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STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter, on the Commission's
Own Motion, to implement
2008 PA 295 through issuance of Case No. U-15800
a temporary order as required by
MCL 460.1191.

_____ /

TECHNICAL CONFERENCE - NO. 1

Proceedings held at the Michigan Public Service
Commission, 6545 Mercantile Way, Room A, Lansing,
Michigan, on Monday, January 5, 2009, at 9:00 a.m.

Presented by
Michigan Public Service Commission Staff

Paul Proudfoot, Director, Electric Reliability Division
ALJ James Rigas, Administrative Law Manager
Mary Jo Kunkle, Executive Secretary

- - -

1 filed in the same case, that is, the same docket number,
2 can they be approved separately by the commission?

3 The answer to that, of course, is yes.
4 We think the commission can successfully bifurcate the
5 case and issue an order approving one plan or the other,
6 unless in some manner the plans are so heavily
7 intertwined that they can not be separated, but I don't
8 think they will be.

9 Can people in the back see this or do we
10 need to raise this projector a little bit? Can you see
11 it? O.K. Kathy gave me the high sign.

12 O.K. Any clarification on that?

13 The staff recommends that the two plans
14 be filed as two separate documents, even if that
15 necessitates duplicating parts of the two documents.
16 That will allow us to make it easier if we have to
17 bifurcate the cases. Now, the statute I think allows you
18 to file it either way, either together or separately.

19 O.K. On to Question 2. The Order on
20 page 16, and this is a draft order the commission issued,
21 22 to 23, Attachment D, page 5, clarifies the type of
22 contracts that the commission will require to be
23 approved. Now, this is purchase contracts for renewable
24 energy. It has been proposed to exclude any contracts
25 with the value of less than \$5 million so as to provide a

1 clear threshold for contract submittal and approval. The
2 Order does not appear to include the proposed exclusion
3 of contracts with the value of \$5 million or less.

4 That's correct, the Order did not adopt
5 the propose \$5 million exclusion.

6 O.K. Then there's the next question:
7 What is the expected duration of RPS reconciliation
8 proceedings? The legislation appears to presume that
9 reconciliation proceedings will be concluded within 90
10 days.

11 I don't think that's the case after we
12 get a thorough review of the legislation. I think when
13 the legislation talks about combining the plan update
14 process, that has to be completed in 90 days, but I think
15 the reconciliation is not limited to 90 days. And so
16 those cases will probably not be held to the 90-day
17 limit. I'm sure Jim is glad to hear that.

18 We're on to No. 4. When will the
19 commission determine when the annual report, Section 51
20 that's in the statute, Section 51, and concurrently the
21 renewable reconciliation proceeding is filed?

22 That question is concerning the date, I
23 believe; and I think the commission has not made this
24 decision yet, it will make it sometime in the future. As
25 you file your plans, we'd welcome recommendations as far

1 as your particular company is concerned.

2 Now the questions get harder. Contract
3 Approval.

4 Will the MPSC approval of contracts
5 submitted in the case docket satisfy the capacity review
6 requirements contained in Section 6j(13)(b) of PA 304?

7 O.K. I can't wait to see the answer.
8 Now, staff, and we'll underline the word staff, meaning
9 me and my expert staff, believes this is the intent of
10 the legislation; but staff recommends that you request
11 that approval when you file the contract. I guess that's
12 all I can say. I mean this is a pretty heavy-duty legal
13 question, and I'm sure it will probably have to be ironed
14 out with further litigation. But when you file for
15 contract approval, I'd ask that it be also approved for
16 that portion of 304.

17 Here's another interesting question that
18 we actually hadn't thought of. You guys are really on
19 the ball out there. And these are some old U numbers,
20 too, when you actually get down into looking at the cases
21 that generated them.

22 Will the MPSC approval of contracts
23 submitted in the RPS case docket satisfy the capacity RFP
24 requirements issued in MPSC Cases No. U-12148 and
25 U-12177? One of those is for Edison, one is for

1 Consumers.

2 Well, again, the staff, we'll underline
3 staff, believes the new legislation supersedes these
4 orders for the purposes of the RPS requirements for
5 capacity solicitation. Staff expects the commission may
6 revisit these orders in light of the new legislation.
7 Now, I don't know if this really impacts anybody outside
8 of Consumers and Edison; I don't believe it does.

9 This might keep changing. Is this -- I'm
10 not doing this, this is like spooks in here, I guess.

11 Now we get to questions about 2029,
12 which, you know, I went to a New Year's Eve party and it
13 was only '09, so anyway.

14 What compliance requirement should the
15 company plan for in 2029 (i.e., full compliance or
16 prorated) compliance?

17 Staff's going to opt for full compliance.
18 This is a question that can be argued and discussed in
19 your plan filing. If you believe when you look at the 20
20 years going out there that a prorated compliance would
21 suit you better, then you're free to suggest that to the
22 commission. I suspect when we reach that point -- I know
23 at that point it won't matter to me, but as long as you
24 keep those lights on in the nursing home.

25 People always ask me what my job is, and

1 I tell them my job is to make sure the lights are on when
2 I'm in the nursing home. I get strange looks doing that.

3 O.K. Now we're going to talk about the
4 surcharges, and this is a long-winded question. You
5 know, some of you may recognize who wrote this question
6 as I read it.

7 Regarding RE surcharges, Section 45 of
8 PA 295 allows for the imposition of Renewable Energy
9 surcharges on a "per meter" basis. By definition
10 unmetered service does not involve a meter, and,
11 therefore, can not be subject to any "per meter"
12 surcharges.

13 Anyway, this is just a question about how
14 the commission's going to and the providers are going
15 to -- how the commission is going to suggest that the
16 providers treat unmetered service.

17 Now, the commission talked about
18 unmetered service in the draft order, and the implication
19 there was unmetered customers would also be charged.
20 They didn't go into much detail, and I'm not going to go
21 any further out on the limb than I already am answering
22 these questions. So I believe the decision about how
23 unmetered customers are going to be handled is going to
24 be left to the commission since they discussed it in the
25 draft order, and as the individual providers file their

1 plans and suggest treatment, the commission will make its
2 decision in the final plan cases. How's that for a
3 nonanswer.

4 MR. STANTON: Paul, I need to ask you to
5 stand closer to the phone. Apparently the phone is
6 not --

7 MR. PROUDFOOT: I need to stand closer
8 the phone. Can the court reporter hear me? That's the
9 important part. O.K. I told you I wasn't a broadcaster
10 earlier, so.

11 Now, the staff believes that in many
12 cases the reason there isn't a meter is, we know the
13 consumption because we can calculate the consumption
14 because of -- well, for example, in streetlighting
15 situations, the wattage of the streetlights and how long
16 they're on and all the other stuff, that you can just do
17 an engineering calculation to come up with the
18 consumption. So our belief is probably we should charge
19 the unmetered customers. That's just the staff's
20 opinion. May even only be my opinion.

21 The next question involves -- actually, I
22 think I'm going to skip this question because it's only
23 pertinent to Consumers and Edison, and I think we
24 answered it when we met with them a while ago. So I'm
25 just going to skip that one. Besides, it's really long.

1 O.K. Here's another one of these 2029
2 questions that I just love. How long will the RPS
3 surcharge be in place? 20 years starting in September
4 '09 (i.e. through August 2029), or only during the
5 20-year compliance period ending June 1, 2029?

6 Now, the staff assumes, and this is
7 subject to change by the commission as the plans are
8 approved, the RPS surcharge will be recovered over a
9 20-year period starting with the first billing month of
10 collection associated with an approved plan. First when
11 you file your plans, you're going to have to discuss how
12 you plan to implement the surcharge, because when the
13 plan order comes out, the commission is going to have to
14 authorize your surcharge.

15 Here's another one of these questions
16 that, you know, I know this is really important, but
17 something we didn't really think about when I was looking
18 at the legislation until I got this question. Will the
19 RPS surcharges be implemented on a bills-rendered or a
20 service-rendered basis or should the electric provider
21 include a proposal in its Renewable Energy Plan?

22 I think the providers are invited to make
23 a proposal regarding this issue in their plans. I don't
24 know, I could argue on either side of this question,
25 because it being a surcharge on a per-meter basis, it's

1 not really for services rendered, it's more of a
2 bills-rendered issue, or I could come back and argue
3 that, well, everything should be on a services-rendered
4 charge.

5 O.K. Then now we're moving on to Avoided
6 Cost/Transfer Price/Life Cycle issues.

7 The individual's looking for
8 clarification on the use of the "ultra-supercritical
9 pulverized coal plant" as the facility for determining
10 the expected lifecycle cost of electricity generated by a
11 new conventional coal-fired facility.

12 This is what we've affectionately called
13 the hurdle rate. I think when the staff made a
14 recommendation to the commission to use the term
15 ultra-supercritical, I think I made an error, and it
16 should just be a supercritical pulverized coal plant.
17 But we'll clarify this during discussions with providers
18 in preparation for submitting the commission's, they call
19 it the guidepost rate, we affectionately call it the
20 hurdle rate.

21 Now we have a question about depreciation
22 scheduling for wind turbines. Based on the wind turbine
23 manufacturer's recommendation of a 20-year useful life
24 for wind turbines, we are assuming a 20-year depreciation
25 for wind turbines. Does the commission share this view

1 of a 20-year depreciation for wind turbines? If so, will
2 the commission issue an order establishing a 20-year
3 depreciation rate for wind turbines for the purposes of
4 the renewable plan filing?

5 Well, I'm not the commission, first of
6 all, so I'm not going to go that far out on a limb and
7 try and guess what they may do. I expect that the
8 commission will adopt a reasonable useful life for wind
9 turbines based on recommendations that the providers file
10 in their plans. I'm not going to hypothesize what it
11 might be. Personally, I think 20 years may be right in
12 the ballpark, and there certainly are better depreciation
13 experts out there than myself. So when you file the
14 plan, choose your number, make the recommendation, and
15 we'll go from there.

16 Well, this is another tough question; I
17 hope I'm not going to get myself in trouble with the
18 commissioners for answering it, but I probably will be.
19 The question concerns -- I'll just shorten it up -- the
20 way the RPS is structured, there's likely to be balances
21 left in the plant in service accounts associated with the
22 RPS plan that are being supported by the surcharges. You
23 know, the way it works, we kind of develop a pro forma
24 company that's supported by the surcharge revenue, and we
25 separate that out from the regular utility business.

1 Well, after the 20 years are up and the surcharge is
2 gone, there may be plant in service balances in the
3 accounts for the owned facilities.

4 At that point, I think I would recommend
5 that the provider apply to the commission in a general
6 rate case that those plant in service amounts be put into
7 the regular plant in service amounts and treat it just
8 like an existing power plant. Hopefully by then the
9 numbers will be, I expect the numbers will be relatively
10 small compared to the plant in service balance, and we're
11 probably talking about I suspect a nonissue, but that
12 would be my recommendation. Now, I can't speak for this
13 commission, and I can't speak for a commission 20 years
14 down the road about how they may treat that addition to
15 plant in service.

16 O.K. Determination of Transfer Price.
17 Will the setting of the transfer price by the MPSC in an
18 RPS reconciliation proceeding support the reasonableness
19 and prudence of that expense per Section 6j(12) of 304?

20 Actually, the person is asking if in the
21 RPS hearing we use the transfer price, which the
22 legislation is pretty clear, to move those expenses into
23 the PSCR, and I believe that is the case. Now again, in
24 the reconciliation proceeding, if I was a provider, I
25 would ask the commission at that point to make that

1 determination so there's no question, so we aren't, we
2 don't make the determination that it's a reasonable
3 transfer price in the RPS hearing and then get over into
4 the 304 hearing and have somebody suggest that it's not
5 and have to re-litigate it. I think the legislation is
6 pretty clear on this.

7 O.K. In Commission Order, in the draft
8 order -- you know, this is a complex question that I
9 hadn't anticipated. The commission says that the
10 transfer price of EPC contracts -- this is in the
11 implementing order -- contracts for Renewable Energy
12 systems that have been developed for third parties for
13 transfer of ownership will have a transfer price floor
14 established for the lifecycle of the project. The Order
15 goes on to further say that the provider-owned projects
16 will have transfer prices set in vintages.

17 I think the intent there is that when you
18 make the decision to build a certain facility based on
19 the transfer price revenue, that the transfer price
20 that's expected when you make that decision would become
21 the floor. Now, I guess I always expected that since the
22 transfer price is changed annually and is based on the
23 cost of building new, or running, building new power
24 plants, I always expect that the transfer price is
25 probably going to move upward into the future, so this

1 may again be a nonissue.

2 The Order is silent on what the transfer
3 price should be for Renewable Energy systems developed by
4 third parties that will not have an ownership transfer.

5 Now, I think the question is, should
6 there be a floor established for the PPA side of the 50
7 percent; and the commission was well aware that there was
8 another side and didn't set a floor, so I guess the --
9 and the PPAs use the lower of the price, they're going to
10 be a known cost as we move into that activity, so I think
11 the commission felt there was no need to put in a floor.
12 So I guess the answer is no. But if you think you need
13 that same treatment for a PPA, then I would suggest that
14 you ask for it when you file the plan.

15 Now we're on to Renewable Energy Credits.
16 PA 295 Section 35(1)(b) provides that with regard to the
17 ownership of Renewable Energy Credits associated with
18 energy obtained by an electric provider under a PURPA
19 PPA, if a separate agreement is in effect on January 1,
20 2008, the separate agreement shall govern until January
21 1, 2013. Now, in some cases -- now the questioner states
22 this, I find it hard to understand: In some cases those
23 agreements do not identify the generator that originated
24 the RECs. What level of proof that a separate agreement
25 applies to energy generated under a PURPA agreement does

1 the commission expect electric providers to meet in its
2 Renewable Energy Plans?

3 Well, I think the staff thinks this is
4 something the provider and the generator are going to
5 have to work out among themselves, because the generator
6 originating the RECs must be identified for the RECs to
7 be certifiable.

8 PA 295 Section 41(4) requires the
9 commission to establish a Renewable Energy Certification
10 and Tracking Program. Please provide the commission's
11 timetable for establishing the certification and tracking
12 system. Will there be a fee for this service? Will the
13 providers include this fee in their proposed plans?

14 The commission hopes to establish this
15 certification tracking program as soon as possible.
16 We're working on, currently working on issuing an RFP,
17 and staff expects the certification and tracking system
18 to be ready by the time that plan implementation begins.
19 Certification and tracking fees are expected to be paid
20 by the generators. Typically the way these systems work,
21 the generator applies for certification, pays a pretty
22 small fee, gets their REC certified. The only other
23 charges are associated with transfer of the certificates
24 and the people transferring the certificates, individuals
25 transferring the certificates pay a small fee at that

1 time. Now, if the provider is going to own the
2 generation, I would expect the fees paid by the
3 generators would be included in the expenses in the
4 provider's proposed plan. And I think using some of the
5 existing systems that are out there, you can probably get
6 a good estimate, or as good an estimate as I could ever
7 give you.

8 Section 41(4) of PA 295 again requires
9 the commission to establish a Renewable Energy
10 Certification and Tracking Program. For RECs that result
11 from generation occurring prior to the time the Renewable
12 Energy Certification and Tracking Program is established,
13 what procedures are expected to be established to
14 retroactively certify and track those RECs?

15 I realize that's going to happen, and we
16 don't have a system currently for tracking them. I would
17 suggest that you keep sufficient records to identify the
18 number of RECs, you know, the amount of generation from
19 the facility, the identification of the facility, maybe
20 meter, you know, billing. If the facility is a PURPA
21 facility, you're going to have a billing document which
22 shows how many megawatt hours you received annually from
23 that facility, those type of records. Similar records
24 that you'd keep to recover expenses in the Act 304
25 process.

1 This is a really long question. Well,
2 this is an interesting question, too, because it's asking
3 for a technical interpretation of what would be
4 considered a Renewable Energy resource. And when you
5 actually look at the Act, the Act, when it talks about
6 definition of Renewable Energy resource, includes the
7 term "includes, but is not limited to". First it gives a
8 definition of discussing what renewable means, then it
9 has the term "includes, but is not limited to", and then
10 it has a list of things.

11 I see plenty of lawyers in the audience
12 that probably know what the term "includes but is not
13 limited to" means in legislation. So I would look at the
14 definition, and certainly things that are actually
15 included in the list would be included. But I would say
16 from this, where it says includes, but is not limited to,
17 it could include other things that meet the definition
18 that aren't specifically on the list.

19 The next question: There appear to be no
20 alternative compliance payments for RECs. Therefore, is
21 there no ceiling on the market price for RECs in the
22 future?

23 That's correct, the Act does not set any
24 ceiling on the market price of RECs.

25 O.K. We're on to question 400-6. Can

1 providers use existing Renewable Portfolios to meet Act
2 295 RPS requirements?

3 I believe they can, except for certain
4 restrictions of large providers where they have to add a
5 certain amount of new capacity over the term of the Act.

6 If so, can they be used for 100% of their
7 needs, as long as the RECs are active and not expired?

8 I believe if you have existing renewable
9 facilities that meet the requirements of the Act, because
10 there are a number of other requirements, that they can
11 be used to meet 100% of provider needs. Now, I don't
12 think that works for Consumers and Edison, which have a
13 buildout requirement in the Act; I believe they're the
14 only ones that have a buildout requirement, though.

15 When coming up with our Providers
16 Renewable Energy Portfolio and calculating the number of
17 Renewable Energy Credits equal to the number of megawatt
18 hours of electricity produced or obtained in the
19 first-year period, can the provider count RECs that were
20 sold to other parties as Green-e certified RECs?

21 No.

22 Can a provider count RECs that were used
23 to provide service to customers in the provider Green
24 Pricing Program?

25 The answer to that is no, too, because I

1 think the legislation is pretty specific; those RECs are
2 already used.

3 Oh, good, a short question with a short
4 answer. When should Michigan incentive RECs associated
5 with Ludington pumped storage generation be accrued?
6 When the off-peak period renewable energy is generated
7 and the facility is pumped or when the facility
8 ultimately generates?

9 I think you can count them up when the
10 storage facility ultimately generates on the on-peak
11 energy.

12 I don't know, I'm not sure if I
13 understand this question. I hope my staff has the
14 correct answer. For purposes of determining its RPS
15 requirements for 2012 through 2015, should an electric
16 provider include in its preexisting portfolio Advanced
17 Cleaner Energy Credits that would have been transferred
18 to it in the year prior to enactment of 295?

19 And the answer is no. It is the staff's
20 understanding that Section 27(3)(a)(i) indicates only
21 Renewable Energy Credits should be included and does not
22 include any provision for substituting Advanced Renewable
23 Energy Credits.

24 MR. STANTON: Should be Advanced Cleaner
25 Energy Credits.

1 MR. PROUDFOOT: That's what I thought.
2 Advanced Cleaner Energy Credits.

3 Well, that's all the questions. Oh, we
4 have more questions. Now we're moving on to Energy
5 Optimization, where I found the questions even more
6 difficult to answer. These are even questions that we
7 got answers from our legal staff.

8 What procedures will be in place to
9 ensure that any self-directed plan, that's self-directed
10 Energy Optimization Plan, information submitted by a
11 customer will be kept confidential as required under
12 Section 93?

13 The Act actually exempts this information
14 from FOIA. The staff will develop procedures to
15 implement these provisions. Documents submitted to the
16 executive secretary under this provision should be
17 clearly indicated as such to prevent disclosure to anyone
18 other than staff.

19 MS. KUNKLE: And, Paul, just for your
20 information, that is addressed in our user manual. And
21 basically what we do is indicate that it should be filed
22 on either CD or DVD, and then a letter can be submitted
23 indicating that that's being filed confidentially. What
24 will happen is only the letter indicating the
25 confidential material will appear on the commission's

1 website, there will be an entry indicating that
2 confidential documents have been filed that are not
3 available. They will then be secured in the executive
4 secretary's office.

5 MR. PROUDFOOT: There, that's a much
6 better answer than I had.

7 O.K. Section 93(4) of the Act states
8 that the commission shall, by order, provide a mechanism
9 for recovery of costs from certain customers for
10 provider-level review and evaluation, and for the cost of
11 Low Income Energy Optimization Program under Section 89.

12 When do you expect the commission to
13 issue that order?

14 Do you expect the commission to issue a
15 single order for all providers, or will the commission
16 issue a separate order for each provider?

17 Alternatively, is the commission
18 expecting the providers to propose mechanisms for
19 recovering these costs in their plans and the commission
20 will issue the required order when it approves the plan?

21 Well, again I'm going to go out on a
22 limb, remember, I'm not a commissioner: I believe we --
23 the staff expects separate orders for each provider, and
24 because of the -- you know, it's talking about shall
25 provide a mechanism for the recovery of costs. I don't

1 think it would be very -- I don't think it's very
2 workable to issue an overall mechanism. If it's recovery
3 of cost, it's going to be on an individual basis.

4 Staff believes that it is likely that the
5 commission will include cost recovery for these costs in
6 its order approving the provider's Energy Optimization
7 Plan.

8 Now, if a customer -- I think this is for
9 a self-directed customer. If the customer's electric
10 provider has chosen not to administer its own energy
11 optimization program and instead elects the alternative
12 compliance payment option under Section 91, should a
13 customer file its self-directed plan and status reports
14 with its electric provider, the state administrator, or
15 both?

16 I think for now let's go with both. It's
17 an interesting situation where we have both the provider,
18 we have the provider opt out and go with the state plan,
19 but then their customer opts to do it themselves; so I
20 really hadn't thought about that, but it's interesting.

21 If a provider chooses to comply using the
22 State Administered Plan, should the provider expect to
23 prorate the first year's alternative compliance payment,
24 or should they expect to pay the entire amount and
25 collect the entire year's requirement with a seven-month

1 or six-month surcharge?

2 Now, personally I think it would be more
3 reasonable to prorate it, but the legislation doesn't
4 mention prorating, and it is absolutely explicit as to
5 the amount to be paid; so unless the commission makes
6 some kind of determination that they want to use a
7 proration methodology, I'm not going to go out on the
8 limb. The legislation just is absolutely clear.

9 Providers may wish to petition the
10 commission to begin collecting these amounts prior to the
11 time when the state administered plan is finalized and
12 approved. I suspect in order to start billing your
13 customers, even if you're an opt-out utility, when you go
14 to the state administered plan, you're still going to
15 make charges to your customers. I believe you're going
16 to have to get the commission's approval to do that, the
17 commission is going to have to authorize you to make
18 those charges; and I would suggest that anybody that
19 wants to make those charges, because they're going with
20 the state administered plan, should probably file a
21 request to do so at the time that the other parties are
22 filing their plans. I think that would be the best way
23 to do it.

24 This is dealing with a state administered
25 plan. How much input/control will the provider have with

1 respect to the state administered program, or will that
2 totally be set by the MPSC?

3 I think the current plan is to set up an
4 advisory board to help manage the state administered
5 plan. However, the state administrator, the person we
6 choose, the contractor we choose is responsible for
7 taking money and running the plan, so a lot will depend
8 on what the RFP says, and a lot will depend on decisions
9 that will be made by that contractor.

10 O.K. More surcharge questions. Will
11 self-directed customers of providers -- this question I
12 believe is for self-directed customers even though it
13 doesn't say so -- who elect to make the alternative
14 compliance payment under Section 91, and who are subject
15 to Section 91 Energy Optimization surcharge, be subject
16 to a separate surcharge for Low Income Energy
17 Optimization Program?

18 I believe they will be. So you've got
19 the utility opts with the state administrator plan, the
20 customer goes self-directed, and I believe a careful
21 reading of the legislation requires a payment by that
22 customer for the Low Income Energy Optimization Program.

23 Question 200-2. Since large customers do
24 not need to utilize the service of an Energy Optimization
25 service company under Section 93(4)(a), does the staff

1 agree that those customers will not be subject to the
2 costs under subdivision (a) for provider level review and
3 evaluation?

4 And I think the statute lets them avoid
5 those costs. We're going to have to go back and look at
6 that, because there's a division made at that point --
7 well, there's a couple of divisions: One is the really
8 big customers are totally outside; and then we pick up
9 the second, the B and the C class customers who need the
10 services of the provider; and then when we get down into
11 the, we look at it further, there's a division between
12 the costs, the cost of low-income provisions and the cost
13 for review and evaluation, so I don't think the large
14 customers are subject to this, the A customers.

15 Will the self-directed customer be
16 subject to Energy Optimization related costs other than
17 provider-level review and evaluation costs for smaller
18 self-directed customers and Low Income Energy
19 Optimization Programs for self-directed customers of
20 providers operating their own Energy Optimization
21 Program? If so, please identify the costs.

22 Well, the answer is no, but they'll be
23 responsible for the costs associated with their own
24 self-directed plan.

25 We have another question regarding

1 proposed surcharge on unmetered electric customers, and I
2 really can't answer that at this time. The commission
3 discussed it in the draft order, and providers are
4 invited to include proposals in their Energy Optimization
5 Plan filings for dealing with this issue.

6 Will the utilities develop -- I guess it
7 would be: Will the providers develop different EO
8 surcharges for different types of unmetered electric
9 uses? And it lists a bunch of uses.

10 And I guess I'm going to have to refer
11 you to the answer I just gave you. I think the
12 commission in the implementation order, draft order,
13 asked the providers to make proposals regarding this
14 issue.

15 For those types of unmetered electric
16 customers whose electric usage is not subject to any
17 Energy Optimization, is it understood that the
18 appropriate surcharge should be zero?

19 No, I don't think that's -- that's not
20 inherent in the legislation. I'm not sure what the
21 commission's final decision on that will be, so for now,
22 we're just going to say no.

23 Unmetered power service is unmetered
24 because the amount of power used is too small to justify
25 the cost of metering the energy usage. Given this fact,

1 is it understood that any EO surcharge that may be
2 imposed on unmetered service customers must be
3 substantially less than the surcharges imposed on other
4 types of customers who use far more electricity?

5 I don't believe that's a true statement.
6 Staff does not agree with the initial premise, and staff
7 expects EO surcharges for unmetered customers could be
8 based on and differentiated by usage.

9 Has any utility proposed any preliminary
10 estimates of the surcharges, if any, that the utility may
11 impose on unmetered service customers?

12 Not to my knowledge.

13 Please clarify with respect to using the
14 Independent Energy Optimization Program Administrator
15 regarding the revenue payments -- is the amount listed in
16 the statute, Section 91, a strict amount, or just a floor
17 and thus the provider could owe more?

18 As far as I can determine from the
19 statute, pretty clear, those are just fixed amounts.

20 Great, transportation. Page 32 of, I
21 believe this is referring to the commission's
22 implementation order regarding gas transportation
23 customers, Item 3, "Treatment of nonresidential gas
24 customers", in section XI, Energy Optimization Plan
25 Issues and Clarifications on page 31, conflicts with item

1 No. 8, "Definition of Natural Gas Retail Sales for an
2 IOU".

3 I think the commission went back and
4 clarified this, so there's no conflict. I believe there
5 was a filing on Friday for a petition for reconsideration
6 and/or rehearing and request for stay regarding
7 transportation customers, so the answers I may give you
8 concerning that may or may not be too reliable.

9 O.K. We're going on to state
10 administered plan, and the question that everybody wants
11 to know is: When will the state plan administrator be
12 identified?

13 The commission is currently, commission
14 staff is currently engaged in a request for proposal
15 process to identify the state plan administrator. Staff
16 expects the administrator will be identified not earlier
17 than the second quarter of '09.

18 Next question: If a provider makes the
19 alternative compliance payment under Section 91, is the
20 state administrator then responsible for the Low Income
21 Energy Optimization Program for that provider? Does the
22 alternative compliance payment made under Section 91
23 cover the costs for the Low Income Energy Optimization
24 Program?

25 O.K. Now this is the staff's

1 interpretation of that; being with the staff, I think
2 it's probably correct. Staff believes that a strict
3 interpretation of the Act requires the provider to pay
4 the amount identified in Section 91. That's pretty
5 clear. And at that point, the chosen administrator will
6 do the low-income program. Self-directed customers will
7 have to pay the low-income portion as specified in the
8 Act, and they will effectively be reimbursing the
9 provider for their share of the low-income program.
10 That's about as clear as mud, isn't it.

11 Self-Directed Plans. I never knew this
12 section would be so confusing when I first saw it. It
13 looked pretty straightforward.

14 Section 93(1) states that a customer is
15 not subject to certain Energy Optimization charges if the
16 customer files with its electric provider a self-directed
17 Energy Optimization Plan. If the customer's electric
18 provider has chosen not to administer its own Energy
19 Optimization Program and instead elects the alternative
20 compliance payment under Section 91, what will be the
21 role of the electric provider in accepting and/or
22 reviewing the self-directed customer's plan and status
23 reports?

24 I think this was kind of something that
25 nobody thought about when they wrote the legislation.

1 Who will review and evaluate the
2 self-directed plan, the electric provider, the state
3 administrator, or both?

4 Who will be responsible for monitoring
5 the customer's progress towards the goals in the plan,
6 the electric provider, the state administrator, or both?

7 Can the state administrator reject a
8 plan, or can only the provider reject a customer's
9 self-directed Energy Optimization Plan?

10 Well, subject to further correction by
11 the commission or the courts, the staff believes the
12 state administrator will review and evaluate the
13 self-directed plan. The state administrator will be
14 responsible for monitoring the progress. For providers
15 who opt to have the state administrator implement their
16 Energy Optimization Program, the state administrator will
17 function in the role of the provider for the purposes of
18 subpart B, Energy Optimization. I believe that to be a
19 workable situation, because when the provider makes, or
20 when the utility makes the payment to the state
21 administrator to take over their function, they probably
22 should take over the whole function.

23 Here's a real short answer, so we'll move
24 to this one. Section 93(5) requires a self-directed plan
25 to be a multi-year plan. Can a self-directed customer's

1 plan be as short as two years?

2 Yes, I believe so. I'm unable to find
3 any limitation on the length of the plans in the
4 commission order or the legislation.

5 Section 93(8) permits a self-directed
6 customer to amend its plan. Does that include the
7 ability to amend the plan's term? Will a customer be
8 able to "opt out" of the self-directed plan option prior
9 to the end of its plan term? Can, for example, can the
10 customer self-administer a program for one year and then
11 choose to no longer self-administer? Can customers that
12 file a three-year Energy Optimization self-directed plan
13 change their mind? For example, after two years, can
14 they come back to the utility's program?

15 Well, we're not aware of any prohibition
16 against amending the term of a self-directed plan. Since
17 the statute discusses amending the plan, gives the
18 self-directed customer the option of amending the
19 self-directed plan, I guess they'll be able to do that.

20 Staff expects customers who will enter
21 into self-directed plans with the intent to meet the
22 goals of the Act, and that while a customer is engaged in
23 a self-directed plan, there will be regular, measurable
24 progress towards meeting the goals of the plan. However,
25 under the statute, customers may cancel a self-directed

1 plan prior to the end of its term. Customers who do
2 cancel a self-directed will become responsible for paying
3 their applicable provider surcharge.

4 Next question. Do customers that
5 self-direct need only achieve their target at sites where
6 they want to make an EO investment? In other words, they
7 don't have to do something at every location so long as
8 what they do at locations of their choice garner
9 sufficient savings to cover all sites.

10 Staff believes that as long as the Energy
11 Optimization goals are reached, the customer is free to
12 target Energy Optimization investments to any of the
13 customer's participating facilities. That would be part
14 of their initial plan. Let's say we plan to do this to
15 this plan and this other thing to this other plan and
16 maybe leave the third one alone, but we'll roll them all
17 together and we'll reach our savings goals.

18 Boy, this thing even has an end, we're
19 getting close.

20 How will the energy savings from
21 self-directed plans be measured? What will be the
22 procedures for normalizing for weather, production, and
23 other variances?

24 I think the intent of the Act is to allow
25 for this normalization activity, and there's a discussion

1 of normalizing for production variances and weather, but
2 there's not a lot of detail. And I think as we go from
3 one type of facility to another type of facility, that
4 the methods for normalizing production would certainly be
5 different. The methods used to normalize production for
6 somebody like a tech in a mining operation may well be
7 very well different than a normalization for a function
8 of somebody like a major retailer. So I think we're
9 going to have to kind of leave that one up to the actual
10 person developing the self-directed plan to provide the
11 normalization recommendations.

12 O.K. When counting energy savings for
13 the EO targets and using a compact fluorescent lightbulb
14 as an example, which saves 38 kilowatt hours per year and
15 has a useful life of 9 years, do we take credit for 38
16 kilowatt hours each year for 9 years, or do we take
17 credit for the 342 kilowatt hours in the first year?

18 Well, my staff says energy saving
19 calculations will be addressed for measures including the
20 Michigan Energy Savings Base. In this instance, the
21 credit should be 38 kilowatt hours each year, not 342
22 kilowatt hours in the first year.

23 Required biennial 2000-2009 energy
24 savings (0.3%) are to be measured against an '07
25 baseline. Will Energy Optimization incentives undertaken

1 in '07 or '08 be allowed in an '09 Optimization Plan,
2 either self-directed or otherwise?

3 O.K. Staff tells me the Act covers only
4 measures installed after enactment, but providers may
5 consider self-directed programs which could include
6 measures prior to that time that provide long-term energy
7 savings. See Section 93(5)(b) in 295.

8 Under Section 77(2) in 295, providers are
9 able to take advantage of load management to achieve
10 energy savings. What credit is given in a self-directed
11 Energy Optimization Plan for demand shaving and/or load
12 management activities?

13 Customers with self-directed plans will
14 be eligible to calculate load management credits using
15 the same methodology as providers. I actually don't
16 think you get much credit for a load management activity,
17 I think you only get a credit for it when it actually
18 conserves kilowatt hours.

19 O.K. If a customer runs a self-directed
20 program and, in a given year, achieves greater savings
21 than required by legislation (i.e.: greater than 0.3% in
22 2009), is credit given for the additional savings? Can
23 savings greater than required in a given year be carried
24 forward for credit on a future year's obligation? If so,
25 what percentage, and how many years? Is any other

1 "offset" contemplated?

2 This is just too complicated a question
3 to stand up here and hypothesize on, so this
4 determination must be based on the specific measures
5 identified in a customer's self-directed plan. So you're
6 going to have to get right into the plan before you can
7 make this determination.

8 O.K. Can a provider carry over excess
9 natural gas savings? Only megawatt hour savings, not
10 Mcfs, create EO credits, and only EO credits may be
11 carried forward.

12 I think they're only going to be able to
13 carry forward the megawatt hour savings.

14 Only two more questions. Nobody filled
15 out any cards, right?

16 MS. HANNEMAN: No, we have one.

17 MR. PROUDFOOT: Throw that away, Jan.

18 MS. HANNEMAN: Actually, the first part
19 of it was already answered. Do you want the question?

20 MR. PROUDFOOT: I'm just kidding.

21 MS. HANNEMAN: Do you want me to read the
22 question?

23 MR. PROUDFOOT: No. I'm going to finish
24 these two. I knew if I said something, there would be
25 additional questions.

1 Page 29 regarding the Michigan Energy
2 Savings Database - "The Commission" -- page 29 refers to
3 the commission's implementation order. "The Commission
4 directs the providers to work with the Staff to establish
5 a link with the MPSC website where posted savings values
6 can be viewed within 30 days after the database becomes
7 operational." Please define operational.

8 Staff defines operational -- I'm glad my
9 staff are on the ball -- to mean when the database is up
10 and running and can be made available to the public via
11 the internet, and that will be sometime in the future.

12 Page 40 -- this is again referring to the
13 implementation order -- regarding low income residential
14 customers - "MPSC expects creative/focused efforts to
15 target Energy Optimization program services to distinct
16 subsets of low income population, which may entail
17 different services." Are there any existing low income
18 energy optimization programs in other states that could
19 be cited as examples?

20 Of course. Staff is aware of comparative
21 analysis of Low Income Energy Optimization Programs
22 completed by the American Council for an Energy Efficient
23 Economy and the Low Income Heating Efficiency Assistance
24 Program, Clearinghouse of the National Center for
25 Appropriate Technology. Staff recommends that providers

1 and interested parties review these sources for
2 information, as staff invites all interested parties to
3 share additional references of the examples of best
4 practice.

5 At this point, this concludes the
6 questions we received in advance for Technical Conference
7 No. 1. Why don't we take a five-minute break while we
8 organize the questions. Why don't we take a ten-minute
9 break; we'll reconvene at quarter to. Thanks, everybody.
10 And if you have additional questions, now is the time to
11 write them down.

12 (At 10:35 a.m., a 20-minute recess was taken.)

13

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14 MR. PROUDFOOT: Well, I guess we'll just
15 dive into this. Janet, have you got this organized?
16 Give me an easy one.

17 MS. HANNEMAN: The first one that's
18 neither -- it's both.

19 MR. PROUDFOOT: Questions concerning the
20 Act will continue to arise. A formal process for asking
21 and answering questions would be helpful. Maybe a list
22 serve or list server?

23 Yes. We had, I think we first started
24 out, we met with everybody and tried to get organized and
25 answer questions. Then we had the Commission answer all

1 our questions in the implementation order, and now we're
2 having the two technical quorums. But I think on an
3 on-going basis we need to establish some kind of system
4 for taking questions and answering them.

5 Something easier than that, Janet.

6 MS. HANNEMAN: Here are three.

7 MR. PROUDFOOT: O.K. (Reading) When
8 will the Commission establish the prices (sic) for
9 certification and compliance -- verification of credits
10 for Advanced Cleaner Energy Systems? Establish the --
11 Rodger, is it establish the process?

12 MR. KERSHNER: Yes, a process.

13 MR. PROUDFOOT: Oh, I saw prices. It's
14 the process.

15 That's part of hiring a contractor to do
16 the whole REC certification thing. We hope to do the
17 same. So we're working on that currently. But we hope
18 to do that kind of as a packet.

19 MR. KERSHNER: Manana.

20 MR. PROUDFOOT: Right, soon as I get out
21 of here.

22 Can a utility assume all EOS reductions
23 affect non-renewal energy, or are EOS reductions assumed
24 to reduce Renewable Energy currently available and
25 provided to customers?

1 I don't know if I understand the
2 question. Do you understand the question, Tom or Rob?

3 MR. STANTON: Yes, I think I do. The EO
4 reductions are reductions to sales, and then the question
5 is: Do we pretend that all of the sales will also reduce
6 fossil fuel with renewable percentage greater? I think
7 the way it gets calculated, you have to calculate what
8 got generated, and percentage of renewables will go up
9 and the EO goes down.

10 MR. PROUDFOOT: O.K. I understand. So
11 the issue is: As we save energy does the Renewable
12 Energy become a larger portion of our existing portfolio
13 and thus allow us to meet the standard? Is that the
14 question? That's the question.

15 Well, it senses a percentage standard. I
16 really don't know how it would work any other way. If
17 the economy in the state keeps declining, we may meet our
18 standard without -- that's another issue. O.K.

19 Question. If electricity is provided to
20 an end user pursuant to a long-term fixed price contract,
21 is it nonetheless permissible to charge the customer for
22 the cost to implement the Renewable Energy Plan?

23 Well, if the customer has meters, the
24 customer is going to get charged, I would assume. I mean
25 the statute requires the provider to implement a per

1 meter surcharge. I suppose if the provider in its plan
2 suggested that that wouldn't be -- it wouldn't be
3 appropriate to charge a particular customer the per meter
4 surcharge, they better suggest that in their plan, and
5 then the Commission can make that decision at that point.

6 Question. The question is: When are
7 customers required to elect self-directed treatment under
8 Section 93(1) in 2009? I'm going to turn to Rob for
9 this. Is this the answer you put on here?

10 MR. OZAR: Yes.

11 MR. PROUDFOOT: Oh, that's great. It's
12 got the answer. January 15, notice of intent; January 30
13 they need to submit the plan to the provider. That's
14 page 36 in the Commission's implementation order.

15 MR. OZAR: Yes.

16 MR. PROUDFOOT: Good.

17 Somebody with very neat handwriting
18 asked: Self-directed plans are required to be submitted
19 by January 30. However, the State Administrator is not
20 expected to be identified until second quarter 2009. If
21 the provider has chosen the State EO Administrator, who
22 does the customer submit the self-directed plan to?

23 I guess you're going to have to submit it
24 to the provider. I would probably suggest you submit it
25 to us, too, then we can pass it on to the State

1 Administrator when they're chosen.

2 In a self-directed plan option, what
3 about new facilities? Would/could code be considered
4 baseline usage?

5 That's an interesting question. I think
6 we're going to have to think about that one some more.
7 If you build a new facility and you build it to best
8 standards available, how do you start saving something?
9 So that's a good question. I don't know if the statute
10 had considered that. Do you have any thoughts, Rob?

11 ROB OZAR: No, I'm not sure. That's a
12 difficult one. I think a plant closing is pretty easy, I
13 think you would adjust the base. But on a new facility,
14 I don't have an answer to that one.

15 MR. PROUDFOOT: Rob is going to work on
16 it. O.K. You close, you adjust the baseline.

17 Will verification be simple usage or
18 actual implementation of measures?

19 I think we'd prefer that the verification
20 be actual implementation of measures. Is that the right
21 answer, Rob?

22 MR. OZAR: Yes. Again that's a difficult
23 one, too. We don't want to be sending someone from the
24 staff out to do an audit per se, but we'll need some sort
25 of independent verification. We haven't determined

1 exactly what that will consist of.

2 MR. PROUDFOOT: I mean you could verify
3 the actual implementation measures. I mean, if a
4 self-directed customer sent us receipts for installation
5 of equipment, that then would be a way to verify; is that
6 right?

7 MR. OZAR: That's correct.

8 MR. PROUDFOOT: Tom says he wants it to
9 be digital notice. Ron's in Energy Optimization. Of
10 course it might be easier if you just take a cell phone,
11 like my kids do, take it out and take pictures of
12 everything. They send out everything to their mom all
13 the time, too. "Dad drives terrible" is the theory now
14 with my children.

15 When will self-direct customers know low
16 income charges? When will self-direct customers know
17 what the low income charges will be?

18 After the provider provides and gets
19 approved plans I think is probably the answer to that.

20 Do we have another one?

21 O.K. Section 45(5)(c), I see that's of
22 295, can staff provide insight on how savings from Energy
23 Optimization programs should be calculated to be shown on
24 a customer's bill? Does this use generic coal plant as a
25 comparison?

1 I think the Commission ordered this in
2 the Implementation Order. So you can go back and -- but
3 we will be providing the transfer rate and the hurdle
4 rate numbers. What's the date we're providing those on
5 to the Commission?

6 ROB OZAR: About the 30th.

7 MR. PROUDFOOT: So those numbers will be
8 available.

9 MS. HANNEMAN: That's it.

10 MR. PROUDFOOT: That's it. O.K. Are
11 there any general questions from the audience? Anybody?
12 Public hearing, does anybody want to make any comments?
13 Oh, no.

14 DAVE MARVIN: A simple question.
15 Tomorrow there is another technical conference. Will you
16 go over the same questions again with a different
17 audience?

18 MR. PROUDFOOT: The question was:
19 Tomorrow is another technical conference, will I cover
20 all the questions again for the audience? The answer is
21 no. We divided the questions up. So we'll go over some
22 of the questions, some additional questions that are more
23 pertinent to the other group. That's correct, Tom?

24 MS. HANNEMAN: It will be going to all
25 the questions that came from the other group, even if

1 they were covered today. So there will be a little bit
2 of redundancy.

3 MR. PROUDFOOT: There'll be a little
4 redundancy. See, you asked questions and the other group
5 asked questions, and we're going to answer their
6 questions. If they're the same question, maybe we'll
7 give a different answer but -- no, we won't.

8 Yes, sir?

9 MR. BLACK: Follow-up question on
10 timetable and if a customer does not elect to self-direct
11 their Energy Optimization yet more facts are known and
12 utilities file and receive approval for their plans over
13 the next few months, is there then another window to
14 elect a self-direct plan for the customer at that time?
15 And then Part B is: Would future years follow the same
16 calendar?

17 MR. PROUDFOOT: I guess I really don't
18 know. I think as far as the statute is concerned,
19 self-directed customers, if they meet the qualification,
20 can come up with their own plan and opt out sometime in
21 the future. And certainly that's anticipated by the
22 statute. Because as we go on in time, more and more
23 customers are eligible for the opt out or self -- not opt
24 out, but the self-direct plan. They're not opting out of
25 energy efficiency, they're just deciding, well, I have my

1 own plan. And I think we understand that a lot of
2 commercial entities have their own Energy Optimization
3 plan. So we're trying not to be real hard and fast about
4 this issue. But I think we'll probably see some more
5 time schedules as we move along on this issue, wouldn't
6 you think, Rob?

7 MR. OZAR: Yes. We'll be having more
8 information as go on. I think maybe the best thing to do
9 is, if you're not quite sure, you don't feel you have
10 sufficient information to make a solid decision on self
11 directing, would be to go ahead and file. But you --
12 because you can always amend it. I think that was one of
13 the questions that was posed earlier.

14 MR. PROUDFOOT: O.K. We had two people
15 from the audience and we need to identify them. First we
16 had -- tell us who you're representing.

17 DAVE MARVIN: Well, I'm Dave Marvin. I'm
18 just curious about what is going to happen tomorrow on
19 behalf of any number of people.

20 MR. PROUDFOOT: O.K. And?

21 DAN BLACK: I'm Dan Black for Delta
22 Energy.

23 MR. PROUDFOOT: Way in the back.

24 MR. PATTERSON: Paul, we're supposed to
25 provide our customers with an application today. Has

1 staff updated the template at all that was in
2 Commission's Order?

3 MS. POLI: It's posted on the Electricity
4 Spotlight.

5 MR. PROUDFOOT: Thank you, Pat. That's
6 one thing I have learned, Ronan. Pat usually knows more
7 about what's going on than I do. O.K. That was the
8 question. This is draft only.

9 MS. POLI: Right, and we posted it.

10 MR. PROUDFOOT: Identify who you are and
11 who you're representing.

12 JIM AULD: Jim Auld with MECA. Are the
13 written questions as displayed on the board going to be
14 incorporated in the transcript today?

15 MR. PROUDFOOT: Yes. The court reporter
16 already collected them from me, so she's on the ball.
17 Anybody else? Well, I'd like to thank everybody.

18 MR. STANTON: Let me check to see if
19 anything came in on chat.

20 MR. PROUDFOOT: That's right, we have a
21 chat group.

22 MR. STANTON: No, nothing new on the
23 phone. So either we disconnected them or they don't have
24 any questions. Well, one comment is they're going to
25 have to see the transcript because it was hard to hear

1 earlier. They'll wait to see the transcript before they
2 know how to submit their future questions.

3 MR. PROUDFOOT: Oh.

4 MR. SCHNEIDEWIND: Tell us how we get the
5 transcript.

6 MR. PROUDFOOT: Well, the current -- The
7 question was: The transcript will be available in five
8 days, and we will post that on our website.

9 MS. POLI: We do have the answer already
10 prepared if you want to do that quickly.

11 MR. PROUDFOOT: I'd rather do the
12 transcript. I'd like to thank everybody. It'll be
13 posted in the docket after five business days. And we'll
14 probably post it on wherever we've been posting stuff.

15 O.K. I want to thank everybody for
16 coming today. Make sure you did sign in, got your name
17 on the sign-in sheet. We know you're working really hard
18 to put these plans together, and staff is available to
19 try and answers your questions. I know this is difficult
20 legislation to interpret. Nuances have sprung up that
21 have surprised me, so. Anyway, thanks everybody, for
22 coming.

23 (At 11:15 a.m., the conference was adjourned.)

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C E R T I F I C A T E

We, Marie T. Schroeder and Lori Anne Penn, Certified Shorthand Reporters, do hereby certify that we reported in stenotype the technical conference had in the above-entitled matter, that being Case No. U-15800, before the Michigan Public Service Commission Staff, at 6545 Mercantile Way, Lansing, Michigan, on Monday, January 5, 2009; and do further certify that the foregoing transcript, consisting of 48 pages, constitutes a true and correct transcript of our stenotype notes.

Marie T. Schroeder, CSR-2183

Lori Anne Penn, CSR-1315
33231 Grand River Avenue
Farmington, Michigan 48336

Dated: January 9, 2009