

August 27, 2012

The Honorable Rick Snyder
Governor of Michigan
P.O. Box 30013
Lansing, Michigan 48909

Michigan State Senate
c/o Ms. Carol Morey Viventi, Secretary
State Capitol
Lansing, Michigan 48909

Michigan House of Representatives
c/o Mr. Gary Randall, Clerk
State Capitol, Room 70
Lansing, Michigan 48909

Dear Governor Snyder and Members of the Legislature;

In accordance with Public Act 304 of 1982, the attached 2011 Annual Report for the Michigan Utility Consumer Representation Fund (UCRF) is transmitted to the Legislature.

The UCRF provides grants to qualified organizations that represent the interests of Michigan's residential energy utility customers in gas cost and power supply cost recovery proceedings before the Michigan Public Service Commission. The positive results for residential customers demonstrate the continued importance of the UCRF grant program.

This report reflects the activities and results of the UCRF grant program administered by the Utility Consumer Participation Board. The Attorney General's Office also receives UCRF funding to intervene on behalf of the utility ratepayers of Michigan in Act 304 proceedings. The Attorney General's Office will submit its' P.A. 304 Annual Report under separate cover.

Sincerely,



Mr. James MacInnes, P.E., Chairman
Utility Consumer Participation Board

cc. Steven H. Hilfinger, Director, Michigan Department of Licensing and Regulatory Affairs (LARA)

**UTILITY CONSUMER REPRESENTATION FUND
ANNUAL REPORT**

CALENDAR YEAR 2011

UTILITY CONSUMER PARTICIPATION BOARD

Mr. James MacInnes, Chair
Mr. Conan Smith
Dr. Paul Isely
Mrs. Susan Licata Haroutunian
Ms. Jacqueline Jones (Now Vacancy)

EXECUTIVE SUMMARY

PA 304 of 1982 established a separate proceeding that allows energy utilities to more quickly recover costs for power supply and purchased gas than they otherwise could in a full rate case. It further created the Utility Consumer Representation Fund (UCRF) to provide financial resources for customers who pay these costs to be represented in these utility cost recovery proceedings.

UCRF funds are collected by certain utilities in their rates. The UCRF funds collected are split between the Attorney General and the Utility Consumer Participation Board (UCPB). The Attorney General uses the funding to advocate on behalf of the interests of Michigan utility customers in general and the UCPB is responsible for granting funding to specific interest groups to advocate interests of the residential consumer groups they represent.

In 2011, Michigan's six largest investor-owned utilities that use cost recovery proceedings collected and remitted \$1,125,700 to the Utility Consumer Representation Fund. The Attorney General and the UCPB were each allocated \$524,329. The remaining 5% (\$55,193) was allocated for administrative costs.

The FY 2012 budget authorization for the Utility Consumer Participation Board (UCPB) was \$950,000. The request and authorization included the current year allocation plus unspent funds accrued from past years. Of that amount, \$902,500 was available for awarding FY2012 grants and \$47,500 was allocated for administrative costs.

Governor Rick Snyder appointed four new members to the UCPB in 2011 including Jim MacInnes (Chair), Dr. Paul Isely, Susan Licatta Haroutunian, and Jacqueline Jones. Conan Smith continued service on the board under a previous appointment.

In 2011, AY 2012 grants in the total amount of \$723,838 were awarded to the Residential Ratepayer Consortium (RRC), Michigan Environmental Council (MEC), Citizens Against Rate Excess (CARE), and the Michigan Community Action Association (MCAAA). The board also awarded \$16,076 in grants from AY2011 to support on-going work. The membership and scope of these grantee organizations is geographically and demographically diverse. The cases selected for UCRF funding represent approximately 3 million residential natural gas customers and 3.5 million residential electric customers in the State of Michigan.

In 2011, UCRF funds helped Michigan citizen advocates achieved, directly and in collaboration with other parties, significant benefits for residential utility customers throughout the State of Michigan. Major areas of impact included continued reduction of renewable energy surcharges and costs, changes in FPP programs, affiliate transactions, defense of ratepayers fees paid for SNF, advocacy on transmission issues, and PSCR plan and reconciliation reviews. Benefits included helping to secure disallowances of more than \$250,000; rate adjustments, reductions and impacts of \$7-8 million per year; over- and under-recovery adjustments of over \$1 million to the benefit of ratepayers; utility program changes with estimated future savings of \$10 million per year.

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ATTACHMENT A

UCRF Grant Activity and Results for 2011 Calendar Year

ATTACHMENT B

UCRF 2011 Grantees Membership Scope and Description

Questions regarding this report should be addressed to:

Utility Consumer Participation Board
Department of Licensing and Regulatory Affairs
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Lansing, Michigan 48909
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1. INTRODUCTION

Public Act 304 of 1982, as amended (Act 304) provides for the establishment and implementation of gas and power supply cost recovery clauses in the rates and rate schedules of public utilities. The Utility Consumer Participation Board (UCPB) and the Utility Consumer Representation Fund (UCRF) were created by the Act to achieve equitable representation of interests of energy utility customers in energy cost recovery proceedings. The purpose of the UCPB is to make grants from the Act 304 Utility Consumer Representation Fund (UCRF) to qualified nonprofit organizations and local units of government to represent the interests of residential utility customers in energy cost recovery and reconciliation proceedings before the Michigan Public Service Commission.

This annual report to the Legislature, which is required under section 6m(22) of the Act, covers the activities of the Utility Consumer Participation Board for the 2011 calendar year.

From January 1, 2011-December 31, 2011, The Utility Consumer Participation Board awarded \$16,076 in grants from remaining AY2011 funds and \$723,838 in grants from AY2012 to consortia of several non-profit, consumer groups. Grant recipients in 2011 included the Residential Ratepayer Consortium (RRC), Michigan Environmental Council (MEC), Citizens Against Rate Excess (CARE), and the Michigan Community Action Agency Association (MCAAA). Combined, the grantees represent state-wide, nonprofit groups with over 400 member agencies and tens of thousands of individual members focused on issues related to energy costs, consumer protection, environmental, public health, and community action. The actions of these grantees influence utility costs for 3 million residential natural gas customers and 3.5 million residential electric customers in the State of Michigan.

In 2011, UCRF grant recipients participated in over 50 proceedings on behalf of residential customers of the State of Michigan. UCRF funds helped Michigan citizen advocates achieve, directly and in collaboration with other parties, significant benefits for residential utility customers throughout the State of Michigan. Major areas of impact include continued reduction of renewable energy surcharges and costs, changes in FPP programs, affiliate transactions, defense of ratepayers paid SNF fees, advocacy on transmission issues, and PSCR plan and reconciliation reviews. Among the measurable benefits were securing disallowances of more than \$250,000; rate adjustments, reductions and impacts of \$7-8 million per year; over- and under-recovery adjustments of over \$1 million to the benefit of ratepayers; utility program changes with estimated future savings of \$10 million per year. Other results, such as programmatic changes were also achieved. The board actively monitors participant activity and results.

The Attorney General's Office also receives UCRF funding for intervention on behalf of the utility ratepayers of Michigan. Coordination between the Attorney General, MPSC staff and other participants in UCRF funded cases is monitored by the board. Thorough review of grant applications, grant amendments, and regular reporting on case status and interventions by the UCPB continue to improve coordination of the grantees efforts with the Attorney General. This provides efficient use of resources and maximizes coverage of cases and issues without duplication of effort. The Attorney General's office is also consulted in its role as legal counsel to the board. Expenditures and results of the Attorney General's intervention are provided in a separate annual report submitted by their office to the Legislature.

2. UCPB MAJOR RESPONSIBILITIES

MCL 460.6l provides for the creation of a Utility Consumer Participation Board, defines its membership, and prescribes its duties. MCL 460.6m creates the Utility Consumer Representation Fund, establishes provisions for its generation, distribution and use, limits the beginning dates of cost recovery proceedings, and places reporting requirements on both fund recipients and the Board.

The duties and responsibilities of the Act under these two sections were discharged as described in sections 2.1 and 2.2.

2.1 UCPB Board Activities 2011

The Board approved and maintained a bimonthly meeting schedule in 2011. Regular meetings were held with a quorum present on February 7, April 11, June 6, August 1, August 22, October 3, and December 5. All meetings were posted and held in compliance with the Open Meetings Act. Members of the public were present at all meetings and given opportunity for public comment. The 2012 UCRF Grant Announcement and Application were distributed in May 2011. An annual administrative support contract for the assistant to the UCPB in the total amount of \$22,975 was approved on 8/22/2011. Amendments to FY2011 grants were approved on 4/4/2011 and 6/6/2011. FY2012 grants were approved on 8/22/11 and 10/3/2011. Amendments to FY2012 grants were approved on 10/3/2011 and 12/5/2011. The 2012 regular meeting schedule was approved on 12/5/2011. Chairman James MacInnes (replacing Alexander Isaac) and members Jacqueline Jones and Dr. Paul Isely (replacing members Sister Monica Kostielney and Professor Harry Trebing) were appointed by Governor Rick Snyder effective with the 8/1/2011 meeting. Member Susan Licata Haroutunian (replacing Marc Shulman) was recommended by Attorney General Bill Schutte and appointed by the Governor effective with the 10/3/2011 meeting. Transcripts are available for all meetings and the minutes are available on the web site www.michigan.gov/lara under "Agencies", "Utility Consumer Participation Board."

2.2 UCRF Grants and Contract Awarded by UCPB in Calendar Year 2011

4/11/2011

- A grant of \$9,898 from 2011 UCRF Funds was approved for MCAAA for intervention in the Consumers Energy (CE) and Detroit Edison (DE) PSCR Reconciliation cases.

6/6/2011

- A grant of \$6,178 from 2011 UCRF Funds was approved for MCAAA intervention in the MichCon GCR Reconciliation U-16146-R and CE GCR Reconciliation Case U-16149-R.

8/22/2011

- A grant of \$93,900 from 2012 UCRF Funds was approved for MEC intervention in CE 2012 PSCR Plan, DE 2012 PSCR Plan, CE Rate Case U-16794
- A grant of \$93,632 from 2012 UCRF Funds was approved for CARE intervention in 2012 PSCR Plan cases for small and medium sized utilities in Michigan and FERC Cost Allocation and Capacity Market Proceedings.
- A grant of \$121,664 from 2012 UCRF Funds was approved for MCAAA intervention in CE PSCR Recon U-16045-R, CE GCR Recon U-16149-R, MichCon GCR Recon U-16146-R, DE PSCR U-16047-R, CE Rate Case U-16794.
- A one-year contract extension of \$22,975 for board technical and administrative support from 2012 UCRF Administrative funds was approved for Michelle Wilsey.

10/3/2011

- A grant of \$90,000 from 2012 UCRF Funds was approved for RRC intervention in 2012-13 GCR Plan Cases for CE, MichCon, SEMCO, and MGU.
- A grant of \$111,200 from 2012 UCRF Funds was approved for MEC intervention in 2011 PSCR Recon Cases for CE and DE, and the 2011 Renewable Energy Reconciliation cases for CE and DE.
- A grant of \$50,000 from 2012 UCRF Funds was approved for MCAA intervention in CE 2011 PSCR Recon Case and DE 2011 PSCR Recon Case and on Act 304 issues in the DE Electric Rate Case U-16472.

12/5/2011

- A grant of \$50,000 from 2012 UCRF Funds was approved for CARE intervention in 2011 PSCR Recon Cases for small and medium sized utilities.
- A grant of \$50,722 from 2012 UCRF Funds was approved for CARE expanded intervention on affiliate transaction issues in UP Power 2012 PSCR Plan Case U-16881 and WI Public Service Co. u-16882.
- A grant of \$62,720 from 2012 UCRF Funds was approved for MCAA intervention in 2012 CE and DE PSCR Plan Cases on affiliate transaction issues.

TOTAL AMOUNT OF 2011 UCRF Grant Funding Awarded in 2011 = \$16,076

TOTAL AMOUNT OF 2012 UCRF Grant Funding Awarded in 2011 = \$723,838

2.3 Resource Availability

The total UCRF funding requested by applicants in the initial 2012 authorization year grant cycle was: \$ 1,251,895. The UCRF authorization available for grants was \$902,500. The potential funding deficiency based on the proposals submitted was \$349,395. The board determined that grants would be prioritized and awarded in phases. This allowed the newly appointed board members to study the workplans in more detail and reassess the grant requests closer to the time of filing.

The total amount initially granted by the board on 8/22/2011 was \$309,196. On 10/3/2011 and 12/5/2011 the board awarded additional grants in the total amount of \$251,200 and \$163,442 respectively. The total amount granted at calendar year-end was \$ 723,838.

In addition to intervenor funds, the board approved a contract for administrative support in the total amount of \$22,975 for the term October 1, 2011-September 30, 2012.

2.4 Resource Efficiency and Non-Duplication Due Diligence

The UCRF grant application requires each applicant to provide a work plan specifying, among other things, the cases they intend to intervene in, the issues and strategies they intend to pursue and potential benefits to consumers. The UCRF board assistant and attorney general staff review the proposals in advance and provide comments to the board. Any potential duplication among grantees or with the attorney general are presented to the applicants so that workplans or requests can be modified. These changes are discussed at the board review meeting. Bi-monthly case status reports are required from grantees and testimony reviewed in order to prevent or address any potential duplication of effort. The board does not discourage coordination of effort where it serves the interest of consumers.

2.5 Administrative Efficiency

The Board achieves administrative efficiency in the following ways:

1. Implemented a grant review process utilizing a rating and ranking system based on statutory guidelines.
2. Utilized the revised UCRF grant application designed by DLEG (now LARA) Purchasing and Grant Services and the Michigan Attorney General's Office.
3. Requested the opinion of the Attorney General's office during grant review regarding the legal compliance of the individual grant applications with the governing statute or case law prior to the approval of grants and whether there was any objection to either the approval or the submission of individual grants to the State Administrative Board.
4. Requested the opinion of utility representatives present during grant review as to concerns or objections regarding the legal compliance of the individual grant applications with the governing statute or case law prior to the approval of grants and whether there was any objection to either the approval or the submission of individual grants to the State Administrative Board.
5. Renewed contract with part-time contractor to assist the Board and coordinate efforts with other parties of interest.
6. Followed regular bi-monthly meeting schedule.
7. Implemented bi-monthly case status reports from grantees.
8. Formalized process of written grant amendments and documented board approval prior to submission to LARA.
9. Incorporated regular board education sessions to study issues related to grant applications.
9. Revised annual report.
10. Posted information for convenient public access on a web site.

3. UCRF GRANT RECIPIENT RESULTS

3.1 Cost/Benefit Analysis and Discussion

In creating cost recovery mechanisms that allowed utilities to recover energy supply costs from ratepayers outside of a contested rate case, the Michigan Legislature assured that Michigan's residential energy customers would be effectively represented through the creation of the Utility Consumer Representation Fund (UCRF). UCRF funding is collected from assessments on utilities that use the cost recovery mechanism. This cost is paid by customers through their rates. Therefore, the revenue for the fund is generated from ratepayers and expended to assure their representation in utility cost recovery proceedings.

The PSCR and GCR cases have a "plan" and "reconciliation" phase. The plan cases for each utility set the framework and establish the cost of fuel recoverable from all customers. The reconciliation phase looks back at the assumptions and performance of the utility under the plan and "corrects" or "trues-up" the plan factors with reality. The differences are then passed through to customers through collections, credits or refunds. UCRF grant funded parties advocate for the interests of residential customers in this process.

There are many factors that impact assessment of effectiveness of UCRF funded intervention on behalf of residential customers including: 1) certain cases and proceedings span more than one grant year, 2) proceedings, through the appeal process, may remain pending for several years, 3) impact of a decision in one year often continues to benefit ratepayers in future years, 4) outcomes may result from multiple parties interventions and may be reported (in whole or part) by each party, 5) lack of a standardized reporting approach and validation method, and 6) indirect benefits not reflected in direct cost reductions.

UCRF funded intervention in cases decided in 2011 calendar year again yielded substantial benefits for residential utility customers. The following are highlights of results achieved for residential customers by consumer advocates using UCRF grant funds:

1. MEC arguments in U-15675-R helped achieve a disallowance of \$263,040 in coal costs for higher than projected purchases despite lower spot prices.
2. MEC arguments in U-16536 helped achieve a lower settlement rate for Other Production Wind Plant and annual depreciation expense. This decision reflects total annual savings of \$1.9 million.
3. MEC with other parties in U-16543 helped secure the continuation of Consumers Solar pilot program.
4. MEC helped persuade the Commission in U-15675 to require Consumers to provide analysis of the economic dispatching of its generation assets.
5. MEC supported MPSC staff position, adopted by Commission, in U-16300 and U-16582 to remove pre-PA 295 costs of \$2.4 million in capital expenditures and \$327,800 in carrying costs
6. MEC arguments in U-16582 resulted in the MPSC denying Detroit Edison's request to amend transfer prices for renewable energy (pending future technical conference).
7. MEC arguments in U-16582 resulted in MPSC rejecting Detroit Edison's proposed depreciation rates for its wind farms and requiring the company to file a depreciation case.
8. MCAAA arguments, together with AG, in U-15701-R resulted in a \$3.3 million rate adjustment related to affiliate (MGAT) transactions.
9. MCAAA arguments in U-16418 resulted in a \$2 million rate reduction tied to MGP issue.
10. MCAAA arguments in U-16434 resulted in MPSC opposing approval of the company's proposed treatment of REF projects. The value of the decision will be determined in future rate cases.
11. MCAAA position in U-16535 in opposition to deferral of some MGP expense was adopted by the staff and Commission resulting in reduced rate impacts of \$2-3 million per year.
12. CARE, in U-15663-R, contributed to a review of over-recovery from NSP's Michigan Operations that resulted in an adjustment of \$111,654.
13. CARE, in U-16423, contributed to a review of over-recovery that resulted in an increase in the over-recovery amount of \$66,052.
14. CARE, in U-16421, review of over-recovery that resulted in an increase in the over-recovery amount of \$484,719.
15. CARE, in U-16422, review of over-recovery that resulted in an increase in the over-recovery amount of \$246,151.
16. CARE, in U-15664-R, review and arguments against inclusion of "coal not taken" cost reduced under-recovery by \$139,270.
17. CARE, in FERC-ER10-1791 et. al, filed comments in opposition to cross-subsidization and the 20% Michigan share of costs for MISO MVP proposal. Helped improve MISO informational filings to FERC.
18. CARE, in FERC-ER-4081, et.al, filed comments raising concerns that the capacity market auction will add significantly to the price of electricity for Michigan's consumers. CARE continues to monitor these proceedings to advocate for lower costs for Michigan residential customers.
19. RRC in U-15700-R provided extensive audit and evidence regarding MichCon FPP program leading to improvements in reporting and documentation on purchases from gas suppliers. No direct monetary results at this time but awareness/evidence is increased.
20. RRC in U-15702-R provided extensive audit and evidence regarding SEMCO FPP program. No direct disallowances but positive discussions for future application.
21. RRC in U-16145 provided extensive audit and evidence regarding MGU FPP program. Voluntary agreement by MGU to suspend FPP purchases for the 2012-13 GCR Plan year forward. Potential savings to GCR customers of \$10 million per year going forward.
22. RRC. In U-16483 provided audit and extensive testimony on SEMCO GCC program and contingent impacts on GCR customers. SEMCO agreed to evaluate supplier of last resort relative to GCC participation. SEMCO also adopted changes to FPP guidelines advocated by RRC.

Additional information regarding UCRF Grant Activity and Results is included in **Attachment A**.

4. FINANCIAL REPORTING AND GRANT ADMINISTRATION

4.1 Calendar Year 2011 Remittances

The following information is compiled and provided by the Michigan Department of Energy Labor and Growth (DELEG) for purposes of the Annual Report.

Public Act 304 of 1982 requires annual remittances to the Fund from any regulated utility company serving at least 100,000 customers. The total size of the fund is set at \$500,000 multiplied by a factor "set by the Board at a level not to exceed the percentage increase in...The consumer price index for the Detroit standard metropolitan statistical area...between January 1981 and January of the year in which the payment is required to be made." Since enactment of Act 304, total remittances have been as follows:

1982	\$630,600	1997	\$834,050
1983	\$653,400	1998	\$851,728
1984	\$582,250	1999	\$864,600
1985	\$569,600	2000	\$899,000
1986	\$592,650	2001	\$930,650
1987	\$596,050	2002	\$946,150
1988	\$615,250	2003	\$981,150
1989	\$650,450	2004	\$988,350
1990	\$683,450	2005	\$1,013,299
1991	\$715,300	2006	\$1,052,150
1992	\$728,650	2007	\$1,069,450
1993	\$745,838	2008	\$1,096,950
1994	\$760,266	2009	\$1,088,750
1995	\$791,900	2010	\$1,103,851
1996	\$813,000	2011	\$1,125,700

Statutory Calculation of UCRF Funds

Remittances due from the six utilities serving at least 100,000 customers are calculated from the proportion of each "company's jurisdictional 1981 operating revenues...compared to the 1981 total operating revenues of all energy utility companies" contributing to the fund. This proportion, initially calculated in 1982 and recalculated in 1996, remains constant, and was applied to the six remitting utilities in the amounts shown in the table below.

<u>Source of</u> <u>Calendar Year 2011 Remittance Revenue</u>		<u>Distribution of</u> <u>Calendar year 2011 Revenue</u>	
<u>Utility</u>	<u>Amount</u> <u>Contributed</u>	<u>Recipient Allocated</u>	
Consumers Energy	\$461,125	Attorney General (47.5%)	\$ 534,708
Detroit Edison Co.	319,338	Intervenor Grants (47.5%)	534,708
MichCon Gas Co.	282,423	Administration (5%)	<u>56,284</u>

Michigan Gas Utilites	24,388	\$1,125,700
SEMCO	27,475	
Indiana Michigan Power	<u>10,951</u>	
TOTAL	\$1,125,700	

Letters were sent to each utility on 4/07/11 and all remittances were made by 09/2011.

In addition to the calendar year 2011 utility fees, interest was earned for the Fiscal Year ending 9/30/11. This was allocated proportionately between the Attorney General and the intervenor grants. The intervenor proportion totaled \$2,781.

4.2 Fiscal Year 2011 Appropriation and Accrued Funds

Total funding available for awarding intervenor grants was \$902,500 for FY11 as shown below and \$902,500 FY11 authorization subject to budget approval.

Intervenor Grant Funding for fiscal year 2011:

Appropriation (Public Act 186 of 2010)	\$950,000
Less 5% for Administration	<u>(47,500)</u>
Appropriation Available for Intervenor Grants	\$ 902,500
New Revenue	\$534,708
Fiscal Year 2010 Unreserved Fund Balance	952,065
Fiscal Year Interest Earned from Common Cash Fund	<u>2,781</u>
Total Available if sufficient spending authorization	\$ 1,489,554

4.3 Notification of Readiness to Proceed

The Act requires that the Public Service Commission not act on "an application for an energy cost recovery proceeding...until 30 days after it has been notified by the Board or the director of the Energy Administration...that the Board or the director is ready to process grant applications, will transfer funds payable to the Attorney General immediately upon [their] receipt...and will within 30 days approve grants and remit funds to qualified grant applicants." Additionally, the Act requires that "in order to implement the gas [or power supply] cost recovery clause...a utility annually shall file...a complete gas [or power supply] cost recovery plan...The plan shall be filed not less than 3 months before the beginning of the 12-month period covered by the plan." The electric utilities selected January 1 - December 31 as the 12-month plan period. Most of the gas utilities selected April 1 - March 31 as their 12 month period.

4.4 Scope of Work

Money from the UCRF, less administrative costs, "may be used only for participation in administrative and judicial proceedings under sections 6h, 6i, 6j, and 6k [of P.A. 304] and in federal administrative and judicial proceedings which directly affect the energy costs paid by Michigan energy utilities." The Attorney General has issued formal and informal opinions to guide the Board regarding cost matters that may be covered by Act 304 grants. The Act describes several kinds of proceedings. Cases required by statute are:

Gas supply and cost review	Power supply and cost review
Gas cost reconciliation	Power supply cost reconciliation

Decisions in any of these four proceedings may be appealed to the appropriate courts.

Grant proposals compliant with the provisions of the Act were solicited for intervention in on-going and new GCR Plan cases, GCR Reconciliation proceedings, PSCR Plan cases, PSCR Reconciliation proceedings and other cases eligible under Act 304.

4.5 Application and Selection Process

Act 304 limits eligibility for funding to non-profit organizations or local units of government in Michigan, places specific additional restrictions on applicants, and suggests criteria that could be used in the selection process.

Applications for grants were received from the Residential Ratepayer Consortium (RRC), the Michigan Environmental Council (MEC), Michigan Consumer Action Agency Association (MCAAA) and Citizens Against Rate Excess (CARE). The board followed a rating and ranking system based on the statutory guidelines of Act 304 to award grants. Based on board rankings following advance review of the proposals and presentation by the grantees, grants were awarded in full and in part to all grantees submitting applications. To the extent possible, full participation in supply and cost reviews and in cost reconciliation cases was desired by the Board.

5. UPDATE ON THE LEGISLATIVE REVIEW OF ACT 304

Section 6m(23) of Act 304 requires a three-year legislative review of the costs and benefits attributable to the Act. The most recent review was conducted in 1986 by the House Public Utilities Committee. The findings and results of that review are presented below.

1986 Legislative Review Findings

In the fall of 1986, the Michigan Public Service Commission sought to resolve some of issues identified in the public hearings by initiating a review of the various suggestions that were directed toward the Commission by the Board, intervenors, and the utilities. Recommendations resulting from this review were submitted to the Commission in the spring of 1987. The following discusses the issues identified by the Board and their current status.

ISSUE ONE: The Public Service Commission should refrain from dismembering Act 304 by holding separate proceedings for certain energy cost issues. The shifting of these issues to non-Act 304 cases strains resources available for intervention on behalf of residential ratepayers. Intervenors may have difficulty getting status and funding in the non-Act 304 cases. If they are able to intervene, they may be required to duplicate prior Act 304 efforts in the new proceeding.

The Board is concerned that the wording of Section 6m(17) of Act 304 unduly limits the ability to award UCRF funds for non-Act 304 cases that have a direct impact on energy costs paid by residential electric and gas customers of Michigan utilities.

STATUS: While there has been improvement in the detail provided in the Commission's Notices of Hearing to alert the public that in the non-Act 304 cases, there may be issues that affect purchased gas or electric power supply costs, the Board remains restricted in its ability to grant funds outside of Act 304 cases. New options should be considered for protecting Michigan's residential customers in light of restructuring and escalating gas and electric rates. However, the restrictive language of this section restricts the Board's ability to solicit and award grants for innovative proposals. The urgency of this issue is heightened in 2007 with the energy legislation package under

consideration in the Michigan Legislature. The effect of some aspects of this legislation will seriously compromise the ability for effective UCRF funded intervention on behalf of ratepayers.

ISSUE TWO: Numerous and lengthy delays in the Act 304 process were a serious problem up to 1991.

STATUS: The Commission has taken steps to reduce the delays with the goal of issuing orders within nine months of the filing. It has also initiated a staggered filing schedule for gas cost recovery cases. Since the Board cannot accept a utility's filing until 30 days after certification of readiness, early certification was needed to implement the staggered schedule. The Board supported the Commission's actions and in 1991, to allow for more staggering, the Board accelerated the entire grant award process by two months. Also in 1991, the Commission issued Proposed Guidelines for Completion of Cases (Order No. U-9832). In 1992, the Commission's new policy effectively solved the problem of delays in the Act 304 process. The Board commends the Commission for its actions.

ISSUE THREE: The Public Service Commission should adopt a more aggressive review of the utilities' five-year cost projections. Annual review of a utility's five-year forecast, as required by Act 304, is intended to provide an opportunity for future cost containment and increased efficiency.

STATUS: The Board encourages the Commission to continue to increase its scrutiny of the five-year forecasts and to create more rigorous filing requirements. Further the Board encourages the Commission to place greater emphasis on conservation and energy efficiency as part of reasonable and prudent supply planning, particularly in light of increasing energy prices and limited mitigation options for residential energy customers.

ISSUE FOUR: The Public Service Commission should disallow the recovery of costs that were not allowed prior to Act 304.

STATUS: This issue is resolved. Michigan courts have endorsed the Commission's designation of energy costs that may be recovered by electric and gas utilities under Act 304.

ISSUE FIVE: Information provided by the utilities should be standardized to reduce the time and effort required by intervenors spent in obtaining information needed for presenting cases to the Public Service Commission.

STATUS: Filing of standardized information was recognized as an area of need during the Public Service Commission's review in 1987. However, the Commission has issued no formalized requirement for standardized information, and there has been no increase in voluntary compliance by the utilities. This issue was examined again during 1989, but final recommendations were not reached on this issue. The Board continues its support for standardized filings as a means of reducing intervention costs and improving time frames for hearing cases. Further, standardized filing will improve the Board's ability to independently analyze the impact of UCRF funded intervention in Act 304 proceedings.

ISSUE SIX: There is a need for increased intervenor funding. The amount of funding available for intervention has been limited to the annual appropriation less administrative and operating costs incurred. The board does not have the advantage of a large number of in-house experts during the plan and reconciliation case proceedings. Adequate funding is needed to secure technical assistance of expert witnesses to aid in the process of case investigation, analysis and cross-examination.

STATUS: Fees charged by the most prominent expert witnesses have increased at a faster rate than funds available for intervention, resulting in a net decrease in expert witness testimony on behalf of residential ratepayers.

If the Attorney General is not participating in a case, and therefore not available to jointly sponsor an expert witness, the intervenors are often forced to reject bids from the most qualified expert consultants due to the lack of funds. Additionally, utilities are becoming more active in sponsoring rebuttal testimony. The intervenors' legal counsel continues to donate time for carry-over cases.

This need for increased resources is heightened by recent, dramatic structural changes in the electric and natural gas industries. Those changes have a profound effect on the energy costs paid by residential utility customers. Without additional funding to support interventions in the various forums in which key decisions about those costs are being made, there is a real danger that the interests of homeowners and renters will not be advocated and that they will ultimately bear an unreasonable share of those costs. The Board specifically requested an increase in the UCRF annual appropriation for the 2006-07 fiscal year. The annual appropriation for 2007 was increased substantially using accrued, unspent funds from previous years. Increasing the spending authorization will be effective until the reserve is depleted.

Questions regarding this report should be addressed to:

Utility Consumer Participation Board
Department of Licensing and Regulatory Affairs
Attention: Ms. Robin C. Bennett
P.O. Box 30004
Lansing, Michigan 48909
(517) 335-5968 Fax: (517) 373-3621

ATTACHMENT A: UCRF Grant Activity and Results

The following are results in cases in which an ORDER(S) has been issued in the period January 1, 2011-December 31, 2011. Some of the cases in which UCRF grantees participate in 2011 will not conclude until subsequent years. Results for those cases will be reported in future annual reports. Results are reported by grantees and audited by UCPB board assistant based on an independent review of the record and edited for purposes of this annual report. Complete dockets related to the cases are available through the Michigan Public Service Commission's Electronic Docket Filing System (eDocket) at www.michigan.gov/mpsc. Results for individual cases may be verified by reviewing the case docket. MPSC case numbers have been included for purposes of research and validation.

GRANTEE: MICHIGAN ENVIRONMENTAL COUNCIL (MEC)

Docket No.	Case Title	UCRF Grant No.	UCRF Grant Amt Awarded (as amended)	Balance (12/31/2011)	Other financial support (matching funds, pro bono support, etc.)
U-15675-R	Consumers PSCR Reconciliation 2009	10-02	\$30,300.00	\$0.00	Olson, Bzdok & Howard contributed \$2,110 in time and expenses.
<p>Final order June 16, 2011. On issues raised by MEC and supported by the AG: (1) Disallowed \$263,040 in coal costs representing the increased expense attributed to Consumers buying more contract coal than it projected despite lower spot prices. (2) Directed Consumers to "provide an analysis of the economic dispatching of its generation assets," in 2012 PSCR plan case. On an issue raised by the AG and supported by MEC: (3) Directed the parties in next PSCR reconciliation "explore possible objective criteria to apply to [Biomass Merchant Plant fuel/variable] costs in evaluating the reasonableness and prudence of those costs."</p>					
U-16300	Consumers Renewable Energy Reconciliation 2009	10-02	\$23,230.00	\$0.00	Olson, Bzdok & Howard contributed \$221 in time and expenses.
<p>Final order issued December 6, 2011. On an issue raised by Staff and supported by MEC & the AG: (1) Directs removal of pre-PA 295 costs of \$2,432,207 in capital expenditures and \$327,800 in carrying costs. On an issue raised by MEC: (2) Removal of pre-PA 295 costs moots an issue about potential double-recovery of some of those early costs in rates (we agree). Note: In Consumers Energy REP biennial review, Case No. U-16581, Consumers proposes adjustment to offset an identified double recovery. While we cannot prove it is due to our arguments, it is consistent with our arguments. The credit will be made in the reconciliations at \$1.8 million and then \$221,000 per month until self-implementation of new rates in Case U-16794 this year.</p>					
U-16536	Consumers wind plant depreciation case	11-04	\$17,675.00	\$0.00	Olson, Bzdok & Howard contributed \$157 in time and expenses.
<p>Order approving settlement agreement July 26, 2011. On issue advanced by MEC: Settlement rate of 3.39% for Other Production Wind Plant, and approximately \$7.871 million in annual depreciation expense. This represents a lower rate than that sought by any party except MEC. Total annual savings of \$1,979,000.</p>					
U-16543	Consumers Renewable Energy Plan Amendment Case	10-04	\$18,180.00	\$0.00	Olson, Bzdok & Howard contributed \$653 in time and expenses.
<p>Commission issued a final order on May 10, 2011. MEC supported Staff and Environmental Law and Policy Center position that Consumers continue its solar pilot program. With Consumers' eventual support, Commission directed the company to continue its solar pilot for at least 2 MW of additional solar generation. On May 20, 2011, Consumers filed a revised surcharge schedule with a residential renewable energy surcharge of 65¢ per meter per month. In Consumers Energy REP biennial review, Case No. U-16581, Consumers proposes to further reduce residential surcharges to 54¢ per month. Total amount to be collected through the surcharges is down from \$23 million to \$20 million per year.</p>					
U-16472 DEC Rate Case	Detroit Edison Rate Case	11-04	\$30,300.00	\$0.00	Natural Resources Defense Council provided staff attorney assistance and funded

					an expert witness on grid reliability. Amounts are unknown.
Final order issued October 20, 2011. Commission rejected arguments by MEC and the Attorney General to remove some of the expense of marginal coal-fired generating units from the rate base. The Commission agreed the company should be put on notice that capital expenditures made in the test year and beyond on the marginal units will be subject to particular scrutiny if a plant is subsequently shut down.					
U-16582	Detroit Edison Renewable Energy Biennial Review	11-04	\$30,300.00	\$0.00	Olson, Bzdok & Howard contributed \$5,634 in time and expenses.
Commission final order December 20, 2011. On issues raised by MEC: (1) Denied Detroit Edison's request to amend its transfer prices for renewable energy (which are recovered in the PSCR). Reducing the transfer prices would have allowed the company to maintain indefinitely maximum surcharges despite lower revenue requirements. The Commission ordered a technical conference on the issue after which company may amend its renewable energy plan. (2) Rejected the company's proposed depreciation rates for its owned wind farms, and ordered the company to file a depreciation case within 90 days. On an issue raised by Staff and supported by MEC: (3) Disallowed \$2,432,207 in capital expenses incurred before passage of PA 295 of 2008, and \$327,800 in carrying costs. Note: The Commission allowed Detroit Edison to maintain the statutory-maximum renewable surcharges for the time being. However, the Commission also cautioned that "REP costs for all utilities appear to be substantially less than initially estimated. As Detroit Edison continues to gain experience in implementing its REP, the Commission finds it possible, if not likely, that the company's REP surcharges will be reduced in the future."					

GRANTEE: MICHIGAN COMMUNITY ACTION AGENCY ASSOCIATION

Docket No.	Case Title	UCRF Grant No.	UCRF Grant Amt Awarded (as amended)	Balance (12/31/2011)	Other financial support (matching funds, pro bono support, etc.)
U-15451-R	Mich Con 2009 GCR Recon	11-03 12-02	\$0 \$0	\$0	\$0 pro bono \$0 pro bono
Results MPSC on rehearing clarified MGAT adjustment	Case continued from 2010. Order 02/22/2011. During 2011, the only action undertaken by the MPSC was the issuance of an order on rehearing, dated February 22, 2011, wherein the MPSC clarified its October 14, 2010 Order based upon a Petition for Rehearing and Clarification filed by Mich Con. The Commission rehearing order stated that the city gate monthly index price for all MGAT purchases going forward was determined (and the order did not apply to all affiliate purchases).				
U-15701-R	Mich Con 2010 GCR Recon	11-03 12-02	\$20,145 \$ 0	\$0	\$1,674 pro bono \$ 0 pro bono
Results \$3.3 million rate adjustment obtained	Case continued from 2010. Order 12/6/2011. MCAAA advocated that Mich Con had not demonstrated that it had undertaken reasonable and prudent actions to minimize its costs with respect to affiliate transactions, and particularly with its affiliate, the Michigan Gathering Company (MGAT). MCAAA presented in evidence and briefing a downward rate adjustment of \$3,453,356 relating to MGAT transactions. The Attorney General recommended a similar adjustment. MCAAA also presented evidence and briefing in support of more effective regulatory remedies to curtail affiliated transaction abuses and cross-subsidization in advance, such as "ring-fencing" remedies articulated in some other states. Proposal for Decision (PFD) issued on 8/18/ 2011. The PFD adopted a downward rate adjustment of \$3.3 million relative to the MGAT affiliate transactions. The PFD did not adopt the additional generic "ring fencing" remedies recommended by MCAAA relative to all other affiliated transactions. The ALJ, however, agreed with MCAAA that the MPSC possessed the jurisdiction to impose such remedies. MCAAA filed Replies to Exceptions on August 18, 2011, opposing Mich Con's challenge to the ALJ's disallowance of \$3.3 million relative to Mich Con's gas purchases from its affiliate, MGAT. The Commission's Order was issued December 6, 2011. The MPSC Order adopted the downward rate adjustment of \$3.3 million related to Mich Con's MGAT transactions.				
U-16191	CECo rate increase	11-03 12-02	\$4,545 \$ 0	\$0	\$4,508 pro bono \$ 0 pro bono
Results	Orders 03/17/2011, 06/14/2011. These orders relate to rehearing procedures in 2011 following the Commission's Orders issued in 2010 in this case and reported in 2010 annual report.				

Continued defense of trust remedies for ratepayer supplied SNF fee funds	In 2011, MCAAA filed responsive pleadings in opposition to CECo's Petition for Rehearing of the Commission's November 4, 2010 Order. On March 17, 2011, the MPSC issued its order denying CECo's Rehearing Petition, reaffirming its previous findings that the payment of the \$163 million to the federal government would be imprudent, but also clarifying that CECo could petition the MPSC to be relieved of the trust remedy.				
MPSC ordered SNF fee trust	CECo in U-16191 thereafter filed a petition seeking to be relieved of the trust requirement, which MCAAA opposed. CECo proceeded in July 2011 to pay the federal government the \$163 million of ratepayer collected funds for SNF disposal. The Commission ruling upon CECo's request to be relieved of the trust requirement is pending and may be decided in a separate case.				
U-16418	CECo gas rate increase	11-03 12-02	\$19,664.70 \$ 0.00	\$0	\$15,858 pro bono \$ 0 pro bono
Results Settlement reducing CECo rate request by \$24 million \$2 million rate reduction tied to MCAAA's MGP issue	Order 02/08/2011, 05/26/2011, 07/26/2011, 08/11/2011, 09/13/2011, 10/04/2011. This case involves a gas rate increase application filed by Consumers Energy Company (CECo) on August 13, 2010, wherein CECo sought an increase of \$55.4 million. Partial settlement approved 5/26/2011. The settlement approved by the MPSC provided for rates that were \$24 million lower than originally sought in the case by CECo. MCAAA's MGP issue comprised \$2.0 million of the reduction. MCAAA assisted with other parties to advocate lower rates on other cost issues during settlement discussions. The partial settlement also reflected adoption of the parties' position, including MCAAA, that CECo should conduct a study and implement economic measures to reduce lost and unaccounted for gas, including storage losses.				
U-16432	CECo 2011 PSCR Plan	11-03 12-02	\$24,745 \$ 0	\$0	\$11,467 pro bono \$ 2,340 pro bono
Results Issues pending before MPSC in this case, and in U-16191, U-16794, and U-16861	Orders 07/12/2011, 10/20/2011. This case involved the PSCR Plan case for 2011 for Consumers Energy Company (CECo). MCAAA's testimony focused upon the fact that, while CECo sold its nuclear plants to Entergy in 2007, CECo retained the right to pursue its damage claims before the U.S. Court of Claims relative to the federal breach of the Standard Contract for SNF disposal, and that CECo was engaged in negotiations during the 2011 Plan case with the federal government that related to SNF contract fees collected from ratepayers both for the period before 1983, and also collected under Act 304 for the period 1983 to 2007 (when CECo sold its nuclear facilities). MCAAA argued that these contract negotiations in 2011 were the subject of review as to fees collected under Act 304, as it related to the adequacy (reasonableness and prudence) of CECo's contract enforcement in 2011 (the Plan year). The ALJ struck the testimony of MCAAA's witness on this subject before it was presented. MCAAA thereafter filed an appeal of this <u>procedural</u> ruling to the MPSC on May 27, 2011, which was denied by the Commission's Order dated July 12, 2011. The MPSC filed a Petition for Rehearing of this Order which the Commission denied on October 20, 2011. The MCAAA thereafter filed Exceptions to the PFD on November 2, 2011. A final Commission order has not yet been issued. The MCAAA has pursued a resolution of the SNF fee/contract breach issues (regarding CECo's lack of enforcement of its Standard Contract remedies to protect the SNF fees paid by ratepayers for SNF disposal or to obtain SNF disposal) in a number of MPSC dockets, including CECo's electric rate cases, U-16191 and U-16794, and in the special docket, U-16861, and in this case.				
U-16434	DECo 2012 PSCR Plan	11-03 12-02	\$29,694 \$ 0	\$0	\$13,744 pro bono \$ 4,500 pro bono
Results MPSC adopted MCAAA position opposing approval of REF affiliated transactions	Order 12/06/2011. In this case, as a follow-up to MCAAA review of affiliate transactions, the MCAAA presented evidence and briefing in opposition to the Refined Emission Fuel (REF) projects, involving the sale by DECo of coal inventories to affiliates of its parent company, DTE, and the associated transfer of tax credit and other revenue benefits, or cost offsets to PSCR costs, in favor of DTE, its affiliate, and third party "tax partners" at the expense (or lack of cost offsets) to ratepayers under Act 304. The PFD and the MPSC Order adopted the positions of MCAAA on this issue, and did not adopt DECo's REF requests. This issue was originated by MCAAA as part of its review of affiliated transactions, and has been pursued in subsequent cases such as DECo's 2010 PSCR reconciliation, U-16047-R, and DECo's 2012 PSCR Plan case, U-16892. The REF issues involve potentially hundreds of millions of dollars of shifted cost reduction benefits away from ratepayers for the benefit of DTE and its affiliates and "tax partners." The size of this diversion will be determined in ongoing future cases. The MPSC order rejected MCAAA proposals for enhanced reporting requirements or ratemaking remedies applicable to DECo's payment of SNF contract fees under the failed SNF disposal contract. The MPSC order also rejected at this time MCAAA's proposed "ring-fencing" ratemaking remedies to protect against affiliate transaction abuses. The Commission, despite the REF issue, did not yet see the need for such proactive measures. This approach may change as the immensity of the REF issues, and adverse Act 304 rate impacts, emerges.				
U-16472/ U-16489	DECo rate increase/ accounting approvals	11-03 12-02	\$41,308.60 \$ 909.00	\$363.60	\$24,650 pro bono \$ 1,728 pro bono (on appeal)

<p>Results</p> <p>The MPSC rejected a SNF fee trust for DECo. The MPSC distinguished DECo's situation from CECo (wherein a trust was ordered)</p> <p>The MPSC rejected ring-fencing measures, and the line clearing rate mechanism</p>	<p>Orders 04/26/2011, 10/20/2011, 11/01/2011, 12/20/2011. This case involves a rate increase application by the Detroit Edison Company (DECo) filed on October 29, 2010.</p> <p>The MCAAA pursued several issues in this case, including the following: (1) the need for the Commission to adopt ratemaking remedies to protect ratepayers with respect to SNF fee costs associated with DECo's Standard Contract for SNF disposal which the federal government has breached; (2) recommended enhanced measures to protect the utility and ratepayers from affiliated transaction abuses; (3) issues concerning the readjustment of nuclear decommissioning surcharges; (4) support for a line clearance reconciliation process to ensure that budgets included in rates for this reliability function are actually expended for the stated purpose, so as to reduce customer service outages, without defaulting to stockholder profits; and (5) recommending enhanced "ring-fencing" measures to protect ratepayers with respect to DECo's affiliated transactions.</p> <p>PFD 8/12/11 rejected issues, including an issue regarding the setting of the base factor for the PSCR clause. MCAAA filed exceptions.</p> <p>10/20/2011 final order rejecting MCAAA's remedies. Petitions for rehearing were denied. The MCAAA filed an appeal of the Commission's Orders to the Michigan Court of Appeals in Court Docket 308154 on January 19, 2012.</p> <p>All work on issues were pursuant to approved budgets under Grant 11-03, which expired September 30, 2011. No new UCRF funds were granted and work in excess of previously approved budgets completed independently by MCAAA on a pro bono basis.</p>				
<p>U-16482</p>	<p>Mich Con GCR Plan case</p>	<p>11-03 12-02</p>	<p>\$16,160 \$ 0</p>	<p>\$0</p>	<p>\$7,210 pro bono \$ 0 pro bono</p>
<p>Results Pending</p>	<p>Order 12/13/2011. This case involves Mich Con's GCR plan for the 12 months ending March 31, 2012 and 5-year forecast. This case was filed by Mich Con on December 22, 2010.</p> <p>The MCAAA in this case advocated the following issues and positions: (1) elimination of Mich Con's NYMEX based contingent mechanism; (2) recommend modifications to Mich Con's Variable Cost Averaging (VCA) fixed price gas purchasing plan; (3) recommend that Mich Con update its purchasing strategy to recognize projected changes in national gas markets caused in part by emerging shale gas production; (3) adoption of remedies to ensure that Mich Con's purchases from affiliates, including but not limited to the Michigan Gathering Company (MGAT), are equal to or less in cost than gas supplies available from non-affiliate suppliers, and (4) the adoption of regulatory "ring-fencing remedies," as adopted in some other states, to better ensure that Mich Con's ratepayers are not cross-subsidizing the unregulated affiliates of Mich Con's holding company system (comprised of DTE and its affiliates).</p> <p>The PFD was issued on February 29, 2012. MCAAA filed exceptions on March 21, 2012, and replies to exceptions on April 3, 2012. The Commission issued its order on April 17, 2012, which will be discussed in the 2012 report.</p>				
<p>U-16485</p>	<p>CECo GCR Plan Case</p>	<p>11-03 12-02</p>	<p>\$16,160 \$ 0</p>	<p>\$0</p>	<p>\$7,210 pro bono \$ 0 pro bono</p>
<p>Results Pending</p>	<p>Order 12/13/2011. This case involves the application of Consumers Energy Company (CECo) for approval of a GCR plan for the 12 month period ending March 2012.</p> <p>The MCAAA pursued several issues and positions, as follows: (1) recommended elimination of CECo's NYMEX contingent ceiling price adjustment mechanism; 2) recommendation that CECo study altering the timing of its gas purchases to take advantage of lower priced gas available during off-peak "valley months," and (3) recommending that the Commission adopt regulatory remedies to protect ratepayers from cross-subsidizing the unregulated affiliates of the CMS holding company system (i.e., CECo's parent company) and to shield ratepayers from the risks of past and ongoing transactions of the unregulated holding company system.</p> <p>The Proposal for Decision was issued on September 12, 2011. The MCAAA filed replies to exceptions on October 20, 2011. The Commission issued its Order on March 8, 2012, which will be discussed in the 2012 report.</p>				
<p>U-16535</p>	<p>Mich Con MGP case</p>	<p>11-03 12-02</p>	<p>\$0 \$0</p>	<p>\$0</p>	<p>\$7,210 pro bono \$ 0 pro bono</p>
<p>Results</p> <p>MCAAA's victory on MGP issues saves \$2-3 million per year in rate impacts</p>	<p>Order 12/13/2011. This case involved a February 7, 2011 application by Michigan Consolidated Gas Company (Mich Con) for accounting authority to defer (and accumulate) remediation costs for abandoned Manufactured Gas Plant sites (of expenses of approximately \$2 million or more on an annual basis above that recognized in existing rates) so that the higher deferred accumulated costs could then be recovered in Mich Con's next rate case. MCAAA's opposition to Mich Con's application was consistent with MCAAA's position in other cases to oppose utility proposals to charge ratepayers virtually all cleanup costs related to abandoned MGP Plant sites. MCAAA also discussed its concerns regarding this issue with the MPSC Staff at various times.</p> <p>PFD 9/21/ 2011 ruling in favor of MCAAA's (and also Staff's) position. Order 12/20/ 2011 ruling in accordance with the PFD and MCAAA's (and Staff's) position. The impact of this decision is to save ratepayers approximately \$2-3 million dollars per year on a</p>				

	long-term basis. This is because Mich Con wanted to avoid continued expensing of the MGP costs under <u>existing rate levels</u> , in favor of accumulating a sizeable deferral of some of the costs to then include in Mich Con's next rate case (as a basis to support a higher rate increase). In essence, Mich Con sought to continue its <u>existing rates</u> , but to back-out or defer some MGP expenses, the effect of which would be to increase its present returns (e.g., a form of single issue ratemaking). MCAA was instrumental in achieving the result adopted in the MPSC Order (and also in enlisting Staff's support on the issue).				
U-16794	CECo rate increase	11-03 12-02	\$ 0.00 \$12,499.96	\$1.25	\$ 0 pro bono \$22,525 pro bono
Results Pending	<p>Orders 09/13/2011, 10/04/2011, 10/20/2011, 12/06/2011. This case involves the June 10, 2011 application of Consumers Energy Company (CECo) to increase its electric rates.</p> <p>The Commission issued various orders in 2011 in this case dealing with interventions or interim rate increase implementation matters (Orders dated October 4, 2011, October 20, 2011, December 6, 2011, and December 20, 2011). None of these orders involved MCAA or issues raised by MCAA.</p> <p>The MCAA's issues and positions presented in the evidence and briefing included the following: (1) recommending rejection of CECo's request to include in rates (and in rate base), 100% of the costs CECo incurred on a coal plant project which CECo abandoned; (2) proposing an "accountability mechanism" to ensure that amounts recognized in rates for line clearing are actually expended for that purpose so as to protect ratepayers and improve system reliability and reduce service outages; (3) recommending that the PSCR base factor should be established based upon CECo's actual historical test year costs, and not at the much higher level based upon CECo's speculative projected test year figures; (4) recommendations that the Commission should adhere to its ruling in CECo rate case U-16191 to establish a trust to hold the \$163 million in ratepayer-supplied funds for Spent Nuclear Fuel (SNF) disposal in light of federal court rulings holding that no obligation exists to pay said funds due to the federal government's breach of the SNF disposal contract; and (5) to adopt additional remedies to protect ratepayers relating to SNF fees paid in rates, and to protect against CECo's waivers of contract remedies that could otherwise have protected the fee funds.</p> <p>MCAA filed its Initial Brief on January 24, 2012. The PFD was issued on March 30, 2012. MCAA filed exceptions on April 13, 2012, and replies to exceptions on April 24, 2012. A Commission decision is expected in June 2012.</p>				

GRANTEE: CITIZENS AGAINST RATE EXCESS (CARE)

Docket No.	Case Title	UCRF Grant No.	UCRF Grant Amt Awarded	Balance (12/31/2011)	Other financial support (matching funds, pro bono support, etc.)
U-15663-R	Northern States Power 2009 PSCR Reconciliation Case	10-09	\$6,101.00	\$674.78	None Reported.
RESULTS Order 1/6/2011. The Company asserted in its application that it had over-recovered \$594,459 from its Michigan operations in 2009. Upon further examination, the Company acknowledged that the amount was actually only \$482,805, which resulted in an adjustment of \$111,654 in ratepayers favor. The Company filed revised testimony to this effect and the case was settled.					
U-15661-R	Upper Peninsula Power Company 2009 PSCR Reconciliation Case	10-09	\$11,020.00	\$4,409.39	None Reported.
RESULTS Order 1/20/2011. The focus of this case was on the relationship between UPPCO and Wisconsin Public Service Corporation. The Company was asked to explain why the drop in energy costs in the MISO market were much greater than the drop in energy costs of its supplier, Wisconsin Public Service Corp. The matter was eventually settled and approved by the Commission.					
U-16420	Alpena Power Company 2010 Plan Case	11-02	\$4,623.27	\$0.00	None Reported.
RESULTS Order 2/8/2011. Application was approved by the Commission on February 8, 2011 as submitted. Of particular interest is the anticipated \$799,000 decrease in expenses expected in the 2012 Plan Case.					

U-16423	Northern States Power Company 2011 Plan Case	11-02	\$6,060.00	\$38.39	None Reported.
RESULTS Order 2/22/2011. After review, the Company's over-recovery amount was increased by \$66,052 and the case was settled on February 22, 2011.					
U-16421	Upper Peninsula Power Company 2011 Plan Case	11-02	\$10,100.00	\$30.03	None Reported.
RESULTS Order 3/17/2011. In its original filing, the Company estimated that it would begin the 2010 year with \$0 of over-recovery. After review of this information by CARE's expert witness, the number was adjusted to reflect an over-recovery of \$484,719 . The Company agreed and the case was settled and approved by the Commission on March 17, 2011.					
U-16422	Wisconsin Public Service Corp 2011 Plan Case	11-02	\$6,060.00	\$1,022.62	None Reported.
RESULTS Order 3/17/2011. In its original filing, the Company estimated that it would begin the 2011 year with \$0 of over-recovery from 2010. After review of this information by CARE's expert witness, the number was adjusted to reflect an over-recovery of \$246,151 . This adjustment resulted in a net savings for ratepayers for the 2011 calendar year. The Company agreed and the case was settled and approved by the Commission on March 17, 2011.					
U-15664-R	Wisconsin Electric Power Company 2009 Reconciliation Case	10-09	\$37,551.80	\$96.63	None Reported.
RESULTS Order 12/6/2011. WEPCO originally sought that the Commission establish an underrecovery balance of \$2,003,188. It ultimately decided on an amount of \$1,911,468. Despite the fact that the Administrative Law Judge recommended adopting CARE's expert's testimony disallowing \$3,994,252 due to the Company's Oak Creek generation outage, the Commission rejected that argument. The Commission did agree with CARE in its argument that the Company's proposed inclusion of \$139,270 should not be allowed because it was for "coal not taken" and therefore was, in effect, a penalty being assessed on the company. Generally, these "take or pay" provisions of coal contracts are classified as penalties and must be disallowed pursuant to MCL 460.6j(f) and 460.6j(h). The Commission also rejected CARE's argument that the Company should not be allowed to pass on to its Michigan customers the costs of complying with Wisconsin's renewable energy standards. A petition for rehearing was filed and rejected on 3/8/12.					
U-16030-R	Alpena Power Company 2010 Reconciliation Case	11-02	\$5,625.58	\$1,853.23	None Reported.
RESULTS Order 9-13-2011. After careful review the parties entered into a Settlement Agreement approving the Application as originally submitted. The Commission approved in its Order on 9/13/2011.					
U-16433	Indiana Michigan Power Company 2011 Plan Case	11-02	\$12,246.35	\$77.20	None Reported.
RESULTS Order 10/4/2011. The Commission rejected the Company's inclusion of \$4,000,000 in ash disposal costs as not constituting a booked cost of fuel within the meaning of Act 304. Because the dispute was based in part on a previous settlement in Case No. U-16180 to which CARE was not a party, CARE did not file testimony in the case but coordinated with Staff.					
U-16031-R	Upper Peninsula Power Company 2010 Reconciliation Case	11-02	\$13,130.00	\$1,585.70	None Reported.

RESULTS Order 9/12/2011. The Company had an over-recovery in the amount of \$815,916 primarily due to the fact they didn't need as much fuel as they had planned. This was due in part to an increase in their hydro production of 13.5% due to increased water flow. Demand was also lower than anticipated due to the downturn in the economy. Minor adjustments were made and the case was Settled on 8/26/2011 and approved by the Commission on 9/12/2012.

U-16033-R	Northern States Power 2010 Reconciliation Case	11-02	\$5,050.00	\$1,824.40	None Reported.
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RESULTS Order 11/10/2011. The Company reported a \$536,753 over-recovery in its Application. After two rounds of discovery and a Staff audit no adjustments were required and the case was settled on 10/18/2011 and approved by the Commission on 11/10/2011.

U-16046-R	Indiana Michigan Power Company 2010 Reconciliation Case	11-02	\$30,300.00	\$17,816.55	None Reported.
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RESULTS Order 11/10/2011. The Company reported an over-recovery of \$67,074 in its Application. After discovery, minor adjustments were made. Additionally the case involved review of the Company's outages at its Cook Nuclear facility in Bridgman. Because this facility serves many of its Indiana customers, the Indiana Commission also investigated this outage. After discovery and review of the Indiana Commission's findings and consultation and coordination with the Staff, the parties agreed that the Company was not negligent in their handling of this outage and in fact, had procured insurance to protect ratepayers from higher fuel costs associated with such an outage.

FERC - ER10-1791, et al	Cost Allocation	10-10	\$81,000.00	\$172.73	None Reported.
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RESULTS These proceedings have shaped the formula in which proposed transmission lines between new alternative energy projects and population centers are allocated across the 12-state MISO region. CARE submitted comments in ER10-1791 in opposition to the original MISO proposal in addition to many other parties. The central issue was MISO's proposal to allocate the costs of these new projects to ratepayers in accordance with historic usage. Michigan receives approximately 20% of the MISO regions' energy therefore its ratepayers would pay 20% of the costs of any of these new "multi-value" transmission projects. For example, a billion dollar transmission line from North Dakota to Illinois that brought wind energy to the market is the type of "multi-value project" that this cost allocation formula would apply to. The MISO proposal spread the costs of that project over the entire 12 state MISO region based on a usage based formula. Michigan ratepayers would ultimately pay these costs irrespective of the fact that Michigan ratepayers would not benefit from that specific project. In other words, in this example, Michigan ratepayers would pay \$400 million for the North Dakota - Illinois wind energy transmission line. On the other side of the coin is the fact that MISO included in their list of projects, the Michigan THUMB project that would bring wind energy from the Thumb to the Detroit market. This project is expected to cost somewhere in the \$600 million range. As one would expect, ratepayers in North Dakota and other states objected to pay any portion of the costs of the THUMB project. For these cross subsidization reasons, CARE and other Michigan groups strongly objected to the MISO proposal. It would be less expensive if Michigan ratepayers paid 100% of the Thumb project but did not have to pay 20% of the \$4.8 billion dollar portfolio of projects proposed by MISO. The number of MISO projects is estimated by some to reach \$20 billion in the next few years. Michigan's 20% share of these projects would be about \$640 million annually for about 30 years. These costs are enormous. CARE and many Michigan based entities including utility companies asked for a rehearing. The rehearing request was denied on October 21, 2011. FERC did agree to one aspect of CARE's request that MISO file informational reports to FERC annually. Several parties have now filed an appeal of the FERC decision with the 7th Circuit Court of Appeals. Because of the cost of such litigation CARE did not recommend being a party to this appeal, but instead will update the UCPB Board as the case progresses. The case is still in its initial stages. CARE plans on closely monitoring MISO's internal discussions on future proposed MVP projects as well as its public filings.

FERC - ER11-4081, et al	Capacity Market	10-10	\$59,000.00	\$916.00	None Reported.
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RESULTS CARE filed Comments in this proceeding on September 14, 2011. As background, FERC is requiring the Midwest regional transmission authority (MISO) to propose a Capacity Market auction mechanism to ensure that future demand for electricity will be met and that the transmission grid will be reliable.

It is CARE's opinion that this Capacity Market auction will add significantly to the price of electricity for Michigan's consumers. For example, it is estimated that the Capacity Market auction in the eastern region (PJM) of the country has added over \$7 billion annually to the cost of electric transmission in that market. CARE's experts estimate that a similar Capacity Market in the Midwest MISO region could add over \$1 billion to

Michigan's residential ratepayers over the next ten years. CARE is monitoring the proceedings on behalf of Michigan's residential ratepayers to keep these costs as low as possible. One of the most discerning aspects of the creation of these markets is that few, if any, new generation has been built despite the creation of these markets. In other words, consumers are paying for the assurance that sufficient capacity will be there for future electric demands, but have not received anything concrete other than a promise to deliver electricity in the future. CARE's mission is to recommend sufficient safeguards to protect Michigan's residential ratepayers from having to shoulder such huge rate increases.

GRANTEE: RESIDENTIAL RATEPAYER CONSORTIUM

Docket No.	Case Title	UCRF Grant No.	UCRF Grant Amt Awarded	Balance (12/31/2011)	Other financial support (matching funds, pro bono support, etc.)
U-15700-R	MI Gas Utilities Corp. 2009-2010 GCR Reconciliation	10-01	\$20,907.00 (6-2-2011)		\$0.00
<p>RESULTS: MPSC Order - 12/6/2011</p> <p>The RRC: (1) Audited the financial results of MGUC's FPP program. Documented \$26.4 million in excess costs caused by the FPP in the 2009-2010 GCR year. Confirmed that the provision in the settlement agreement in Case No. U-15700 to suspend all FPP until the 2012-2013 GCR year was correct. (2) Audited MGUC's intra-month purchases/sales and concluded they were necessary, timely and competitively priced. (3) Audited MGUC's monthly purchases and discovered that the utility successfully implemented an RRC recommendation from a prior GCR proceeding to maximize use of PEPL and ANR SW during the winter period to take advantage of the lower cost gas supplies served by these pipelines and lower costs for the GCR customers. (4) Audited MGUC's storage operations and determined they were reasonable given conditions in the 2009-2010 GCR period. (5) Audited MGUC's peaking services and found that MGUC implemented the RRC's recommendation from a prior proceeding to add peaking services. The result was that MGUC secured access to firm supply at a very reasonable price in the 2009-2010 GCR period. The MPSC approved MGUC's application for reconciliation of its gas cost recovery plan for the period ended March 30, 2010.</p>					
U-15701-R	Michigan Consolidated Gas Company 2009-2010 GCR Reconciliation	10-01	\$30,906.00 (6-2-2011)		\$0.00
<p>RESULTS: MPSC Order - 12/6/2011</p> <p>The RRC: (1) Audited the financial results of MichCon's FPP program. Documented \$460.4 million in excess costs caused by the FPP in the 2009-2010 GCR year that equates to \$400 per year for the average GCR customer. (2) Critiqued MichCon's administration of its FPP guidelines and showed that (a) the Company made purchases as fast as possible despite a falling market that presented price opportunities, (b) in some instances, the Company violated its FPP guidelines in making certain purchases, (c) MichCon's reliance on NYMEX futures prices is misplaced because they do not reflect real market prices, (d) the FPP guidelines have destroyed the economic advantage of the Company's storage capabilities for the GCR customers, and (e) the FPP guidelines have enhanced participation in MichCon's GCC program thereby shifting the cost of unused pipeline reservation charges to the GCR customers. (3) . The RRC recommended a \$48 million cost disallowance to address the excess costs caused by MichCon's administration of its FPP guidelines. Despite the evidence presented by the RRC on the economic harm caused by MichCon's FPP guidelines and how they are administered by the utility, the MPSC acquiesced to MichCon's request that its GCR Reconciliation be approved. The only concessions made by the MPSC to the evidence presented by the RRC were:</p> <ul style="list-style-type: none"> • MichCon is required in future cases to provide documentation demonstrating that it solicits several bids before purchasing gas from suppliers. • The MPSC endorsed the RRC's argument that the reasonableness and prudence of MichCon's implementation of its FPP is a legitimate issue in GCR Reconciliation proceedings, even though that issue may have been raised in the GCR Plan. 					
U-15702-R	SEMCO Energy Gas Company 2009-2010 GCR Reconciliation	10-01	\$19,089.00		\$0
<p>RESULTS: MPSC Order - 7/12/2011</p> <p>The RRC: (1) Audited SEMCO's FPP in the 2009-2010 GCR year and documented \$21.8 million in excess costs caused by this purchasing methodology or \$70 of extra costs for each of SEMCO's GCR customers. Because (a) the evidence showed that SEMCO technically complied with its Commission approved FPP guidelines, (b) the Company exercised restraint in making FPP during the GCR year, thereby mitigating the potential losses from the FPP guidelines, and (c) the RRC's analysis prompted discussions with SEMCO about changing the FPP for the 2011-2012 GCR year, no recommendation for a disallowance was made by the RRC in this case. (2) Audited SEMCO's term purchases, monthly and intra-month purchases, utilization of peaking services storage operations, pipeline utilization and capacity release credits and concluded that they were in line with recommendations the RRC had made in prior cases and were otherwise reasonable. The MPSC approved SEMCO's GCR Reconciliation, rejected the Attorney General's propose disallowances and ordered that a \$268,866 GCR overrecovery be credited to the GCR customers' cost of gas in a future GCR Plan case. The discussions with SEMCO for changing the FPP 2011-2012 GCR year resulted in a settlement agreement in Case No. U-16147 that substantially reduces the amount of FPP SEMCO may make going forward. While estimates about the impact of this change are</p>					

dependent on a number of independent variables, the historical evidence on the results of the prior FPP suggest that the costs savings for the GCR customers from these changes will amount to more than \$5 million per year going forward.

U-16145	Michigan Gas Utilities 2010-2011 GCR Plan	10-01	\$24,543.00		\$0
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RESULTS: MPSC Order - 1/20/2011
 The RRC: (1) Presented evidence showing that MGUC's approach to making fixed price natural gas purchases (FPP) has cost the GCR customers \$71.5 million in excess gas costs from 2006-2010. Advocated discontinuing FPP purchases with recommendations on how to secure firm supply at lower costs while mitigating price volatility. (2) Identified double counting in projection of GCC customers and a high estimate of GCR sales that was corrected by MGUC in its rebuttal testimony as a result of the RRC's testimony. (3) Made recommendations for adjustments to MGUC's storage operations. (4) Made recommendations on least cost pipeline utilization for the '10 - '11 GCR Plan year. (5) Audited and endorsed MGUC's peak day planning estimates.
 The MPSC approved a partial settlement agreement in which MGUC agreed to suspend FPP purchases for the 2012-2013 GCR Plan year and beyond. Based on the RRC's historical analysis of MGUC's FPP, this fundamental change in MGUC's purchasing practices will save the GCR customers more than \$10 million per year going forward. (Note: At the time of the MPSC's order in this case, MGUC had already completed making all of its FPP for the 2010-2011 and 2011-2012 GCR years.)

U-16483	SEMCO Energy Gas Company 2011-2012 GCR Plan UCRF	11-01	\$13,634.54		\$0
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RESULTS: MPSC Order - 8/25/2011
 The RRC: (1) Audited SEMCO's GCC program and how its affects the Company's operations in providing services to the GCR customers. The RRC's testimony recommended that SEMCO perform a study to establish an appropriate cap on GCC participation to assure that the Company can perform reliably for its GCR customers. Also made several recommendations for revising SEMCO's GCR Plan to address the risks attendant to the Company maximizing the use of storage even after increased GCC participation and load attrition. (2) Reviewed SEMCO's peak day estimates and recommended adoption of the Company's proposal so long as SEMCO can continue to obtain peaking service at a relatively low cost with no minimum take requirements. (3) Endorsed SEMCO's proposed changes to its Fixed Price Purchases (FPP) that reflect recommendations made by the RRC in prior cases.
 The MPSC approved a settlement agreement in which:
 • SEMCO agreed to perform an evaluation of SEMCO's ability to perform as a supplier of last resort given current and projected levels of GCC participation.
 • SEMCO's proposed changes to it FPP guidelines were adopted.
 The continuing changes to SEMCO's FPP guidelines are likely to yield gas cost savings to the GCR customers in the future. It is difficult and speculative to quantify what those savings will be as a result of the particular changes approved in this case.

ATTACHMENT B: UCRF 2011 GRANTEES Membership Scope and Description

Residential Ratepayer Consortium (RRC) is comprised of The Area Agencies on Aging Association of Michigan (AAAAM) and the Michigan League for Human Services (MLHS).

The Area Agencies on Aging Association of Michigan (AAAAM) www.mi-seniors.org. Nonprofit organization composed of 16 local area agencies on aging that serve Michigan citizens age 60 and older in all eighty-three Michigan counties. Based on 2010 census statistics, that represents 19.5% of the total state population. Local area agencies include:

- 1-A Detroit Agency on Aging
Serves Detroit, Hamtramck, Highland Park, Grosse Pointe, Grosse Pointe Park, Grosse Pointe Shores, Grosse Pointe Woods, Grosse Pointe Farms, and Harper Woods cities.
- 1-B Area Agency on Aging 1-B
Serves Livingston, Macomb, Monroe, Oakland, Washtenaw, and St. Clair Counties.
- 1-C The Senior Alliance, Inc
Serves Wayne County except areas served by 1-A
- 2 Region 2 Area Agency on Aging
Serves Jackson, Hillsdale, and Lenawee Counties.
- 3-A Region 3-A Area Agency on Aging
Serves Kalamazoo County.
- 3-B Region 3-B Area Agency on Aging (616) 966-2450
Serves Barry and Calhoun Counties.
- 3-C Region 3-C Area Agency on Aging
Serves Branch and St. Joseph Counties.
- 4 Region IV Area Agency on Aging
Serves Cass, Berrien, and Van Buren counties.
- 5 Valley Area Agency on Aging
Serves Genessee, Lapeer, and Shiawassee Counties.
- 6 Tri-County Office on Aging
Serves Clinton, Eaton, and Ingham Counties.
- 7 Region VII Area Agency on Aging
Serves Bay, Clair, Gladwin, Gratiot, Huron, Isabella, Midland, Saginaw, Sanilac, and Tuscola Counties.
- 8 Area Agency on Aging of Western Michigan, Inc.
Serves Allegan, Ionia, Kent, Lake, Mason, Mecosta, Montcalm, Newaygo, and Osceola Counties.
- 9 Region IX Area Agency on Aging
Serves Alcona, Arenac, Alpena, Cheboygan, Crawford, Iosco, Montmorency, Ogemaw, Oscoda, Otsego, Presque Isle, and Roscommon Counties.
- 10 Area Agency on Aging of Northwest Michigan
Serves Antrim, Benzie, Charlevoix, Emmet, Grand Traverse, Kalkaska, Leelanau, Manistee, Missaukee, and Wexford Counties.
- 11 U.P. Area Agency on Aging, UPCAP Services, Inc. Serves Alger, Baraga, Chippewa, Delta, Dickinson, Gogebic, Houghton, Iron, Keweenaw, Luce, Mackinac, Marquette, Menominee, Ontonagon, and Schoolcraft Counties.
- 14 Senior Resources of West Michigan
Serves Muskegon, Oceana, and Ottawa Counties.

Michigan League for Human Services (MLHS) www.milhs.org. Organization with a statewide network of nearly 2,000 individuals and organizations from business, labor, faith-based groups, human services professions and concerned citizens.

Michigan Environmental Council (MEC) www.environmentalcouncil.org. Statewide nonprofit public interest and environmental organization consisting of over 71 public health and environmental organizations, having over 200,000 members.

Michigan Community Action Agencies Association (MCAAA) www.mcaaa.org. Michigan nonprofit corporation established on a membership basis. Its constituent members are Community Action Agencies ("CAAs") operating in each county in Michigan.

Citizens Against Rate Excess (CARE) www.utilityratewatch.org. Michigan non-profit corporation that serves as a consumer watchdog group to focus on utility rates. They have members across the State of Michigan, mostly in outstate Michigan, including the Upper Peninsula. The goal of the organization is to seek grants from the UCPB and help the Board "maximize the number of hearings and proceedings with intervener participation" as provided by MCL 460.6m(18). For example, Intervener participation in PSCR cases of the electric utility companies that serve the upper peninsula have been rare and this organization has filled that gap. The organization also sought to fill the void in the lack of Michigan residential ratepayer participation in federal

proceedings "which directly affect the energy costs paid by Michigan utilities," MCL 460.6m(17). The objective to participation in these federal proceedings is to prevent Michigan utilities and their Michigan residential ratepayers from being disproportionately allocated expenses (i.e. transmission, etc) that may benefit other states substantially more than Michigan.