

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. )  
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Case No. U-15805

At the May 10, 2011 meeting of the Michigan Public Service Commission in Lansing,  
Michigan.

PRESENT: Hon. Orjiakor N. Isiogu, Chairman  
Hon. Monica Martinez, Commissioner  
Hon. Greg R. White, Commissioner

**OPINION AND ORDER**

On October 6, 2008, Public Acts 286 and 295 of 2008 were signed into law, which amended MCL 460.1 *et seq.* and created MCL 460.1001 *et seq.* (Act 295), 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 for it to fully comply with the new acts.

On April 25, 2011, Consumers filed an application requesting *ex parte* review and approval of 57 contracts for the purchase of solar energy, capacity, and renewable energy credits under Phase II of the Experimental Advanced Renewable Program (EARP). The contracts will result in the purchase of 987.7 kilowatts of nameplate capacity. Each contract has a 12-year term. Phase II projects must have been installed and ready to deliver energy by May 1, 2011.

The EARP was proposed in Consumers' renewable energy plan (REP) filed on February 17, 2009. The Commission approved, with certain modifications to the system access charge, the REP on May 26, 2009. The EARP pays a firm price to retail customers for each kilowatt-hour of generation produced by the customer's solar generation systems over a 12-year period. Participation in the program is on a first come, first served basis. The total program size is 2 megawatts. Phase I contracts were approved by the Commission in the December 21, 2010 order in this case and made up approximately half of the total program capacity. Commission approval for Phase II contracts will fill the remaining available space in Consumers' EARP program.

Consumers expects to pay \$6,470,707 over the 12-year term of the Phase II contracts. Phase II prices are \$0.375 for commercial installations and \$0.525 for residential installations.

For purposes of clarification, the transfer price schedule approved in Case No. U-15805 and attached to Consumers' application in this case as Attachments 4 and 5 is the applicable transfer price schedule for Phase I and Phase II contracts.

Consumers requests that the Commission approve the contracts and provide assurance that the full costs will be recoverable through the combined application of the transfer price mechanism and application of the renewable energy surcharges. Consumers states that the requested EARP contract approvals will not result in "an alteration or amendment in rates or rate schedules" and "will not result in an increase in the cost of service to customers" because the contracts are consistent with the planning activities, expenses, and revenue recovery mechanisms and surcharges described in the company's renewable energy plan in Case No. U-15805, as approved by the Commission on May 26, 2009. Therefore, Consumers' application may be authorized and approved without notice or hearing pursuant to MCL 460.6a(1).

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:

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(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...

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(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.

As required by Section 37 of Act 295, the Commission has considered the factors in Section 37 and finds that the EARP contracts should be approved. The Commission agrees to provide assurance that the full costs of the contracts will be recoverable through the combined application of the transfer price mechanism and application of the renewable energy surcharges.

The Commission finds that *ex parte* review and approval is appropriate because the EARP contracts will not affect rates or rate schedules resulting in an increase in the cost of service to

customers. As stated in the Commission's December 4, 2008 order in Case No. U-15800, the Commission reminds the Staff that it intends to act on requests for contract approval within 30 days of the date that the Commission has all necessary information needed to make the determination. The Commission has all necessary information needed to approve these contracts. The Commission reiterates that it expects the Staff to give expeditious treatment to renewable energy contracts to encourage development of the most cost practical and highest quality renewable energy resources. The Commission finds no prohibition against *ex parte* approval of a renewable energy purchase agreement in Act 295.

THEREFORE, IT IS ORDERED that Consumers Energy Company's Experimental Advanced Renewable Program Phase II contracts are approved as in compliance with the requirements of 2008 PA 295.

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

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Orjiakor N. Isiogu, Chairman

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Monica Martinez, Commissioner

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Greg R. White, Commissioner

By its action of May 10, 2011.

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Mary Jo Kunkle, Executive Secretary