STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter, on the Commission's Own Motion, to implement 2008 PA 295 through issuance of a temporary order as required by MCL 460.1191.

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TECHNICAL CONFERENCE - NO. 1

Proceedings held at the Michigan Public Service Commission, 6545 Mercantile Way, Room A, Lansing, Michigan, on Monday, January 5, 2009, at 9:00 a.m.

Presented by
Michigan Public Service Commission Staff
Paul Proudfoot, Director, Electric Reliability Division
ALJ James Rigas, Administrative Law Manager
Mary Jo Kunkle, Executive Secretary
Lansing, Michigan
Monday, January 5, 2009
At 9:05 a.m.

(Welcome and Introductory Remarks by Paul Proudfoot, Director, Electric Reliability Division; Case Scheduling and Process by James Rigas, Administrative Law Manager; E-Filing Process PowerPoint Presentation by Mary Jo Kunkle, Executive Secretary.)

MR. PROUDFOOT: We're having technical difficulties with the audiovisual portion of this adventure, so. Actually, it dumped everybody on the phone, so why don't we take about a five-minute break before -- can you guys get it going in five minutes? The phone lines worked before.

(At 9:23 a.m., there was a seven-minute recess.)

MR. PROUDFOOT: Start out with, Pat's going to put the question on the board, just the question, because I might change the answer. That's exciting for Rob and Tom. Speak up if I get it wrong, guys, O.K.

The No. 1 question, if a company's Renewable Energy Plan and Energy Optimization Plan are
filed in the same case, that is, the same docket number, can they be approved separately by the commission?

The answer to that, of course, is yes. We think the commission can successfully bifurcate the case and issue an order approving one plan or the other, unless in some manner the plans are so heavily intertwined that they can not be separated, but I don't think they will be.

Can people in the back see this or do we need to raise this projector a little bit? Can you see it? O.K. Kathy gave me the high sign.

O.K. Any clarification on that?

The staff recommends that the two plans be filed as two separate documents, even if that necessitates duplicating parts of the two documents. That will allow us to make it easier if we have to bifurcate the cases. Now, the statute I think allows you to file it either way, either together or separately.

O.K. On to Question 2. The Order on page 16, and this is a draft order the commission issued, 22 to 23, Attachment D, page 5, clarifies the type of contracts that the commission will require to be approved. Now, this is purchase contracts for renewable energy. It has been proposed to exclude any contracts with the value of less than $5 million so as to provide a
clear threshold for contract submittal and approval. The Order does not appear to include the proposed exclusion of contracts with the value of $5 million or less.

That's correct, the Order did not adopt the propose $5 million exclusion.

O.K. Then there's the next question: What is the expected duration of RPS reconciliation proceedings? The legislation appears to presume that reconciliation proceedings will be concluded within 90 days.

I don't think that's the case after we get a thorough review of the legislation. I think when the legislation talks about combining the plan update process, that has to be completed in 90 days, but I think the reconciliation is not limited to 90 days. And so those cases will probably not be held to the 90-day limit. I'm sure Jim is glad to hear that.

We're on to No. 4. When will the commission determine when the annual report, Section 51 that's in the statute, Section 51, and concurrently the renewable reconciliation proceeding is filed?

That question is concerning the date, I believe; and I think the commission has not made this decision yet, it will make it sometime in the future. As you file your plans, we'd welcome recommendations as far
as your particular company is concerned.

          Now the questions get harder. Contract Approval.

          Will the MPSC approval of contracts submitted in the case docket satisfy the capacity review requirements contained in Section 6j(13)(b) of PA 304?

          O.K. I can't wait to see the answer.  Now, staff, and we'll underline the word staff, meaning me and my expert staff, believes this is the intent of the legislation; but staff recommends that you request that approval when you file the contract. I guess that's all I can say. I mean this is a pretty heavy-duty legal question, and I'm sure it will probably have to be ironed out with further litigation. But when you file for contract approval, I'd ask that it be also approved for that portion of 304.

          Here's another interesting question that we actually hadn't thought of. You guys are really on the ball out there. And these are some old U numbers, too, when you actually get down into looking at the cases that generated them.

          Will the MPSC approval of contracts submitted in the RPS case docket satisfy the capacity RFP requirements issued in MPSC Cases No. U-12148 and U-12177? One of those is for Edison, one is for
Consumers.

Well, again, the staff, we'll underline staff, believes the new legislation supersedes these orders for the purposes of the RPS requirements for capacity solicitation. Staff expects the commission may revisit these orders in light of the new legislation.

Now, I don't know if this really impacts anybody outside of Consumers and Edison; I don't believe it does.

This might keep changing. Is this -- I'm not doing this, this is like spooks in here, I guess.

Now we get to questions about 2029, which, you know, I went to a New Year's Eve party and it was only '09, so anyway.

What compliance requirement should the company plan for in 2029 (i.e., full compliance or prorated) compliance?

Staff's going to opt for full compliance. This is a question that can be argued and discussed in your plan filing. If you believe when you look at the 20 years going out there that a prorated compliance would suit you better, then you're free to suggest that to the commission. I suspect when we reach that point -- I know at that point it won't matter to me, but as long as you keep those lights on in the nursing home.

People always ask me what my job is, and
I tell them my job is to make sure the lights are on when I'm in the nursing home. I get strange looks doing that.

O.K. Now we're going to talk about the surcharges, and this is a long-winded question. You know, some of you may recognize who wrote this question as I read it.

Regarding RE surcharges, Section 45 of PA 295 allows for the imposition of Renewable Energy surcharges on a "per meter" basis. By definition unmetered service does not involve a meter, and, therefore, can not be subject to any "per meter" surcharges.

Anyway, this is just a question about how the commission's going to and the providers are going to -- how the commission is going to suggest that the providers treat unmetered service.

Now, the commission talked about unmetered service in the draft order, and the implication there was unmetered customers would also be charged. They didn't go into much detail, and I'm not going to go any further out on the limb than I already am answering these questions. So I believe the decision about how unmetered customers are going to be handled is going to be left to the commission since they discussed it in the draft order, and as the individual providers file their
plans and suggest treatment, the commission will make its decision in the final plan cases. How's that for a nonanswer.

MR. STANTON: Paul, I need to ask you to stand closer to the phone. Apparently the phone is not --

MR. PROUDFOOT: I need to stand closer the phone. Can the court reporter hear me? That's the important part. O.K. I told you I wasn't a broadcaster earlier, so.

Now, the staff believes that in many cases the reason there isn't a meter is, we know the consumption because we can calculate the consumption because of -- well, for example, in streetlighting situations, the wattage of the streetlights and how long they're on and all the other stuff, that you can just do an engineering calculation to come up with the consumption. So our belief is probably we should charge the unmetered customers. That's just the staff's opinion. May even only be my opinion.

The next question involves -- actually, I think I'm going to skip this question because it's only pertinent to Consumers and Edison, and I think we answered it when we met with them a while ago. So I'm just going to skip that one. Besides, it's really long.
O.K. Here's another one of these 2029 questions that I just love. How long will the RPS surcharge be in place? 20 years starting in September '09 (i.e. through August 2029), or only during the 20-year compliance period ending June 1, 2029?

Now, the staff assumes, and this is subject to change by the commission as the plans are approved, the RPS surcharge will be recovered over a 20-year period starting with the first billing month of collection associated with an approved plan. First when you file your plans, you're going to have to discuss how you plan to implement the surcharge, because when the plan order comes out, the commission is going to have to authorize your surcharge.

Here's another one of these questions that, you know, I know this is really important, but something we didn't really think about when I was looking at the legislation until I got this question. Will the RPS surcharges be implemented on a bills-rendered or a service-rendered basis or should the electric provider include a proposal in its Renewable Energy Plan?

I think the providers are invited to make a proposal regarding this issue in their plans. I don't know, I could argue on either side of this question, because it being a surcharge on a per-meter basis, it's
not really for services rendered, it's more of a
bills-rendered issue, or I could come back and argue
that, well, everything should be on a services-rendered
charge.

O.K. Then now we're moving on to Avoided
Cost/Transfer Price/Life Cycle issues.

The individual's looking for
clarification on the use of the "ultra-supercritical
pulverized coal plant" as the facility for determining
the expected lifecycle cost of electricity generated by a
new conventional coal-fired facility.

This is what we've affectionately called
the hurdle rate. I think when the staff made a
recommendation to the commission to use the term
ultra-supercritical, I think I made an error, and it
should just be a supercritical pulverized coal plant.
But we'll clarify this during discussions with providers
in preparation for submitting the commission's, they call
it the guidepost rate, we affectionately call it the
hurdle rate.

Now we have a question about depreciation
scheduling for wind turbines. Based on the wind turbine
manufacturer's recommendation of a 20-year useful life
for wind turbines, we are assuming a 20-year depreciation
for wind turbines. Does the commission share this view
of a 20-year depreciation for wind turbines? If so, will
the commission issue an order establishing a 20-year
depreciation rate for wind turbines for the purposes of
the renewable plan filing?

Well, I'm not the commission, first of
all, so I'm not going to go that far out on a limb and
try and guess what they may do. I expect that the
commission will adopt a reasonable useful life for wind
turbines based on recommendations that the providers file
in their plans. I'm not going to hypothesize what it
might be. Personally, I think 20 years may be right in
the ballpark, and there certainly are better depreciation
experts out there than myself. So when you file the
plan, choose your number, make the recommendation, and
we'll go from there.

Well, this is another tough question; I
hope I'm not going to get myself in trouble with the
commissioners for answering it, but I probably will be.
The question concerns -- I'll just shorten it up -- the
way the RPS is structured, there's likely to be balances
left in the plant in service accounts associated with the
RPS plan that are being supported by the surcharges. You
know, the way it works, we kind of develop a pro forma
company that's supported by the surcharge revenue, and we
separate that out from the regular utility business.
Well, after the 20 years are up and the surcharge is
gone, there may be plant in service balances in the
accounts for the owned facilities.

At that point, I think I would recommend
that the provider apply to the commission in a general
rate case that those plant in service amounts be put into
the regular plant in service amounts and treat it just
like an existing power plant. Hopefully by then the
numbers will be, I expect the numbers will be relatively
small compared to the plant in service balance, and we're
probably talking about I suspect a nonissue, but that
would be my recommendation. Now, I can't speak for this
commission, and I can't speak for a commission 20 years
down the road about how they may treat that addition to
plant in service.

O.K. Determination of Transfer Price.
Will the setting of the transfer price by the MPSC in an
RPS reconciliation proceeding support the reasonableness
and prudence of that expense per Section 6j(12) of 304?

Actually, the person is asking if in the
RPS hearing we use the transfer price, which the
legislation is pretty clear, to move those expenses into
the PSCR, and I believe that is the case. Now again, in
the reconciliation proceeding, if I was a provider, I
would ask the commission at that point to make that
determination so there's no question, so we aren't, we
don't make the determination that it's a reasonable
transfer price in the RPS hearing and then get over into
the 304 hearing and have somebody suggest that it's not
and have to re-litigate it. I think the legislation is
pretty clear on this.

O.K. In Commission Order, in the draft
order -- you know, this is a complex question that I
hadn't anticipated. The commission says that the
transfer price of EPC contracts -- this is in the
implementing order -- contracts for Renewable Energy
systems that have been developed for third parties for
transfer of ownership will have a transfer price floor
established for the lifecycle of the project. The Order
goes on to further say that the provider-owned projects
will have transfer prices set in vintages.

I think the intent there is that when you
make the decision to build a certain facility based on
the transfer price revenue, that the transfer price
that's expected when you make that decision would become
the floor. Now, I guess I always expected that since the
transfer price is changed annually and is based on the
cost of building new, or running, building new power
plants, I always expect that the transfer price is
probably going to move upward into the future, so this
may again be a nonissue.

The Order is silent on what the transfer price should be for Renewable Energy systems developed by third parties that will not have an ownership transfer.

Now, I think the question is, should there be a floor established for the PPA side of the 50 percent; and the commission was well aware that there was another side and didn't set a floor, so I guess the -- and the PPAs use the lower of the price, they're going to be a known cost as we move into that activity, so I think the commission felt there was no need to put in a floor. So I guess the answer is no. But if you think you need that same treatment for a PPA, then I would suggest that you ask for it when you file the plan.

Now we're on to Renewable Energy Credits. PA 295 Section 35(1)(b) provides that with regard to the ownership of Renewable Energy Credits associated with energy obtained by an electric provider under a PURPA PPA, if a separate agreement is in effect on January 1, 2008, the separate agreement shall govern until January 1, 2013. Now, in some cases -- now the questioner states this, I find it hard to understand: In some cases those agreements do not identify the generator that originated the RECs. What level of proof that a separate agreement applies to energy generated under a PURPA agreement does
the commission expect electric providers to meet in its
Renewable Energy Plans?

Well, I think the staff thinks this is
something the provider and the generator are going to
have to work out among themselves, because the generator
originating the RECs must be identified for the RECs to
be certifiable.

PA 295 Section 41(4) requires the
commission to establish a Renewable Energy Certification
and Tracking Program. Please provide the commission's
timetable for establishing the certification and tracking
system. Will there be a fee for this service? Will the
providers include this fee in their proposed plans?

The commission hopes to establish this
certification tracking program as soon as possible.
We're working on, currently working on issuing an RFP,
and staff expects the certification and tracking system
to be ready by the time that plan implementation begins.
Certification and tracking fees are expected to be paid
by the generators. Typically the way these systems work,
the generator applies for certification, pays a pretty
small fee, gets their REC certified. The only other
charges are associated with transfer of the certificates
and the people transferring the certificates, individuals
transferring the certificates pay a small fee at that
time. Now, if the provider is going to own the
generation, I would expect the fees paid by the
generators would be included in the expenses in the
provider's proposed plan. And I think using some of the
existing systems that are out there, you can probably get
a good estimate, or as good an estimate as I could ever
give you.

Section 41(4) of PA 295 again requires
the commission to establish a Renewable Energy
Certification and Tracking Program. For RECs that result
from generation occurring prior to the time the Renewable
Energy Certification and Tracking Program is established,
what procedures are expected to be established to
retroactively certify and track those RECs?

I realize that's going to happen, and we
don't have a system currently for tracking them. I would
suggest that you keep sufficient records to identify the
number of RECs, you know, the amount of generation from
the facility, the identification of the facility, maybe
meter, you know, billing. If the facility is a PURPA
facility, you're going to have a billing document which
shows how many megawatt hours you received annually from
that facility, those type of records. Similar records
that you'd keep to recover expenses in the Act 304
process.
This is a really long question. Well, this is an interesting question, too, because it's asking for a technical interpretation of what would be considered a Renewable Energy resource. And when you actually look at the Act, the Act, when it talks about definition of Renewable Energy resource, includes the term "includes, but is not limited to". First it gives a definition of discussing what renewable means, then it has the term "includes, but is not limited to", and then it has a list of things.

I see plenty of lawyers in the audience that probably know what the term "includes but is not limited to" means in legislation. So I would look at the definition, and certainly things that are actually included in the list would be included. But I would say from this, where it says includes, but is not limited to, it could include other things that meet the definition that aren't specifically on the list.

The next question: There appear to be no alternative compliance payments for RECs. Therefore, is there no ceiling on the market price for RECs in the future?

That's correct, the Act does not set any ceiling on the market price of RECs.

O.K. We're on to question 400-6. Can
providers use existing Renewable Portfolios to meet Act 295 RPS requirements?

I believe they can, except for certain restrictions of large providers where they have to add a certain amount of new capacity over the term of the Act.

If so, can they be used for 100% of their needs, as long as the RECs are active and not expired?

I believe if you have existing renewable facilities that meet the requirements of the Act, because there are a number of other requirements, that they can be used to meet 100% of provider needs. Now, I don't think that works for Consumers and Edison, which have a buildout requirement in the Act; I believe they're the only ones that have a buildout requirement, though.

When coming up with our Providers Renewable Energy Portfolio and calculating the number of Renewable Energy Credits equal to the number of megawatt hours of electricity produced or obtained in the first-year period, can the provider count RECs that were sold to other parties as Green-e certified RECs?

No.

Can a provider count RECs that were used to provide service to customers in the provider Green Pricing Program?

The answer to that is no, too, because I
think the legislation is pretty specific; those RECs are already used.

Oh, good, a short question with a short answer. When should Michigan incentive RECs associated with Ludington pumped storage generation be accrued? When the off-peak period renewable energy is generated and the facility is pumped or when the facility ultimately generates?

I think you can count them up when the storage facility ultimately generates on the on-peak energy.

I don't know, I'm not sure if I understand this question. I hope my staff has the correct answer. For purposes of determining its RPS requirements for 2012 through 2015, should an electric provider include in its preexisting portfolio Advanced Cleaner Energy Credits that would have been transferred to it in the year prior to enactment of 295?

And the answer is no. It is the staff's understanding that Section 27(3)(a)(i) indicates only Renewable Energy Credits should be included and does not include any provision for substituting Advanced Renewable Energy Credits.

MR. STANTON: Should be Advanced Cleaner Energy Credits.
MR. PROUDFOOT: That's what I thought.

Advanced Cleaner Energy Credits.

Well, that's all the questions. Oh, we have more questions. Now we're moving on to Energy Optimization, where I found the questions even more difficult to answer. These are even questions that we got answers from our legal staff.

What procedures will be in place to ensure that any self-directed plan, that's self-directed Energy Optimization Plan, information submitted by a customer will be kept confidential as required under Section 93?

The Act actually exempts this information from FOIA. The staff will develop procedures to implement these provisions. Documents submitted to the executive secretary under this provision should be clearly indicated as such to prevent disclosure to anyone other than staff.

MS. KUNKLE: And, Paul, just for your information, that is addressed in our user manual. And basically what we do is indicate that it should be filed on either CD or DVD, and then a letter can be submitted indicating that that's being filed confidentially. What will happen is only the letter indicating the confidential material will appear on the commission's
website, there will be an entry indicating that
confidential documents have been filed that are not
available. They will then be secured in the executive
secretary's office.

MR. PROUDFOOT: There, that's a much
better answer than I had.

O.K. Section 93(4) of the Act states
that the commission shall, by order, provide a mechanism
for recovery of costs from certain customers for
provider-level review and evaluation, and for the cost of
Low Income Energy Optimization Program under Section 89.

When do you expect the commission to
issue that order?

Do you expect the commission to issue a
single order for all providers, or will the commission
issue a separate order for each provider?

Alternatively, is the commission
expecting the providers to propose mechanisms for
recovering these costs in their plans and the commission
will issue the required order when it approves the plan?

Well, again I'm going to go out on a
limb, remember, I'm not a commissioner: I believe we --
the staff expects separate orders for each provider, and
because of the -- you know, it's talking about shall
provide a mechanism for the recovery of costs. I don't
think it would be very -- I don't think it's very
workable to issue an overall mechanism. If it's recovery
of cost, it's going to be on an individual basis.

Staff believes that it is likely that the
commission will include cost recovery for these costs in
its order approving the provider's Energy Optimization
Plan.

Now, if a customer -- I think this is for
a self-directed customer. If the customer's electric
provider has chosen not to administer its own energy
optimization program and instead elects the alternative
compliance payment option under Section 91, should a
customer file its self-directed plan and status reports
with its electric provider, the state administrator, or
both?

I think for now let's go with both. It's
an interesting situation where we have both the provider,
we have the provider opt out and go with the state plan,
but then their customer opts to do it themselves; so I
really hadn't thought about that, but it's interesting.

If a provider chooses to comply using the
State Administered Plan, should the provider expect to
prorate the first year's alternative compliance payment,
or should they expect to pay the entire amount and
collect the entire year's requirement with a seven-month
or six-month surcharge?

Now, personally I think it would be more reasonable to prorate it, but the legislation doesn't mention prorating, and it is absolutely explicit as to the amount to be paid; so unless the commission makes some kind of determination that they want to use a proration methodology, I'm not going to go out on the limb. The legislation just is absolutely clear.

Providers may wish to petition the commission to begin collecting these amounts prior to the time when the state administered plan is finalized and approved. I suspect in order to start billing your customers, even if you're an opt-out utility, when you go to the state administered plan, you're still going to make charges to your customers. I believe you're going to have to get the commission's approval to do that, the commission is going to have to authorize you to make those charges; and I would suggest that anybody that wants to make those charges, because they're going with the state administered plan, should probably file a request to do so at the time that the other parties are filing their plans. I think that would be the best way to do it.

This is dealing with a state administered plan. How much input/control will the provider have with
respect to the state administered program, or will that
totally be set by the MPSC?

I think the current plan is to set up an
advisory board to help manage the state administered
plan. However, the state administrator, the person we
choose, the contractor we choose is responsible for
taking money and running the plan, so a lot will depend
on what the RFP says, and a lot will depend on decisions
that will be made by that contractor.

O.K. More surcharge questions. Will
self-directed customers of providers -- this question I
believe is for self-directed customers even though it
doesn't say so -- who elect to make the alternative
compliance payment under Section 91, and who are subject
to Section 91 Energy Optimization surcharge, be subject
to a separate surcharge for Low Income Energy
Optimization Program?

I believe they will be. So you've got
the utility opts with the state administrator plan, the
customer goes self-directed, and I believe a careful
reading of the legislation requires a payment by that
customer for the Low Income Energy Optimization Program.

Question 200-2. Since large customers do
not need to utilize the service of an Energy Optimization
service company under Section 93(4)(a), does the staff
agree that those customers will not be subject to the costs under subdivision (a) for provider level review and evaluation?

And I think the statute lets them avoid those costs. We're going to have to go back and look at that, because there's a division made at that point -- well, there's a couple of divisions: One is the really big customers are totally outside; and then we pick up the second, the B and the C class customers who need the services of the provider; and then when we get down into the, we look at it further, there's a division between the costs, the cost of low-income provisions and the cost for review and evaluation, so I don't think the large customers are subject to this, the A customers.

Will the self-directed customer be subject to Energy Optimization related costs other than provider-level review and evaluation costs for smaller self-directed customers and Low Income Energy Optimization Programs for self-directed customers of providers operating their own Energy Optimization Program? If so, please identify the costs.

Well, the answer is no, but they'll be responsible for the costs associated with their own self-directed plan.

We have another question regarding
proposed surcharge on unmetered electric customers, and I really can't answer that at this time. The commission discussed it in the draft order, and providers are invited to include proposals in their Energy Optimization Plan filings for dealing with this issue.

Will the utilities develop -- I guess it would be: Will the providers develop different EO surcharges for different types of unmetered electric uses? And it lists a bunch of uses.

And I guess I'm going to have to refer you to the answer I just gave you. I think the commission in the implementation order, draft order, asked the providers to make proposals regarding this issue.

For those types of unmetered electric customers whose electric usage is not subject to any Energy Optimization, is it understood that the appropriate surcharge should be zero?

No, I don't think that's -- that's not inherent in the legislation. I'm not sure what the commission's final decision on that will be, so for now, we're just going to say no.

Unmetered power service is unmetered because the amount of power used is too small to justify the cost of metering the energy usage. Given this fact,
is it understood that any EO surcharge that may be
imposed on unmetered service customers must be
substantially less than the surcharges imposed on other
types of customers who use far more electricity?

I don't believe that's a true statement.

Staff does not agree with the initial premise, and staff
expects EO surcharges for unmetered customers could be
based on and differentiated by usage.

Has any utility proposed any preliminary
estimates of the surcharges, if any, that the utility may
impose on unmetered service customers?

Not to my knowledge.

Please clarify with respect to using the
Independent Energy Optimization Program Administrator
regarding the revenue payments -- is the amount listed in
the statute, Section 91, a strict amount, or just a floor
and thus the provider could owe more?

As far as I can determine from the
statute, pretty clear, those are just fixed amounts.

Great, transportation. Page 32 of, I
believe this is referring to the commission's
implementation order regarding gas transportation
customers, Item 3, "Treatment of nonresidential gas
customers", in section XI, Energy Optimization Plan
Issues and Clarifications on page 31, conflicts with item
No. 8, "Definition of Natural Gas Retail Sales for an IOU".

I think the commission went back and clarified this, so there's no conflict. I believe there was a filing on Friday for a petition for reconsideration and/or rehearing and request for stay regarding transportation customers, so the answers I may give you concerning that may or may not be too reliable.

O.K. We're going on to state administered plan, and the question that everybody wants to know is: When will the state plan administrator be identified?

The commission is currently, commission staff is currently engaged in a request for proposal process to identify the state plan administrator. Staff expects the administrator will be identified not earlier than the second quarter of '09.

Next question: If a provider makes the alternative compliance payment under Section 91, is the state administrator then responsible for the Low Income Energy Optimization Program for that provider? Does the alternative compliance payment made under Section 91 cover the costs for the Low Income Energy Optimization Program?

O.K. Now this is the staff's
interpretation of that; being with the staff, I think it's probably correct. Staff believes that a strict interpretation of the Act requires the provider to pay the amount identified in Section 91. That's pretty clear. And at that point, the chosen administrator will do the low-income program. Self-directed customers will have to pay the low-income portion as specified in the Act, and they will effectively be reimbursing the provider for their share of the low-income program. That's about as clear as mud, isn't it.

Self-Directed Plans. I never knew this section would be so confusing when I first saw it. It looked pretty straightforward.

Section 93(1) states that a customer is not subject to certain Energy Optimization charges if the customer files with its electric provider a self-directed Energy Optimization Plan. If the customer's electric provider has chosen not to administer its own Energy Optimization Program and instead elects the alternative compliance payment under Section 91, what will be the role of the electric provider in accepting and/or reviewing the self-directed customer's plan and status reports?

I think this was kind of something that nobody thought about when they wrote the legislation.
Who will review and evaluate the self-directed plan, the electric provider, the state administrator, or both?

Who will be responsible for monitoring the customer's progress towards the goals in the plan, the electric provider, the state administrator, or both?

Can the state administrator reject a plan, or can only the provider reject a customer's self-directed Energy Optimization Plan?

Well, subject to further correction by the commission or the courts, the staff believes the state administrator will review and evaluate the self-directed plan. The state administrator will be responsible for monitoring the progress. For providers who opt to have the state administrator implement their Energy Optimization Program, the state administrator will function in the role of the provider for the purposes of subpart B, Energy Optimization. I believe that to be a workable situation, because when the provider makes, or when the utility makes the payment to the state administrator to take over their function, they probably should take over the whole function.

Here's a real short answer, so we'll move to this one. Section 93(5) requires a self-directed plan to be a multi-year plan. Can a self-directed customer's
plan be as short as two years?

   Yes, I believe so. I'm unable to find
any limitation on the length of the plans in the
commission order or the legislation.

   Section 93(8) permits a self-directed
customer to amend its plan. Does that include the
ability to amend the plan's term? Will a customer be
able to "opt out" of the self-directed plan option prior
to the end of its plan term? Can, for example, can the
customer self-administer a program for one year and then
choose to no longer self-administer? Can customers that
file a three-year Energy Optimization self-directed plan
change their mind? For example, after two years, can
they come back to the utility's program?

   Well, we're not aware of any prohibition
against amending the term of a self-directed plan. Since
the statute discusses amending the plan, gives the
self-directed customer the option of amending the
self-directed plan, I guess they'll be able to do that.

   Staff expects customers who will enter
into self-directed plans with the intent to meet the
goals of the Act, and that while a customer is engaged in
a self-directed plan, there will be regular, measurable
progress towards meeting the goals of the plan. However,
under the statute, customers may cancel a self-directed
plan prior to the end of its term. Customers who do
cancel a self-directed will become responsible for paying
their applicable provider surcharge.

Next question. Do customers that
self-direct need only achieve their target at sites where
they want to make an EO investment? In other words, they
don't have to do something at every location so long as
what they do at locations of their choice garner
sufficient savings to cover all sites.

Staff believes that as long as the Energy
Optimization goals are reached, the customer is free to
target Energy Optimization investments to any of the
customer's participating facilities. That would be part
of their initial plan. Let's say we plan to do this to
this plan and this other thing to this other plan and
maybe leave the third one alone, but we'll roll them all
together and we'll reach our savings goals.

Boy, this thing even has an end, we're
getting close.

How will the energy savings from
self-directed plans be measured? What will be the
procedures for normalizing for weather, production, and
other variances?

I think the intent of the Act is to allow
for this normalization activity, and there's a discussion
of normalizing for production variances and weather, but there's not a lot of detail. And I think as we go from one type of facility to another type of facility, that the methods for normalizing production would certainly be different. The methods used to normalize production for somebody like a tech in a mining operation may well be very well different than a normalization for a function of somebody like a major retailer. So I think we're going to have to kind of leave that one up to the actual person developing the self-directed plan to provide the normalization recommendations.

O.K. When counting energy savings for the EO targets and using a compact fluorescent lightbulb as an example, which saves 38 kilowatt hours per year and has a useful life of 9 years, do we take credit for 38 kilowatt hours each year for 9 years, or do we take credit for the 342 kilowatt hours in the first year?

Well, my staff says energy saving calculations will be addressed for measures including the Michigan Energy Savings Base. In this instance, the credit should be 38 kilowatt hours each year, not 342 kilowatt hours in the first year.

Required biennial 2000-2009 energy savings (0.3%) are to be measured against an '07 baseline. Will Energy Optimization incentives undertaken
in '07 or '08 be allowed in an '09 Optimization Plan, either self-directed or otherwise?

O.K. Staff tells me the Act covers only measures installed after enactment, but providers may consider self-directed programs which could include measures prior to that time that provide long-term energy savings. See Section 93(5)(b) in 295.

Under Section 77(2) in 295, providers are able to take advantage of load management to achieve energy savings. What credit is given in a self-directed Energy Optimization Plan for demand shaving and/or load management activities?

Customers with self-directed plans will be eligible to calculate load management credits using the same methodology as providers. I actually don't think you get much credit for a load management activity, I think you only get a credit for it when it actually conserves kilowatt hours.

O.K. If a customer runs a self-directed program and, in a given year, achieves greater savings than required by legislation (i.e.: greater than 0.3% in 2009), is credit given for the additional savings? Can savings greater than required in a given year be carried forward for credit on a future year's obligation? If so, what percentage, and how many years? Is any other
"offset" contemplated?

This is just too complicated a question to stand up here and hypothesize on, so this determination must be based on the specific measures identified in a customer's self-directed plan. So you're going to have to get right into the plan before you can make this determination.

O.K. Can a provider carry over excess natural gas savings? Only megawatt hour savings, not Mcfs, create EO credits, and only EO credits may be carried forward.

I think they're only going to be able to carry forward the megawatt hour savings.

Only two more questions. Nobody filled out any cards, right?

MS. HANNEMAN: No, we have one.

MR. PROUDFOOT: Throw that away, Jan.

MS. HANNEMAN: Actually, the first part of it was already answered. Do you want the question?

MR. PROUDFOOT: I'm just kidding.

MS. HANNEMAN: Do you want me to read the question?

MR. PROUDFOOT: No. I'm going to finish these two. I knew if I said something, there would be additional questions.
Page 29 regarding the Michigan Energy Savings Database - "The Commission" -- page 29 refers to the commission's implementation order. "The Commission directs the providers to work with the Staff to establish a link with the MPSC website where posted savings values can be viewed within 30 days after the database becomes operational." Please define operational.

Staff defines operational -- I'm glad my staff are on the ball -- to mean when the database is up and running and can be made available to the public via the internet, and that will be sometime in the future.

Page 40 -- this is again referring to the implementation order -- regarding low income residential customers - "MPSC expects creative/focused efforts to target Energy Optimization program services to distinct subsets of low income population, which may entail different services." Are there any existing low income energy optimization programs in other states that could be cited as examples?

Of course. Staff is aware of comparative analysis of Low Income Energy Optimization Programs completed by the American Council for an Energy Efficient Economy and the Low Income Heating Efficiency Assistance Program, Clearinghouse of the Natural Center for Appropriate Technology. Staff recommends that providers
and interested parties review these sources for
information, as staff invites all interested parties to
share additional references of the examples of best
practice.

At this point, this concludes the
questions we received in advance for Technical Conference
No. 1. Why don't we take a five-minute break while we
organize the questions. Why don't we take a ten-minute
break; we'll reconvene at quarter to. Thanks, everybody.
And if you have additional questions, now is the time to
write them down.

(At 10:35 a.m., a 20-minute recess was taken.)

- - -

MR. PROUDFOOT: Well, I guess we'll just
dive into this. Janet, have you got this organized?
Give me an easy one.

MS. HANNEMAN: The first one that's
neither -- it's both.

MR. PROUDFOOT: Questions concerning the
Act will continue to arise. A formal process for asking
and answering questions would be helpful. Maybe a list
serve or list server?

Yes. We had, I think we first started
out, we met with everybody and tried to get organized and
answer questions. Then we had the Commission answer all
our questions in the implementation order, and now we're
having the two technical quorums. But I think on an
on-going basis we need to establish some kind of system
for taking questions and answering them.

Something easier than that, Janet.

MS. HANNEMAN: Here are three.

MR. PROUDFOOT: O.K. (Reading) When
will the Commission establish the prices (sic) for
certification and compliance -- verification of credits
for Advanced Cleaner Energy Systems? Establish the --
Rodger, is it establish the process?

MR. KERSHNER: Yes, a process.

MR. PROUDFOOT: Oh, I saw prices. It's
the process.

That's part of hiring a contractor to do
the whole REC certification thing. We hope to do the
same. So we're working on that currently. But we hope
to do that kind of as a packet.

MR. KERSHNER: Manana.

MR. PROUDFOOT: Right, soon as I get out
of here.

Can a utility assume all EOS reductions
affect non-renewal energy, or are EOS reductions assumed
to reduce Renewable Energy currently available and
provided to customers?
I don't know if I understand the question. Do you understand the question, Tom or Rob?

MR. STANTON: Yes, I think I do. The EO reductions are reductions to sales, and then the question is: Do we pretend that all of the sales will also reduce fossil fuel with renewable percentage greater? I think the way it gets calculated, you have to calculate what got generated, and percentage of renewables will go up and the EO goes down.

MR. PROUDFOOT: O.K. I understand. So the issue is: As we save energy does the Renewable Energy become a larger portion of our existing portfolio and thus allow us to meet the standard? Is that the question? That's the question.

Well, it senses a percentage standard. I really don't know how it would work any other way. If the economy in the state keeps declining, we may meet our standard without -- that's another issue. O.K.

Question. If electricity is provided to an end user pursuant to a long-term fixed price contract, is it nonetheless permissible to charge the customer for the cost to implement the Renewable Energy Plan?

Well, if the customer has meters, the customer is going to get charged, I would assume. I mean the statute requires the provider to implement a per
meter surcharge. I suppose if the provider in its plan suggested that that wouldn't be -- it wouldn't be appropriate to charge a particular customer the per meter surcharge, they better suggest that in their plan, and then the Commission can make that decision at that point.

Question. The question is: When are customers required to elect self-directed treatment under Section 93(1) in 2009? I'm going to turn to Rob for this. Is this the answer you put on here?

MR. OZAR: Yes.

MR. PROUDFOOT: Oh, that's great. It's got the answer. January 15, notice of intent; January 30 they need to submit the plan to the provider. That's page 36 in the Commission's implementation order.

MR. OZAR: Yes.

MR. PROUDFOOT: Good.

Somebody with very neat handwriting asked: Self-directed plans are required to be submitted by January 30. However, the State Administrator is not expected to be identified until second quarter 2009. If the provider has chosen the State EO Administrator, who does the customer submit the self-directed plan to?

I guess you're going to have to submit it to the provider. I would probably suggest you submit it to us, too, then we can pass it on to the State
Administrator when they're chosen.

In a self-directed plan option, what about new facilities? Would/could code be considered baseline usage?

That's an interesting question. I think we're going to have to think about that one some more.
If you build a new facility and you build it to best standards available, how do you start saving something? So that's a good question. I don't know if the statute had considered that. Do you have any thoughts, Rob?

ROB OZAR: No, I'm not sure. That's a difficult one. I think a plant closing is pretty easy, I think you would adjust the base. But on a new facility, I don't have an answer to that one.

MR. PROUDFOOT: Rob is going to work on it. O.K. You close, you adjust the baseline.

Will verification be simple usage or actual implementation of measures?

I think we'd prefer that the verification be actual implementation of measures. Is that the right answer, Rob?

MR. OZAR: Yes. Again that's a difficult one, too. We don't want to be sending someone from the staff out to do an audit per se, but we'll need some sort of independent verification. We haven't determined
exactly what that will consist of.

MR. PROUDFOOT: I mean you could verify
the actual implementation measures. I mean, if a
self-directed customer sent us receipts for installation
of equipment, that then would be a way to verify; is that
right?

MR. OZAR: That's correct.

MR. PROUDFOOT: Tom says he wants it to
be digital notice. Ron's in Energy Optimization. Of
course it might be easier if you just take a cell phone,
like my kids do, take it out and take pictures of
everything. They send out everything to their mom all
the time, too. "Dad drives terrible" is the theory now
with my children.

When will self-direct customers know low
income charges? When will self-direct customers know
what the low income charges will be?

After the provider provides and gets
approved plans I think is probably the answer to that.

Do we have another one?

O.K. Section 45(5)(c), I see that's of
295, can staff provide insight on how savings from Energy
Optimization programs should be calculated to be shown on
a customer's bill? Does this use generic coal plant as a
comparison?
I think the Commission ordered this in the Implementation Order. So you can go back and -- but we will be providing the transfer rate and the hurdle rate numbers. What's the date we're providing those on to the Commission?

ROB OZAR: About the 30th.

MR. PROUDFOOT: So those numbers will be available.

MS. HANNEMAN: That's it.

MR. PROUDFOOT: That's it. O.K. Are there any general questions from the audience? Anybody? Public hearing, does anybody want to make any comments? Oh, no.

DAVE MARVIN: A simple question. Tomorrow there is another technical conference. Will you go over the same questions again with a different audience?

MR. PROUDFOOT: The question was: Tomorrow is another technical conference, will I cover all the questions again for the audience? The answer is no. We divided the questions up. So we'll go over some of the questions, some additional questions that are more pertinent to the other group. That's correct, Tom?

MS. HANNEMAN: It will be going to all the questions that came from the other group, even if
they were covered today. So there will be a little bit of redundancy.

MR. PROUDFOOT: There'll be a little redundancy. See, you asked questions and the other group asked questions, and we're going to answer their questions. If they're the same question, maybe we'll give a different answer but -- no, we won't.

Yes, sir?

MR. BLACK: Follow-up question on timetable and if a customer does not elect to self-direct their Energy Optimization yet more facts are known and utilities file and receive approval for their plans over the next few months, is there then another window to elect a self-direct plan for the customer at that time? And then Part B is: Would future years follow the same calendar?

MR. PROUDFOOT: I guess I really don't know. I think as far as the statute is concerned, self-directed customers, if they meet the qualification, can come up with their own plan and opt out sometime in the future. And certainly that's anticipated by the statute. Because as we go on in time, more and more customers are eligible for the opt out or self -- not opt out, but the self-direct plan. They're not opting out of energy efficiency, they're just deciding, well, I have my
own plan. And I think we understand that a lot of
commercial entities have their own Energy Optimization
plan. So we're trying not to be real hard and fast about
this issue. But I think we'll probably see some more
time schedules as we move along on this issue, wouldn't
you think, Rob?

MR. OZAR: Yes. We'll be having more
information as go on. I think maybe the best thing to do
is, if you're not quite sure, you don't feel you have
sufficient information to make a solid decision on self
directing, would be to go ahead and file. But you --
because you can always amend it. I think that was one of
the questions that was posed earlier.

MR. PROUDFOOT: O.K. We had two people
from the audience and we need to identify them. First we
had -- tell us who you're representing.

DAVE MARVIN: Well, I'm Dave Marvin. I'm
just curious about what is going to happen tomorrow on
behalf of any number of people.

MR. PROUDFOOT: O.K. And?

DAN BLACK: I'm Dan Black for Delta
Energy.

MR. PROUDFOOT: Way in the back.

MR. PATTERSON: Paul, we're supposed to
provide our customers with an application today. Has
staff updated the template at all that was in Commission's Order?

MS. POLI: It's posted on the Electricity Spotlight.

MR. PROUDFOOT: Thank you, Pat. That's one thing I have learned, Ronan. Pat usually knows more about what's going on than I do. O.K. That was the question. This is draft only.

MS. POLI: Right, and we posted it.

MR. PROUDFOOT: Identify who you are and who you're representing.

JIM AULD: Jim Auld with MECA. Are the written questions as displayed on the board going to be incorporated in the transcript today?

MR. PROUDFOOT: Yes. The court reporter already collected them from me, so she's on the ball. Anybody else? Well, I'd like to thank everybody.

MR. STANTON: Let me check to see if anything came in on chat.

MR. PROUDFOOT: That's right, we have a chat group.

MR. STANTON: No, nothing new on the phone. So either we disconnected them or they don't have any questions. Well, one comment is they're going to have to see the transcript because it was hard to hear
earlier. They'll wait to see the transcript before they
know how to submit their future questions.

MR. PROUDFOOT: Oh.

MR. SCHNEIDEWIND: Tell us how we get the
transcript.

MR. PROUDFOOT: Well, the current -- The
question was: The transcript will be available in five
days, and we will post that on our website.

MS. POLI: We do have the answer already
prepared if you want to do that quickly.

MR. PROUDFOOT: I'd rather do the
transcript. I'd like to thank everybody. It'll be
posted in the docket after five business days. And we'll
probably post it on wherever we've been posting stuff.

O.K. I want to thank everybody for
coming today. Make sure you did sign in, got your name
on the sign-in sheet. We know you're working really hard
to put these plans together, and staff is available to
try and answers your questions. I know this is difficult
legislation to interpret. Nuances have sprung up that
have surprised me, so. Anyway, thanks everybody, for
coming.

(At 11:15 a.m., the conference was adjourned.)
CERTIFICATE

We, Marie T. Schroeder and Lori Anne Penn, Certified Shorthand Reporters, do hereby certify that we reported in stenotype the technical conference had in the above-entitled matter, that being Case No. U-15800, before the Michigan Public Service Commission Staff, at 6545 Mercantile Way, Lansing, Michigan, on Monday, January 5, 2009; and do further certify that the foregoing transcript, consisting of 48 pages, constitutes a true and correct transcript of our stenotype notes.

Marie T. Schroeder, CSR-2183

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Dated:  January 9, 2009