

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter, on the Commission’s own motion,)
regarding the regulatory reviews, revisions,)
determinations, and/or approvals necessary for)
CONSUMERS ENERGY COMPANY to fully comply)
with Public Acts 286 and 295 of 2008.)
_____)

Case No. U-15805

At the October 13, 2009 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. Orjiakor N. Isiogu, Chairman
Hon. Monica Martinez, Commissioner
Hon. Steven A. Transeth, Commissioner

OPINION AND ORDER

On October 6, 2008, Governor Jennifer M. Granholm signed into law Public Acts 286 and 295 of 2008, which amended MCL 460.1 *et seq.* and created MCL 460.1001 *et seq.*, respectively. On October 21, 2008, the Commission commenced this case to facilitate Consumers Energy Company’s (Consumers) obtaining the regulatory reviews, determinations and approvals necessary to fully comply with the new acts.

On August 26, 2009, Consumers filed an application under MCL 460.1033(3) for *ex parte* Commission review and approval of six long-term renewable energy (RE) contracts. Consumers referred to this portion of the case as Case No. U-15805-A. In its application, Consumers requests that the Commission (1) approve Consumers’ application for approval of the contracts; (2) approve the transfer prices based upon the forecasted day-ahead locational marginal prices and

the forecasted capacity prices used in Consumers' RE plan; and (3) provide assurance that the full costs of the RE contracts will be recoverable through the combined application of the transfer price mechanism and application of the RE surcharges. Further, Consumers states, the requested approvals will not result in an alteration or amendment in rates or rate schedules, they will not result in an increase in the cost of service to customers, and the contracts are consistent with the planned activities, expenses and revenue recovery mechanisms and surcharges described in the Consumers' approved RE plan (May 26, 2009 Commission order in Case No. U-15805). Therefore, Consumers' application may be authorized and approved without notice or hearing pursuant to MCL 460.6a(1). No party contested Consumers' request for *ex parte* approval of its application.

Discussion

MCL 460.1033 provides in part:

(1) Subject to subsections (2) and (3), an electric provider that had 1,000,000 or more retail customers in this state on January 1, 2008 shall obtain the renewable energy credits that are necessary to meet the renewable energy credit standard in 2015 and thereafter as follows:

* * *

(b) At least 50% of the renewable energy credits shall be from renewable energy contracts that do not require transfer of ownership of the applicable renewable energy system to the electric provider or from contracts for the purchase of renewable energy credits without the associated renewable energy. A renewable energy contract or contract for the purchase of renewable energy credits under this subdivision shall be executed after a competitive bidding process conducted pursuant to guidelines issued by the commission....

* * *

(3) An electric provider shall submit a contract entered into pursuant to subsection (1) to the commission for review and approval. If the commission approves the contract, it shall be considered to be consistent with the electric provider's renewable energy plan....

MCL 460.1037 provides in part:

If, after the effective date of this act, an electric provider whose rates are regulated by the commission enters a renewable energy contract or a contract to purchase renewable energy credits without the associated renewable energy, the commission shall determine whether the contract provides reasonable and prudent terms and conditions and complies with the retail rate impact limits under section 45. In making this determination, the commission shall consider the contract price and term. If the contract is a renewable energy contract, the commission shall also consider at least all of the following:

(a) The cost to the electric provider and its customers of the impacts of accounting treatment of debt and associated equity requirements imputed by credit rating agencies and lenders attributable to the renewable energy contract. The commission shall use standard rating agency, lender, and accounting practices for electric utilities in determining these costs, unless the impacts for the electric provider are known.

(b) Subject to section 45, the life-cycle cost of the renewable energy contract to the electric provider and customers including costs, after expiration of the renewable energy contract, of maintaining the same renewable energy output in megawatt hours, whether by purchases from the marketplace, by extension or renewal of the renewable energy contract, or by the electric provider purchasing the renewable energy system and continuing its operation.

(c) Electric provider and customer price and cost risks if the renewable energy systems supporting the renewable energy contract move from contracted pricing to market-based pricing after expiration of the renewable energy contract.

As required by Section 37 of Act 295, the Commission has considered each of the factors in Section 37(a), (b) and (c), and finds that the six RE contracts should be approved. With regard to subsection (a), because the costs associated with these contracts will be recovered under the funding mechanisms provided for in Act 295, it is unlikely that Consumers would experience a financial rating change due to this contract. With regard to subsection (b), the various contract terms provides Consumers' customers with an adequate source of renewable energy for a reasonable time. With regard to subsection (c), such a move will not occur until the end of the

contracts' terms. Since the terms of the contracts are of adequate length, review of possible replacement costs is unnecessary.

The Commission is persuaded that the six RE contracts should be approved. The Commission agrees to provide assurance that the full costs of these contracts will be recoverable through the combined application of the transfer price mechanism and application of the RE surcharges.

THEREFORE, IT IS ORDERED that the six renewable energy contracts between Consumers Energy Company and the following third parties are approved as in compliance with the requirements of Public Act 295 of 2008: Wm Renewable Energy L.L.C.; North American Natural Resources, Inc.; Elk Rapids Hydroelectric Power LLC; Zeeland Farm Services, Inc.; Fremont Community Digester, L.L.C.; and Scenic View Dairy, L.L.C.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, under MCL 462.26.

MICHIGAN PUBLIC SERVICE COMMISSION

Orjiakor N. Isiogu, Chairman

Monica Martinez, Commissioner

Steven A. Transeth, Commissioner

By its action of October 13, 2009.

Mary Jo Kunkle, Executive Secretary