STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter, on the Commission’s own motion regarding the filing of an application to implement the provisions of Public Act 169 of 2014; MCL 460.11(11) et seq., by INDIANA MICHIGAN POWER COMPANY. Case No. U-17698

At the September 11, 2014 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. John D. Quackenbush, Chairman
Hon. Greg R. White, Commissioner
Hon. Sally A. Talberg, Commissioner

ORDER

On June 17, 2014, Governor Rick Snyder signed Public Act 169 of 2014; MCL 460.11 et seq., (Act 169) into law. Act 169 provides that, within 180 days of its effective date, Indiana Michigan Power Company (I&M) shall file an application with the Commission “to modify the cost allocation methods and rate design methods used to set that utility’s existing rates.” MCL 460.11(11).2

1 Act 169 became effective on June 17, 2014. The 180th day following the effective date of Act 169 is December 14, 2014, a Sunday. By operation of law and by rule, the deadline is automatically extended until the next business day, which is Monday, December 15, 2014. See, MCL 8.6 and R 460.17115.

2 By this order, the Commission today identifies Case No. U-17698 as the docket to be used by I&M for the purpose of commencing the required cost of service investigation. The Commission notes that the Legislature explicitly limited the scope of the investigation in MCL 460.11(11).
I&M’s application is required to meet two conditions. First, I&M’s proposal must “[b]e consistent with the cost of providing service provisions of subsection (12).” Second, I&M’s application must “[e]xplore different methods for allocation of production, transmission, distribution, and customer-related costs and overall rate design, based on cost of service, that support affordable and competitive electric rates for all customer classes.” MCL 460.11(11)(b).

Although Act 169 does not explicitly indicate that the proceeding to be conducted by the Commission is to adhere to the contested case provisions of the Michigan Administrative Procedures Act, 1969 PA 306, MCL 24.201 et seq., there is little doubt that the Legislature intended that I&M’s application should be afforded contested case treatment. Because it is typical in all contested rate case applications for the utility to provide a copy of its proposed notice of hearing to the Commission’s Executive Secretary, the Commission finds that, not fewer than 30 days prior to the filing of its application, I&M shall provide a draft of its proposed notice of hearing for consideration by the Commission’s Executive Secretary. Immediately after the filing of its application, I&M shall provide notice to all of its electric customers that outlines the proposed cost allocation methods and rate design methods. I&M shall carry out the requirement to provide notice of its application by publishing, mailing, and/or otherwise making the approved

And, in MCL 460.11(10) the Legislature made clear that the extraordinary procedures contained in MCL 460.11(1) to (9) do not apply to this proceeding.

3 MCL 460.11(12) provides: “The commission shall approve rates equal to the cost of providing service to customers of electric utilities serving less than 1,000,000 retail customers in this state. The rates shall be approved by the commission in each utility’s first general rate case filed after passage of 2008 PA 286. If, in the judgment of the commission, the impact of imposing cost of service rates on customers of a utility would have a material impact, the commission may approve an order that implements those rates over a suitable number of years. The commission shall ensure that any impact on rates due to the cost of service requirement in this subsection is not more than 2.5% per year.”
notice of hearing available to persons and governments in its service territory in the same manner routinely required for the processing of a general rate case proceeding.

The Commission turns next to the issue of interventions. Rule 201 of the Commission’s Rules of Practice and Procedure, (R 460.17201) requires a potential intervenor to have an interest in the proceeding. Clearly, any organization representing a group of electric ratepayers should easily meet the “two-prong test” for determining standing that is routinely followed by the Commission, as enunciated in Association of Data Processing Service Organizations, Inc. v Camp, 397 US 150; 90 S Ct 827; 25 LEd 2d 184 (1970), which has been applied by the Commission on numerous occasions.

The Commission notes that the Commission’s analysis under Act 169 includes not only “[a]n analysis of rate impacts directly attributable to proposed cost allocation methods, not including expiring costs associated with non-base energy and non-base energy delivery that have, except for an expiring contract described in section 5 of the energy for economic development act of 2010, 2010 PA 297, MCL 460.995, specific statutory time durations,” but also “[a]n analysis of the expected impact overall on customer bills.” MCL 460.11(14).

THEREFORE, IT IS ORDERED that:

A. On or before December 15, 2014, Indiana Michigan Power Company shall file an application proposing modifications to the existing cost allocation methods and rate design methods that have been used to set existing rates that meet both of the conditions set forth in MCL 460.11(11)(a) and (b).

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The “two-prong test” requires a proposed party to show (1) that it will suffer an “injury in fact” and (2) that the interests allegedly damaged are within the “zone of interests” being protected or regulated. The Commission also has discretion to permit anyone to intervene if the Commission is persuaded that the intervenor will add something. Generally, the two-prong test excludes competitors.
B. Immediately after the filing of its application, Indiana Michigan Power Company shall provide notice to all of its electric customers outlining the proposed cost allocation methods and rate design methods. The notice shall be published, mailed, and/or otherwise distributed to customers in the same manner routinely required for the processing of a general rate case proceeding. At the initial prehearing conference, which is to be scheduled by the Commission’s Executive Secretary at a later date, Indiana Michigan Power Company shall provide proofs regarding its compliance with the noticing requirement.

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

MICHIGAN PUBLIC SERVICE COMMISSION

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John D. Quackenbush, Chairman

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Greg R. White, Commissioner

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Sally A. Talberg, Commissioner

By its action of September 11, 2014.

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Mary Jo Kunkle, Executive Secretary