

UTILITY CONSUMER PARTICIPATION BOARD

February 9, 2009

MINUTES

A meeting of the Utility Consumer Participation Board was held Monday, February 9, 2009 in the Ottawa Building, 4th Floor Training Room, Lansing, Michigan.

I. Call to Order

Chairman Alexander Isaac called the meeting to order at 10:01 a.m. Board members present: Alexander Isaac ; Harry Trebing (telephonically); and Marc Shulman (telephonically). Members absent: Ron Rose, Sister Monica Kostielney. Others present: Michelle Wilsey, John Liskey, LeAnn Droste; Donald Keskey, Terri Eklund, David Shaltz and James Clift.

II. Agenda

The agenda was accepted as printed.

III. Public Comment

James Clift, MEC informed the board that they were changing legal counsel per memo provided to the board. Chris Bzdok from Bzdok Olson, who has been handling a number of other energy-related matters for the Michigan Environmental Council, will phase in taking over matters before the Public Service Commission. The intent is to consolidate energy work into one law office. Some dockets may be jointly worked on until transition is complete.

IV. Minutes

Shulman moved, second by Trebing and motion carried to approve minutes as presented.

V. Correspondences (Received and placed on file)

- A. Area Agencies on Aging Association and the League for Human Services U-15645 Rule 207 Statement Memo and cover email of 12/18/08 (Shaltz)
- B. Bennett email inquiry regarding completion 2007 Annual Report 12/22/2008 (Bennett)
- C. Wilsey email response to Bennett confirming completion and distribution of the 2007 annual report 12/23/2008 (Wilsey)
- D. Email memo Re funding for 2nd petition to the US Supreme Court and attachments 12/22/08 (Liskey)
- E. Keskey 1st response to 12/22/08 Memo Re funding for 2nd petition to the US Supreme Court – email 12/23/2008 (Liskey)
- F. Liskey 1st response to 12/23/2008 Keskey response memo Re funding for 2nd petition to the US Supreme Court – email 12/23/2008 (Liskey).
- G. Keskey 2nd response to Liskey 1st response memo Re funding for 2nd petition to the US Supreme Court, including request for 2007-08 transcripts - email 12/23/2008 (Keskey).
- H. Liskey memo RE: Jan 28th Budget Amendment Requests – email 12/30/2008 (Liskey).
- I. Liskey response to Keskey 2005-06 transcript request – multiple emails 1/6/2008 inc. Jul 7, 06 UCPB transcript, Jul 24, 2006 transcript, Oct 2, 06 transcript, Dec 4, 2006 transcript, UCPB minutes Feb 2, 06,

April 21, 06, UCPB minutes May 4, 05, UCPB minutes Jul 6, 05, UCPB minutes Aug 31, 05, UCPB minutes Oct 17, 05

J. Memo Re: Authorization for funding a 2nd cert petition to the US Supreme Court – email 1/6/2009 Liskey.

K. Feb 4, 2008 UCPB transcript excerpt - email 1/6/2009 (Liskey)

L. RRC Case Status report 1/12/2009 (Shaltz)

M. Major Actions Summary 12_15_08 (Wilsey)

N. UCPB Tentative Minutes 12_15_08 (Wilsey)

O. Budget sheets for amendments approved 12/15/08 (Keskey)

P. MCAAA Grant Amendment Request 1/12/2009 (Keskey)

Q. Filing fee denial memo and response re: Grant Number: UCRF-09-01 – email 1/12/2009

R. Memo FW: Funding for Deco U.S. Supreme Court appeal – email Keskey 1/12/2009.

S. Attachment August 25, 2008 transcript of the UCPB meeting, and also some memos transmitted on October 3, 2008 – email 1/12/2009 (Keskey)

T. Memo Re: filing fee denial UCRF 09-01 – email 1/13/2009 (Droste)

U. Response to Memo Re: filing fee denial UCRF 09-01 – email 1/14/2009 (Keskey)

V. Transcripts 12/15/2008 board meeting (Schroeder)

W. UCRF Financial Report as of 1/20/09 (Eklund)

X. Excerpts re:UCPB Board's policy relative to appeals – email 1/21/09 (Liskey)

Y. AARP Case Status Report 1/27/09 by Nelson – email 1/29/09 (Joy)

Z. UCRF Financial Report as of 2_03_09 (Eklund)

Isaac acknowledged that some correspondences were received from Keskey over the weekend.

However, given the lack of time for review by the board, they would not be discussed at this meeting.

Wilsey noted that the correspondences from Keskey and the one received from Clift today would be recorded for the next meeting.

VI. Old Business

- A. 2008 Grant Review process/Annual report – Wilsey noted that she had begun assembling the 2008 grant funded cases to conduct an independent assessment of results. She also reminded the grantees that they should submit their assessment of results for inclusion in the Annual Report. She noted that the time required for this type of review will be much more involved than previous annual report. The contract limits should be considered in determining what other work projects to pursue.

Shulman moved, second by Trebing and motion carried to accept the 2008 Grant Review process report.

VII. New Business

- A. 2010 Grant Cycle Workshop – Wilsey presented a preliminary project proposal for educational workshops on the UCRF grant program to the board. This had been extensively discussed at the last meeting. The proposal included mission and objectives, topic outline, budget parameters,

prospective speakers, and some comments on cost/benefit considerations. In particular, the demand of planning and implementing the educational workshops combined with other responsibilities would likely exceed the hours provided for in the administrative support contract. The preliminary proposal for the educational workshops was shared with Allan Pohl, DELEG for comment and guidance. After review of the proposal and budget issues he stated that it was "approved." Isaac requested a more detailed budget proposal before proceeding. Trebing supported the workshop concept but questioned whether the board would want to broaden the workshop to include discussion of the big picture and changes in the industry that may be Act 304 relevant. Isaac commented that the focus of this initial effort would be to explain the existing program and processes rather than an extensive discussion of emerging issues. Wilsey noted that input from the last meeting indicated that the educational workshops should focus on introducing people and potential grantees to the program and explaining how it works. Follow-up with interested individuals and qualified parties would allow discussion of big picture and whether specific issues might pass the prescribed threshold tests for the UCRF grant program. Liskey commented that any educational workshop should be narrow to the purpose of the board and UCRF program. Shulman noted that he agreed that the workshop should stick to act 304 at this time. Isaac concurred. Isaac noted that discussion was for point of order. This is something that the board may decide to do in the future but no action would be taken on this issue at this time.

- B. MCAAA Grant Amendment Request 1/12/2009 (Keskey) – Keskey asked the board to reconsider the request for participation in the implementation proceedings for the new energy act. Wilsey requested specific information as to the relationship of the cases to Act 304. He stated that one example is Renewable Energy. Act 304 will have a role in considering the price for renewable energy or advanced clean energy as a pass-thru item under Act 304, and specifically 6(j). That's under Section 47(2)(b)(IV). Wilsey noted that her inquiry was a courtesy follow-up to the grant amendment request. In the request you stated, "In fact, the new statute contains sections which indicate that Act 304 itself will be the statute under which important reconciliation reviews of said programs and costs will be undertaken." I requested additional information in order to inform the board as to specific items that would support your request. Since the response was sent last night, it did not factor into my review of your request. Keskey handed out copies of the document. He explained the linkages based on the statutory provisions. He stated that they could not know what was specifically in the filings until they are submitted but it appears that Act 304 has a part of the role here with respect to how these costs are going to be reconciled and reviewed as part of the implementation of the new acts. The utilities will be filing soon and MCAAA would like a budget to review those filings (either gas or electric) and to testify as to the impacts of those kind of costs that would be under Act 304 on low-income customers represented by MCAAA. Isaac requested Wilsey to present her analysis of the request. Wilsey noted that the budget request submitted to the board was nearly identical to the MCAAA request reviewed by the board at the last meeting. Changes included request for participation in both gas and electric cases. It also included the Commission schedule. However, no additional information was provided that supported the claim that these were Act 304 qualified cases. In addition, the request was for an "umbrella" budget which the board has expressed opposition to for lack of accountability. Since this request isn't for a defined Act 304 case, I think it would be required by any grantee to provide a work plan which establishes where they're going to intervene and how that is under Act 304. This budget amendment request doesn't do this. I think Mr. Keskey provides some compelling arguments in his verbal presentation that may support the board's interest. However, jumping ahead and approving an

umbrella request for participation in these proceedings seems premature. Maybe reconsidering the need for expanding the authority of the fund to cover energy optimization proceedings is in order. If they are that closely linked and the argument can be made, then why not get express approval with the support of grantees who feel that this is a proceeding very linked to Act 304 proceedings. With their support, this could possibly be brought forward as an amendment to the energy act. If approved, then the board and grantees can proceed with certainty that these are qualified cases. Notwithstanding any future action, I believe the grant amendment request as presented by MCAAA is incomplete and contradicts previous board position on umbrella budgets. Isaac asked Wilsey the amount of the request. She responded that it was for \$57,570. Keskey noted that it is difficult to estimate and the board could consider a lower amount. Keskey commented that umbrella meant, "the four cases that we were considering would be -- well, five would be Consumers Energy, electric and gas, Detroit Edison electric, and MichCon gas, possibly a U.P. utility, but it looks more like it would be the primary four that we have traditionally intervened in. Case numbers could be provided on the filing dates." He noted that they would focus on the Act 304 implications in these cases and not other issues. He emphasized that, "the reason we've asked for the approval now is because the cases are going to start and they're going to finish. In fact, they're going to finish effectively, the hearings will be all done basically, virtually all done before the next board meeting." Trebing moved to accept MCAAA Grant Amendment Request by Mr. Keskey with the, actually part of it's a revised request for grant funding as an amendment to UCRF 09-05 for participation in upcoming implementation plans to be filed by utilities under 2008 PA-195. The motion failed for lack of a second. Isaac asked Liskey to comment on the issue of relationship or qualification of the new energy act implementation proceedings under Act 304. Liskey stated that, "...the special litigation division has looked at this, because we would like to avail ourselves of Act 304 funds as well; and we have made an internal decision that participation in these cases with Act 304 funds is not available to us."

- C. MEC UCRF funding for 2nd petition to the US Supreme Court (DECO U-13808) – Keskey noted that the materials related to this were handed out last night and, in fairness, this item could be deferred to the April 1, 2009 meeting. Isaac asked if there was any objection to tabling the item to the April 1, 2009 meeting. Hearing no objection, the item was tabled to April 1, 2009 board meeting.

Keskey noted that they were preparing a report relative to the last year of funding on their cases and results. He asked if the 2008 annual report mentioned under old business was the annual legislative report or some other report. Wilsey noted that it was the annual report to the legislature. She was inviting grantees to submit input.

Wilsey asked the board for discussion on an item included in her assessment memo under the MCAAA budget amendment request. One recommendation was to pursue expansion of scope of the UCRF. She requested that the AG office provide comment. Isaac offered the floor to Liskey. This issue has been discussed internally somewhat. They would be happy to work with the board. If some amendatory language could be agreed upon, its possible the Attorney General would support it. No commitments can be made without language. Shulman had discussed the matter briefly with Liskey and agreed in general with the direction. Trebing indicated he is certainly supportive of the idea and would encourage

the board to move forward on it. Wilsey noted that counsel for AARP had encouraged the board on several occasions to proceed on this matter. If the board is interested, then a motion to proceed in working on the matter with the AG would be in order. Timing issues were extensively discussed. Clift noted that he could monitor the legislation and technical amendments and would notify Robin if any changes were taking place so she could inform the chair. Trebing moved, second by Shulman and motion carried to authorize investigation by Michelle Wilsey in consultation with the Office of Attorney General to produce language amending the use of Act 304 funds.

VIII. Next Meeting

Isaac announced the next regular meeting of the UCPB is scheduled Wednesday, April 1, 2009, 10:00 a.m. He noted it was unusual. Wilsey noted that it was scheduled to avoid spring break and holiday conflicts.

Trebing called the board's attention to a report authored by Ken Rose. It's titled A Reference Manual and Procedures for Implementing the PURPA Standards in the Energy Independence and Security Act of 2007, dated August 11, 2008. It sets forth here the new PURPA standards that the utilities must adhere to in encouraging efficiency. It is a good interpretation of the issues and requirements. It is an excellent reference document and is available on the internet.

IX. Adjournment

Shulman moved, second by Trebing and motion carried to adjourn the meeting at 10:48 a.m.