

STATE OF MICHIGAN  
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the application of	)	
<b>ALPENA POWER COMPANY</b>	)	
for approval of power purchase agreements.	)	Case No. U-21094
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At the July 2, 2021 meeting of the Michigan Public Service Commission in Lansing,  
Michigan.

PRESENT: Hon. Daniel C. Scripps, Chair  
Hon. Tremaine L. Phillips, Commissioner  
Hon. Katherine L. Peretick, Commissioner

**ORDER**

On June 10, 2021, Alpena Power Company (Alpena) filed an application in this case pursuant to Section 6j of Public Act 304 of 1982 (Act 304), MCL 460.6j, requesting *ex parte* approval of power purchase agreements (PPAs) with Thunder Bay Power Company, LLC (Thunder Bay) for the output of four hydroelectric generating facilities along Thunder Bay River. The facilities are known as Hillman (0.25 megawatt (MW)), Norway Point (4 MW), Four Mile (2.4 MW), and Ninth Street (1.2 MW). The PPAs are pursuant to the Public Utility Regulatory Policies Act of 1978, PL 95-617; 92 Stat 3117 (PURPA).

In March 2021, Thunder Bay sent Alpena a PURPA Notice of Commitment to Sell to Applicant (Notice) for the four hydroelectric facilities. The Notice indicated that all four hydroelectric facilities were certified by the Federal Energy Regulatory Commission as qualifying facilities (QFs); the power purchases would start on July 1, 2021, based on the avoided cost at the

time the obligation was incurred; the power purchases would be pursuant to a legally enforceable obligation; and the contracts would be based on Alpena's standard form PPA.

Alpena and Thunder Bay negotiated contracts for the purchase of output from each of the hydroelectric facilities with avoided cost rates approved in Alpena's Standard Offer Tariffs (Cogeneration and Small Power Production Rates 1 and 2) which were approved in the October 29, 2020 order in Case No. U-18089 (October 29 order). Alpena has a full-requirements contract with Consumers Energy Company (Consumers), terminating December 31, 2024, that fulfills 100% of Alpena's capacity need. The contract rates between Alpena and Thunder Bay will cover the period through December 31, 2024, using the costs avoided in the Consumers supply contract as a result of the QF power purchases. There is a separate avoided energy rate, based on the Midcontinent Independent System Operator, Inc. (MISO) market, for purchases from the four facilities beginning January 1, 2025, and continuing thereafter.

The contracts are based on Alpena's standard form PPA with changes in Part I to reflect the avoided cost determination, the start dates of the contract period, and the fact that the projects are already operational. Parts II and III are the same for all four contracts. The contracts list the initial contract terms as beginning July 1, 2021, and ending December 31, 2024. The contracts automatically renew on January 1, 2025, at the new avoided cost rates. After December 31, 2024, both parties have the right to terminate the agreement with 90 days written notice.

Contract Period 1, defined as July 1, 2021, through December 31, 2024, lists the energy purchase price for the Hillman facility as the hourly supplemental power energy charge less an administrative charge of \$0.001/kilowatt-hour (kWh). The energy purchase price for the Ninth Street, Four Mile, and Norway Point facilities is listed as the hourly supplemental power energy charge less a charge for prescheduled firm energy not delivered as a result of energy delivered

under these contracts less an administrative charge of \$0.001/kWh. The additional language that was negotiated for the contracts of the three larger facilities holds the QFs accountable for any penalties resulting from energy shortfalls and protects Alpena's customers. The supplemental capacity purchase price for Contract Period 1 is \$0.0187/kWh.

Contract Period 2, beginning January 1, 2025, lists the energy purchase price as the actual MISO Day Ahead locational marginal price at the Alpena node less an administrative charge of \$0.001/kWh. The supplemental capacity purchase price for Contract Period 2 is not applicable. As Alpena has no capacity need, the QF purchases do not include capacity purchases.

### Discussion

MCL 460.6j(13) provides, in relevant part, that in a power supply cost reconciliation, the Commission shall do all of the following:

(b) Not disallow the capacity charges for any facilities for which the electric utility would otherwise have a purchase obligation if the commission has approved capacity charges in a contract with a qualifying facility, as that term is defined by the Federal Energy Regulatory Commission pursuant to the public utilities regulatory policies act of 1978, Public Law 95-617, 92 Stat 3117, unless the commission has ordered revised capacity charges upon reconsideration under this subsection. A contract is valid and binding in accordance with its terms, and capacity charges paid pursuant to that contract are recoverable costs of the utility for rate-making purposes notwithstanding that the order approving that contract is later vacated, modified, or otherwise held to be invalid in whole or in part if the order approving the contract has not been stayed or suspended by a competent court within 30 days after the date of the order, or by July 29, 1987 if the order was issued after September 1, 1986 and before June 29, 1987. The commission shall determine the scope and manner of the review of capacity charges for a qualifying facility. Except as to approvals for qualifying facilities granted by the commission before June 1, 1987, proceedings before the commission seeking those approvals shall be conducted as a contested case pursuant to chapter 4 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.271 to 24.287. The commission, upon its own motion or upon application of any person, may reconsider its approval of capacity charges for a qualifying facility in a contested case hearing after passage of a period necessary for financing the qualifying facility, if both of the following apply:

(i) The commission has first issued an order making a finding based on evidence presented in a contested case that there has been a substantial change in circumstances since the commission's initial approval.

(ii) The commission finding is set forth in a commission order subject to immediate judicial review.

The Commission has reviewed Alpena's application, supporting exhibits, and the language in Section 6j of Act 304, and finds that the PPAs should be approved. The PPAs are based on approved avoided costs and standard form PPAs approved by the Commission. *See*, October 29 order. *Ex parte* review and approval are appropriate because approval of the PPAs will not affect rates or rate schedules and will not increase the cost of service to customers. *See*, MCL 460.6a(3).

THEREFORE, IT IS ORDERED that the power purchase agreements between Alpena Power Company and Thunder Bay Power Company, LLC, are approved as in compliance with Section 6j of Public Act 304 of 1982, MCL 460.6j.

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. To comply with the Michigan Rules of Court's requirement to notify the Commission of an appeal, appellants shall send required notices to both the Commission's Executive Secretary and to the Commission's Legal Counsel.

Electronic notifications should be sent to the Executive Secretary at [mpscedockets@michigan.gov](mailto:mpscedockets@michigan.gov) and to the Michigan Department of the Attorney General - Public Service Division at [pungp1@michigan.gov](mailto:pungp1@michigan.gov). In lieu of electronic submissions, paper copies of such notifications may be sent to the Executive Secretary and the Attorney General - Public Service Division at 7109 W. Saginaw Hwy., Lansing, MI 48917.

MICHIGAN PUBLIC SERVICE COMMISSION

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Daniel C. Scripps, Chair

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Tremaine L. Phillips, Commissioner

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Katherine L. Peretick, Commissioner

By its action of July 2, 2021.

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Lisa Felice, Executive Secretary

# PROOF OF SERVICE

STATE OF MICHIGAN )

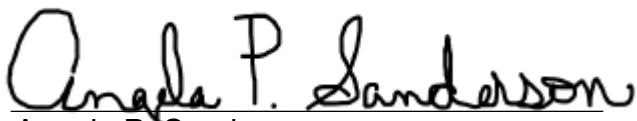
Case No. U-21094

County of Ingham )

Brianna Brown being duly sworn, deposes and says that on July 2, 2021 A.D. she electronically notified the attached list of this **Commission Order via e-mail transmission**, to the persons as shown on the attached service list (Listserv Distribution List).

  
Brianna Brown

Subscribed and sworn to before me  
this 2<sup>nd</sup> day of July 2021.



Angela P. Sanderson  
Notary Public, Shiawassee County, Michigan  
As acting in Eaton County  
My Commission Expires: May 21, 2024

**Service List for Case: U-21094**

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<b>Name</b>	<b>Email Address</b>
Alpena Power Company	kd@alpenapower.com
James A. Ault	spartan75@comcast.net
Thunder Bay Power Company LLC	notices@eaglecreekre.com