

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	)	Case No. U-15806
<b>THE DETROIT EDISON COMPANY</b>	)	
to fully comply with Public Act 295 of 2008.	)	
_____	)	

At the December 6, 2011 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. John D. Quackenbush, Chairman  
Hon. Orjiakor N. Isiogu, 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.*, respectively (Act 295). On October 21, 2008, the Commission commenced this case to facilitate The Detroit Edison Company’s (Detroit Edison) obtaining the regulatory reviews, determinations and approvals necessary to fully comply with the new acts.

On November 7, 2011, Detroit Edison filed an application under MCL 460.1033(3) requesting *ex parte* Commission review and approval of: (1) a renewable energy credit purchase agreement pursuant to Act 295, (2) approval of the recovery of the renewable energy credit (REC) costs through the company’s revenue recovery mechanism as an incremental cost of compliance with the renewable energy standards under the company’s renewable energy plan pursuant to Act 295,

(3) assurance that the full costs of the contract will be recoverable through the company's revenue recovery mechanism surcharges, and (4) any additional approvals that the Commission may deem necessary under Act 295.

Detroit Edison filed a copy of the contract with certain portions redacted to protect confidential information that might affect the competitive market. However, the company offered the Commission Staff an opportunity to review an un-redacted version of the contract.

According to its application, Detroit Edison will obtain RECs from Michigan Waste Energy, Inc. (MWE) that have been produced from renewable energy fueled by municipal solid waste. Detroit Edison states that the facility has been designated a renewable energy system under Act 295, and that MWE and its affiliates are not affiliated with Detroit Edison or DTE Energy.

The contract resulted from an unsolicited bid on March 21, 2011. Under this contract, Detroit Edison plans to purchase up to a total of 970,000 RECs from vintage years 2009 through 2024. Act 295 permits RECs with a 36-month life, making 2009 vintage RECs a viable option for compliance in 2012. Detroit Edison states that the contract provides an opportunity that may not otherwise be available or commercially practical under reasonable and prudent terms and conditions because this is a 13-year contract at \$7 per REC. This is both a lower price and a longer term than Detroit Edison's last three REC-only contracts approved by the Commission.<sup>1</sup> Detroit Edison states that this contract is consistent with its Commission-approved renewable energy plan because

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<sup>1</sup>On December 2, 2009, the Commission approved REC-only contracts between Detroit Edison and Sterling Planet for a 10-year term, and with Upper Peninsula Power Company for a 7-year term with the average price of \$12.46 per REC for the two contracts. On April 27, 2010, the Commission approved a REC-only contract between Detroit Edison and Boyce Hydro for a 7-year term at \$7.75 per REC.

the \$7 RECs under this contract are below the \$15.66 per RECs/advanced cleaner energy credits in its approved renewable energy plan.

Detroit Edison requests that the Commission approve the contract and provide assurance that the full costs will be recoverable through the application of renewable energy surcharges. Detroit Edison states that the requested 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 Detroit Edison's REP approved in this case by the Commission on June 2, 2009. Therefore, Detroit Edison's 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. However, an electric provider may consider unsolicited proposals presented to it outside of a competitive bid process by a renewable energy system developer that is not affiliated with the electric provider. If the provider determines that such an unsolicited proposal provides opportunities that may not otherwise be available or commercially practical, the provider may enter into a contract with the developer. The contract is subject to review and approval by the commission under section 21.

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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.

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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.

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The Commission has reviewed the contract submitted by Detroit Edison pursuant to Act 295 and finds that the contract should be approved. The Commission finds that the REC contract price is less than what was approved in Detroit Edison's REP. The Commission also finds that the REC contract 13-year term is longer and the REC contract price is lower than the REC contract terms and prices resulting from Detroit Edison's last request for proposals for RECs. The Commission agrees to provide assurance that the full costs of the contract will be recoverable through the application of the renewable energy surcharges. The Commission also notes that the recent and expected continued growth in renewable energy has led to significant price reductions over the last couple of years, which may result in improvements in the availability of REC contracts with favorable prices and terms. The Commission expects that the improved availability of REC contracts with favorable prices and terms will lead to future REC contracts that have resulted from competitive bidding processes, as opposed to unsolicited bids. The Commission finds that *ex*

*parte* review and approval is appropriate, as the 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 intends to do a thorough, yet timely review of requests for contract approval in order 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:

A. The renewable energy credit purchase agreement between The Detroit Edison Company and Michigan Waste Energy, Inc. is approved as in compliance with Public Act 295 of 2008.

B. The Commission shall provide assurance that the full costs of the contract will be recoverable through the application of the renewable energy surcharges.

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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John D. Quackenbush, Chairman

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Orjiakor N. Isiogu, Commissioner

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Greg R. White, Commissioner

By its action of December 6, 2011.

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Mary Jo Kunkle, Executive Secretary