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Case No. U-12915

Case No. U-13843

Michigan.

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

ORDER AND NOTICE OF HEARING

Case No. U-12915

provides:

The commission shall establish the Michigan renewables energy program. The program shall be designed to inform customers in this state of the availability and value of using renewable energy generation and the potential of reduced pollution. The program shall also be designed to promote the use of existing renewable energy sources and encourage the development of new facilities.

MCL 460.10r(6).

On December 14, 2000, the Commission Staff (Staff) submitted a comprehensive proposal for the implementation of Section 10r(6). In an order issued on April 17, 2001, the Commission initiated this proceeding to receive public comments regarding the Staff's December 14, 2000 proposal for implementation of the Michigan Renewables Energy Program (MREP).

On May 16, 2002, after reviewing the numerous comments that were submitted by interested parties, the Commission issued an order establishing a collaborative process to assume policy analysis and recommendation functions and adopting the MREP. The collaborative was to include representatives of organizations that have an interest in renewable energy development in Michigan and was to address matters such as education, recommendations for incentives that promote renewable energy development and use, net metering, green tariffs, and interconnection issues. The Staff was also required to prepare and submit to the Commission an annual report on the amount of power generated from renewable sources within Michigan, the percentage of power obtained from renewable sources purchased by Michigan customers, the number of customers producing power with their own renewable energy installations, the number and aggregate capacity of renewable energy generators receiving third-party certification, the percentage and absolute change indicators of renewable penetration, and other factors that will permit the Commission to monitor the progress on the statutory mandate to educate customers and promote the use of renewable energy. These annual reports were also to include a summary of legislative action and recommendations. To date, the Staff has not yet submitted its 2003 report regarding the MREP.

Case No. U-13843

On July 23, 2001, Consumers Energy Company (Consumers) filed an application in Case No. U-13029 for authority to establish a voluntary program designed to encourage the use of

renewable resources. Specifically, Consumers proposed a green power pilot program (the program) to encourage development of new, zero-emissions renewable resources located in Michigan. According to the application, the program was to be limited to 50 Megavolt-amperes of nameplate capacity from certified generators of electricity produced through use of wind, solar rays, or other acceptable forms of renewable energy resources. The program was also to be available to all of Consumers' residential, commercial, and industrial customers. Eligible service tariffs were to include all of Consumers' Commission-jurisdictional bundled tariffs with the exception of Rate F-1, Rate I, Rate CG, Rate L-1, Rate L-2, Rate L-3, Rate L-4, Rate R-1, Rate R-2, Rate R-3, and Rate UR. Participants could choose to purchase 100 percent, 50 percent, or 10 percent of their energy from certified generators. Commercial and industrial customers could exercise the additional option of nominating specific levels of monthly use as their participation levels. Participants were required to pay a green surcharge and an administration fee that would vary in accordance with each customer's level of participation in the program. This fee was set at \$0.032 per kilowatt-hour (kWh) for the 100 percent option, \$0.016 per kWh for the 50 percent option, and \$0.0032 per kWh for the 10 percent option. The energy cost component of the fee paid by a customer on all energy consumed was determined to be \$0.03 per kWh for the 100 percent option, \$0.015 per kWh for the 50 percent option, and \$0.003 to per kWh for the 10 percent option. Consumers was to retain the balance of this fee, or \$0.002 per kWh for the 100 percent option, \$0.001 per kWh for the 50 percent option, and \$0.0002 per kWh for the 10 percent option as compensation for performing customer service, maintaining the program tracking accounts, and matching customer use with the output of certified generators. Further, although Consumers proposed that the program would have a term of three years, it maintained that participating customers should be allowed to voluntarily contract to pay the applicable green surcharge and

administrative fee for up to 17 years. By order dated July 25, 2001, the Commission approved Consumers' application in Case No. U-13029. On July 22, 2003, Mackinaw Power, LLC, (Mackinaw) and North American Wind Energy, LLC, (NAWE) filed an application seeking to amend and make permanent the program approved in Case No. U-13029. Mackinaw and NAWA state that although they have energy purchase agreements with Consumers, they are unable to finance new wind power projects because financial institutions will not provide any funds unless the energy purchase agreements contain long-term firm pricing provisions approved by the Commission. According to Mackinaw and NAWA, the existing tariffs, which require Consumers to offer to pay its top incremental cost plus \$0.03 per kWh to wind power suppliers only if customers enroll and agree to pay the \$0.03 per kWh premium is inadequate because many customers are unwilling to pay the 40% to 50% premium over non-green power energy. Mackinaw's and NAWA's solution is for the Commission to create a permanent green power program with long-term, firm-priced energy purchase agreements. They recommend that the Commission establish the sales price at \$0.058 per kWh, escalated annually by 1% for operations and maintenance costs. Further, they suggest that the Commission should encourage Consumers to offer tariffs that could allow customers to make long-term commitments to the purchase of green power. Finally, Mackinaw and NAWA maintain that the Commission should ensure Consumers' recovery of costs by indicating that if any costs are incurred by Consumers that exceed Consumers' green power revenues and exceed the annual average generation costs during the term of the contract, then such excess costs shall be approved for full recovery in a nonbypassable surcharge paid by all customers that use Consumers' distribution system and whose rates are available to be surcharged.

Discussion

The Commission has determined that these proceedings should be consolidated to further the progress of the Commission's ongoing enhancement of the MREP, in compliance with Section 10r(6) of Act 141. Case No. U-12915 established an appropriate framework, but the Commission is persuaded that additional efforts should be undertaken to meet the goal of Section 10r(6) of Act 141. In its May 16, 2002 order in Case No. U-12915, the Commission, in addition to citing the Consumers' tariff provisions mentioned earlier, referenced the tariffs approved for The Detroit Edison Company and Wisconsin Electric Power Company. Since that time, Edison Sault Electric Company has filed an application in Case No. U-13850 for authority to implement an experimental renewable energy rider.

The Commission finds that it should join the above-captioned proceedings, invite the filing of other similar company-specific proceedings, and set forth a schedule for the Staff to bring additional company-specific renewable energy proposals to the Commission for its consideration. The Commission will take into account in its assessment of new proposals the extent to which existing tariffs and proposals meet the goals of Act 141.

An important step in this process will be the Staff's completion of the annual report described in the May 16, 2002 order in Case No. U-12915. The Commission is informed that the Staff is currently working on the report and anticipates its completion this fall. The Commission concludes that the Staff should be directed to finish drafting its annual MREP report for 2003 by November 18, 2003. By that date, the Staff shall post the 2003 MREP report on the Commission's website.

The Commission also finds that the procedure for its further consideration of individual renewable energy proposals should be discussed at a prehearing conference. Accordingly, the

Commission has scheduled a prehearing conference in these dockets for 9:00 a.m. on Monday, September 15, 2003 at the Commission's Lansing offices. Each investor-owned electric utility subject to the Commission's jurisdiction shall publish notice of the prehearing conference within its service territory. All interested persons are encouraged to attend this initial prehearing conference for the purpose of providing their input into the future course of the proceedings.

While the Staff is in the process of completing its 2003 MREP report, interested parties, including Mackinaw and NAWA, will have time to consider how they may best achieve their objectives within the administrative process that controls proceedings before the Commission. For example, Case No. U-13843 cannot go forward in its current posture. On its face, the application in Case No. U-13843 seeks both a rate increase and reformation of existing contractual provisions. There is no indication that Mackinaw and NAWA have served notice of their application on Consumers. The forms of relief requested by Mackinaw and NAWA cannot be granted on an ex parte, unilateral basis. Rudimentary due process precludes issuance by the Commission of any order affecting Consumers' rates or energy supply contracts without giving Consumers an opportunity to participate in the proceedings. For that reason, Mackinaw and NAWA should be directed to serve a copy of its application on Consumers within 10 days of the date of this order. Additionally, it is clearly the policy of this State to provide a utility's ratepayers with notice and an opportunity to be heard in any proceeding that could result in a rate increase. Accordingly, the notice of the prehearing conference published by Consumers shall inform ratepayers of the potential rate ramifications of Mackinaw's and NAWA's application. Finally, the Commission is persuaded that the administrative law judge (ALJ) assigned to preside over the prehearing conference should be directed to set a schedule for prompt consideration of Mackinaw's and NAWA's application.

The Commission FINDS that:

a. Jurisdiction is pursuant to 1991 PA 179, as amended, MCL 484.2101 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. The Staff's MREP report for 2003 should be filed with the Commission and posted to the Commission's website by November 18, 2003.

c. A prehearing conference in these dockets should be scheduled for 9:00 a.m. on Monday, September 15, 2003 at the Commission's Lansing offices. All interested persons are encouraged to attend this initial prehearing conference for the purpose of determining the future course of the proceedings.

d. Each investor-owned electric utility subject to the Commission's jurisdiction should be directed to publish notice of the prehearing conference in its service territory. Mackinaw and NAWA should be directed to serve a copy of their application on Consumers within 10 days of the date of this order.

e. At the prehearing conference, the ALJ should consider the procedure for the Commission's further consideration of individual renewable energy proposals. Further, the ALJ should be directed to set a schedule for prompt consideration of Mackinaw's and NAWA's application.

THEREFORE, IT IS ORDERED that:

A. The Staff's Michigan Renewables Energy Program report for 2003 shall be filed with the Commission and posted to the Commission's website by November 18, 2003.

B. A prehearing conference in these dockets shall be scheduled for 9:00 a.m. on Monday, September 15, 2003 at the Commission's Lansing offices, 6545 Mercantile Way, P.O. Box 30221,

Lansing, Michigan 48909. All interested persons are encouraged to attend this initial prehearing conference for the purpose of determining the future course of the proceedings.

C. Each investor-owned electric utility subject to the Commission's jurisdiction shall publish notice of the prehearing conference in its service territory. Mackinaw Power, LLC, and North American Wind Energy, LLC, shall serve a copy of their application on Consumers Energy Company within 10 days of the date of this order.

D. At the September 15, 2003 prehearing conference, the administrative law judge shall consider the procedure for the Commission's further consideration of renewable energy proposals. Further, the administrative law judge shall set a schedule for prompt consideration of the application filed by Mackinaw Power, LLC, and North American Wind Energy, LLC.

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 E A L)

/s/ J. Peter Lark
Chair

By its action of August 18, 2003.

/s/ Robert B. Nelson
Commissioner

/s/ Robert W. Kehres
Its Acting Executive Secretary

/s/ Laura Chappelle
Commissioner

Lansing, Michigan 48909. All interested persons are encouraged to attend this initial prehearing conference for the purpose of determining the future course of the proceedings.

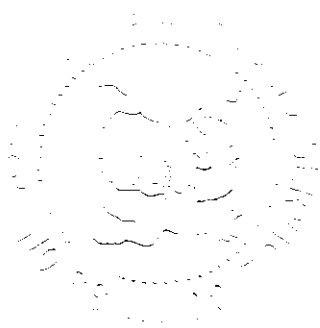
C. Each investor-owned electric utility subject to the Commission's jurisdiction shall publish notice of the prehearing conference in its service territory. Mackinaw Power, LLC, and North American Wind Energy, LLC, shall serve a copy of their application on Consumers Energy Company within 10 days of the date of this order.

D. At the September 15, 2003 prehearing conference, the administrative law judge shall consider the procedure for the Commission's further consideration of renewable energy proposals. Further, the administrative law judge shall set a schedule for prompt consideration of the application filed by Mackinaw Power, LLC, and North American Wind Energy, LLC.

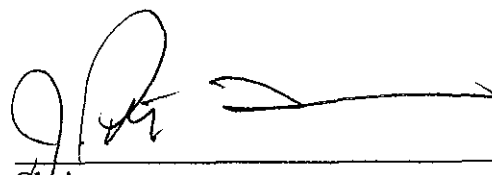
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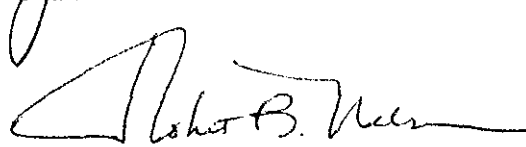
Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26.

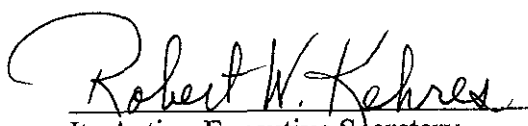
MICHIGAN PUBLIC SERVICE COMMISSION

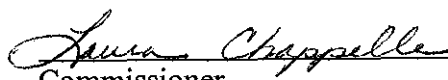


By its action of August 18, 2003


Chair


Commissioner


Its Acting Executive Secretary


Commissioner

PROOF OF SERVICE

STATE OF MICHIGAN)

Case No. U-12915

County of Ingham)

Patricia A. Fronta being duly sworn, deposes and says that on August 18th 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 18th day of August 2003


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

SERVICE LIST FOR DOCKET # U - 12915-
DATE OF PREPARATION: 08/12/2003

CASE #

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SERVICE LIST FOR DOCKET # U - 12915-
DATE OF PREPARATION: 08/12/2003

CASE #

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ALL ELECTRIC NOTICES

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DATE: 08/12/2003

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COMPANIES
8-21-03
(26)**

CMS Marketing, Services and Trading Co.
One Jackson Square, Suite 1060
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Dynegy Energy Services, Inc.
c/o Michigan Power Limited Partnership
5795 West 6th Street
Ludington, MI 49431

Energy International Power Marketing Corp
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6850 Haggerty
Canton, MI 48187
ATTN: Rami Fawaz

Engage Energy America LLC
(Formerly Engage Energy US, L.P.)
39500 High Pointe Blvd., Suite 260
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Metro Energy, LLC
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Detroit, MI 48242
ATTN: Linda S. Ackerman

Nicor Energy, LLC
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ATTN: Bruce Schlansker/George Deljevic

Strategic Energy, L.L.C.
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**AEP Ohio Commercial & Industrial Retail Co.
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Dillon Energy Services, Inc.
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Electric Mailing Labels

(23)

**Municipal Electric Utilities –
Unregulated by the MPSC**
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Coldwater, MI 49036

Daggett Electric Department

Keith Sorenson, Village President
Daggett, MI 49821-9999

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William LeFevere, City Manager
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Eaton Rapids, MI 48827-1256

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Hillsdale Board of Public Utilities

Rick Rose, Director
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Hillsdale, MI 49242-1236

Lansing Board of Water and Light

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Lansing, MI 48901-3077

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

Village of Baraga

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Baraga, MI 49908-0290

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

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Croswell, MI 48422-1224

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Bay City, MI 48708-7098

Clinton Board of Public Works

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Clinton, MI 49236

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

Dowagiac Department of Public Services

Donald Hallowell, Director
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Dowagiac, MI 49047-0430

City of Gladstone

Thomas E. White, Superintendent
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Gladstone, MI 49837-0032

Hart Hydro Electric

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

Village of L'Anse

Roy Kemppainen, 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
PAGE 2 OF 2**

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George Korthauer, City Manager
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Sebewaing Light & Water Dept.

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

Sturgis Municipal Electric Plant

Jerome Kisscorni, City Manager
130 N. Nottawa, P.O. Box 280
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

PROOF OF SERVICE

STATE OF MICHIGAN)

Case No. U-12915

County of Ingham)

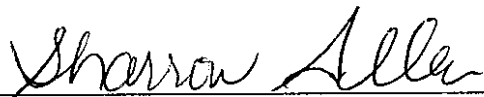
Patricia A. Fronta being duly sworn, deposes and says that on September 4th 2003, A.D. she served a copy of the Commission Order by re-mailing copies thereof by first class mail, postage prepaid, or by inter-departmental mail, to the persons as shown below:

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



Patricia Fronta

Subscribed and sworn to before me
this 4th day of September 2003



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