

S T A T E O F M I C H I G A N
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the application of)
DAGGETT ELECTRIC DEPARTMENT)
for approval of a renewable energy plan and) Case No. U-15856
energy optimization plan to comply with)
the requirements of Public Act 295 of 2008.)

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At the July 1, 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

ORDER

On October 21, 2008, the Commission opened a docket in this case addressing the regulatory issues created by the passage of Public Act 286 of 2008, an amendment to the “Customer Choice and Electricity Reliability Act,” 2000 PA 141, MCL 460.10 *et seq.*, and Public Act 295 of 2008, the “Clean, Renewable and Efficient Energy Act,” MCL 460.1001 *et seq.* (Act 295). In the order, the Commission required Daggett Electric Department (Daggett), a municipally-owned electric utility, to file with the Commission a plan for establishing a renewable energy program (REP) and energy optimization program (EOP). The plans were to be filed within 120 days after the Commission issued a temporary order pursuant to Section 191 of Act 295. The Commission issued a temporary order in Case No. U-15800 on December 4, 2008. Daggett’s REP and EOP were to be filed with the Commission by April 3, 2009.

On June 10, 2009, Daggett filed with the Commission an application for verification of compliance and request for waiver of the EOP standards. Daggett explained that it is a small municipally-owned electric utility located in the Upper Peninsula that, in 2007, served 170 customers, had annual revenues of \$116,000, and purchased 1,540 megawatt-hours (MWh) of electric power from Wisconsin Public Service Corporation (WPS Corp) through a “slice of system” formula rate.

In its application, Daggett stated that it plans to meet the renewable energy requirements of Act 295 by purchasing renewable energy credits (RECs) from WPS Corp, which fulfilled the requirement set forth in Section 25(2)(a) of Act 295¹. However, Daggett’s June 10 filing failed to address the requirements set forth in Section 25(2)(b)², (c)³, and (d)⁴ of the act.

With regard to its energy optimization plan, Daggett requested a waiver of compliance from Act 295 energy optimization requirements due to its small size. Daggett cited to Section 89(7)(a) of Act 295, which states that, in 2009, a provider shall not spend more than 0.75% of total retail sales revenues for 2007 to comply with the energy optimization performance standard without specific approval from the commission. According to Daggett, this equates to an \$870.00 limit.

¹MCL 460.1025(5)(a) states that the renewable energy plan for a municipally-owned electric utility shall “[d]escribe how the provider will meet the renewable energy standards.”

²MCL 460.1025(5)(b) states that the renewable energy plan for a municipally-owned electric utility shall “[s]pecify whether the number of megawatt hours of electricity used in the calculation of the renewable energy credit portfolio will be weather-normalized or based on the average number of megawatt hours of electricity sold by the electric provider annually during the previous 3 years to retail customers in this state. Once the commission determines that the proposed plan complies with this act, this option shall not be changed.”

³MCL 460.1025(5)(c) states that the renewable energy plan for a municipally-owned electric utility shall “[i]nclude the expected incremental cost of compliance with the renewable energy standards.”

⁴MCL 460.1025(5)(d) states that the renewable energy plan for a municipally-owned electric utility shall “[d]escribe the manner in which the provider will allocate costs.”

Daggett claims that it cannot develop and implement an energy optimization program within this limit and therefore, requests a waiver.

Counsel for Daggett was asked by the Commission Staff (Staff) to provide supplemental information. On June 29, 2009, Daggett filed an amended application for verification of plan compliance and request for waiver of the December 19, 2008 notification deadline. In its amended application, Daggett repeated that it plans to meet the renewable energy requirements of Act 295 by purchasing RECs from WPS Corp between 2012 and 2029. Daggett next stated that the costs incurred by WPS Corp to implement its renewable energy plan are built into the price of energy sold to Daggett, which are not expected to increase, which responds to MCL 460.1025(5)(c). Therefore, according to Daggett, it does not incur any additional costs by implementing its REP, which responds to MCL 1025(5)(d). Finally, Daggett states that it will not exceed the renewable energy surcharge caps. Unfortunately, nothing in Daggett's amended application addressed the election required in MCL 460.1025(5)(b), which requires the municipally-owned electric utility to make a binding determination of whether the number of megawatt hours of electricity used in the calculation of the renewable energy credit portfolio will be weather-normalized or based on the average number of megawatt hours of electricity sold by the electric provider annually during the previous 3 years to retail customers in this state, which is a deficiency that must be remedied before the Commission can make a final determination regarding Daggett's REP.

With regard to its EO plan, Daggett also acknowledges that it did not meet the December 19, 2008 deadline for notifying the Commission that it intended to pay a percentage of its total yearly utility sales to an independent energy optimization program administrator (administrator) selected by the Commission. Daggett requests that the Commission waive the deadline and permit Daggett to pay a percentage of its total yearly utility sales to the administrator selected by the Commission.

Daggett opines that the Commission may do so because the Commission has not yet selected an administrator.

Upon notification by the Commission, Daggett intends to pay the administrator \$870.00, an amount equal to 0.75% of its total yearly utility retail sales revenue for 2007. For the years 2010-2012, Daggett will pay to the administrator the amounts required pursuant to section 91(1)(b-d) of Act 295. These amounts will be recovered from customers via energy optimization surcharges on customer bills. Daggett claimed that it is not possible to determine the surcharge amounts until an administrator is selected. In addition, Daggett claimed that it will publish a notice of hearing soliciting comments on the plans as soon as an administrator is selected and an energy optimization plan is developed.

The Commission finds that Daggett's REP and EOP cannot be determined to be in compliance with Act 295 at this time. Section 25(7) of Act 295 provides that “[i]f the commission determines that a proposed plan or amendment under this section does not comply with this act, the commission shall explain in writing the reasons for its determination.”

With regard to the municipally-owned electric utility's REP, the Commission finds that Daggett must communicate to the Commission the election required by MCL 460.1025(5)(b) regarding whether the number of megawatt hours of electricity used in the calculation of the renewable energy credit portfolio will be weather-normalized or based on the average number of megawatt hours of electricity sold by the electric provider annually during the previous 3 years to retail customers in this state. Daggett shall make its determination and file a pleading within 30 days of the date of this order regarding the MCL 460.1025(5)(b) election.

With regard to the request in its June 10 filing for a waiver of its obligation to file an EO plan, the Commission finds this request should be denied as moot because Daggett's June 29 filing

contains an EO plan. In its June 29 filing Daggett expressed its desire to participate in the independent EO program authorized under MCL 460.1091. While Daggett's request to participate in the independent EO program authorized under MCL 460.1091 is untimely, the Staff is directed to accommodate Daggett's request if at all possible.

Finally, with regard to both the RE and EO plans submitted by Daggett, the Commission finds that neither plan may be approved until after an opportunity for public comment has been scheduled and has expired. Within 10 days of the date of this order, the Staff shall confirm with Daggett whether Daggett will provide an opportunity for public comment and file the comments with the Commission as allowed under MCL 460.1025(6), or whether the Commission will provide the required opportunity for public comment on the proposed plans required by MCL 460.1025(3).

THEREFORE, IT IS ORDERED that:

A. The final determination regarding whether Daggett Electric Department's renewable energy plan and energy optimization plan are consistent with 2008 PA 295 shall be withheld at this time.

B. Daggett Electric Department shall have 30 days from today's date to file a pleading indicating its election required by MCL 460.1025(5)(b) regarding whether the number of megawatt hours of electricity used in the calculation of the renewable energy credit portfolio will be weather-normalized or based on the average number of megawatt hours of electricity sold by the electric provider annually during the previous 3 years to retail customers in this state.

C. Within 10 days of the date of this order, the Commission Staff shall confirm with Daggett Electric Department whether Daggett Electric Department will provide an opportunity for public comment and file the comments with the Commission as allowed under MCL 460.1025(6), or

whether the Commission will provide the required opportunity for public comment on the proposed plans required by MCL 460.1025(3). In the event that Daggett Electric Department fails to respond to this inquiry in a timely manner, the Commission Staff is directed to provide the required notice of opportunity to comment without any further input from Daggett Electric Department.

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 July 1, 2009.

Mary Jo Kunkle, Executive Secretary