

UTILITY CONSUMER PARTICIPATION BOARD

April 11, 2011

MINUTES

A meeting of the Utility Consumer Participation Board was held Monday, April 11, 2011 in the Ottawa Building, 4th Floor Training Room, Lansing, Michigan.

I. Call to Order

Marc Shulman called the meeting to order at 1:25 p.m. Board members present: Marc Shulman; Alexander Isaac (via telephone); Conan Smith (via telephone); and Harry Trebing (via telephone). Members absent: Sister Monica Kostielney. Others present: Michelle Wilsey, Board Assistant; David Shaltz, Residential Ratepayer Consortium; Don Keskey, Michigan Community Action Agency Association; John Liskey, Citizens Against Rate Excess; Shawn Worden, DELEG Finance; and Wes VanMalsen, DELEG Purchasing and Grant Services; Lori Penn, Court Reporter.

II. Consent Agenda

Isaac moved, second by Trebing and motion carried to approve the agenda as presented.

Isaac moved, second by Trebing second and motion carried to approve the consent agenda as presented.

III. New Business

A. CARE Grant Amendment Request

Liskey summarized the request for transfer. The request seeks to redistribute remaining funds in the total amount of \$38,468.28 from five cases in which the issues have been resolved or deferred to future cases to four cases that have issues that are still open. No new or additional funds are being requested. In the I&M case, the plan case, some of the issues have been essentially deferred to the reconciliation case that will follow, and the same is true with Wisconsin Electric Power Company. Conan Smith inquired as to the WPS case. Liskey noted that the plan case is settled and the request is to transfer remaining funds to the reconciliation case for the same company.

Isaac moved, second by Trebing and motion carried to approve the following CARE grant amendment:

Approved Budget Alpena 2011 PSCR Plan U-16420	<u>\$6,060</u>
Amendment Transfer Request 4/11/2011	<u>\$-1,436.73</u>
Total Budget (if approved)	<u>\$ 4,623.27</u>
Approved Budget Alpena 2010 PSCR Recon U-16030-R	<u>\$5,625.58</u>
Amendment Transfer Request 4/11/2011	<u>\$2,138.58</u>
Total Budget (if approved)	<u>\$7,764.16</u>
Approved Budget I&M 2011 PSCR Plan U-16433	<u>\$30,300</u>
Amendment Transfer Request 4/11/2011	<u>\$-18,053.65</u>

<u>Total Budget (if approved)</u>	<u>\$12,246.35</u>
Approved Budget I&M 2010 PSCR Recon U-16046-R	<u>\$20,200</u>
<u>Amendment Transfer Request 4/11/2011</u>	<u>\$10,100</u>
<u>Total Budget (if approved)</u>	<u>\$30,300</u>
Approved Budget WEPCO 2009 Recon U-15644-R	<u>\$47,975</u>
<u>Amendment Transfer Request 4/11/2011</u>	<u>\$-10,423.20</u>
<u>Total Budget (if approved)</u>	<u>\$37,551.80</u>
Approved Budget WEPCO 2011 PSCR Plan U-16424	<u>\$30,300</u>
<u>Amendment Transfer Request 4/11/2011</u>	<u>\$-7,575</u>
<u>Total Budget (if approved)</u>	<u>\$22,725</u>
Approved Budget WEPCO 2010 PSCR Recon U-16034-R	<u>\$25,250</u>
<u>Amendment Transfer Request 4/11/2011</u>	<u>\$25,250</u>
<u>Total Budget (if approved)</u>	<u>\$50,500</u>
Approved Budget WPS 2011 PSCR Plan U-16422	<u>\$6,060</u>
<u>Amendment Transfer Request 4/11/2011</u>	<u>\$-979.70</u>
<u>Total Budget (if approved)</u>	<u>\$5,080.30</u>
Approved Budget WPS 2010 PSCR Recon U-16032-R	<u>\$3,535</u>
<u>Amendment Transfer Request 4/11/2011</u>	<u>\$979.70</u>
<u>Total Budget (if approved)</u>	<u>\$4,514.70</u>

Trebing noted that in the future it would be helpful for grantees requesting changes or amendments to place their participation in the cases in a larger context. He requested they provide a synopsis of what seems to be going on around the country, what implication this has for state regulations directed at protecting residential consumers, and what's going on at the federal level.

B. MCAAA Budget Amendment Request

Shulman noted that the next amendment request would be considered in three parts. He asked Wilsey to summarize the breakdown and then the grantee would explain each of the items individually.

Wilsey explained that the grant amendment request memo presented three separate items for the board's consideration. The first part is a request for transfer of funds between existing cases approved under UCRF 11-03. The second part is a request from the grantee to clarify an approval of a supplemental grant that the board made on December 6, 2010, for CECO, Consumer Energy cases specifically related to SNF issues. And then the third part and separate request is a request for supplemental grant funding for the grantee, MCAAA, to participate in Consumers Energy and Detroit Edison PSCR reconciliation filings that are coming up or are expected to be filed at the end of March.

MCAAA Part 1 - Budget Transfer U-16400 to U-16472

Keskey explained that in regard to the first transfer request, MCAAA intervened in MichCon Case U-16400 and participated extensively in discovery and undertook a very extensive discovery request to

MichCon. Following the submission of the discovery request to the company, MichCon withdraw its \$51 million rate increase request in its entirety. The Commission approved MichCon's request. So the case is over, however there are some remaining unspent grant funds in the case which we want to transfer to the ongoing Detroit Edison rate case. That case involves two issues, primarily spent nuclear fuel issues and also affiliated interests. In that case, we filed very extensive expert testimony on April 1st, and yet the schedule for rebuttal testimony and hearings and briefing are still before us, and our budget needs supplementation to follow through on those issues, and so we decided to ask the board to transfer the remaining funds left over in U-16400 to the Detroit Edison Case U-16472. It would be no increase or change in the overall funding approved, it's reallocating to efficiently use the funds in an ongoing case. Shulman confirmed that MCAAA had already been approved to intervene.

Isaac asked Wilsey to provide comment on the budget amendment request. Wilsey stated that the amendment request is within the scope of the existing cases approved by the board. She verified that the amount requested, the \$7,615.40 remaining per Mr. Keskey's request, corresponds with that recorded by DELEG's available funds at this point. The issues are within the scope of the work plan presented and the cases included in the grant. Smith asked Shulman to clarify that the board is only addressing part 1 of the budget amendment request at this point. Shulman responded yes, that this request is a transfer of the remaining budget of Case U-16400 to the case of U-16472. Both cases are approved under Grant 11-03, and there are no new funds needed for this amendment.

Isaac moved, second by Trebing and motion carried to approve the following MCAAA budget transfer for UCRF grant 11-03:

Approved Budget MichCon U-16400	\$26,058	(\$ 18,000 legal, 7,800 expert, 258 admin)
<i>Amendment Transfer Request 4/11/2011</i>	<i>\$-7,615.40</i>	<i>(\$ 0 legal, -7,540 expert, 75.40 admin)</i>
<i>Amended Total Budget (FULLY EXPENDED)</i>	<i>\$18,442.60</i>	<i>(\$ 18,000 legal, 260 expert, 182.60 admin)</i>

Approved Budget DECo Rate Case U-16472	\$4,949	(\$3,600 legal, 1,300 expert, 49 admin)
Amendment Request 12/6/2010 (approved)	\$24,745	(\$ 18,000 legal, 6,500 expert, 245 admin)
Total Budget (approved)	\$29,694	(\$21,600 legal, 7,800 expert, 294 admin)
<i>Amendment Request 4/11/2011</i>	<i>\$7,615.40</i>	<i>(\$3,770 legal, 3,770 expert, 75.40 admin)</i>
<i>Amended Total Budget</i>	<i>\$37,309.40</i>	<i>(\$25,370 legal, 11,570 expert, 369.40 admin)</i>

MCAAA Part 2 – Clarification Request

Shulman explained that this was a clarification request of the supplemental grant that was approved December 2010 for the CECo cases. He invited Keskey to comment on the request. Keskey explained that he requested clarification to follow up with the work plan and the supplemental budget request that we filed in December and which was approved in December relative to work on the SNF-related issues, which include the trust for the spent nuclear fuel fees and issues related to that. Keskey explained that the issues are emerging and/or may emerge in several possible dockets or appeals. He asked the board to clarify that the funds approved in the UCRF grant could be used not only in U-16191 but any related cases or appeals in which the issues are addressed. Shulman Wilsey if there were any unspent funds available in the grant. Wilsey responded affirmatively. She noted no transfers were requested. Shulman noted that the board's policy usually is that new cases have to be approved for funding.

Isaac offered a motion, second by Trebing to approve MCAAA part. 2 clarification as presented.

Shulman opened the floor for questions from the board. Isaac asked Wilsey to comment on the request. Wilsey reviewed the minutes, transcript and board action regarding the previous supplemental request.

They were all specific to case U-16191. She noted that the grantee did include a note of “related filings” in the budget sheet but did not reference any other case in the work plan. The board has not authorized blanket, open-ended approvals without board review. While this practice would create a great deal of flexibility for the grantee, it compromises the accountability and due diligence responsibility of the board. This particular request seems not to be a clarification, but rather a request to include a broader scope than was presented to the board at the time the approval was made. I’ve discussed this with Mr. Keskey and the board has supported the pursuit/defense of the Trust Remedy. I suggested either addition of specific cases or, if they are unknown, then an approval for 60 days or until the next meeting when specific cases can be presented. Shulman asked if the recommendation for a 60 day approval included any limitation on funds. Wilsey did not specify a limitation on funds beyond the amount of the supplemental grant approved. Keskey said he felt there was not limit on approval time or funds but rather that MCAAA would report in 60 days on what has occurred. Smith asked if Keskey was agreed with the 60 day reporting time frame but indicating that the timeframe for actions may be more or less than 60 days. Keskey said no. He was trying to clarify that the approved supplemental budget is for the same issues, but the docket numbers could change. Isaac commented that it appeared the date may be open-ended and that 60 day reporting seemed reasonable. Further discussion ensued related to balancing flexibility to proceed on unknown cases and board oversight.

At 2:25 p.m. the board took a 15 minute recess.

After further discussion, Shulman called the question and requested a roll call vote. On the motion offered by Isaac, second by Trebing to approve MCAAA part. 2 clarification as presented the following voted yes: None. The following voted no: Isaac, Smith, Shulman. The following abstained: Trebing. The following were absent: Kostielney. The motion failed.

Shulman asked if there was any other motion on the matter. Discussion with the grantee and among the board continued. Shulman noted that he was seeking an option to prevent future concern about the board not having an open checkbook for an amount on a case or anticipated cases that may stem from a certain matter.

Smith moved to approve the clarification for 60 days. Motion failed for a lack of a second. Shulman considered a limit on the funds expended. Isaac moved, second by Trebing and motion carried to approve expenditure of up to \$12,000 on SNF cases and trust related issues subject to a work plan being provided to the board at the June 6, 2011 meeting.

MCAAA Part 3 – Additional funds, MCAAA UCRF 11-03

Wilsey summarized that this is a request for \$9,898 in new funds. It would amend UCRF Grant 11-03 to add Consumers Energy PSCR case and the Detroit Edison PSCR case filed 3/11/2011, with budgets of \$4,949 each. Shulman asked Keskey to comment on the amendment request. Keskey explained that in these PSCR cases for these utilities they are focusing on affiliated transactions. Specifically, how are affiliated transactions affecting the cost of fuel and purchased power or related costs such as are charged under Act 304, and what kind of approaches or remedies would the Commission be able to undertake to ensure that there is not any potential interaffiliate transactions or abuses going on. The second thing that will arise in these PSCR cases again is the cost of spent nuclear fuel issues, and they collect the fees under Act 304, and the issues of spent nuclear fuel are ongoing, and we would seek to intervene to continue with our efforts that have been highly successful in the past on those matters. These are initial amounts requested, because the cases have now started, the cases will go on for a period of time. Shulman asked if they had been approved to intervene in these cases. Keskey noted that the intervention date was in April. Keskey clarified that they had been approved in UCRF grant 11-03 to participate in the 2011 DECo and CECo Plan cases. This request was for the 2010 PSCR

Reconciliation cases. Isaac asked if adjustments to other funded cases could be made to provide the funds requested. Wilsey noted that MCAA had asked for funding on affiliate transaction cases and the board cut back the funding subject to cases being filed. Keskey noted the cases have been filed – so the request is not anticipatory. Isaac asked whether the work plan to intervene in these cases is duplicative with that of the MEC. Wilsey noted that MEC is approved to intervene under a 2010 cycle grant. However, they do not include affiliate transactions or issues described by Keskey in their work plan. No duplication of effort is indicated. Isaac asked Wilsey for recommendation. Wilsey noted that she felt the amendment was compliant and reasonable so long as there is close coordination with the AG to assure no duplication of effort. Shulman asked Keskey if he thought the issues he was pursuing would be substantially beneficial beyond those pursued by MEC. Keskey responded that they were different and potentially beneficial to ratepayers.

Isaac moved, second by Smith and motion carried to approve the amendment to MCAA UCRF grant 11-03 to add the CEC Co PSCR case U-16045-R and DECo PSCR case U-16047-R filed 3/31/2011 and to award corresponding budgets of \$4,949 each (total amount \$9898) to UCRF grant 11-03. The grantee proposes to continue to pursue SNF and affiliated transaction issues and Act 304 cost impacts related to same.

Proposed budget CEC Co PSCR Recon \$4,949 (\$ 3,600 legal, 1,300 expert, 49 admin)

Proposed budget DECo PSCR Recon \$4,949 (\$3,600 legal, 1,300 expert, 49 admin)

C. MEC Grant Amendment Request

MEC Representative Chris Bzdok could not attend the meeting due to a family emergency. Wilsey summarized the MEC grant amendment request. This amendment is to add the CEC Co Wind facilities Depreciation Case U-16536 to UCRF grant 11-04 and to transfer \$20,200 in funds from UCRF 11-04 CEC Co Renewable Energy Biennial Review case to the Wind Facilities Depreciation case U-16536. This case was previously funded under grant UCRF 10-02. However, that grant expired on March 31, 2011. The addition of the case and transfer of funds within grant 11-04 will allow work to continue on the case. She noted that the cases and work plan were discussed extensively at the last meeting. However, the board only approved a partial amendment to a FY 2010 grant because cases could not be concurrently approved under two separate grants. VanMauslen, DELEG asked for a clarification that the transfer funds requested were not from the 2010 grant. Wilsey confirmed that the transfer was from an approved 2011 grant.

Isaac moved, second by Smith and motion carried to approve MEC grant amendment request to add the CEC Co Wind facilities Depreciation Case U-16536 to UCRF grant 11-04 and to transfer \$20,200 in funds from UCRF 11-04 CEC Co Renewable Energy Biennial Review case to the Wind Facilities Depreciation case U-16536.

UCRF 11-04

New Case/Budget U-16536 CEC Co Wind Facilities Depreciation Case \$20,200 (\$ 10,000 legal, 10,000 expert, 200 admin)

Approved Budget CEC Co RE/EO Biennial Review Case \$40,400

Amendment Transfer Request 2/7/2011 for U-16543 -20,200

Total Remaining Budget (if approved) 20,200

VI. Old Business –None.

VII. Public Comment – Trebing asked if Wilsey’s contract was in jeopardy due to the state budget situation. Wilsey responded that she was under contract until September 30, 2011. It was speculative

to comment on the state budget or potential decisions by the legislature. Isaac noted that the contract is funded through the UCRF program. It is funded for now. Liskey noted that he would like to include Dr. Trebing on a conference call with expert Ken Rose to update the progress on federal proceedings. Isaac asked Wilsey to distribute a copy of an article related to the UCPB. She noted that copies had been provided to the board and additional copies were available at the meeting.

VIII. Next meeting

A. The next regular meeting of the UCPB is scheduled Monday, June 6, 2011, 1:00 p.m.

IX. Adjournment – Smith moved, second by Trebing and motion carried to adjourn at 3:29 p.m.