

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter of the application of)	
NEWBERRY WATER & LIGHT BOARD)	
for approval of a renewable energy plan and)	Case No. U-15873
energy optimization plan to comply with the)	
requirements of Public Act 295 of 2008.)	
_____)	

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 Newberry Water & Light Board (Newberry), 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.

On April 3, 2009, Newberry filed with the Commission an application for approval of its REP and EOP. On June 25, 2009, Newberry filed supplemental information in support of the application.

RENEWABLE ENERGY PLAN

Section 25(2) of Act 295 provides that a municipally-owned electric utility's proposed renewable energy plan must fulfill the following requirements: (1) the plan must describe how the municipally-owned electric utility will meet the renewable energy standards, (2) the plan must specify whether the number of megawatt-hours (MWh) used in the calculation of the renewable energy portfolio will be weather-normalized or based on the average number of MWh sold to Michigan retail customers annually during the previous three years, (3) the plan must include the expected incremental cost of compliance with the renewable energy standards, and (4) the plan must describe the manner in which the provider will allocate costs.

Newberry requested that Michigan Public Power Agency (MPPA) prepare its REP as part of a joint filing as permitted by Act 295 for municipalities with fewer than 15,000 customers. The joint filing includes 25 municipals.

Newberry proposes to begin purchasing renewable energy credits (RECs) by 2012 to meet the 10% goal by 2015. The primary source of RECs is Newberry's existing hydro electric generation power acquired under a purchased power agreement and RECs purchased from Newberry's wholesale supplier. Since Newberry had a contract to supply hydro electric power prior to the enactment of Act 295, there are no incremental costs or REP surcharges for this renewable energy. Newberry will have excess RECs to sell throughout the REP period. Newberry proposes to calculate the REC requirement using the average of the previous three years of electricity sold to its customers. Newberry does not anticipate an incremental cost of compliance and, therefore,

does not expect to implement a REP surcharge. Newberry will comply with Act 295 customer notification requirements in the event it incurs costs associated with its REP.

ENERGY OPTIMIZATION PLAN

Section 71(2) of Act 295 states that the overall goal of an energy optimization plan is to reduce the future costs of provider service to customers. Energy optimization plans shall be “designed to delay the need for constructing new electric generating facilities and thereby protect consumers from incurring the costs of such construction.”

The EOP must: (1) propose a set of programs that will meet energy savings targets established by Act 295; (2) include offerings for each customer class, including low income residential; (3) specify necessary funding levels; (4) propose cost recovery mechanisms that will allow recovery of EOP costs; (5) demonstrate that the energy optimization programs, excluding program offerings to low income residential customers, will be cost effective; and (6) provide for the practical and effective administration of the proposed programs.

Section 73(2) of Act 295 provides:

The commission shall not approve a proposed energy optimization plan unless the commission determines that the EO plan meets the utility system resource cost test and is reasonable and prudent. In determining whether the EO plan is reasonable and prudent, the commission shall review each element and consider whether it would reduce the future cost of service for the provider’s customers. In addition, the commission shall consider at least all of the following:

- (a) The specific changes in customers’ consumption patterns that the proposed EO plan is attempting to influence.
- (b) The cost and benefit analysis and other justification for specific programs and measures included in a proposed EO plan.
- (c) Whether the proposed EO plan is consistent with any long-range resource plan filed by the provider with the commission.
- (d) Whether the proposed EO plan will result in any unreasonable prejudice or disadvantage to any class of customers.
- (e) The extent to which the EO plan provides programs that are available, affordable, and useful to all customers.

In its application, Newberry provides a jointly-filed EOP showing Michigan's Upper Peninsula electric customers served by 12 municipals (20% of all customers), four cooperatives (17%), and five investor owner utilities (60%). The adjacent territories of 10 of the 12 municipals and four of the cooperatives create opportunities for developing common program offerings, which provide greater efficiency and customer value. To capitalize on this opportunity, the electric cooperatives (three of which are located in the Upper Peninsula) and 10 of the Upper Peninsula municipals will collaborate on EOPs.

Newberry's jointly-filed EOP, known as the Upper Peninsula Municipals Electric Utility Collaborative (UPM), includes 10 municipals: Village of Baraga (Case No. U-15848), City of Crystal Falls (Case No. U-15855), City of Escanaba (Case No. U-15860), City of Gladstone (Case No. U-15861), Village of L'Anse (Case No. U-15867), Marquette Board of Light and Power (Case No. U-15870), City of Negaunee (Case No. U-15872), Newberry Water & Light Board (Case No. U-15873), City of Norway Electric Department (Case No. U-15875), and City of Stephenson (Case No. U-15882). UPM's EOP extends through December 2011. Programs will be supported locally by the municipal utility with a common administrator providing overall program management.

UPM proposed a set of programs to meet energy savings targets and included offerings for each customer class, including low income residential. UPM specified necessary funding levels and proposed cost recovery mechanisms that will allow recovery of EOP costs. UPM demonstrated how the EOPs, excluding low income residential, will be cost effective and how the plan will provide for the practical and effective administration of the programs.

Section 25 of Act 295 requires the Commission to provide an opportunity for public comment on Newberry's renewable energy plan unless the governing body of the provider has already

provided an opportunity for public comment. Newberry held a public hearing on May 5, 2009 and provided an opportunity for comment on the REP and EOP. Three members of the public appeared and offered comments.

Section 73(1) of Act 295 states that a provider's energy optimization plan shall be filed, reviewed, and approved or rejected by the Commission and enforced subject to the same procedures that apply to a renewable energy plan.

The Commission Staff reviewed Newberry's application and recommends the Commission find that Newberry's REP and EOP comply with the requirements of Act 295.

Section 45(2) of Act 295 permits recovery of "the incremental cost of compliance with the renewable energy standards by an itemized charge on the customer's bill for billing periods beginning not earlier than 90 days after the commission determines under section 25 that the plan complies with this act." MCL 460.1045(2). With regard to energy optimization plan surcharges, the Commission previously indicated that "energy optimization plan costs may be recovered as soon as practicable after energy optimization plan approval. Beginning the surcharge as soon as possible will allow the costs to be spread over more months, which will lower the monthly surcharge amount." December 4, 2008 order, Case No. U-15800, p. 34.

THEREFORE, IT IS ORDERED that:

A. The renewable energy plan and energy optimization plan of Newberry Water & Light Board are approved as in compliance with Public Act 295 of 2008.

B. Newberry Water & Light Board shall file an annual report with the Commission describing the status of compliance with the requirements of Public Act 295 of 2008 by February 1, 2010, and annually thereafter until further order of the Commission.

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