

UTILITY CONSUMER PARTICIPATION BOARD

August 22, 2011

MINUTES

A meeting of the Utility Consumer Participation Board was held Monday, August 22, 2011 in the Ottawa Building, 4th Floor Training Room, Lansing, Michigan.

I. Call to Order

Jim MacInnes called the meeting to order at 11:18 a.m. Board members present: Jim MacInnes; Conan Smith (via telephone); Paul Isely; Jacqueline Jones; Marc Shulman (in person and a portion via telephone). Members absent: None.

Others present: Michelle Wilsey, Board Assistant; David Shaltz, Residential Ratepayer Consortium; Don Keskey, Michigan Community Action Agency Association; Brian Coyer, Michigan Community Action Agency Association; Pam Ferris, Michigan Community Action Agency Association; Bill Peloquin, Michigan Community Action Agency Association; Ron Callen, Michigan Community Action Agency Association; John Liskey, Citizens Against Rate Excess; Dr. Kenneth Rose, Citizens Against Rate Excess; Christopher Bzdok, Michigan Environmental Council; David Gard, Michigan Environmental Council; Emerson Hilton, Michigan Environmental Council; Shawn Worden, LARA Finance; Michael Moody, Office of the Attorney General; James Ault, Michigan Electric and Gas Association; Robert Nelson.

Chairman MacInnes welcomed everyone and called for introductions.

II. Agenda

Shulman moved, second by Isely and motion carried to approve the agenda with the removal of the minutes from the consent agenda and the addition of MCAA grant amendment, MEC grant amendment, and AG opinion to new business.

III. Minutes

Isely moved, second by Jones and motion carried to approve minutes as corrected (change ration to ratio, spelling of Isely throughout). The consent agenda was accepted without objection.

III. New Business

1. 2012 Grants

MacInnes opened the discussion of new grants for 2012. He noted that the requests for new grants exceed the funding available. He explained the board was considering a phased approach to awarding grants. He further explained the rationale for a phased approach. Shulman confirmed that the phased approach would take into account the timing of grants. Wilsey explained some of the timing considerations for both grantees and the state's administratively approval process. Shulman asked for grantee comment on the phasing approach.

David Shaltz for RRC explained the timing of case filings for gas cases. He commented that looking at these in phase II made some sense. He cautioned that the governing statute, Public Act 304 of 1982 requires the Commission to do evaluations of the major utilities' plan and reconciliation cases. So he requested that the board be cautious that funds are not exhausted in phase one and that adequate resources are available to allocate in later phases to the statutorily required cases.

Shaltz acknowledged that a phased approach makes some sense. All grantees have expressed some frustration with the fact that they can only speculate at this early stage as to what they think the issues will be rather than actual issues. Keskey commented that it made sense if on-going cases and cases that would be active prior to the next meeting were addressed in phase 1. Bzdok concurred with Shaltz that the board consider the funding needs for both plan and reconciliation proceedings.

MacInnes then commented on his plan to consider SNF issues in a later phase of review given the complexity and controversy surrounding the funding. This will provide the board with additional time to review the material and arrive at a sound decision.

Keskey provided his assessment of the successes to date on spent nuclear fuel cases and that the next major milestone would occur in the next month when Consumers Energy files its application. This may determine what portion of the proceeds would be refunded to ratepayers. He emphasized it was a matter of immediacy.

MacInnes concluded opening comments and invited grant presentations.

GRANT PRESENTATIONS

Michigan Environmental Council (MEC)

Chris Bzdok introduced himself and Emerson Hilton as counsel for MEC. He also introduced David Gard, Energy Program Director for MEC. Gard provided overview comments about MEC's work in energy.

Bzdok explained that the MEC requests for 2012 are for a total of \$252,500. That covers seven cases. He discussed MEC's recent funding history. And those seven cases are power supply plans and reconciliations for Consumers Energy and Detroit Edison, the pending Consumers Energy rate case, and the renewable energy reconciliations for Consumers and Detroit Edison.

He explained that the cases that would be considered in Phase I would be the Consumers rate case which is pending now, and the PSCR plans for Consumers and Detroit Edison which will be filed by September 30th of 2011.

The Phase II cases would be the PSCR reconciliations which will be filed March of 2012, and the renewable energy reconciliations. The timing on those is still somewhat getting sorted out, but I expect those to be filed next summer at some point, so those would be Phase II cases also. He referred the board to the information provided in the application and the additional memo on public interest benefits that he included with the application.

He discussed the general strategy MEC is pursuing in the cases. In the Consumers rate case, and the power supply plan and reconciliation case, they are examining the costs of generating electricity from coal. They do not feel it is economical or environmentally sound to continue to pass through the expense of this form of generation without a long-term plan of how to deal with the escalating fuel and transportation costs. They are looking for a better solution for both the environment and ratepayers.

MEC is investigating two primary issues: dispatch and cost of ownership. In terms of dispatch, they are examining whether a greater reliance on the Zeeland plant for baseload generation is possible and beneficial. They are also working with the Natural Resources Defense Council on load forecasts. The latter work compliments but is separate from the work under UCRF funding.

Similarly, MEC is looking at rising coal costs for Detroit Edison. The difference is we're not looking at a large modern gas plant in Detroit Edison. Rather MEC is looking at the company's projected sales to the wholesale market and whether these off system sales are truly cost-effective for the ratepayer. Are the revenues sufficient to cover the total costs of ownership of running plants and fueling plants that are not necessary to meet the company's own projected generation requirements?

MEC also commented on its proposed work plan for renewable energy cases. Bzdok reviewed MEC's past success in surcharge reductions, withdraw of request for increase, and influence of the companies approach to renewables under UCRF funding and with other funding partners in these cases.

MEC is trying to replicate the renewable energy success with Detroit Edison. Bzdok explained that the renewable energy charge is made up of a transfer price which is essentially recovered through the pscr. It's like an avoided energy cost. And the other part is a renewable energy surcharge, representing the additional cost increment which is attributed to the renewable energy.

The problem MEC is facing with Detroit Edison is that they are trying to reduce the transfer price relative to the surcharge. Maximizing the surcharge is unfair to residential customers because they disproportionately pay for that surcharge whereas the transfer price is essentially recovered proportionally or on a unit basis. Bzdok noted they are trying to replicate the success they have had with Consumers with Detroit Edison to reduce the residential surcharges.

Finally, Bzdok brought a summary of results included in the proposal to the attention of the board, indicating it is the type of work they hope to continue.

Shulman asked Moody if there was any duplication with the attorney general's intervention on the issues presented. Moody indicated that they are no longer participating in energy optimization cases due to limited resources of their staff. In terms of the PSCR cases, he stated that it is beneficial to have different views in the case. He further noted that the statute contemplated having both parties in PSCR and GCR cases as it provided funding to support both under Act 304. He did not see anything that was duplicative or that the AG would have a problem with in the MEC proposal.

Jones asked Bzdok to comment on priorities of the three cases under consideration in phase one for UCRF funding and also to further comment on potential cost savings to customers. Bzdok noted that prior to discovery he could not accurately characterize the cost savings. The rank order of the cases presented today are Consumers PSCR plan, the Consumers rate case, and the Detroit Edison PSCR plan.

His priorities are based on the fact that the Consumers PSCR plan is going to include the dispatch study that I mentioned that we achieved in the 2009 reconciliation. In order to do that -- and that relates to the rate case and the cost of ownership of the coal plants which is a case that we're, that we're in right now, and that's why I put that second. The Detroit Edison PSCR plan case is ranked third only because the Detroit Edison PSCR reconciliations are what I think will be the absolute best vehicle to get at this issue of margins or revenues relative to old coal plants that are not necessary to meet your own customer's generation requirements and whether there was demand for the wholesale sales. Those are questions that I think we do need to attack in the plan and say what are your plans, and then look at the reconciliations and see what did you actually achieve. But, if it is necessary to give up an intervention, it would be this case because we can do substantially a lot of that work in the reconciliation if we had to. Jones asked him to comment more specifically on the

environmental issues. Bzdok noted their primary concern were air emissions. Ideally MEC would like to temporarily or eventually permanently shut down some of the oldest, least efficient units, because they tend to be the highest emitting and also the least efficient. And very often they are also the most expensive to deliver coal to. Under funding from a different source, MEC commissioned an analysis of the health costs associated with some of the oldest coal generating fleets by a firm out of Massachusetts, and they're able to pinpoint very large numbers, especially due to health costs like asthma, premature mortality, etc.

MacInnes referred the board to a study entitled, *The Toll from Coal: An Updated Assessment of Death and Disease from America's Dirtiest Energy Source*. Published: September 2010 related to this discussion. It is available on the internet.

Isely questioned if MEC was considering the impact of increased natural gas usage in Michigan of 5-6% given the emphasis on shifting the Zeeland plant to a base-load plant. Bzdok responded that MEC is not sure what the ripple effects will be. They are focusing on Zeeland because it is cleaner, and cost effective if compared 'apples to apples.' Isely noted that his concern is how it would change cost of gas in west Michigan for its other uses such as residential heating.

MacInnes asked Bzdok to comment on what MEC views as the opportunity with the PSCR plans for CECO and DECO in terms of other areas such as the way they operate their companies, in terms of self-dealing, etc., besides the environmental and cost items already discussed. Bzdok responded that they go into cases with priorities but they do comprehensive reviews and discovery as well. They would pursue overall ratepayer issues and look for opportunities as they arise. He provided an example from a previous case.

Smith asked Bzdok to discuss long-term systemic reforms that come out of the work that you're doing; for example, new policy, new formula, new perspectives within the utility. What is MEC expecting to gain that is not sort of tactical from these cases over the coming year?

Bzdok responded that overall MEC is interested in achieving greater reliance on cleaner, cost effective forms of energy. Goals in the utility cases are shaped in part by MEC's overall goals, are also shaped in part by what funding is eligible from this Board, and what arguments they think may be able to get some traction in the PSC, but it's only one piece of MEC's overall energy program. Involvement in PA 295 and PA 296 was both through the UCRF and more broadly by MEC which includes continuing programs. These cases are part of an overall strategy.

MacInnes invited RRC to give a presentation on their grant proposal. David Shultz, counsel for the Residential Ratepayer Consortium, explained the RRC is comprised of two organizations, the Area Agencies on Aging Association of Michigan which covers the entire State of Michigan, and the Michigan League for Human Services which has a large number of organizational and individual members which is also a state-wide organization.

Shultz noted that, based on the phased approach, his cases would be in the second phase. He offered to defer his presentation to the next board meeting, if that would be more convenient for the Board. MacInnes agreed to defer and Shulman noted that it was without prejudice to RRC.

MacInnes invited a grant presentation from CARE.

Citizens Against Rate Excess (CARE)

John Liskey, counsel for CARE, introduced himself and Dr. Kenneth Rose, one of the experts involved in federal activities. Liskey explained that their organization is primarily focused on the outstate Michigan. During his time

with the Attorney General's office, it became clear that there were six or seven utilities for which there was no residential ratepayer group intervening in those cases. The foundation of CARE was to provide representation to those not served. CARE was approved for a UCRF grant in June 2009 to intervene in PSCR cases for six investor owned companies serving rural and outstate areas of Michigan. There is no duplication of effort because typically the Attorney General's office does not intervene in those cases, nor do any other grantees.

While these are small companies, ranging from 8,000 customers in Northern States Power territory to over a 100,000 customers in Indiana and Michigan's territory, their customers deserve representation in PSCR proceedings. PSCR cases are comprised of two phases – a plan case followed by a reconciliation case. Plan cases are filed September 30th so they would be Phase I cases. Reconciliation cases will be filed at the end of March, so those can be deferred to later phase consideration.

The other focus of the CARE proposal deals with federal proceedings related to transmission costs. In June of 2009, the Michigan Supreme Court issued a decision which classified transmission costs as part of PSCR costs. That decision provided an opening for getting involved at the federal level for the first time. In 2009 the board approved UCRF funds for the FERC Cost Allocation case. Dr. Rose will speak on this issue and intervention later. Care is the only group to use funds from UCRF in limited instances at the FERC level. One issue they have pursued is cost allocation. And another issue that they are involved in is the capacity market auction.

Dr. Ken Rose addressed the federal cases that CARE is involved in. He explained that there are two parallel tracks that are moving forward at the same time. The first is what MISO is doing. Most of Michigan is in MISO. CARE has responded to the MISO cost allocation plan filing. CARE also submitted comments on FERC's general approach to cost allocation. FERC has now issued Order 1000 which is their version of how they want to see cost allocation. CARE will not be submitting comments as that process is largely completed. They do expect however that MISO will now revisit cost allocation to be consistent with FERC Order 1000. CARE will be involved again with the MISO part as that process moves forward, probably going into next year.

The other part of their intervention deals with the capacity market. This past June MISO filed with FERC to establish a capacity market that is similar to what some of the other RTO's have in place. CARE's position is that this does not make economic sense. We are developing the analysis and arguments in support of that position. Rose noted that he had written a paper that would soon be published by the Institute of Public Utilities, Michigan State University. He stated that CARE planned to file comments using the published paper to support their position.

The focus of the paper is an analysis of the PJM RTO. The FERC capacity market approach models PJM to a degree. The MISO is not proposing a model identical to PJM but there are points of issue. CARE may support some of the more reasonable provisions in the MISO proposal such as the opt-out and oppose other provisions such as the auctions. There is also the larger concern that FERC may not accept the MISO filing. FERC may want to see the MISO approach more similar to PJM. CARE will strategically support provisions of the MISO proposal that are reasonable and oppose those proposals that are similar to PJM which would not be in the interest of ratepayers in Michigan, or anywhere in MISO for that matter.

Shulman noted that CARE represents mainly the outstate area of Michigan. He asked CARE representatives if their intervention on transmission costs and proposals would have an impact or some protection for ratepayers beyond just those that are in the outstate area? Rose responded that their involvement in MISO would help protect residential ratepayers in all service territories with the exception of Indiana and Michigan who is part of a different RTO or the PJM RTO. So definitely Consumers' territory and Detroit Edison would be covered as well.

MacInnes asked Moody if the AG's office had any comments on the proposal. Moody responded that they do not duplicate because the AG focuses primarily on the top two electric and the top four gas companies in the state due to limited resources. He also noted that he reviewed the request and nothing appeared to be outside of Act 304 eligibility. The AG's office considers the primary cases covered by Act 304 to be the PSCR and GCR cases. The AG's office has had concerns sometimes with some of the issues pursued by grantees but those in the CARE proposal are clearly within the Act 304.

Shulman asked Liskey when they planned to file their comments in the capacity market proceeding. Liskey noted the comments are due September 15, 2011. Shulman clarified that the funds for the report had already been paid. Liskey noted that the report would be relied upon as the rationale underlying the comments. They have funding for work up until the end of the fiscal year. The funding requested today would support continued work beginning October 1, 2011.

MacInnes asked how many customers are in the group of outstate utilities? Liskey replied that there are about 209,000. MacInnes compared that to the 2 plus million of Consumers and Detroit Edison just to compare the base. MacInnes asked Rose to expand on the arguments given the need to balance the large transmission costs that may be added to rates with the need to expand the transmission system throughout the country.

Rose noted that in cost allocation, traditionally the costs have always been assigned to the cost-causer. Whoever builds the transmission to serve a certain group of customers, they're the ones who pay. That has been the approach for many decades. That is how most of the transmission was rebuilt.

What FERC is arguing and MISO in their filing was that to accommodate these new kinds of generators, they're going to have to build transmission lines going across half the continent. There is no way that the supplies themselves would be able to absorb those costs. So they want to spread the costs throughout the entire footprint of MISO, and then all the other RTO's I think is what FERC would probably have in mind. That would lower the cost for the transmission, and help generators. They are not getting those costs assigned to them or to the customers only that are getting the benefits.

MacInnes asked if those costs are based on the capacity basis, or an energy basis, or both? Rose responded that it's mostly based on capacity. Our argument is basically that it isn't really a reason to depart from what's been done for a very long time. It would be especially unfair for Michigan because Michigan would draw very little benefit from this.

A lot of the transmission will be going south through Indiana and Ohio into the eastern part and bypassing Michigan largely. Both peninsulas in Michigan are kind of isolated from the rest of MISO. So Michigan may have the strongest argument of anybody that doesn't want to socialize these costs because those benefits are not necessarily accruing for the ratepayers here. Renewables are being built in the thumb and other areas of Michigan. Those costs are being allocated to the customers in Michigan. It's not being spread out. It's really one-sided. It would be Michigan supporting the rest of MISO rather than Michigan benefiting from that connection.

MacInnes asked how CARE would propose to handle the costs of the transmission lines that would not benefit Michigan per se? Rose responded that CARE's argument has been that assigning those costs in the traditional way would be a fair way to allocate those resources. So whatever resource it is, gas plants or wind generation or whatever, you would get a better economic signal whether or not it makes sense to build that generation when you understand what the full cost of that generation that goes along with that rather than having a subsidy, essentially having Michigan ratepayers which can ill afford it today, subsidizing generators that are maybe

several states away. It is millions of dollars. That kind of subsidy in general usually results in misallocation of resources.

MacInnes questioned if CARE would mainly propose having the new generators absorb that cost in general? Rose replied yes and their customers. Again, the cost-causers and those who benefit are the ones that are assigned the cost rather than people subsidizing who have very little benefit or no benefit from that cost. In response to CARE comments filed with FERC, FERC responded that there's benefit of being part of MISO. But you have that now. That hasn't changed. So they didn't, in my opinion, clarify the argument for why Michigan should be subsidizing other states.

I think a large part of it is FERC, at present, would like very much to try to subsidize renewables. That may be a laudable goal. Most of us are concerned about many of the issues that renewables may address. But CARE does not feel that subsidizing transmission is the way to go about it. Environmental regulations or some other means would be more direct, and probably a more economically efficient.

MacInnes invited MCAAA to present their grant proposal.

Michigan Consumer Action Agency Association (MCAAA)

Don Keskey, counsel for MCAAA, described the organization. MCAAA is a statewide organization made up of 30 community action agencies representing every county in the state. It is made up of a combination of many local people, citizen volunteers and staff that focus very much on energy matters, not only with respect to home heating assistance, weatherization, helping low income and residential customers, but also education matters, demonstration building of energy-efficient homes, and has participated for many years in energy cases before the Commission and the courts. He noted that over the years MCAAA has, using UCRF funds, won several adjustments, and several issues. They have lost some as well but they keep going at it.

Our focus is trying to identify impacts on the economics of residential ratepayers. We have focused on some upstate utilities in the past but we have focused primarily in recent years on the 90 percent of Michigan ratepayers who are with Consumers Energy and MichCon and also with Detroit Edison companies.

MCAAA's purpose would be to identify issues where we can not only advocate a policy or advocate for a change in precedent to help residential customers, but to also look at where we can win a rate adjustment or rate refund or a credit would benefit residential customers.

In regard to the Phase I proposal, MCAAA identified a number of cases in which we have intervened that are ongoing. And then we've proposed a budget for the upcoming PSCR plan cases for both Detroit Edison and Consumers Energy that are due to be filed by September 30th.

None of these cases involve any spent nuclear fuel issues relative to the budgets we're requesting in Phase I. And that's indicated in the breakout that we sent with our memo of August 12th. We have identified separately the matters that we were asking for with respect to spent nuclear fuel related cases on that memo in the last page of the breakout charts.

I would note, however, that the Consumer Energy rate Case U-16794 which is ongoing involves an issue of spent nuclear fuel potentially, but primarily in our non-SNF budget it involves our issues of affiliated transactions and various other issues we listed in our breakout.

The same is true with respect to the on-going Detroit Edison case, U-16472, which is the subject of a recent PFD and a memo that I just sent to the Board about that proposal for decision, that case involves spent nuclear fuel issues, but it also involved significant other issues like affiliated interest transactions, a line-clearing mechanism which is aimed at trying to reduce outages to residential customers, and a coal handling issue in which an affiliate is proposed to be involved in Detroit Edison's coal handling inventory which we believe will drive up the cost of coal inventory, contrary to the statute.

Keskey noted that what MCAAA is requesting today is approval of those Phase I case budgets that are shown in our summary for non-SNF issues. He went on to discuss several ongoing issues in these gas and electric cases that MCAAA has focused on and where he felt they had made some headway. For example, simplifying the NYMEX adjustment clause, avoidance of gas purchasing during sudden price spikes. He noted MCAAA obtained approval from the Commission of 2BCF ban on what we call a convertible base gas - that is a reserve amount of gas that would be used first in the case of an emergency because it's purchased at a low price and stored.

Overall, MCAAA is trying to moderate the cost of gas in the wintertime, avoid emergencies, and oppose automatic clauses not required by statute. Similar kind of principles apply in the electric field but in different ways. MCAAA is focusing on affiliated transactions. CECO, DECO, and MichCon, all three of them are captive utilities within a whole corporate structure of which the holding company owns literally scores and scores and scores of affiliates which are engaged in parallel or integrated operations, gas production pipeline services, brokering, financing, et cetera.

And there's numerous opportunities as been learned from the past, both nationally and at the state level, whereby gains can be privatized to the holding company affiliates and the costs are socialized to the ratepayers. Affiliate transactions are not easy to find. We have found some. We've advocated adjustments. We have won some adjustments. We have been through the regulatory reports on the federal government level and the state level. We have done cross-examination. We've sponsored expert testimony on this subject. In this new grant, what we've proposed to do is to take it to another level. And that is not only have we identified examples of affiliate transactions which are suspect, but now we would propose to undertake an actual audit of the utility and the affiliate to determine whether a sound adjustment can be identified and recommended in the testimony.

We do have the services of an expert CPA auditor, Mr. Bill Peloquin. His experience includes ten or more years as an auditor with the staff of the Michigan Public Service Commission and approximately 25 years with the special litigation division of the Attorney General's office. He has audited hundreds of transactions. We would propose to cooperate with the staff on this kind of a plan and then where they cannot target an issue, we would assist. We would propose downward rate adjustments, refunds, or credits relative to affiliated transactions and try to better understand it and maybe in that process demonstrate it again to the Commission which has been attuned to the issue but has resource issues like everyone else. MCAAA feels it is important to constantly remind the commission of how these affiliate transactions every year can be affecting the costs that are going to the residential customer.

Another advantage of that kind of activity is that if the utilities know that we're concerned about affiliated transactions, it may discourage the incentives within the utility to engage in these kind of transactions. Then it is more likely the competitive market at arm's length bargaining will help lower the cost of the gas and electric costs that ratepayers have to pay for.

Shulman asked the AG representative to provide an assessment of the proposal in terms of permissibility, duplication and any other concerns. Moody responded that their office has expressed concern with the SNF.

That concern is partly out of legal issue as to whether it fell within the statute. Some of the concern is policy driven. He cited a previous ruling of the commission in U-16432 where they pretty much killed the issue in PSCR cases and so forth by stating that this isn't supposed to be in these cases, they don't follow Act 304. There have also been multiple court of appeals cases that rejected the arguments on the SNF. So, that's more of a policy issue for the board. Is it something you want to continue to fund in light of adverse rulings. Maybe it's just a question that MCAAA needs to explain better. I didn't see anything in the memorandum requesting more funding in this area. It would be a good idea to get further explanation as to whether it makes sense to be going down that road, not even as a legal argument but as a policy argument. MacInnes asked Moody if he could you spend a couple more minutes kind of talking about the AG's opinion of where we stand on this SNF issue, how far we should go on it and does it fall under Act 304? Is it something that is a black hole that we might have difficulty getting our arms around even though there might be a case to pursue it? I mean we do have to watch how much money we spend and the return on capital. Elaborate a bit more on the AG's feeling about all that?

Moody noted that it isn't a question of whether it's a good idea or not because obviously SNF issues are important issues. However, the realities are that on the one front you have the Commission saying that issues regarding spent nuclear fuel do not fall within the scope of Act 304 PSCR plan proceedings. So, does it make sense to continue to fund in those areas, or to fight that issue in those type of cases. On the legal front, the question is whether some of the spent nuclear fuel issues are on the edge of Act 304 funding requirements. The Commission had ruled that in most of these cases that it wasn't going to take into account that issue. It wasn't going to address it in this proceeding because it wasn't the correct proceeding.

The problem is to be able to get the funding, you need to be in PSCR or GCR cases generally. And so you've got the money to get into those cases, but those aren't the cases that address the issue. So then there was a spent nuclear fuel complaint case that even was brought at one point. We had a question whether that was, again, outside of the funding. Moody suggested the board may need an AG opinion to get a definitive answer on that, but then again, an AG opinion may not really be necessary since a lot of the issues are policy. MCAAA should explain why continual funding in this area makes sense. And then consider if the track record is very good. MacInnes noted that the AG has commented on the SNF issue on several occasions. Moody responded yes, informally. None of those comments are technically AG's opinions.

MacInnes suggested it may be helpful for the new Board here to get a formal opinion from the AG's office for the October meeting. Moody responded that he could submit the request but he couldn't guarantee it. MacInnes discussed the importance of getting some more definitive direction. Moody discussed the various options for feedback, including a Memorandum of Advice prepared by the AG staff. He agreed to pursue feedback prior to the next board meeting and to provide copies of previous advice memos.

Moody's final comment from the AG review of the MCAAA proposal was regarding case U-16472 DECo. There is a request for another \$12,000 in that case. The question is whether this funding is well spent given the case is near its end. A proposal for decision (PFD) has been issued. The only remaining phases are filing of exceptions and replies to exceptions.

Keskey noted that the question of SNF is not relevant to Phase I of the MCAAA proposal. The budgets for upcoming plan cases for CECo and DECo do not involve spent nuclear fuel. MCAAA is not raising spent nuclear fuel in the upcoming plan cases for those utilities, MacInnes responded that his documents show a couple of these cases having some involvement with spent nuclear fuel; U-16191, U-16794, and U-16472, all have something in there relating to SNF.

Keskey responded that is really the subject of my transfer request. MCAAA is not introducing any SNF issues in the upcoming plan cases, which is the subject of Phase I of grant application approvals.

Wilsey requested clarifications on activity prior to and following October 1, 2011. MacInnes asked if U-16191's CECo's rate case had any SNF issues? Keskey responded yes, that's the subject of our transfer memo. MacInnes asked If that request would have SNF issues in Phase I. Keskey responded that they were uncertain how the Commission is going to handle SNF. It should be addressed within the next 30 days. MacInnes asked if U-16794, the CE Co rate case filed 6/10/2011, would have an SNF issue. Keskey responded in the Phase I budget it would not.

Keskey referred the board to the August 22, 2011 memo he provided on the SNF issue. MacInnes noted that he received the memo at 1:30 a.m. and did not have time to thoroughly review it prior to the meeting. Keskey replied that it was all information provided in previous grant application and previous memos. It is just a more condensed version.

The memo provides information on the express authority under Act 304. It further indicates that the nuclear utilities serving Michigan customers have collected the SNF fees under Act 304. So it's a cost under Act 304, and under the existing Attorney General's opinion if there's a cost in Act 304, you can pursue remedies relative to those costs in any case. It could be, it could be FERC. It could be a rate case. It could be a special complaint. But the bottom line is we keep asking if the utilities collect since 1983 the spent nuclear fuel fees under Act 304, how could the issue be beyond the scope of Act 304? And the last point on page 3 of the outline is the very highly successful results we've obtained from the Commission in the last two years.

MacInnes responded that SNF issues will be taken up in a later phase of grant review at the next meeting. Jones asked about the level of cooperation and communication between the grantee and the AG office, prior to the point of appearing before the public service commission. Keskey noted he had worked at the AG office for a number of years. The SNF issue began under his tenure and he continued to pursue the issue on behalf of the ratepayer after leaving the office. They work informally with the AG on this and other issues.

Moody commented that there are issues that they work together on. They generally are in communication on issues with all of the grantees if they are in the same cases. At times they are in disagreement but they would not question funding simply because they are in disagreement or not pursuing an issue. Occasionally there is an issue they come to loggerheads on and SNF is one of them. It was agreed this issue would be taken up further at the next meeting.

Isely asked about their position on fixed purchasing versus spot purchasing. He asked Keskey to explain their position more thoroughly. Keskey responded that several parties debate this but as far as MCAAA, they prefer a portfolio approach of having a portion of your purchases purchased over time under fixed contracts with one exception, we would like you to have the flexibility to avoid purchasing at an extreme emergency peak. You should be able to -- economics should cut in at some point when the cost is so high that you just say we have to defer, but you have the capability to do so.

And the second thing is we also believe that a portion of the gas supply should be available by its soft market prices because sometimes there's great opportunities to buy at low prices and put it in storage, and so we like the portfolio approach over time with the peak saving idea. MacInnes commented on his experience as a fuel buyer. He asked why the utilities do not utilize the portfolio approach advocated by MCAAA?

Keskey responded that purchasing guidelines in some respects are too mechanistic and too formulistic. If certain things happen they'll buy on the second portile even though the economics of the country are indicating that prices are going to drop below that and there's no reason to hurry up and buy. Another possible factor is the regulatory emphasis has been on making sure we have reliable supply in the winter and colder than normal. And these utilities have the storage facilities and the resources to easily meet the reliability requirement. If nothing else you can meet the reliability requirement totally on the spot market basis too.

MacInnes commented that is where you encounter price spikes. Keskey responded that price spikes occur rarely, and usually during an hurricane. We all know we're entering the hurricane season again, so there should be capability to buy low and store to meet emergency needs. MacInnes noted that utilities have a lot of gas storage, but, they tie a lot of that up by selling that storage capacity to other parties. So I don't know, I don't know how much they actually retain for themselves to actually provide a buffer for those kinds of peaks.

Moody observed that gas price purchasing is a huge issue. RRC and MCAA and the Attorney General, we've been hitting that pretty hard. One of the problems is that the PSCR and GCR costs pass through. So the utility doesn't have as much of an incentive to be as efficient as it could be. That's why we're here. You have different intervenor groups in these cases to make sure that the utilities are being reasonable and prudent in their purchases. Small business or larger business responding to market signals will be much more efficient in their purchases because they impact bottom line. These regulatory proceedings are in place so decisions of a utility that is able to pass through costs to the ratepayer is making rationale decisions.

RRC has testified on these issues. Their expert talked about hundreds of millions of dollars that have been lost as a result of some of the decisions of the utilities. Achieving a balance between security of supply and minimizing the price is a big issue.

MacInnes asked Keskey what MCAA position is on coal handling. Keskey replied that Detroit Edison included a proposal in their current plan case for an affiliate to buy a portion of Edison's coal inventory. DTE's parent company affiliate would own the coal and then they would re-process it to reduce the potential pollution capability of the coal. They would then sell it back to the utility at an undefined time and an undefined price with no safeguards or conditions that would guide the transaction.

MCAA would assert in the reconciliation phase this is one of the coal handling transactions that should be disallowed. However, you have a duty to raise the issue in the plan case if you want to raise it in the reconciliation case to some extent. And, it is an affiliate transaction, with a potential for abuse because there's no arm's length transaction that we can see and no guidelines or safeguards. MCAA would explore why Detroit Edison can't do the coal handling rather than an affiliate. We are concerned that the reason the affiliates get involved is because they can make a profit on it. They can recoup their costs, plus a profit of unregulated portions. The ratepayer would then have to pay the cost, the book cost of rebuying the coal when it's burned. This is one example of which there could be unwarranted affiliated transactions. MacInnes asked if MCAA had looked at this issue before. Keskey responded that the coal handling issue relative to this proposal is the first time we've seen it is in the current Detroit Edison plan case, U-16434. We filed expert testimony against it and briefing against it. It will be addressed in the Commission orders and it will come up in the reconciliation case.

The meeting was adjourned at 1:16 p.m. for a lunch break. The meeting was reconvened at 2:31 p.m.

2012 GRANT APPROVALS

MEC

Isely moved, second by Jones and motion carried to approve the 2012 UCRF grant to the Michigan Environmental Council in a total amount of \$93,900 for intervention in the following cases with approved funds to be redistributed by the grantee: Consumers 2012 PSCR plan case, Detroit Energy 2012 PSCR plan case, and Consumers Energy Rate case U-16794.

Discussion, Smith noted that while he agreed with the board's position about our fiscal restraint with regards to the budget, he is slightly concerned about not giving the full amount that we need to these cases. He was hoping that the Board will at least remain open to bi-monthly or quarterly review of these cases with potential of increasing those funds if we find that they're insufficient for representation. MacInnes responded that he thought members were in concurrence with that. The idea was to begin with a more modest amount, and then as things become clearer, we'll certainly be entertaining other applications and determine then if it is appropriate to expend more funds on a particular issue or case. Isely noted that would be his expectation. Jones concurred. Shulman commented that his understanding was that grantees or others would not be precluded from coming back with additional requests for funds. Smith commented that he thinks that is a very good strategy.

Bzdok asked if the motion that was just passed was relative to Phase I, cases I identified as Phase I cases and as to Phase II cases, my questions are: Are the remaining cases going to be considered at the October meeting; what additional materials are required for consideration; and do the approvals today contemplating a hold-back of some portion of the fund for use later if needed?

MacInnes responded that the board is open to grantees returning for Phase II. The board has tried to keep approvals at a level that should allow adequate funds for the following phases. The board considered the total requests submitted, which requested 30 percent more in grant funds than the total available for grants, and calibrated approvals to allow for future funding consideration for cases, such as gas, that will arise later in the year. So, there is a lot of work yet to do in the second phase.

Wilsey responded that the grantee may want to know if the board would want grantees to resubmit a workplan specifically for the October meeting, or will the board automatically take up the remaining cases submitted in the original grant proposals. Jones responded that she felt the board would work from the existing plan, unless there is new information, different information that would impact the request. MacInnes commented that he did not feel a resubmittal was necessary. The board may request additional, specific information that grantees can respond to if requested. MacInnes commented that if the grantees can be more specific, especially if based on experience you can hone in on the certain areas that you really think would be opportunity, he thought that would help the board make better decisions and use the funding wisely.

CARE

Isely moved, second by Jones and motion to approve the 2012 UCRF grant to the CARE in total amount of \$93,632, consisting of \$50,000 for the PSCR plan cases (Alpena Power Company 2012 Plan Case, Indiana Michigan Power Company 2012 Plan Case, Northern States Power Company 2012 Plan Case, Upper Peninsula Power Company 2012 Plan Case, Wisconsin electric Power company 2012 Plan Case, Wisconsin Public Service Corporation 2012 Plan Case) and \$43,632 for the FERC cases (FERC Cost Allocation Case, FERC Capacity Market Case), with approved funds to be redistributed by the grantee.

Discussion: MacInnes noted that the board has lumped these approval amounts together and thereby is relying on the grantees in all cases to decide how to best allocate the money based on where you see the most opportunity.

MCAAA

Isely moved, second by Jones and motion carried to approve 2012 UCRF grants to the MCAAA in total amount of

\$121,664 for intervention in the following cases: U-16045-R CECo PSCR Recon; U-16149-R CECo GCR Recon; U-16146-R MichCon GCR Recon; U-16047-R DECo PSCR, U-16794, which is the CECo rate case with particular emphasis on in LIEEF matters with approved funds to be redistributed by the grantee.

Discussion: Smith asked for clarification of LIEEF concern as related to this grant request. He is under the understanding that the LIEEF case or the case that has basically eliminated the LIEEF funding from Consumers and presumably will have impacts on DTE as well is a different case and that that is the sort of superceding issue right now. Smith continued that he thought the Board would be better served by re-soliciting for support for a grant specifically to work on that issue in a very focused way. I'm not clear that the U-16794 issues would be relevant. Wilsey responded that Smith's concern was why those issues would be addressed in a rate case when they are directly of issue in another proceeding. They are important but it is not clear where they intersect in this case. Keskey responded that in this particular case MCAAA has asked for funding to pursue a number of issues including affiliated transactions and examining the base of the PSCR factor, and other matters. They also listed LIEEF because at this moment the LIEEF is being requested by Consumers Energy in this case.

The Commission appears to have granted CECo's recommendation that the funds be collected from customers and be placed into escrow while further developments occur with respect to possible appeals to the Supreme Court, plus a legislative proposal to clarify that the LIEEF is one of those programs that remains within legislative intent to be preserved. So, the issue is still in the case. MacInnes asked Moody to comment. Moody responded that this is an area where the AG would be in conflict with MCAAA using UCRF funding. The AG has taken a position that the Commission lacked the authority to continue the Low-Income Energy Efficiency Fund (LIEEF) because the statute was repealed a couple years back and they continued to do the funding. The LIEEF is a great program policy-wise and it serves a great purpose. However, the Commission just doesn't have the power to do it. When it started, there was a statute in place. The Commission funded it through the statute. The statute was later repealed and the Court of Appeals ruled that the Commission lacked the power to do LIEEF. Now that is subject to a possible appeal by the Commission. Keskey responded that the MCAAA is strongly supportive of the LIEEF program because it's a positive way to address the inability of low income customers to pay their energy bills rather than simply reimbursing a utility for non-payments. The Commission may appeal to the Supreme Court in which case MCAAA would be supportive and would probably file a supporting brief. There also may be a legislative fix. The Commission may consider an equivalent rate design program that could be adopted that would achieve some of the goals of the LIEEF program. So there's all these possibilities.

Smith proposed the LIEEF portion of this particular grant be removed. The case that will determine the future of the LIEEF program is not this case. Smith suggested that if the Board is as concerned about LIEEF as I am I think that the better strategic direction is for us to develop, to solicit a proposal from someone to engage in that conversation specifically. It's a unique set of issues.

Shultz commented on a separate issue regarding eligibility of certain cases under the grant proposal. Some of the cases are for the 2010/2011 GCR period. The cases specified in the attachment 8 of the board's grant application indicate that the reconciliation cases eligible for funding are for the April 2011, March 2012 GCR Plan cases. These cases, according to Shultz, should have been funded in last year's round of grants. Keskey responded that the time sequence does not allow cases to be followed specifically in a single grant year. Wilsey noted that the referenced attachment includes a list of cases that are eligible but specifically states that additional cases may be eligible based on statutory compliance. There has been an effort not to have grants remain open for multiple grant cycles and for grantees to reapply should their grant extend beyond a fiscal year.

Shultz commented that he agrees the board has the authority to do that if they so choose but cautioned that it means that when you get to the reconciliation cases for the 2011/2012 period, you're allocating resources to earlier cases and you may not have the funds available to fully fund those cases. His clients, for example, applied

last year for funds for these cases, and we are funded for these cases and we will stick to the budgets that were granted to us for these cases. But I agree with Michelle, it's up to your discretion how you want to do this. But I just thought it would be important to point out because you are new.

Keskey returned to a point on the LIEEF question. The LIEEF issue in this Consumers case does not only involve matters which we've already mentioned, but ABATE has asserted that the LIEEF funds that have already been committed under contract or spent by the various public service organizations pursuant to MPSC orders and treasury department procedures should be refunded. So there's a refund issue as well that we're advocating that under any circumstance there can't be a retroactive refund of contracts already let, commitments already made, and funds already paid for, weatherization and other programs under LIEEF which ABATE has been advocating. MCAAA would oppose such refund requests in these cases, and we have supported LIEEF programs in the MPSC cases.

Jones commented that if the board has concerns about LIEEF, even if there are a separate set of issues and proceeding, that does not preclude approval to look at issues related to LIEEF in this proceeding, and later, taking a look at issues related to LIEEF in a separate proceeding, because it is a very important program.

She appreciates the Attorney General's position regarding whether or not the Commission has the power to do it, so I'm not really clear what impact that would have. But I think as a Board if we wanted to support work on two different sets of issues around LIEEF, we could certainly do that.

MacInnes concurred and commented that the LIEEF issue is an important issue that probably needs to be revisited in greater detail. The board action today does not preclude that. Jones clarified that the motion that was made was for an emphasis for that particular case included LIEEF and not all the other issues that were identified there. Isely and MacInnes agreed that it was stated as "an emphasis on" LIEEF. Wilsey requested clarification on who seconded the motion. MacInnes stated and Jones agreed that she seconded the motion.

No new grants were considered for RRC at this meeting

2011 GRANT AMENDMENTS

Bzdok asked for a change of order in the agenda to take up his amendment request. The chair agreed.

1. MEC Budget Amendment Request (New Funds = 0)

Bzdok noted a revision from the original submission due to an error in recordkeeping. The amount of the request is revised down to \$9,090. We are simply seeking to transfer this money from the Consumers Energy reconciliation. The reasons are outlined in the amendment request submitted to the board. In general MEC feels that a greater point of emphasis at this moment in time is to move our efforts towards Detroit Edison on all of the issues I outlined already. No new money, simply moving from one utility to the other in the same type of case.

Jones moved, second by Isely and motion carried to approve MEC Budget Amendment Request to transfer of funds in the total amount of \$9,090 from Consumers Energy Renewable Energy Reconciliation Case to Detroit Edison Renewable Energy Reconciliation Case. Both are approved cases in UCRF Grant 11-04 to Michigan Environmental Council. The *total* authorized budget for these cases is unchanged – no new funds are requested, just shifting funds from one case to another.

Approved Budget DECo RE Recon Case	\$ 10,100
Amendment Transfer Request 8/22/2011	\$ 9,090
Total Budget (if approved)	\$ 19,190

Approved Budget CECo RE Recon Case	\$35,147
Amendment Transfer Request 4/11/2011	\$-15,150
Amendment Transfer Request 6/6/2011	\$-10,100
Amendment Transfer Request 8/22/2011	\$- 9,090
Total Remaining Budget (if approved)	\$ 807

2. RRC Request for Budget Amendment (New Funds = 0)

Shultz explained that this is a request to reallocate money within our existing budget among our GCR plan cases. This is not a request for any increased funding. The main reasons for this request is two things have happened during these cases that we didn't expect. One was that in the Michigan Gas utilities corporation case, the company filed a separate proceeding that was consolidated with this case that seeks to address a real problem on their gas distribution system which is that more and more customers are leaving regular service to go to gas customer choice, but at the same time the utility has an obligation to be a supplier of last resort and maintain pipeline entitlements and all these costs, those are getting shoved on to the GCR customers. As you can imagine, when the alternative gas suppliers found out about this, they wanted to get involved. So this has become a heavily litigated case.

At the same time the SEMCO energy case in terms of the GCR plans, once we filed our testimony and we met with the parties, the utility was willing to adopt several of our recommendations in their planning process and that case has gone to settlement. So we didn't need as many funds in that case as what we had projected. So this is basically a request to reallocate these dollars and hours to more closely match what's going on within these cases.

Isely moved, second by Jones and motion carried to approve RRC Budget Amendment Request to transfer of funds in the total amount of \$11,453.05 from MichCon, SEMCO and Consumers GCR Plan Cases to the MGUC GCR Plan case U-16481. All are approved cases in UCRF Grant 11-01 to the Residential Ratepayer Consortium. The *total* authorized budget for these cases is unchanged – no new funds are requested, just shifting funds from one case to another.

Approved Budget MGUC GCR Plan Case U-16481	\$ 22,360.58
Amendment Transfer Request 8/22/2011	\$11,453.05
Total Budget (if approved)	\$ 33,813.63

Approved Budget MichCon GCR Plan Case U-16482	\$25,451.17
Amendment Transfer Request 8/22/2011	\$- 1,817.98
Total Remaining Budget (if approved)	\$23,633.19

Approved Budget SEMCO GCR Plan Case U-16483	\$22,360.58
Amendment Transfer Request 8/22/2011	\$- 8,726.04
Total Remaining Budget (if approved)	\$13,634.54

Approved Budget Consumers GCR Plan Case U-16485	\$25,451.17
Amendment Transfer Request 8/22/2011	\$- 909.03
Total Remaining Budget (if approved)	\$24,542.14

3. MCAAA Request for Budget Amendment 11-03 (New funds = \$0)

Keskey commented that MCAAA requests that funds that are left in the budget for U-15701-R, U-15704-R, and U-16418 be transferred to other cases which are ongoing. The reason for transferring funds out of these cases is the fact that the work in these cases is concluded. The objective is to shift these remaining funds to cases where work is on-going and additional resources are required. The first case is the DECo rate case U-16472. A PFD was issued on August 12th. Exceptions are due on August 26th, and replies to exceptions on September 7th. That case involves a combination of issues. One of the issues is SNF costs because Detroit Edison has collected SNF fees under this contract that has been the subject of a major default. It also includes issues concerning affiliated transactions and a line clearing mechanisms which have an impact on outage, service outages to residential customers, and also a coal handling issue discussed earlier. This case was the subject of a previous approval, and no new funds are requested.

The second transfer is to the SNF cases. This is a combination of cases and proceedings occurring between now and September 30, 2011. It includes an approved case and budget for U-16191, and also a new proceeding that the Commission required Consumers Energy to file, which we expect within 30 days. The issue in this case is how to address or split the proceeds from their federal settlement on SNF between ratepayers and shareholders. It also covers the current ongoing Consumer Energy rate case. The CECo rate case involves several issues in addition to spent nuclear fuel issues that we've discussed, affiliated transactions, roll in of the base factor, how that should be set, and several other issues that we identified in our chart. The remaining funds for transfer are relatively small. The transfer is simply for follow through on the cases still in process. This is not for cases filed after October 1.

Jones noted the PFD was adverse to their issues and wondered what strategy would be used to change the outcome of the case? Keskey summarized his concerns with the PFD and stated that MCAAA's approach would be to file exceptions, making our best arguments, citing the records that we presented in our two expert witnesses, and let the process decide. I think it's important to follow through on these arguments, not simply to drop them at this stage because sometimes we are successful in getting the ALJ reversed.

Wilsey commented that the board's decision comes down to a couple of issues. One is the disposition of the Board on the SNF issues in general in light of some of the recommendations and concerns raised by the AG. Since this is a continuation of last fiscal year, you have to decide if you want to approve the transfer to complete issues began in the last grant year. Or, you may want to defer all decisions on SNF related cases until you get a more thorough review by the AG. In regard to the PFD issued in U-16472, it is not supportive of any issue MCAAA raised. MCAAA presents specific counterpoints they will pursue in the exception phase. So, the board has to decide if they will approve \$6,000 to conclude the work started.

MacInnes asked Keskey if this could wait until next meeting. Keskey responded that if you don't file exceptions by August 26th, you have lost the issue by inaction. This original plan was approved a year ago and we're simply following through on the plan. We believe we have a reasonable chance of success on some of these issues. In my memo I've presented several reasons why the ALJ was mistaken and his PFD is contrary to the recent precedent of the Commission which he did not cite. He cited cases from ten years ago. MacInnes stated that he feels the board has not had enough information or perspective to settle their position on SNF. They would like to get the memorandum and/or opinion from the AG on this whole SNF question. And so in my mind it has not been resolved as to the continuation of this issue. We expect to be better informed in the October meeting on this issue.

Isely moved, second by Jones and motion carried to approve MCAA Budget Amendment Request to transfer funds in the total amount of \$9,401.08 from 2009-10 MichCon and CEC Co GCR Recon Cases and the CEC Co Rate Case to the DECo Case U-16481. All are approved cases in UCRF Grant 11-01 to the MCAA. The *total* authorized budget for these cases is unchanged – no new funds are requested, just shifting funds from one case to another.

Approved Budget DECo Rate U-16472	\$37,309.40
Amendment Transfer Request 8/22/2011	\$3999.60
Total Budget (if approved)	\$ 41,309
Approved Budget Other SNF Cases	\$26,058
Amendment Transfer Request 8/22/2011	\$5401.48
Total Budget (if approved)	\$31,459.48
Approved Budget MichCon GCR Recon U-15701-R	\$ 24,745
Amendment Transfer Request 8/22/2011	\$-4595.50
Total Budget (if approved)	\$ 20,149.50
Approved Budget CEC Co GCR Recon U-15704-R	\$ 24,745
Amendment Transfer Request 8/22/2011	\$-3,361.28
Total Remaining Budget (if approved)	\$21,383.28
Approved Budget CEC Co Rate Case U-16418	\$21,109
Amendment Transfer Request 8/22/2011	\$- 1,444.30
Total Remaining Budget (if approved)	\$19,664.70

4. Board Administrative Support Contract Extension

MacInnes invited Wilsey to leave the room while the contract extension was discussed. Jones moved, second by Isely and motion carried to approve the one-year extension of the current administrative support contract with Michelle Wilsey for FY 2012 which runs from 10/1/11-9/30/12. The total annual value of the contract is \$22,975. Hourly services rate is \$65 per hour. It was suggested that next year the board take up the administrative support contract at a meeting prior to the grant review meeting.

V. Old Business – None.

VI. Public comment – None.

VII. Next meeting - The next regular meeting of the UCPB is scheduled Monday, October 3, 2011, 1:00 p.m. The meeting adjourned at 1:19 p.m.