

UTILITY CONSUMER PARTICIPATION BOARD

April 9, 2012

MINUTES

A meeting of the Utility Consumer Participation Board was held Monday, April 9, 2012 in the Ottawa Building, 4th Floor Training Room, Lansing, Michigan.

I. Call to Order

Jim MacInnes called the meeting to order at 11:08 a.m. Board members present: Jim MacInnes; Paul Isely; Susan Licata Haroutunian (via telephone) and Conan Smith (arrived at 11:15 a.m.). Members absent: None.

Others present: Michelle Wilsey, UCPB Board Assistant; James Ault, Michigan Electric & Gas Association; Don Keskey, Michigan Community Action Agency Association (MCAAA); David Shaltz, Residential Ratepayer Consortium (RRC); John Liskey, Citizens Against Rate Excess (CARE); Christopher Bzdok, Michigan Environmental Council (MEC); Frank Coppola (CARE Expert); Bill Peloquin (MCAAA Expert); Shawn Worden, LARA Budget Services; Wes VanMalsen, LARA Procurement and Budget Services

II. Agenda

MacInnes requested the minutes be removed from the consent agenda. Motion by Isely, second by Haroutunian and motion carried to approve the minutes with the following changes: page 2, second to last paragraph, change, "... on present value" to "... and net present value for the project." and page 3, second paragraph from the bottom, insert the word Conference after "IEEE."

Motion by MacInnes, second by Isely and motion carried to approve the remaining consent agenda as presented.

Motion by Isely, second by Haroutunian and motion carried to add CARE Grant Amendment Request to the business agenda.

Motion by Isely, second by Haroutunian and motion carried to add 25-by-25 Renewable Portfolio Standard discussion to agenda under Board Education.

III. Business Items

1. RRC Grant Request

Chairman MacInnes invited RRC to present their request to the Board. Shaltz explained that his request was presented in the RRC application my that included proposals for participation in GCR plan cases and GCR reconciliation cases submitted to the board in August for the 2012 UCRF grant cycle. Pursuant to the board's decision to consider grant requests in phases, a decision on the application was deferred. The case filings are now approaching and a decision on the application is requested. The RRC presented updated information on recent Commission decisions bearing on the GCR reconciliation cases. Of particular note is that the Commission rejected attempts by the utilities in both Consumers Energy and Michigan Consolidated Gas Company cases to narrow the scope of what can be reviewed in a reconciliation case, especially with regard to fixed-price purchasing. This is critical to RRC review and advocacy in these cases. In addition RRC discussed the growing problem of a larger amount of fixed costs of the utility serving as supplier of last resort for Choice customers being borne by or shifted to GCR customers. This is an area they will examine in the cases. RRC also reexamined the budgets and reduced the funding request for intervention by 20% from the original grant request.

The RRC proposes to participate in GCR Plan Cases for Michigan's four largest gas utilities: Consumers Energy Company, MichCon, SEMCO Energy Gas Company and Michigan Gas Utilities. Combined the companies serve approximately 95% of the residential gas customers in Michigan. The GCR factors under review affect 60-70% of the charges customers pay each month.

Statute requires the Commission to conduct these cases each year to essentially true-up between what the utility charged and what it collected and what their actual costs were, in addition to raising issues of reasonableness and prudence. RRC will examine the reasonableness and prudence of the companies' actual purchase decisions with respect to what their fixed-price purchases said, and for those purchases that weren't made under those fixed-price purchasing guidelines, examining the conditions at the time they were made and whether they were good choices for the customers. RRC will attempt to identify opportunities for cost disallowances or changes in the fixed-price purchasing guidelines for all the companies.

RRC noted that they have been successful with SEMCO and MGU in getting those utilities to substantially reduce their fixed-price purchasing percentages for those companies. They anticipate they will have success with Consumers Energy. Consumers has indicated that they're interested in either dropping fixed-price purchasing or severely curtailing it going forward. MichCon however plans to continue its fixed price purchasing program, despite the dismal results for residential customers. RRC will advocate for changes in these programs.

RRC will also look at utilities' administration of their capacity release programs; utilities operations given load attrition; use of storage capacity; and accounting issues. MacInnes asked if the most significant issue is DTE/MichCon purchasing program, should more funding be allocated to that case over others? Shaltz responded that funding for this issue would be part of the next round of GCR Plan cases. This is where RRC can challenge their purchasing program and examine their 5 year forecasts. The upcoming reconciliation cases are retrospective to the previous year's program. Wilsey asked, given the previously approved GCR Plan, what if any issues are they pursuing that the Commission might grant relief on? While the Commission did not explicitly prevent review of items approved in the Plan Case, past experience seems to indicate that they rarely grant relief or disallowances on items that were approved in the Plan Case. Is there a new factor, such as significantly lower gas prices due to shale gas, that might change their decision-making? Shaltz responded that the growing evidentiary record of poor performance combined with conditions in the market are causing a reexamination of the decisions utilities are making. It is making it more difficult to dismiss claims of imprudence or unreasonableness as hindsight. These are known factors. Shaltz indicated that by continuing to pursue these issues, the Commission will either agree in their rulings or the companies will abandon or modify their purchasing practices. Haroutunian asked Shaltz to what degree is the Commission and utility companies able to respond quickly to changes in the market? Shaltz responded that it depends on the degree of structure in the utilities fixed-price purchasing protocol. Following a highly-structured program provides some protection against disallowances. MacInnes asked what the range of fixed-price purchasing is now for the gas utilities. Shaltz responded that MichCon advocates for 75%, Consumers is at 50% this plan period and will go to 40% in the next plan period, SEMCO and MGU have placed a moratorium on fixed price purchases or decreased them to very low levels. Discussion continued on purchasing programs, strategies, approaches and impacts. Isely asked Shaltz about the RRC budget distribution among the four reconciliation cases, particularly since SEMCO and MGU have largely adopted the purchasing strategy preferred by RRC. Shaltz noted that the budgets requested for SEMCO and MGU are much lower than for MichCon and Consumers who have large fixed-price purchasing programs in place. RRC would still examine the purchasing decisions of SEMCO and MGU relative to the prevailing conditions at the time those decisions were made. But they are focusing more on the other two companies and the requested budgets reflect that allocation. Smith asked if RRC could incorporate some comparative analysis of the different fixed price purchasing ratios? Shaltz responded that they did have some data. It presently shows that both SEMCO and MGU outperform Consumers and MichCon on their GCR factors.

He noted that they were doing so with less storage and less resources overall. Isely noted he would like to see the data and analysis, particularly from the increases in 2005-2006. The available data and analysis were further discussed. Shaltz agreed to put together some data for the board.

2. MEC Grant Amendment

Chairman MacInnes invited Chris Bzdok to present the MEC grant amendment request. Bzdok explained that this request was related to the amendment request approved at the last meeting. The board approved funding and the addition of two cases that the Commission ordered Detroit Edison to open relative to its renewable energy costs, one being a case related to the depreciation rate to be applied to the utility-owned wind turbines, and the other case being a renewable energy plan amendment case to deal with the issue of transfer prices that are recovered through the PSCR. Given the board's decision to reduce the requested funds, MEC has reassessed the budgets and current status of cases. MEC is requesting a transfer of \$10,000 from the Consumers' 2011 PSCR reconciliation to allocate between the two new cases to bring them up to the originally requested levels. They are confident they can still effectively participate in the 2011 Consumers PSCR Reconciliation case. MacInnes asked if they had further information on the depreciation schedule used for wind turbines. Bzdok said they did not have any further information at this time but they will be developing their discovery plan and that would be part of the investigation and request. MacInnes recommended they review a NREL report entitled, "Recent Developments in the Levelized Cost of Energy from U.S. Wind Power Projects" (February 2012). It has information about some of the savings by using PTC and MACRS, modified accelerated cost recovery system depreciation. The PTC is worth about two cents and the MACRS depreciation is worth about another cent. The costs associated with depreciation methods and back-up of wind energy were further discussed.

3. MCAAA Grant Amendment Request

Chairman MacInnes invited Don Keskey to present the MCAAA grant amendment request. Keskey discussed the issue raised today of the ability of the utilities to be nimble and responsive to market conditions. He explained the current situation with gas in storage. The annual pattern of inflow and outflow of gas has changed. Consumers' for example has a great deal of gas in storage. These inventories are higher priced gas. Their fixed-price purchasing plans may require them to use this higher-priced gas over much cheaper gas currently available on the market, or limit the amount of gas they can purchase at these very low prices. He further discussed the impact on rate base and the rates GCR customers pay over time. MCAAA would like to advocate for innovation in their approach, allowing for example, high-priced gas to stay in the ground and to instead purchase cheaper gas for current needs. The gas inventories could be used at times of emergency to avoid price spikes or when the regular price of gas increases. Bill Peloquin presented charts and explained the storage issues in detail. MacInnes noted that this appears to be a watershed moment in the gas industry. Peloquin agreed commenting that it still operates a system of trying to protect against scarcity when there's a huge bubble. Isely asked about potential overlap or duplication of the parties requesting UCRF grant funds in the current GCR Plan Cases. Shaltz had not seen the specific request but noted that their clients typically pick different issues. The differences in advocacy are also a function of the fact that we use different consultants that have different skill sets and backgrounds and familiarity with different types of issues. Keskey said that in their proposal they were going after the problem of gas storage balances. The shift in paradigm will benefit from advocacy and expertise of various parties. Shaltz noted that they are not pursuing the storage and other issues described by Keskey.

4. CARE Grant Amendment Request

Chairman MacInnes invited John Liskey to present the CARE grant amendment request. Liskey explained that subsequent to review of the electric reconciliation cases just filed, they have determined that additional resources are needed in two of the cases, Wisconsin Public Service and Upper Peninsula Power Company. The request is for an additional \$48,076. They are the only intervenors on behalf of residential ratepayers in these cases, so there is no duplication of effort. Seth Coppola discussed issues and results CARE has achieved in the

Wisconsin Public Service Company Plan case. The initial PSCR factor of \$5.57/MWH was reduced to \$2.78/MWH pursuant to discovery and analysis by CARE. CARE has also challenged the rate of return on an affiliate contract that may result in a percentage point savings on return. CARE is also advocating a more aggressive program of selling renewable credits to benefit residential customers. CARE is also reviewing their hedging program. They will continue to pursue these issues in the upcoming case. In the UP Power case they challenged the unrealistic projections of transmission costs. The projections were approximately 50% higher than actual costs in the market. CARE is also encouraging the company to monetize its renewable credits or at least structure a plan to benefit customers. Copella discussed the importance of being engaged in a case for the full Plan and Reconciliation cycle. He noted that in regard to the reconciliation case for UP Power, there was a significant change in the purchases made. They will review that change and also what was done with the unused capacity. CARE will also investigate a write-off that the company proposes to collect through the PSCR factor. This is very unusual. They will continue to look at how renewable credits were handled, hedging costs that relate to transmission rights as well as the congestion costs to be certain they are all legitimate. Other issues may be found in the process of discovery. In the WPS Reconciliation they will look at handling of renewable energy credits, the power generation and purchases mix, the treatment of excess capacity, hedging costs, and treatment of incremental costs from an economic interruption the company experienced. Isely asked about the method for refund and recovery, for example, if they win the issue on the write-off due to the bankruptcy of a large customer. Coppola said if they lose the issue, then the customers in the next year will get a lower refund; if we win it, they'll get a larger refund, but that refund will be in just one year. If they still want to recover the costs, they would have to file a rate case. There was general discussion about how the MPSC works in terms of establishing a policy around a concern/issue like hedging that impacts every utility. Coppola noted that, from his perspective, there was interest in establishing a collaborative on this issue but that has not happened yet. Smith noted that UCRF funds are limited and having each grantee trying to make headway in separate cases may not be efficient.

MacInnes noted that Coppola referenced the delay in implementation of EPA air quality regulations and asked him to comment on the current status. Coppola indicated that the industry had filed a lawsuit to prevent implementation of the cross-state air pollution regulation. A hearing will be held this summer and whatever decision comes out of it is likely to be appealed. There was uncertainty of the implementation status of other pending rules. MacInnes discussed the market price for Renewable Energy Credits (RECs) with Coppola. Coppola said they were currently running about \$1. They have ranged recently between \$1-\$1.50. he noted that they can be accumulated but they do lapse. So a plan for economic disposal is important. MacInnes asked about cross ownership of transmission. Coppola noted that Wisconsin Public Service Company owns 20% interest in American Transmission Company. Coppola indicated that they had looked at the rates filed with FERC but noted they had not found anything improper. MacInnes asked if there were any unspent funds from other UCRF grants awarded to CARE that could be used for these current requests. The status of CARE funding and expenditures on other UCRF cases was discussed. No available funds could be identified at this point. Liskey commented on the status of the FERC cases. He noted that Ken Rose's comments would be filed in the case which raise the point that, "region-wide MVP projects will not help in the congestion prices for Michigan" even though that was a benefit MISO claimed. MacInnes noted that this issue was an operations research question. He wanted to better understand how Rose arrived at his conclusion in contrast to what MISO came up with. He asked Liskey to have rose provide more information on the math and analysis behind the conclusion, perhaps at the next meeting. This really gets to the core of energy policy in Michigan. MacInnes suggested the MTEP 11, the MISO Transmission Expansion Plan 11 and the Multi-Value Project Proposal (January 2012) be reviewed as well. He noted that, like the gas industry, this may be a watershed moment in the power industry.

The meeting recessed at 1:00 p.m.

MacInnes reconvened the meeting at 1:50 p.m. and asked for a motions on the business items presented to the board.

Motion by Smith, second by Isely and motion carried to approve the MEC request to transfer funds in the total amount of \$10,100 from the 2011 Consumers Energy PSCR Reconciliation case to the Detroit Edison Renewable Energy cases with budgets to be allocated by the grantee.

Motion by Smith, second by Isely and motion carried to approve the RRC Grant Amendment Request in the total amount of \$64,764 for participation in the 2011 GCR Reconciliation cases for the four largest gas companies in Michigan, including CECco, SEMCO, MGU and MichCon, with budgets to be allocated by the grantee.

Motion by Smith, second by Isely and motion carried to approve the MCAAA Grant Amendment Request in the total amount of \$25,000 for participation in the GCR plan cases, MichCon U-16921 and CECco U-16924 with budgets to be allocated by the grantee.

Motion by Smith, second by Isely and motion carried to approve the CARE Grant Amendment request in the total amount of \$17,000 to increase funding for the 2011 PSCR reconciliation cases for the Upper Peninsula Case U-16421-R, and/or the Wisconsin Public Service's Case U-16422-R with budget(s) to be allocated by the grantee.

Shaltz asked if it was possible to reevaluate the cases and, if they determine the funding would be better allocated among less than the four cases proposed, to bring a proposal to the board to reduce the number of cases for intervention. MacInnes responded yes. Smith suggested it be handled administratively or to delegate approval of that type of change to the Chairman. Shaltz noted that the case filings would allow for review and discussion at the next meeting.

Wilsey noted Ken Rose was connected to the meeting via conference call. MacInnes opened the board education discussion on the 25-percent renewable portfolio standard by the year 2025 ballot initiative. He asked Bzdok if he could describe the proposal. Bzdok explained that, in general, the proposal is an initiative petition to put on the ballot a constitutional amendment increasing the renewable portfolio standard in Michigan from the current 10 percent set by the legislature to 25 percent by the year 2025. Analysis of rates and rate impacts are underway and may be available by the next meeting. Wilsey asked if the impact of expanded transmission and the ability to bring in lower cost renewable power was a consideration in the debate and analysis? Bzdok said he believed it was similar to the existing legislation and that wheeling power in from other parts of the country was not part of this proposal. Ault said the footprint did include the entire service territory of certain utilities that crossed state lines.

Ault noted that this issue raises a dormant commerce clause question. Can a state via a law or a constitutional amendment in effect provide an instate advantage to a commodity that moves in interstate commerce like energy or renewable energy credits? This is a potential issue with this type of measure.

MacInnes asked how the one-percent limitation was calculated. Was it just the cost of the wind power, or do you include the transmission costs and substation costs, etc. Bzdok indicated once passed, details of implementation and calculation would be worked out by the Commission. He did not know the specific answer at this point. MacInnes discussed some of the forecasts for electricity prices and the escalation seems daunting to business and residential users. MacInnes noted that he wanted this proposal to be considered in the larger MISO discussion the board would have in June. MISO's transmission expansion plan called MTEP 11 is available on their website. It provides detailed information on their plans and analysis. Discussion of modeling, power

flow and the possible merits and concerns with MISO's plan continued and the interaction with the 25 by 2025 proposal continued. [COMPLETE TEXT OF DISCUSSION IS AVAILABLE IN THE TRANSCRIPT].

Smith asked how the questions raised intersect with the UCRF funded intervention FERC cases? Liskey responded that they are participating as an intervenor at FERC and CARE initially took the position that Michigan would be subsidizing many of these projects out of state. And so what MISO has done is filed their annual report as required by FERC, and Dr. Rose has prepared just a very initial review of that annual report filing. MacInnes noted that there are some transparency issues but given the complexity of the operations and modeling and decisions, how do you make the argument that it doesn't make sense? What is the basis of our analysis? Liskey responded that in terms of transparency, it would have been beneficial to have the analysis a year ago when FERC was considering MISO's plan. In regard to concerns, Dr. Rose primarily points out questions that are raised by this report. For example, one of their models shows that the LMP prices were on a day with very high load and elevated prices. The question is should that have been in the modeling? MacInnes noted the amount of funding - 30 billion for the whole MISO grid was very large. But the total 20-year net present value capital cost of compliance for the whole grid, for everybody, is 30 billion, this will be over time. This value includes the cost of retrofits on the system, the cost of replacement capacity, and the cost of fixed operation and maintenance, and the cost of transmission upgrades. The analysis estimates the cost of compliance could increase the cost of energy by \$5.00 a megawatt hour (.5/kilowatt hour). The current cost is \$6.00 per megawatt hour. But, with impending retirements of coal plants and projections of escalating power costs, it is important to consider all options. The expanded transmission may bring more options with it. This also brings more robustness to the grid, it provides lots of opportunities to bring in lower-cost power, like three- or four-cent wind, for example. It may also allow machines throughout the whole MISO footprint to operate at a higher capacity factor. We do not know the answers but want to raise questions for consideration. MacInnes asked Bzdok what impact the 25/2025 proposal might have on MEC's cases. Bzdok replied that at this point he has not done that assessment. MEC is not doing anything with UCRF funding on that issue or proposal.

Intermittency and storage for wind was discussed. Rose commented on the location of Michigan and MISO and congestion issues relative to the 17 MVP projects in the current plan.

Smith noted that understanding these issues more holistically helps him evaluate grant applications.

IV. Public Comment

Wilsey noted that flyers for the upcoming Michigan Energy Providers conference were distributed by Jim Ault. Ault noted that the full agenda for this year's conference would soon be available on the MEGA web site.

V. Next meeting

The next regular meeting of the UCPB is scheduled Monday, June 4, 2012, 11:00 a.m.

VI. Adjournment

Motion by Isely, second by Smith and motion carried to adjourn at 2:55 p.m.

Recorded by:

Michelle Wilsey, Board Assistant

Utility Consumer Participation Board

Transcript available.