Stiers

WPS Energy Services, Inc.
12935 S. West Bay Shore Dr., Ste. 400
Traverse City, MI 49684-5485

Strategic Energy, L.L.C.
First Center Building
26911 Northwestern Hwy, Suite 300
Southfield, MI 48034

Wolverine Power Marketing Cooperative, Inc.
10125 West Watergate Road
P.O. Box 100
Cadillac, MI 49601