

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter, on the Commission’s own motion,)
regarding the regulatory reviews, revisions,)
determinations, and/or approvals necessary for)
CONSUMERS ENERGY COMPANY to fully comply)
with Public Act 295 of 2008.)
_____)

Case No. U-15805

At the September 24, 2013 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. John D. Quackenbush, Chairman
Hon. Greg R. White, Commissioner
Hon. Sally A. Talberg, Commissioner

ORDER

On October 21, 2008, the Commission commenced this case to facilitate Consumers Energy Company (Consumers) in obtaining the regulatory reviews, determinations, and approvals necessary for it to fully comply with 2008 PA 295, MCL 460.1001 *et seq.* (Act 295).

On June 21, 2013, Consumers filed an application under MCL 460.1033(3) for *ex parte* Commission review and approval of the Wind Turbine Purchase Agreement for the Cross Winds™ Energy Park (Cross Winds). Cross Winds is a 105.4 megawatt wind farm located in Tuscola County, Michigan. The Commission approved this application on June 28, 2013. On September 5, 2013, Consumers filed an application requesting *ex parte* approval of the Balance of Plant Engineering, Procurement, and Construction (EPC) Contract with Barton Malow Company

and the Major Equipment Purchase (Transformer) Contract with ABB, Inc., for the purchase of two substation transformers (Contracts).

Consumers filed copies of the Contracts with certain sensitive portions redacted to protect confidential information that might negatively affect the competitive market. However, Consumers offered the Commission Staff (Staff) an opportunity to review unredacted versions of the documents.

Consumers issued a request for proposal (RFP) for EPC contractors on April 25, 2013, to six firms selected based on industry reputation, experience, and financial strength. All six responded by June 3, 2013. Consumers selected Barton Malow Company as the Cross Winds EPC contractor. Consumers issued a RFP for transformer suppliers on February 27, 2013, to six suppliers selected based on industry reputation, experience, and financial strength. Five suppliers responded by March 29, 2013. ABB, Inc., was selected as the most cost effective and technologically sound.

On September 10, 2013, and September 12, 2013, the Staff reviewed the RFP processes used by Consumers to select the EPC and Transformer Contracts. The Staff concluded that Consumers' RFP processes were acceptable and found that Consumers' evaluation process provides assurances that the EPC and Transformer Contracts have reasonable and prudent terms and conditions and comply with the retail rate impacts of Act 295.

Consumers estimates that based on the EPC and Transformer Contracts, the levelized cost of energy for Cross Winds is \$59 per megawatt-hour (MWh), with the benefit of the production tax credit (PTC), and \$87 per MWh without the PTC. Due in part to negotiations with Barton Malow Company, Consumers was able to realize an overall project cost reduction because the June 21,

2013 Wind Turbine Purchase Agreement application contained an estimate of \$62 per MWh, with the benefit of the PTC, and \$90 per MWh without the PTC.

Consumers requested that the Commission approve the Contracts and provide assurance that the full costs will be recoverable through the combined application of the transfer price mechanism and application of the renewable energy surcharges. Consumers stated that the requested contract approvals will not result in a change in customer's rates or rate schedules, or in an increase in the cost of service to customers because the Contracts are consistent with the planning activities, expenses, and revenue recovery mechanisms and surcharges described in the company's renewable energy plan (REP) as approved by the Commission on May 1, 2012, in Case No. U-16581. Therefore, Consumers' Contracts may be authorized and approved without notice or hearing pursuant to MCL 460.6a(1).

Discussion

EPC contracts are required to be approved by the Commission pursuant to MCL 460.1033(1)(b) and (3), which state, in relevant part:

(1) Subject to subsections (2) and (3), an electric provider that had 1,000,000 or more retail customers in this state on January 1, 2008 shall obtain the renewable energy credits that are necessary to meet the renewable energy credit standard in 2015 and thereafter as follows:

* * *

(b) At the electric provider's option, up to but no more than 50% of the renewable energy credits shall be from any of the following:

(i) Renewable energy systems that were developed by and are owned by the electric provider. An electric provider shall competitively bid any contract for engineering, procurement, or construction of any new renewable energy systems described in this subdivision.

* * *

(3) An electric provider shall submit a contract entered into pursuant to subsection (1) to the commission for review and approval. If the commission approves the

contract, it shall be considered to be consistent with the electric provider's renewable energy plan.

* * *

MCL 460.1047 provides in part:

(1) Subject to the retail rate impact limits under section 45, the commission shall consider all actual costs reasonably and prudently incurred in good faith to implement a commission-approved renewable energy plan by an electric provider whose rates are regulated by the commission to be a cost of service to be recovered by the electric provider. Subject to the retail rate impact limits under section 45, an electric provider whose rates are regulated by the commission shall recover through its retail electric rates all of the electric provider's incremental costs of compliance during the 20-year period beginning when the electric provider's plan is approved by the commission and all reasonable and prudent ongoing costs of compliance during and after that period. The recovery shall include, but is not limited to, the electric provider's authorized rate of return on equity for costs approved under this section, which shall remain fixed at the rate of return and debt to equity ratio that was in effect in the electric provider's base rates when the electric provider's renewable energy plan was approved.

(2) Incremental costs of compliance shall be calculated as follows:

(a) Determine the sum of the following costs to the extent those costs are reasonable and prudent and not already approved for recovery in electric rates as of the effective date of this act:

(i) Capital, operating, and maintenance costs of renewable energy systems or advanced cleaner energy systems, including property taxes, insurance, and return on equity associated with an electric provider's renewable energy systems or advanced cleaner energy systems, including the electric provider's renewable energy portfolio established to achieve compliance with the renewable energy standards and any additional renewable energy systems or advanced cleaner energy systems, that are built or acquired by the electric provider to maintain compliance with the renewable energy standards during the 20-year period beginning when the electric provider's plan is approved by the commission.

(ii) Financing costs attributable to capital, operating, and maintenance costs of capital facilities associated with renewable energy systems or advanced cleaner energy systems used to meet the renewable energy standard.

The Commission reviewed the Contracts and finds that they should be approved. In accordance with MCL 460.1033(1)(a)(i), Consumers demonstrated that it has competitively bid the Contracts. The Commission will review Consumers' actions and costs associated with the Contracts in a contested case proceeding pursuant to MCL 460.1047 during the company's corresponding REP reconciliation process.

In the June 28, 2013 order issued in this case, the Commission determined that the transfer price schedule approved in Case No. U-16655 should be applicable to Cross Winds. According to the August 25, 2009 order in Case No. U-15806, the transfer price most recently approved at the time a renewable energy contract is approved shall become the floor price for renewable cost recovery through the power supply cost recovery factor.

The Commission finds that the full costs of Cross Winds, subject to the reconciliation process, shall be recoverable through the combined application of the transfer price mechanism and the renewable energy surcharges. The Commission finds that *ex parte* approval is appropriate because the Contracts will not affect rates or rate schedules or result in an increase in the cost of service to customers. The Commission has all necessary information needed to approve the Contracts. In the Commission's view, expeditious treatment of renewable energy contracts is needed to encourage development of the most cost practical and highest quality renewable energy resources. The Commission finds no prohibition against *ex parte* approval of the contracts in Act 295.

THEREFORE, IT IS ORDERED that:

A. Consumers Energy Company's Balance of Plant Engineering, Procurement, and Construction Contract with Barton Malow Company and the Major Equipment Purchase Contract with ABB, Inc., for the purchase of two substation transformers for the Cross WindsTM Energy Park are approved as in compliance with the requirements of Public Act 295 of 2008.

B. The transfer prices, as set forth in the June 28, 2013 order in Case No. U-16655, shall be applied to the project.

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, under MCL 462.26.

MICHIGAN PUBLIC SERVICE COMMISSION

John D. Quackenbush, Chairman

Greg R. White, Commissioner

Sally A. Talberg, Commissioner

By its action of September 24, 2013.

Mary Jo Kunkle, Executive Secretary

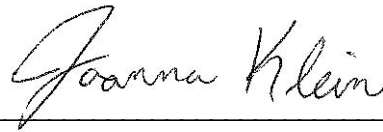
P R O O F O F S E R V I C E

STATE OF MICHIGAN)

Case No. U-15805

County of Ingham)

Joanna Klein being duly sworn, deposes and says that on September 24, 2013 A.D. she served a copy of the attached Commission order by first class mail, postage prepaid, or by inter-departmental mail, to the persons as shown on the attached service list.



Joanna Klein

Subscribed and sworn to before me
This 24th day of September 2013

Gloria Pearl Jones
Notary Public, Ingham County, MI
My Commission Expires June 5, 2016
Acting in Eaton County

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

STATE OF MICHIGAN)

Case No. U-15805

County of Ingham)

Lisa Felice being duly sworn, deposes and says that on September 24, 2013 A.D. she served a copy of the attached **Commission Order (Commission's Own Motion) via e-mail transmission**, to the persons as shown on the attached service list (Listserv Distribution List).

Lisa Felice

Subscribed and sworn to before me
This 24th day of September 2013

Gloria Pearl Jones
Notary Public, Ingham County, MI
As acting in Eaton County
My Commission Expires June 5, 2016

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