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MSPC releases guidance on implementation of PURPA after Federal Energy Regulatory Commission's Order 872

The Michigan Public Service Commission today provided guidance on how it plans to adjust its implementation of the federal Public Utility Regulatory Policies Act of 1978 (PURPA) in the wake of the Federal Energy Regulatory Commission's issuance of Order 872 in 2020 ([Case No. U-20905](#)).

The Commission in October [requested comments](#) from interested parties on how [Order 872](#) impacts the MPSC's implementation of PURPA, a federal law created amid the 1970s national energy crisis to encourage competition, conservation, reliability and efficiency in generating and delivering electricity. PURPA, which is largely carried out by states, encourages the integration of electricity generation from smaller renewable energy and cogeneration qualifying facilities, or QFs, to achieve diversity, reliability and competition.

FERC's Order 872, and subsequent clarifications, included significant revisions to sections 201 and 210 of PURPA impacting the areas of rates paid to QFs, rules that treat projects that are located close to one another as a single project, a utility's obligation to purchase from QFs, legally enforceable obligations (LEOs) and self-certification of qualifying facilities.

The Commission asked parties to address a number of questions, including to what extent Order 872 requires modification of previous Commission actions on PURPA, and, if revisions were required, how to the Commission should carry that out; what implications Order 872 has on competitive bidding in Michigan, and whether more guidance from the Commission is necessary to define an LEO consistent with Order 872.

The Commission received comments and reply comments from investor-owned utilities and other stakeholders including Michigan Energy Innovation Business Council; Michigan Electric and Gas Association; Pine Gate Renewables LLC; Independent Power Producers Coalition of Michigan; Cadillac Renewable Energy LLC, Genesee Power Station LP, Grayling Generating Station LP, Hillman Power Co. LLC, TES Filer City Station LP, Viking Energy of Lincoln Inc., and Viking Energy of McBain Inc. (collectively, the Biomass Merchant Plants); Environmental Law & Policy Center

together with Vote Solar; Indiana Michigan Power Co.; Consumers Energy Co.; DTE Electric Co., and MPSC Staff.

Today's order:

- Acknowledges that Order 872 applies prospectively and will not alter existing QF contracts or settlement agreements approved by the Commission;
- States that any future changes to PURPA implementation, including revisions to tariffs or PURPA documents, will be addressed in each utility's biennial avoided cost review proceeding;
- Adopts the minimum requirements for competitive bidding set out in Order 872 and directs MPSC Staff to incorporate these requirements into the MI Power Grid competitive procurement workgroup; and
- Directs utilities, as part of their next biennial review applications, to provide clear guidance on the criteria they will use to evaluate a QF's commercial viability and financial commitment in determining whether an LEO has been formed, consistent with FERC and Commission precedent. Additionally, the Commission seeks additional comment regarding the potential development of an expedited review process to whether an LEO has been established in a particular case.

MPSC DENIES REHEARING REQUESTS ON CONSUMERS ENERGY GAS COST RECOVERY ORDER

The MPSC today rejected requests for rehearing on the Commission's September 2020 order [denying Consumers Energy Co.'s request](#) to recover from ratepayers some of the extraordinary costs the utility incurred after the 2019 polar vortex energy emergency sparked by a fire at the company's compressor station in Macomb County. Both Consumers and the Residential Customer Group (RCG) had filed petitions for rehearing on the Sept. 24 order ([Case No. U-20209](#)). Consumers disagreed with the Commission's disallowance of \$6,766,978 in costs for natural gas to supply to customers because, as a result of the fire, the company couldn't access gas it had already purchased and stored at its Ray Township storage field. The RCG sought a rehearing to urge the Commission to disallow even more of Consumers' costs for the additional gas purchases.

DETROIT THERMAL SETTLEMENT AGREEMENT APPROVED

The MPSC approved a settlement agreement today involving Detroit Thermal LLC's request to modify its steam supply cost recovery (SSCR) tariff in light of its transition from using a trash incinerator to generate steam to using natural gas. The settlement agreement ([Case No. U-20794](#)) authorizes Detroit Thermal, which generates steam used primarily for space and hot water heating and absorption cooling of more than 100 buildings in greater downtown Detroit, to restructure its steam service supply rates to reduce annual revenues by \$707,189. The company's rates are based on a revenue requirement of \$39,496,757 with a return on common equity of 10.6% and a common equity ratio of 52%. The agreement reduces the SSCR factor from \$14.05 to \$9.58 per thousand pounds of steam.

MPSC TAKES ACTIONS IN DISPUTE OVER ELECTRIC SERVICE TO BACK FORTY MINE IN UPPER PENINSULA

The MPSC today ruled that Aquila Resources Inc., operator of the Back Forty Mine in the Upper Peninsula, has the right to choose the provider of three-phase electric service to its open-pit mine in Menominee County's Lake Township ([Case No. U-20829](#)). The Commission dismissed a motion for summary disposition by Alger Delta Cooperative Electric Association, which had objected to Upper Michigan Energy Resources Corp.'s (UMERC) April 2020 notice of intent to serve the mine. Today's order denies Alger Delta's motion for summary disposition while granting UMER's motion to dismiss Alger Delta's objection and Aquila Resources' motion for summary disposition. The order finds no genuine issue of material fact preventing Aquila from choosing a provider of its choice.

To look up cases from today's meeting, access the MPSC's [E-Dockets filing system](#).

Watch recordings of MPSC meetings on its [YouTube channel](#).

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