

# UTILITY CONSUMER PARTICIPATION BOARD

December 5, 2011

## MINUTES

A meeting of the Utility Consumer Participation Board was held Monday, December 5, 2011 in the Ottawa Building, 4<sup>th</sup> Floor Training Room, Lansing, Michigan.

### I. Call to Order

Jim MacInnes called the meeting to order at 1:09 p.m. Board members present: Jim MacInnes; Conan Smith; Paul Isely; Jacqueline Jones; Susan Licata Haroutunian. Members absent: None.

Others present: Michelle Wilsey, Board Assistant; James Ault, Michigan Electric & Gas Association; Don Keskey, Michigan Community Action Agency Association (MCAAAA); Sebastian Coppela; William Peloquin, MCAAAA; David Shaltz, Residential Ratepayer Consortium (RRC); John Liskey, Citizens Against Rate Excess (CARE); Christopher Bzdok, Michigan Environmental Council (MEC); Kate Redmond, MEC; Shawn Worden, LARA Budget; Wes VanMalsen, LARA Purchasing and Grant Services; Donald E. Erickson, Assistant Attorney General; Ed Haroutunian.

### II. Agenda

MacInnes suggested board education be added to the agenda. MacInnes moved, second by Smith and motion carried to add board education to the agenda under III. Board Education. Jones moved, second by Isely and motion carried to approve the consent agenda as amended.

### III. Board Education

- a. Don Erickson described the role and activities of the AG and the relationship with the board and grantees under the UCRF program.
- b. Suggestions for board education – Conan Smith noted he really appreciates the board education. He suggested additional education on the issues surrounding spent nuclear fuel, particularly since the board is still working on developing their view on that issue. Other issues mentioned were regionalization of power network, interconnection, cost allocation. Jones mentioned that she would also like to see board education continue. Erickson noted that the Institute of Public Utilities, MSU has a one-day program in January on current issues. Jones noted that she would appreciate an orientation/basic education that would include an explanation of acronyms, industry structure, regulation. MacInnes suggested the board hold an educational retreat/meeting. They also would like more interface with Public Service Commission. MacInnes noted that he would like further information on the evolution of the power grid and related technology and policy issues. Isely would like to know more about board colleagues. Erickson noted that the board should determine Open Meeting Act requirements. Wilsey noted that it would be treated as a special meeting. Bzdok commented that steps for OMA compliance should be followed – notice, agenda posting, public room, to avoid any potential issues.

c.

### IV. Business Items

#### 1. MEC Grant Amendment

Chairman MacInnes invited MEC to present their request to the Board. Bzdok explained that the request was not financial. MEC was requesting the addition of Kate Redmond as attorney to work on existing grants funded by the UCRF. Bzdok presented her credentials. MacInnes explored her experience with energy and utility matters. Attorney fee structure was also discussed. Smith noted that she had interned

with Washtenaw County and feedback was very positive. MacInnes asked if there were any areas of conflict or potential conflict that may exist. Bzdok responded that no previous work had been done for utilities or otherwise. Smith moved, second by Haroutunian and motion carried to approve addition of Kate Redmond as attorney for MEC on UCRF funded cases.

## 2. CARE Grant Requests

MacInnes invited CARE to present their requests to the Board. Liskey explained that PSCR reconciliation cases for the small/medium sized utilities had been presented as part of their 2012 grant request to the board. The cases will be filed in March, so he wanted the board to take up the question of approval. CARE revised its request for these cases from \$72,720 down to \$50,000. He provided a case timeline for the board's review. MacInnes asked if Liskey had a sense of whether the \$50,000 would be sufficient or if additional funds were likely to be needed? Liskey did not know at this point. MacInnes noted that it was important to stay in communication given the limited funds.

Liskey then presented the second CARE amendment request to grant an additional \$50,722 to the UP Power PSCR Plan Case (U-16881) and WI Public Service Corp 2012 Plan Case (U-16882). Upon review of the cases CARE has identified an affiliate transaction issue affecting two of the companies. The issue involves the cost for purchase power contracts and transmission. The affiliate issue emerges because one company - Integrys owns or has an interest in all three and there is the potential for abuse of those relationships to maximize profit. All of these costs are recovered through the PSCR. Liskey reviewed questions from the expert witness to establish the scope and depth of the issues.

MacInnes invited board questions. Jones asked if the February board meeting was too late to consider the PSCR reconciliation cases given the March 31, 2012 filing dates. Liskey responded that some lead time was needed to get legal and expert resources in place to participate in the case. Smith explored the issue of timing, cash flow, expenditure of resources and remainder funds. MacInnes noted the incremental grant approach has allowed grantees to move forward and to stay engaged with the board as they progress in terms of experience and resource need. Haroutunian asked CARE to provide a brief discussion of the affiliate issues and red flags. Coppola walked the board through the corporate organizational charts, and the interactions between power purchases, transmission, employees, etc. He also commented on generating capacity and related issues, power cost increases for WPS and hedging practices. MacInnes asked questions regarding use of natural gas. Coppola responded that natural gas was not a large factor. Jones asked what they anticipate the benefit to ratepayers from this intervention would be? Liskey could not place a number on this intervention at this point. He commented on past savings. There was an extended discussion on total savings, average savings and drilling the numbers (both cost of UCRF and savings) down to the amount on a monthly customer bill. Jones then asked what happens if a grantee has unspent funds for a particular grant at the end of the fiscal year? Wilsey explained that the unspent grant monies would revert back to the UCRF "reserve" fund. The money is not automatically available for grants. The board can request use of these "reserve" funds through the appropriation or supplemental appropriation process.

Liskey offered a quick estimate of savings for the 22% proposed power procurement increase mentioned by Coppola. He suggested that if customers are currently paying about 11 cents/kilowatt hour, 60% of the cost is power procurement, a 22% increase would amount to a little more than a penny/kilowatt hour, 86,000-90,000 customers in the UP, average customer uses between 6,000-8,000 kilowatt hours per year, total cost of increase would be approximately \$800,000. Coppola noted that the cost of the intervenor in these cases is typically \$30,000-40,000. MacInnes asked Coppola to elaborate on his background in electric cases, given his extensive background in gas. They continued discussion about the evolving grid and electric and gas industry structures.

### **3. MCAAA Grant Request**

MacInnes invited MCAAA to present their requests to the Board. Keskey explained that MCAAA is requesting funding for the Consumers Energy PSCR plan case and the Detroit Edison PSCR plan case were filed on September 30th of this year. MCAAA did file interventions. Keskey noted that MCAAA had been active in these kind of cases in the past and had made several contributions and successes.

MCAAA is also requesting funding to participate in gas cases, the MichCon GCR plan case and the Consumers Energy GCR plan case. Both cases will be filed on December 30th of this year. Their primary focus is affiliated transactions and affiliated interests.

Keskey discussed the company's relationships with holding companies and affiliated subsidiaries and transactions that may occur. A significant portion of those costs will flow through the PSCR. He presented the recent coal handling issue related to Detroit Edison and a DTE affiliate.

Conan Smith left the meeting at 3:55 p.m.

Keskey described the discovery process and their approach to defining the issues. He presented the background and experience of his experts and his client. He discussed the challenge of aligning board funding with the cases. Haroutunian asked Keskey to explain how the incremental funding approach limited (as compared to an all up front funding approach) didn't serve his needs. Keskey noted that many cases take 18 months or more and noted that there was variance between the case schedules and grant years. Haroutunian noted that it seemed the incremental funding approach could be used effectively for longer case schedules. Keskey commented on the workflow process on the cases relative to cash flow from the grants.

Isely asked if the board had funded these cases previously. Wilsey noted that all four cases had been considered by the board and grants had been made to other organizations. The CECo and DECo PSCR plan cases were funded to the MEC, the CECo GCR plan and MichCon GCR plan cases were funded to the RRC. This request, based on the clarification memo provided by MCAAA, is asking for consideration on the affiliate transaction issues. Keskey commented that this is a completely unique and separate issue from what the other parties are doing in these cases. MacInnes asked Bzdok if there was any duplication on the PSCR cases. Bzdok confirmed that that was not a focus of MEC's intervention. MacInnes noted that given the complexities, it would be a multi-case issue. Keskey concurred with his observation. MacInnes asked what areas they might focus on now that they have seen the filing? Keskey noted it was still in review but areas like coal handling, rail transport, etc. are among items they will investigate.

MacInnes asked Bzdok and Keskey if the announced closing and cancellation of construction of coal plants by Consumers would impact their work. Bzdok said they are beginning to sort out the impacts in the current rate case. They do not anticipate impacts in the PSCR case. MEC views it as positive and in line with some overall positions they have been pursuing in cases.

Keskey commented that it was in line with forecasting they got on record in 2008 that sales and load were declining. If an alternative like shale gas proves stable then it makes sense to shift reliance from coal.

Erickson noted he had to leave but advised the board, since two of the cases had commenced, that no funds could be approved for retroactive work. So the board may want to limit approval to expenses going-forward. He also confirmed that affiliate transactions were the issue of the intervention, not spent nuclear fuel. Keskey

confirmed that they were not focusing on spent nuclear fuel in these cases and they were not asking for retroactive funding.

The board took a short break.

## 2012 GRANT APPROVALS

### CARE Grant

MacInnes moved, second by Isely and motion carried to approve CARE Grant amendment request for additional funding in the total amount of \$50,000 (to be distributed by grantee) for intervention in the 2011 PSCR Reconciliation cases for Alpena Power; Indiana Michigan Power; Northern States Power; Upper Peninsula Power; Wisconsin Electric Power; Wisconsin Public Service Corporation as presented.

MacInnes moved, second by Jones and motion carried to approve CARE Grant amendment for additional funding in the total amount of \$50,722 (to be distributed by grantee) in cases U-16881 and U-16882 on affiliate transaction issues as presented.

MacInnes moved, second by Jones and motion carried to approve MCAAA Grant Amendment request for CECO and DECO PSCR Plan Cases filed September 2011 in the total amount of \$62,720 (31,360 each to be distributed by grantee) on affiliate transaction issues. Grants for GCR cases not approved.

Isely moved, second by Haroutunian and motion carried to adopt the following regular meeting schedule:

Location: All regular meetings will be held in the Ottawa Building, 4<sup>th</sup> Floor Training Room, 611 W. Ottawa Street, Lansing, MI

Date	Time	Submission deadline – agenda items, materials
2/6/2012	<b>1:00 p.m.</b>	1/16/2012
4/9/2012	11:00 a.m.	3/19/2012
6/4/2012	11:00 a.m.	5/14/2012
8/6/2012	11:00 a.m.	7/16/2012
8/27/2012	11:00 a.m.	7/23/2012
10/1/2012	11:00 a.m.	(2013 Grant Requests) 9/10/2012
12/3/2012	<b>1:00 p.m.</b>	11/12/2012

### V. Public comment –

David Shultz, RRC, commented on the highlights of their intervention and progress of their UCRF funded cases to date.

Jim Ault, Michigan Electric and Gas Association informed the board that a short-term replacement program for LIEEF was in the works at the legislature. He described the various House and Senate approaches. He also noted that a long-term solution was being worked out as well.

Don Keskey, MCAAA, provided an update on recent UCRF funded interventions and cases. Bill Peloquin commented on spent nuclear fuel issues and benefits to ratepayers.

John Liskey, CARE, comment on a coal ash issue he had looked at as a PSCR issue. It was determined not to be a PSCR issue. He noted however, that there was just recently a big coal ash spill in Lake Michigan and he was providing it to the board for their information.

Chris Bzdok, MEC, provided a quick results review for UCRF funded interventions from 2011 and on-going interventions. He also asked the board/board members how they would like information provided. They are very flexible in meeting whatever preferences or requirements the board may have in regard to information and communications. MacInnes noted the status reports are fine in their current form. However, he also likes to have more robust or specific information on issues, strategy after you have reviewed a filing and have an idea or direction and you really start to go after something. Jones commented that information to help report back to the legislature is important. MacInnes commented that thinking through the metrics so the board can better calculate risk - when they may expect a return, when they may not but they may go forward anyway – would be helpful.

**VI. Next meeting** - The next regular meeting of the UCPB is scheduled Monday, February 6, 2012, 1:00 p.m. Isely moved, second by Haroutunian and motion carried to adjourn at 4:11 p.m.

*Recorded by:*

*Michelle Wilsey, Board Assistant*

*Utility Consumer Participation Board*

Transcript available.