STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter, on the Commission's own motion, to promulgate rules governing electric interconnection, a legally enforceable obligation, distributed generation, and legacy net metering.	)))))	Case No. U-20344

COMMENTS OF THE ASSOCIATION OF BUSINESSES ADVOCATING TARIFF EQUITY

The Association of Businesses Advocating Tariff Equity ("ABATE"), by its attorneys, Clark Hill PLC, hereby provides Comments to the Michigan Public Service Commission ("Commission") Staff ("Staff") with regard to Staff's draft strawman proposal for rules regarding Interconnection, Distributed Generation, and Legally Enforceable Obligation Standards.

I. INTRODUCTION

The Commission's initiating Order in this proceeding noted that Public Act 295 of 2008 provided the Commission the authority to promulgate administrative rules governing net metering standards and interconnection. *In the matter, on the Commission's own motion*, order of the Public Service Commission, issued November 8, 2018 (Case No. U-20344), p 1. The Order also noted that since that time "there have been significant changes in Michigan's energy landscape driven by rapidly advancing renewable energy technology" as well as "changes in Michigan's energy laws with the passage of Public Act 341 of 2016 . . . and Public Act 342 of 2016." *Id*. Together, the purposes of these Acts include "[d]iversify[ing] the resources used to reliably meet the energy needs of consumers in this state" and "[e]ncourag[ing] private investment in renewable energy and energy waste reduction." MCL 460.1001.

The legislatively-prescribed purpose of the Acts is therefore to encourage both the interconnection of distributed generation and utility purchases from qualifying facilities ("QFs"). Of course, in promulgating rules to achieve these objectives the Commission must adhere to the statutory requirement that rate allocations remain equitable and consistent with cost of service principles. See, e.g., MCL 460.11 ("In establishing cost of service rates, the commission shall ensure that each class, or sub-class, is assessed for its fair and equitable use of the electric grid"); MCL 460.58 ("[T]he commission shall have authority to make an order or decree . . . directing that the rate, charge, practice or other matter complained of, shall be removed, modified or altered, as the commission deems just, equitable and in accordance with the rights of the parties concerned"); MCL 460.557(4) ("The rates of an electric utility shall be just and reasonable and a consumer shall not be charged more or less than other consumers are charged for like contemporaneous service rendered under similar circumstances and conditions").

ABATE's comments focus on ensuring these rules are consistent with these legislative purposes and requirements. Essentially, utilities should provide interconnection applicants the information they need while ensuring that costs caused by and associated with those applicants are not allocated to unrelated ratepayers. Indeed, throughout this proceeding stakeholders have sounded the importance of utility transparency, information and data availability, the ability to review utility determinations, and interconnection cost allocation. These concepts have also been raised in the ongoing distribution system planning stakeholder workgroup (Case No. U-20147), to which this proceeding is closely related.[1]

Considering these concepts and principles, as well as the statutorily-prescribed purpose and requirements underlying this rulemaking, ABATE therefore recommends the Commission

[1] See, e.g., Presentations for Distribution Planning Stakeholder Information Session #2 and #3. https://www.michigan.gov/mpsc/0,9535,7-395-93307_93312_93320_94834-464286--,00.html

Staff promulgate Interconnection, Distributed Generation, and Legally Enforceable Obligation Standards in accordance with ABATE's comments below.

II. COMMENTS

A. Part 2. Interconnection Standards.

ABATE's specific comments regarding Part 2 of Staff's draft rules are included in the attached. Generally, these rules must ensure that no subsidies are created for any class of utility customer and that cost of service principles are followed in allocating interconnection costs. As stated above, the Commission is statutorily mandated to ensure equitably cost allocation in which customers pay for their cost of service. As such, it is imperative that all costs associated with interconnection processes are allocated to those interconnection applicants, rather than general ratepayers.

B. Part 3. Distributed Generation ("DG") Program Standards.

ABATE's specific comments regarding Part 3 of Staff's draft rules are included in the attached. In addition to these comments, one issue that is not addressed in the rules is the ongoing costs for DG necessitated facilities and infrastructure, and the allocation of those costs. Rule 460.1006(6) states that the customer will pay all interconnection costs, although it does not appear to address the ongoing operation & maintenance ("O&M") costs associated with a DG customer's dedicated facilities.

While agreements between large customers and utilities may address ongoing O&M payments for dedicated interconnection facilities, and may include a cost share for any major equipment failure, it is imperative these costs are not allocated to customers which do not use or benefit from those facilities. In other words, DG customers should pay the interconnection,

O&M, and any ongoing associated costs for their dedicated facilities. The DG rules themselves should address and clarify this issue.

C. Part 4. Legally Enforceable Obligation ("LEO").

ABATE's specific comments regarding Part 4 of Staff's draft rules are included in the attached. Generally, the LEO rules should adhere to the following guiding principles: (i) the rules defining when a LEO has been created should be clear and transparent, providing certainty and clarity to relevant entities; (ii) the requirements to establish a LEO must be based solely on actions taken by the QF which are within the QF's control; and (iii) sufficient assurances should be provided, as required under PURPA, that utilities will purchase electricity from a QF that commits itself to sell electricity to the utility.

These principles are important to consider when analyzing the draft rules, as certain sections addressed in the attached contemplate or suggest ambiguous requirements, or condition an LEO on a QF receiving approvals that may be beyond its control. Clarity, transparency, and sufficient assurances for all parties, including QFs, are of paramount concern in realizing PURPA's intention to "encourage cogeneration and small power production and to increase use of renewable energy resources."[2] It is therefore important to avoid onerous or unclear regulatory requirements which may dissuade QFs and frustrate PURPA's purposes.[3]

III. CONCLUSION

ABATE appreciates the opportunity to submit these comments and asks that the Commission and Staff ensure the final proposed rules resulting from this proceeding reflect the same.

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[2] *In re Application of the Association of Businesses Advocating Tariff Equity*, order of the Public Service Commission, entered December 5, 1990 (Case No. U-9798).

[3] See *FLS Energy, Inc*, 157 FERC ¶ 61,211 (2016); *Great Divide Wind Farm 2 LLC*, 166 FERC ¶ 61,090 (2019).

Respectfully submitted,

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