

## UTILITY CONSUMER PARTICIPATION BOARD

February 5, 2007

### MINUTES

A meeting of the Utility Consumer Participation Board was held Monday, February 5, 2007 in the Ottawa Building, 4<sup>th</sup> Floor Training Room, Lansing, Michigan.

#### **I. Call to Order**

Vice Chairman Ron Rose acting as Chairman called the meeting to order at 10:25 a.m. Board members present: Ron Rose, Sister Monica Kostielney and Alexander Isaac (via telephone). Members absent: Chairman Harry Trebing and Marc Shulman. Other representatives in attendance: Special Assistant to the Board Michelle Wilsey; DLEG staff LeAnn Droste (purchasing) and Terri Eklund (finance); Donald Keskey, Clark Hill representing MCAA and MEC/PIRGIM and Ron Callen, Clark Hill; and Hearings Reporter Tim Sturgis. Marilyn Oliver, DTE Energy was also in attendance.

#### **II. Agenda**

The agenda was accepted as printed.

#### **III. Minutes**

Kostielney moved, second by Isaac and motion carried to approve the minutes of December 4, 2006 with the following correction: change the NRC docket number cited as 50-155 to 50-255.

#### **IV. Correspondences**

Acting Chairman Rose reported that the following correspondences were received and placed on file:

1. Case status report dated February 2, 2007 from Don Keskey for grant UCRF 07-02.
2. Expenditure status report dated February 2, 2007, amended to state expenditures reported are as of the end of December 2006 rather than January 2007, from Don Keskey for grant UCRF 07-02.
3. Work plan amendment for grant UCRF 06-03 (MCAA) approved by UCPB December 4, 2006 from Don Keskey to include case U-14800.
4. Work plan amendment for grant UCRF 07-02 addition of William Peloquin as an expert, and notification to the Board of intent to add a Washington, DC based attorney to support federal cases.
5. PIRGIM Act 141 Study, "Lessons Learned: Michigan Electric Restructuring Report, January 2007," submitted to the UCPB.
6. MEC and MCAA annual reports submitted to UCPB.
7. Status report dated February 2, 2007 from David Shultz regarding grant UCRF 06-04 and UCRF 07-01.

#### **V. Reports**

##### *A. Grantees*

1. Don Keskey discussed issues related to current case work focusing on spent nuclear fuel activity and the sale of Consumers' Energy nuclear assets. Of particular concern is protection of the flow-through costs paid by ratepayers for disposal of spent nuclear fuel, decommissioning, transaction costs, etc. as utilities seek to reduce or shift risk through the sale and transfer of nuclear assets and operations to unsecured companies. Acting Chairman Rose inquired about the Court of Claims cases being brought against the DOE by the utilities for failure to furnish a central disposal site. Mr. Keskey affirmed that they have been trying in Act 304 cases to get the utilities to bind or obligate themselves to refund to the ratepayers any damage awards

from DOE, or to pursue remedies like escrowing fees, establishing a trust or seeking court relief for a defaulted contract rather than paying fees and flowing the costs through to ratepayers. Sister Kostielney asked who and how it is determined that a company would divest itself of its nuclear program? Mr. Keskey explained that it is a decision made by the utility and its Board of Directors. Mr. Callen further discussed the continuing process of suit and determination in the DOE cases. Sister Kostielney asked about the physical storage of nuclear waste materials. Mr. Callen described the storage process. There was further discussion about the risks of storage, particularly at the Palisades site.

2. Acting Chairman Rose called attention to the status report submitted by David Shaltz on behalf of the Residential Ratepayer Consortium (RRC) dated February 2, 2007. He advised that in the absence of Mr. Shaltz, questions on the report be deferred until the next meeting. Acting Chairman Rose discussed recent articles in the Lansing State Journal discussing interest by LS Power Group in potential Michigan sites for a new power plant and comments by MPSC Chairman Peter Lark advocating energy efficiency and conservation. Acting Chairman Rose noted this was the subject of the PAYS experiment. Mr. Keskey noted that they had asserted that Act 304 did provide a basis for better planning of resources and supply and demand, and within the statute there was opportunity to promote energy efficiency and conservation. The Commission did not concur with that view.

*B. Attorney General – No report.*

*C. Financial -* Terri Eklund provided a financial report (attached and included by reference to these minutes). Kostielney noted the large number of people and groups represented by the grants. Mr. Isaac inquired as to the balance remaining to be paid out for 2007. Rose noted it was approximately \$555,000.00.

*D. Administrative –* Wilsey noted that the credentials for William Peloquin need to be submitted to DLEG Purchasing pursuant to the grant amendment. Mr. Keskey agreed to forward them to LeAnn Droste. Billing issues were discussed. It was noted that grantees agreed to improve timeliness of billings. The financial report demonstrated that billings were not current. Mr. Shaltz noted in his report that it was his intent to bring his billings current but was not able to fulfill that in advance of the meeting. Ms. Droste noted that they are not able to mandate this or impose penalties; however, it is a question for the board in terms of whether services being performed. The grantee reports demonstrate that services on these grants are being performed and the expectation is that they would be billed appropriately for the services rendered. Mr. Rose acknowledged the importance of the board's monitoring function. He felt the grantees understood their obligations and he encouraged the parties make a more conscientious effort on an on-going basis. Ms. Droste noted that the billings that have been submitted are complete with very few questions.

Wilsey discussed progress on annual reports for 2005 and 2006. She discussed concerns related to the estimation of benefits. The final reports from grantees do not describe their method for determining benefits and it would be difficult to reconstruct the information. She requested guidance from the Board as to how to proceed. Mr. Keskey noted that reporting requirements are not clear and that some format would be helpful. Discussion ensued regarding calculation of benefits, and recognition of non-quantifiable benefits. Kostielney did not feel it was productive to design a process and try to apply it to the past. She advised improving the reporting structure going forward and to meet the statutory requirements as best as possible with the information available for the 2005 and 2006 reports. Rose expressed concern about being overly driven by numbers. He noted that many of the benefits and gains have nothing to do with numbers. Just because a case did not produce the result desired, such as PAYS, does not mean there was no benefit. Sometimes it is building a process that will benefit ratepayers in the long run. He is undecided on the matter of reporting structure. He felt the validation process could be open and even the utilities could offer comments. The annual reports should be concise. It is not intended

that the Board Assistant recreate the past. It is not helpful for the objectives of this Board. Isaac asked why the 2005 report was not submitted on July 1, 2006. It was not clear, however, an Assistant was engaged in August and the 2005 report was discussed in October 2006. Kostielney suggested the 2005 report be completed as best possible and submitted with the 2006 report in July 2007. Isaac suggested the 2005 report be submitted as soon as possible and 2006 be submitted no later than the deadline in July. Wilsey reiterated her concerns about the deficiencies and the importance of fair and accurate reports but agreed to move forward. A draft report for 2005 noting any deficiencies would be discussed in April. Kostielney suggested following the previous format noting efforts to improve future reports.

Keskey submitted two annual reports to the Board - one for MEC/Pirgim for the 2005 grant and 2006 grant. Isaac reiterated his desire to see the 2005 report submitted as soon as possible with the caveat that 2005 is a transitional year. Rose said he felt 2005 and 2006 should be handled the same and begin a new structure in 2007. Final decisions and recommendations would be made pursuant to the outcome of the audit. Rose announced that a meeting with the auditors was scheduled at 1:00 p.m. today. He and Isaac (via telephone) planned to attend.

#### **V. New Business**

Acting Chairman Rose announced that he was not being reappointed next term. His term expired December 31<sup>st</sup> and he would continue to serve until a new member is appointed. It was his understanding that all the terms had expired.

#### **VI. Public Comment**

Oliver (DTE) noted that in regard to an earlier suggestion that the utilities might comment on the annual report, her personal thought was that the utilities would say they would like to discontinue funding.

#### **VII. Next Meeting and Adjournment**

Acting Chairman Rose announced the next meeting was scheduled April 2, 2007, 10:00 a.m. The meeting adjourned at 12:43 p.m.

*Note: Full transcripts of this meeting are available upon request.*