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STATE OF MICHIGAN

UTILITY CONSUMER PARTICIPATION BOARD

- - -

MEETING OF MONDAY, FEBRUARY 6, 2017

12:40 P.M.

611 West Ottawa, 4th Floor
Lansing, Michigan

- - -

PRESENT: James MacInnes, Chairperson
Paul Isely, Board Member
Susan Licata Haroutunian, Board Member
Sam Passmore, Board Member
Brian Vilmont, Board Member
John Liskey, Citizens Against Rate Excess (CARE)
Douglas Jester, MEC and CARE
Kelly Kitchen, CARE
Christopher Bzdok, Michigan Environmental
Council (MEC)
T. J. Andrews, (MEC)
Don Keskey, Great Lakes Renewable Energy
Association (GLREA) and Residential
Customer Group (RCG)
Brian Coyer, GLREA and RCG
Bill Peloquin, RCG
Lori Ebaugh, RCG
Jeanine Deal, RCG
Michael Moody, Assistant Attorney General
Joel King, Assistant Attorney General
Shawn Worden, LARA
Leann Droste, LARA
Ed Haroutunian, Member of the Public
Jim Ault, Michigan Electric & Gas Association
Theresa Staley, Miller Canfield Paddock & Stone

- - -

REPORTED BY: Lori Anne Penn, CSR-1315
33231 Grand River Avenue
Farmington, Michigan 48336

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Lansing, Michigan

Monday, February 6, 2017

At 12:40 p.m.

- - -

MR. MacINNES: Welcome to our February 6 meeting. We have a robust agenda today. I'd like to go ahead and start with everyone going around and introducing themselves. And Paul, do you want to start.

MR. ISELY: I'll start. Paul Isely from Grand Rapids area, and member of the board.

MR. PASSMORE: Sam Passmore, also a member of the board, new, my second meeting.

MS. HAROUTUNIAN: Susan Licata Haroutunian, member and resident ratepayer.

MR. JESTER: Douglas Jester of 5 Lakes Energy on behalf of CARE.

MR. LISKEY: John Liskey on behalf of CARE.

MR. MOODY: Michael Moody on behalf of the Attorney General's office.

MR. KING: Joel King on behalf of the Attorney General's office.

MR. BZDOK: Chris Bzdok on behalf of the Michigan Environmental Council.

MS. ANDREWS: T. J. Andrews, also on Metro Court Reporters, Inc. 248.360.8865

1 behalf the Michigan Environmental Council.

2 MR. KESKEY: Don Keskey on behalf of the
3 Residential Customer Group and also Great Lakes Renewable
4 Energy Association.

5 MR. COYER: Brian Coyer on behalf of
6 those same two organizations.

7 MR. PELOQUIN: Bill Peloquin on behalf of
8 the Residential Ratepayers, Customers.

9 MS. WORDEN: Shawn Worden on behalf of
10 LARA.

11 MR. VILMONT: Brian Vilmont, again, board
12 member.

13 MS. KITCHEN: Kelly Kitchen, president of
14 CARE.

15 MS. DEAL: Jeanine Deal, Residential
16 Customer Group.

17 MS. EBAUGH: Lori Ebaugh, Residential
18 Customer Group.

19 MR AULT: Jim Ault, Michigan Electric &
20 Gas Association.

21 MS. STALEY: Theresa Staley, Miller
22 Canfield.

23 MR. HAROUTUNIAN: Ed Haroutunian,
24 Detroit.

25 MS. DROSTE: LeAnn Droste, Finance and
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1 Administrative Services.

2 MR. MacINNES: Okay. Well, welcome,
3 everyone.

4 I'd like to start with the approval of
5 the agenda here, including the consent items, unless
6 there are any modifications to the agenda; if anyone
7 wants to bring that up, it's a good time.

8 MR. VILMONT: I'll make a motion to
9 approve the agenda, including consent items.

10 MR. MacINNES: We have to speak to this
11 lady, you have to speak up and slowly, so that she can
12 get all the notes. A tough job, no doubt.

13 We have a motion to approve the agenda,
14 including the consent items. Do we have a second?

15 MS. HAROUTUNIAN: Second.

16 MR. MacINNES: Is there any discussion?
17 All those in favor, please say aye.

18 BOARD MEMBERS: Aye.

19 MR. MacINNES: Opposed, same sign.

20 Okay. We'll start with the business
21 items. Probably the first item of business is to
22 understand how much money we have available, and so we'd
23 like to hear from LARA on our UCPB budget.

24 MS. WORDEN: The packet that I brought in
25 today is different from what was --

1 MR. MacINNES: Is that up there?

2 MS. WORDEN: Yes.

3 MR. MacINNES: Okay. I'll get a copy of
4 that.

5 MS. WORDEN: It's just updated with
6 payments that have been made. You can have mine, Jim.

7 MR. MacINNES: Have you got an extra one?

8 MS. WORDEN: I don't have an extra one,
9 but you can have mine.

10 MR. MacINNES: Well, I'll look at Paul's
11 here, that's fine.

12 MS. DROSTE: I can make copies.

13 MR. MacINNES: Okay.

14 MS. WORDEN: He can have that one, I'm
15 done.

16 MR. MacINNES: You want to take us
17 through it.

18 Susan, do you need a copy?

19 MS. HAROUTUNIAN: Yes. Thank you.

20 MR. COYER: You're welcome.

21 MS. WORDEN: The only thing different
22 from the last meeting was a purchase order from CARE, or
23 a grant that was closed out, so that brought back 14,900
24 back to your funds.

25 MR. MacINNES: Okay. And Chris, you had
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1 mentioned in your update that you were going to be
2 returning some money.

3 MR. BZDOK: Yes.

4 MR. MacINNES: Is that in this?

5 MR. BZDOK: I doubt it, because it's a
6 commitment that we've indicated to the board is going to
7 happen, but it's not at a point yet of the expiration of
8 those; the expiration of those is coming, and so they
9 will be closed out at those amounts, but it hasn't
10 happened yet.

11 MR. MacINNES: And when do you think that
12 will be?

13 MR. BZDOK: End of March.

14 MR. MacINNES: End of March. Okay. And
15 that was, what is it, 10,000 or something like that?

16 MR. BZDOK: 10,700 and change.

17 MR. MacINNES: Okay. So potentially --
18 are you very confident that will be --

19 MR. BZDOK: That's an absolute binding,
20 unequivocal commitment.

21 MR. MacINNES: Okay. I like those kind.
22 I don't hear very many of those. Okay. But it's not in
23 what's shown here?

24 MS. WORDEN: Correct.

25 MR. BZDOK: The discussion a couple

1 meetings ago was that we would indicate to LARA when we
2 were prepared to do that, and we will do that, which will
3 be on the timing I just stated. We just wanted to let
4 you know, because we're asking for some other money for
5 some other things, that we would be doing that, but we've
6 not yet made that communication to LARA.

7 MR. MacINNES: Okay. So we have 240,000
8 available?

9 MS. WORDEN: Yes.

10 MR. MacINNES: Does anyone else have any
11 money that they'll be -- that they won't be using that
12 will go into the kitty? No? I'm not hearing a large
13 group of people stepping up here. Okay. Any questions
14 from the board on this, 240,000 plus the 10.7 K which
15 will become available in March?

16 Okay. Thank you. Very helpful to have
17 you do this for us.

18 MS. WORDEN: Okay. That's good.

19 MR. MacINNES: Okay. Well, let's move
20 into the other business items. The Michigan
21 Environmental Council. Now, Chris Bzdok sent out this
22 letter January 19, which I received. I don't know, Sam,
23 you didn't receive it?

24 MR. PASSMORE: No.

25 MR. MacINNES: Paul, you didn't receive
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1 it. Did you receive this?

2 MR. VILMONT: I was looking for that one,
3 I did not see it.

4 MR. MacINNES: No. Okay. So LeAnn, I
5 think this went to your office and it didn't get
6 distributed apparently. Have you seen this?

7 MS. DROSTE: It was not distributed to
8 the board with your meeting?

9 MR. MacINNES: I got it, and I don't know
10 whether it's because maybe you sent me a copy directly.
11 But here.

12 MS. DROSTE: Yeah, I have it in my
13 packet. This was I thought the packet to the board.

14 MR. MacINNES: Apparently --

15 MS. DROSTE: Would you like copies?

16 MR. MacINNES: That would be great.

17 Susan, did you get it?

18 MS. HAROUTUNIAN: No, I didn't get it
19 either.

20 MR. MacINNES: Okay. So I'm the only one
21 that got it. So we'll get copies here real quick. That
22 will kind of handicap everyone.

23 Chris, do you want to go ahead and maybe
24 you could take us through it. The case status, would
25 that be best handled in the report section below?

1 MR. BZDOK: I'm happy to go over
2 highlights from the case status report in the grantee
3 reporting. I mean we always encourage board members to
4 peruse that at their leisure.

5 MR. MacINNES: Right. So that would be
6 under Item III maybe.

7 MR. BZDOK: But I'm happy to touch on
8 some of that stuff in the grantee reports.

9 MR. MacINNES: Yeah, okay. So why don't
10 we go ahead and look for the -- or look at the grant
11 amendment requests, then, which is your Item II to start
12 with.

13 MR. BZDOK: Okay.

14 MR. MacINNES: So what we're going to do
15 is we're going to look at requests, we're going to find
16 out which cases they relate to, we're going to find out
17 how much they are, we're going to add them up, Paul's
18 going to help with that, and so we know what we're
19 looking at.

20 So Chris, take it away.

21 MR. BZDOK: Thank you. So we have three
22 requests in front of the board, I will just -- I will
23 proceed through each of them unless you steer me in some
24 other direction.

25 The first of these, which is Grant
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1 Amendment Request No. 2, is a request for starter budgets
2 for the Consumers Energy and DTE Electric PSCR
3 reconciliation cases for 2016 which will be filed
4 March 30 of 2017. We had indicated to the board in prior
5 meetings when you were having discussions about
6 potentially what was on the horizon that we anticipated
7 coming back to you with requests for those PSCR
8 reconciliation cases that were of a level comparable to
9 what we requested and the board funded last year, which
10 was about a hundred thousand in total for both cases.

11 Let me just pause for a second and
12 indicate to the board that T. J. Andrews, who is my
13 colleague, we work together on these cases, you approved
14 her back in April I believe of last year, is also here
15 with me today, and so I apologize for neglecting to
16 mention that.

17 However, with the new legislation which
18 has expanded the scope of the board's funding authority,
19 it's our inclination at this time that we are most likely
20 going to have the position that the PSCR reconciliation
21 money, there may well be uses for it yet this fiscal year
22 that are of higher priority. The PSCR reconciliations
23 are important and the Commission has placed increased
24 emphasis on them in the plan cases where they say, well,
25 you have a good point here, but really we need to see how

1 that works out in terms of actual costs in the
2 reconciliation, so there is a significant importance to
3 them, however, with the broadening of the scope to
4 include certificate of necessity IRP cases, I know that
5 one of those is on CARE's radar screen, I know that up in
6 the U.P. I know that that's coming, I know that one is,
7 DTE we're expecting one yet this fiscal year that's on
8 our radar screen, you know, there are just -- there are
9 other things that are going on that may have a higher
10 priority; and so what we are proposing to do, rather than
11 what we had indicated to you in prior meetings, is to
12 simply start with a starter budget on these cases.

13 The starter budget on each case is about
14 \$4,500. And the purpose of that starter budget is to
15 give us a budget of 15 hours of legal and 10 hours of
16 expert time to have a close look at those filings and
17 perhaps do a round of discovery and intervene in them.
18 If we decide not, that there's really nothing that we
19 want to pursue, we may not use the entirety of those
20 starter budgets. But what we don't want to do is get
21 into a situation, for example, the last PSCR
22 reconciliation, we had talked about Consumers seeking
23 recovery of litigation costs for a surface transportation
24 board case, that was totally unexpected, nobody knew that
25 was coming, we wouldn't want to miss something like that,

1 so really it's -- we believe these cases are important.
2 We know the Attorney General is going to be in these
3 cases, or I would anticipate that they would. Unless
4 there's some other reason, we're probably going to forego
5 them, but we at least want to do sufficient upfront sort
6 of due diligence, and so we feel that the 4,500, that the
7 15 hours of legal and 10 hours of expert, is more than is
8 necessary to do that evaluation, but if we were going to
9 then move forward on a case, we would want to have enough
10 budget to continue the process, you know, moving, so
11 that's really the reason for that, that proposed number
12 on those cases. So if we don't need it, we'll give it
13 back.

14 MR. MacINNES: So Chris, just for
15 clarification, in order to do the PSCR reconciliation
16 case, you need to be in the original case?

17 MR. BZDOK: We would anticipate
18 potential -- you don't need to be in the plan case --

19 MR. MacINNES: The plan case, yes.

20 MR. BZDOK: -- it's helpful if you're in
21 the plan case, and we will oftentimes more recently get
22 decisions from the Commission that say you have a good
23 point here, but go deal with it in the reconciliation.

24 I'm not telling you sitting here today I know, because I
25 don't have orders -- well, I have an order in the

1 Consumers plan case -- I have orders in both plan cases.
2 We're not anticipating anything like that based on the
3 orders in the plan cases we have seen, but we don't want
4 to let anything fall by the wayside either. So that's
5 the idea. We're proposing a strategic shift for the rest
6 of this fiscal year away from the reconciliations to try
7 to free up money for some of these broadened scope needs
8 to be determined by the board, but we don't want to
9 neglect them entirely, so we want to do at least that
10 initial, and that's that proposal in its entirety.

11 MR. MacINNES: That's a good idea. I
12 like that.

13 MR. BZDOK: Shall I continue the next
14 request?

15 MR. MacINNES: Uh-huh.

16 MR. BZDOK: The next request is a request
17 for additional legal resources for the Consumers 2015
18 PSCR reconciliation case, which is 17678-R. This is not
19 a transfer request, because a transfer request would not
20 be possible because these cases straddle the fiscal
21 years, and so this is the case where instead of seeking
22 to transfer money, we are instead committing to lapse
23 back more than the amount of money that we're requesting
24 as a supplement from the fiscal year '16, and then we're
25 asking for an amendment to the fiscal year '17 amounts.

1 We have also sourced through outside funds, which in this
2 case is the Sierra Club, an additional 10,000 in expert
3 funding for this case. So we have not -- we're not
4 seeking any additional expert funding from the board, but
5 only the legal funding which is being matched by the
6 expert funding from the outside source. The reason for
7 this is we think this is a good case, we have reduced our
8 budget commitment to the DTE PSCR reconciliation, and the
9 reason we think this is the case that really takes the
10 priority is because there was that very significant plan
11 case opinion that the market energy price forecast that
12 was used in the plan case was unreasonable, and then
13 there was a significant variance in plan to actual market
14 energy purchases and generation and net purchases and
15 sales which Consumers attributes to the market energy
16 price forecast. So we have a situation where the
17 Commission has said in a plan case, if you have
18 additional costs that are attributable to your market
19 energy price forecast being unreasonable, that's going to
20 be dealt with in the reconciliation, and basically has
21 indicated that to the Company that there's the potential
22 for a disallowance there. And so because there's the
23 potential for the disallowance, because the schedule in
24 this case has been extended and the scope of this case
25 has been extended two times already, it's stretching

1 further, it's become larger than initially anticipated,
2 and because we think there's a strong opportunity here,
3 we're seeking those additional funds, and at the same
4 time we're committing lapsing back more than the funds
5 that we're seeking, and we're also obtaining, like I
6 said, the same amount in expert funding from a separate
7 source. So that's really 17678-R.

8 MR. MacINNES: So you're looking for
9 10,100 --

10 MR. BZDOK: Correct.

11 MR. MacINNES: -- new money?

12 MR. BZDOK: New money.

13 MR. MacINNES: Okay.

14 MR. BZDOK: And then the last request,
15 which is Amendment Request No. 4, is really I would say
16 more just a proposal to the board. I am aware that the
17 Residential Ratepayer Consortium has not participated
18 actively before the board the last cycle or two, and so
19 the board itself has not been represented directly
20 through grantees in any gas cases, and so this is a
21 proposal, if the board wants to be in a gas case, we are
22 looking at the DTE Gas case, and the reason we're looking
23 at DTE Gas at least initially was because of NEXUS and
24 we're trying to keep pressure on those NEXUS contracts is
25 one reason, and there's also an efficiency associated

1 with that because we'll use the same expert, it's not the
2 same report, but it's a lot of similar issues relative to
3 that report, and then we're also going to be looking at
4 whether -- our expert has flagged for us and we've placed
5 in this submittal questions related to whether or not the
6 gas purchase practices that DTE Gas employs, which have
7 been -- which were purchase practices adopted in 2010,
8 whether those are reasonable in light of current market
9 conditions in 2017, and really that has to do with the
10 heavy reliance on, both the reliance on the fixed
11 purchases and also the way they evaluate looking
12 backward, whether the fixed purchases have been a good
13 deal for ratepayers. We're going to raise questions, if
14 the board wishes to participate in a gas case, as to
15 whether given the supplies that are available, the
16 liquidity of the trading points as that market has
17 evolved, whether that's still appropriate today. I'm not
18 telling you I know for sure that those are going to be
19 great outcomes or what those outcomes are going to be,
20 but it's something we'd be willing to look at. We feel
21 there's some efficiency to the DTE Gas case because of
22 the NEXUS involvement already, to look at this other
23 issue which the expert flagged, and in addition, if the
24 board does want to go down this road, MEC would be
25 contributing from general funds \$10,000 toward -- in

1 addition to the funds requested here, which is 35, MEC
2 would be contributing 10,000 to bring the total budget
3 for this case for 45.

4 So we're interested in it, we understand
5 the board has a lot of priorities, we also understand
6 there's no representation on the gas side right now, and
7 so this is some -- and we feel there's some value due to
8 NEXUS either way, so it was a thought of maybe it would
9 be a way to participate while covering some existing
10 priorities, but maybe also potentially covering some
11 other things.

12 MR. MacINNES: Mike, is the AG's office
13 going to get involved this case?

14 MR. MOODY: In the PSCR one, is that --

15 MR. MacINNES: In the NEXUS 18152.

16 MR. MOODY: Yeah, we are. We've been
17 involved in the, since the beginning -- there's been a
18 couple of them, they've been asking for the NEXUS in
19 about two or three cases, but by statute they couldn't
20 get approval because they were kind of asking out, too
21 far out, you have to ask in the year they're doing it.
22 So we plan on it. We haven't yet filed because that's
23 just coming up -- well, I did file an intervention -- I
24 didn't even think of that one maybe. This is 181 --

25 MR. MacINNES: 18152.

1 MR. BZDOK: It's due tomorrow or the next
2 day.

3 MR. MOODY: Yeah, so I filed
4 intervention, we are going to be in it.

5 MR. MacINNES: So have you two talked
6 about the case, and what, would each of you do different
7 areas, or how would that --

8 MR. MOODY: We haven't yet, but we can,
9 you know what I mean. We have in other cases, but not in
10 this one, I don't think in this one particular case.

11 MR. MacINNES: Right.

12 MR. BZDOK: We would if the board -- I
13 want to emphasize that we have placed before the board on
14 a long-term basis a set of strategic priorities, this is
15 outside the core of those strategic priorities, it's more
16 meant to be if the board wants to be in the gas case, we
17 feel there's some efficiencies, and we can also come up
18 with some of our money towards doing so. We also weren't
19 sure if the board was going to be interested in something
20 like this or not. So we would have a sitdown and a
21 collaboration with the AG's office if the board was
22 interested in having grantee intervenor participation in
23 a gas case, but we feel like we're just really sort of on
24 that threshold go/no-go stage of this at this point.

25 MR. MacINNES: Well, and as you point

1 out, we haven't had anyone doing gas cases for a while, I
2 mean since the Residential Ratepayers Consortium, and
3 that's been two years probably.

4 MR. ISELY: The Residential Ratepayer
5 Consortium is on 16-05, we gave them money at the very
6 beginning of the last cycle, and then he disappeared.

7 MR. MacINNES: Well, he's out of it now.
8 Well, we didn't fund it. We gave him some initial money,
9 and we ran out of money. I mean the problem is we run
10 out of money, and so we try to fund these things and it's
11 like, okay, we ran out of money, so we didn't fund him,
12 so he's no longer doing it. I called him. So that's too
13 bad to lose him because he saved ratepayers hundreds of
14 millions of dollars.

15 MR. BZDOK: He did a good job, and we're
16 not proposing to get full time into the gas game.

17 MR. MacINNES: Right.

18 MR. BZDOK: This is a matter of providing
19 some coverage on an interim basis.

20 MR. MacINNES: How is it different from
21 what you've already done on this NEXUS case? Maybe you
22 can just kind elaborate a little more on it, because
23 you've done a lot of work on this NEXUS case, right?

24 MR. BZDOK: Yes. So the NEXUS project,
25 there are precedent agreements or precedent agreements,

1 depending on how you say that, between the NEXUS project
2 and DTE Gas Company for 75,000 decatherms a day and DTE
3 Electric Company for 75,000 decatherms a day, which
4 together make 150,000, which then provides the two DTE
5 regulated utilities with, as a "anchor shipper", which is
6 an important part of establishing a market viability of
7 the NEXUS project in terms of its approval, ultimate
8 approval by FERC, and its financeability, et cetera,
9 et cetera. The NEXUS project has been supported by both
10 entities via some internal analyses that were done at the
11 beginning, and then more recently via some outside
12 consulting work. The outside consulting work has been
13 the main focus of the participation that we were involved
14 in that the board funded our expert James Wilson, and his
15 budget in those cases was \$30,000 in each case. The
16 NEXUS -- the DTE Gas proposal related to NEXUS in this
17 gas case uses a report from the same consultant, which
18 has many of the same elements but is also not the same
19 report. And so the viewpoint there is that there is a --
20 there may be some similarities and there may be some
21 differences, and that's why the total budget for
22 Mr. Wilson is going to be 25, if the board moves forward,
23 10 of which will be provided by MEC and then 15 of which
24 we're asking for from the board for that 25 which is
25 lower than the budget that was devoted to NEXUS, he's

1 going to do NEXUS and then he's also going to be looking
2 at the purchasing and evaluation of purchasing practice
3 issues, so he's going to look at another set of issues
4 for a lower overall budget, some of which is going to be
5 picked up by MEC from general funds. So that's how they
6 relate is that we're expecting he's going to be able to
7 cover some of the same ground that he covered before, but
8 there may be some new things because it's a different
9 report as well, and then also provide the funding for him
10 to do work in other evaluations in this case, more,
11 evaluations more like the type of work RRC used to do in
12 these cases.

13 MR. MacINNES: Can you tell us or
14 summarize a little bit what you've achieved with the
15 money that we've spent on NEXUS to date?

16 MR. BZDOK: On NEXUS to date, the
17 Commission has entered an order in 17920, which is the
18 electric case, which has indicated that it will not
19 preapprove NEXUS costs for that year. NEXUS costs being
20 preapproved or being approved is one of the conditions in
21 the precedent agreement for DTE Electric obligating
22 itself to move forward with being a purchaser on the
23 project, and we believe it's also important in terms of
24 the FERC approval process. DTE Electric, having reached
25 the deadline for being able to establish this condition

1 precedent to the agreement of having preapproval in
2 hand -- was in December, January?

3 MS. ANDREWS: January.

4 MR. BZDOK: It was relatively recent.

5 -- last month waived that condition. So there was a
6 back and forth where DTE Electric -- we can send you the
7 letters if you like.

8 MS. ANDREWS: It was November 30 was the
9 day of the deadline.

10 MR. BZDOK: Okay. There's a letter from
11 DTE Electric to NEXUS saying, you know, we had thought we
12 would have the preapproval by now, we don't have the
13 preapproval by now, and so we're hoping that you would
14 extend this deadline for us to either commit or waive,
15 and then NEXUS the next day says, no, we can't, we're not
16 going to extend the deadline -- it's a little amusing as
17 a sideline because these letters are coming like down the
18 hallway from the same office -- and then the next day DTE
19 says, okay, well, then we'll waive that condition. So
20 they have waived that condition, which we don't know how
21 that plays into the ultimate view of FERC approval and
22 ultimate view of financeability of the project.

23 As you know, as we've indicated to you in
24 the past, there is sort of this view that there's perhaps
25 a -- that NEXUS is in some ways in competition with

1 Rover, the other pipeline which is going to follow a
2 similar track which is not involving DTE. Rover was
3 approved Thursday night by FERC. FERC lost its quorum at
4 the end of business Friday. As best we can tell, and
5 it's sort of -- the FERC website was crashing Friday
6 because I think everybody was doing what we were doing,
7 it was refresh, refresh, refresh, right, trying to find
8 whether the orders were going to come out. As best we
9 can tell based on a check today, we don't believe NEXUS
10 was approved. We don't believe it was denied, it's just
11 action was not taken on it, so that puts Rover a step
12 ahead in terms of this, you know, situation with FERC.
13 So we don't know how that's going to play out, we just
14 know that so far to date, based on our efforts, based on
15 efforts by the Attorney General, and based on some good
16 analyses by ALJs and the Commission, no costs have been
17 preapproved to be recovered from customers firmly for
18 NEXUS agreements. And so it's still, in terms of cost
19 recovery in Michigan, no final decisions have been made.
20 And now we have a situation where we're not saying it's
21 either NEXUS or Rover, but there is a lot of what you
22 read in kind of the industry press that makes it sound
23 kind of like that. Our expert feels like Rover moving
24 forward is going to be a significant issue for NEXUS, so
25 we will see. But we feel like we've been -- we have

1 played a role in preventing preapproval. And Staff
2 wasn't there on that, they were -- they did not make that
3 recommendation, so we feel that it was really intervenor
4 participation that reached that outcome.

5 And then there are all the factual and
6 evidentiary issues that we've talked to the board about,
7 and we're happy any time to, you know, provide you with a
8 deeper dive into those issues as well, Brian and Sam.

9 MR. MacINNES: Do any of the other board
10 members have questions?

11 Given the situation with FERC that you
12 describe, which I've been following myself, would it make
13 any sense to push this request back, could we do that,
14 until we know a little bit more on what's going to happen
15 with FERC and will there be any -- what do you think of
16 that?

17 MR. BZDOK: We are certainly open to
18 that. Intervention in this case is due either tomorrow
19 or Wednesday. And so I guess at a minimum we would want
20 to convert this request to a starter budget similar to
21 the reconciliations.

22 MR. MacINNES: But yeah, you know what I
23 mean, given the uncertainty, I mean they're trying to
24 decide, hey, is there a way to have a quorum with two
25 people, I mean they're going through all kinds of

1 rigmarole.

2 MR. BZDOK: So I agree with all of that.
3 And then the only other thing I would point out is that
4 our intent in this case was not to just do NEXUS, but
5 also to provide some traditional residential ratepayer
6 advocacy along the lines of the purchasing and supply
7 issues, which won't turn on what happens with FERC.

8 MR. MacINNES: Right.

9 MR. BZDOK: So, you know, I think we
10 could -- so I guess what I would propose, if the board
11 wanted to hold its, keep its powder dry on NEXUS in the
12 DTE Gas case, then I'd propose we at least intervene and
13 do an initial evaluation that would focus on these
14 residential issues, and I probably would ask for 20 hours
15 for James Wilson to do that work.

16 MR. MacINNES: And what would that
17 request be?

18 MR. BZDOK: So that would be -- so that
19 would be 5,200, and then we'd hold the legal to 10, which
20 would be 1,800, so that would be 7,000.

21 MR. MacINNES: Okay. So on the
22 residential piece, is the main area that you'd be looking
23 at is the amount, the percentage of fixed price versus
24 spot purchases?

25 MR. BZDOK: I think that -- so what we
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1 know is that fixed, that they pay more for fixed, and
2 there's a premium associated with that, and then they
3 also do this back-casting to evaluate how much more
4 they're paying and then make an evaluation of whether
5 that's a good deal or not. And our expert, without
6 getting too deep into it, had some interest in whether
7 the way they were doing that back-casting was appropriate
8 under modern market conditions, and that's basically what
9 he was looking at.

10 MR. MacINNES: Because a lot of the work
11 that RRC did it seemed to me was backing the utilities
12 off of 70- or 80-percent fixed-price purchasing, get
13 them -- it's like I buy propane, I buy 10,000-gallon
14 loads at a time, and I try to do about half fixed price,
15 and I let the rest float and I just put them in like
16 that, and that's -- and I think that's kind of the way
17 RRC was trying to look at it. So do we have it, I mean
18 do you know what percentages that they're --

19 MR. BZDOK: Seventy-five.

20 MR. MacINNES: Oh, they are at 75, huh,
21 fixed?

22 MR. MOODY: They're only one out of the
23 four, the highest, yeah, they're still high, Michigan.

24 MR. BZDOK: I mean just to be completely
25 candid, I'm not an expert on this stuff, right. If the

1 board chooses to do this, this will be our first gas
2 case. So we're not claiming to know all the ins and
3 outs.

4 MR. MacINNES: Right, right.

5 MR. BZDOK: What we have seen is the
6 Commission in the plan case orders sort of say, well,
7 this does seem kind of high, but we're going to keep our
8 eye on it more or less.

9 MR. MOODY: It's super high.

10 MR. BZDOK: And so that was another
11 reason why it seemed like if you were going to pick one
12 gas case to be involved in this issue, this would be the
13 one you would pick, so there was a confluence between
14 this and then the fact that NEXUS was here, and we
15 already do feel like we're deeply immersed there.

16 MR. MacINNES: Yeah, yeah, you are.

17 So Mike, so what's -- you're
18 corroborating that --

19 MR. MOODY: Yeah.

20 MR. MacINNES: -- they're at 75-percent
21 fixed price --

22 MR. MOODY: Yeah, they've been killing
23 the ratepayers, but the Commission's been loath to change
24 it. It's really weird. With all the other, you know,
25 Consumers Energy, SEMCO --

1 MR. MacINNES: Everybody else has
2 changed, right?

3 MR. MOODY: -- has changed because of the
4 market, you know, used to be rising prices that you want
5 to hedge more, and the --

6 MR. MacINNES: Yeah, and the (inaudible).

7 (Multiple speakers.)

8 MR. MOODY: -- prices go down. Yeah,
9 yeah, so it can bite you, but, you know, you'd think, you
10 know, when it's declined or stayed stable, buying out in
11 the future, you're paying a premium for buying out in the
12 future that you don't need because when you get there,
13 it's the same price.

14 MR. MacINNES: How far in advance are
15 they purchasing?

16 MR. MOODY: A couple years.

17 MR. MacINNES: A couple of years?

18 MR. MOODY: Yeah. I think they go --
19 they have like a system that's very, the PCA, whatever
20 it's called, I can't remember what it stands for anymore,
21 but they buy out a couple years and they hedge a ton of
22 gas, and we've shown, and I know RRC has shown, that it
23 just costs hundreds of millions of dollars of extra
24 costs.

25 MR. MacINNES: Yeah, it's been a big

1 savings.

2 MR. MOODY: I mean a lot of protection,
3 but for what.

4 MR. MacINNES: Yeah. No, I agree with
5 that. So are you going to be involved in that issue
6 or --

7 MR. MOODY: We will. We haven't really
8 been hitting that issue lately, so maybe some fresh legs,
9 you know, maybe on that, because we've lost it so many
10 times, we kind of now use our resources elsewhere in that
11 case, but we'll support anything that, you know,
12 obviously. We supported Dave in the last one; I thought
13 maybe he was going to succeed because the ALJ went his
14 way, but then the Commission again said, well, we'll look
15 at it.

16 MR. MacINNES: It's kind of unusual, as
17 we know.

18 MR. MOODY: Yes.

19 MR. MacINNES: Okay. So Chris, so if we
20 were to do that, support that, what you were just
21 proposing, which may make sense to do that because of the
22 75 percent, we already know, I mean we think that's high
23 based on the track record of RRC and the success they've
24 had, and a starter budget for the NEXUS, is that what
25 you'd request, too, or in addition or not?

1 MR. BZDOK: I'm saying all in, that's
2 what we would do. And if -- and so MEC's money that's
3 available for Mr. Wilson is available for NEXUS issues
4 because MEC doesn't have general fund available for, you
5 know, these more sort of -- these rate, pure ratepayer
6 issues that are unconnected to an environmental piece.

7 MR. MacINNES: Yeah, okay.

8 MR. BZDOK: So to the extent he needed to
9 get involved, you know -- I'm sort of negotiating his
10 time on the fly here, because I just, you know -- so I'm
11 going to go back today and I'm going to call him and say,
12 well, we have a certain amount of time for you to
13 evaluate these issues, and that's why I was using 20
14 hours, because I feel like that would certainly be
15 sufficient, he wouldn't say, well, I can't do anything
16 for that, you know what I mean. So that's why I'm
17 looking at that.

18 MR. MacINNES: So just so I completely
19 understand this, the board completely understands this,
20 you're asking for \$7,000 to get into both of these, is
21 that right, or am I -- did I miss something? I'm trying
22 to get --

23 MR. BZDOK: We're asking for 35,000,
24 but --

25 MR. MacINNES: No, no. I know.

1 MR. BZDOK: -- we're saying if you want
2 to do a starter --

3 MR. MacINNES: I'm saying a starter for
4 the NEXUS, right?

5 MR. BZDOK: Starter for this gas case?

6 MR. MacINNES: Yes.

7 MR. BZDOK: I'm saying \$7,700 -- \$7,070.

8 Excuse me.

9 MR. MacINNES: \$7,070?

10 MR. BZDOK: Correct. And the breakdown
11 on that is 20 hours for Jim Wilson, his hourly rate which
12 is a special rate the board has approved in the past of
13 260, and then I'm saying 10 hours of legal at 180 is
14 1,800 is 7,000.

15 MR. MacINNES: Okay. So the starter for
16 Case 18152 to cover the issues we've talked about to just
17 kind of see where they're at, \$7,070?

18 MR. BZDOK: Yep.

19 MR. MacINNES: And otherwise you're
20 requesting 35,000?

21 MR. BZDOK: Correct.

22 MR. MacINNES: Okay. Well, that will
23 give us a little idea of what our options are.

24 MR. BZDOK: Absolutely. That's all I
25 have on those business items, unless the board has

1 further questions.

2 MR. MacINNES: Any other questions from
3 the board on this?

4 MR. PASSMORE: The only question I had,
5 Jim, was if I understood correctly, the board hasn't
6 granted money for gas cases in a while, and I was
7 wondering if that was a strategic choice or a ran out of
8 money choice or a little of both?

9 MR. MacINNES: Well, we had someone, the
10 Residential Ratepayers Consortium, David Shaltz I think
11 was his name, Shaltz, and he represented -- he was very
12 involved in gas cases, that was his area of expertise,
13 and he was very successful. What was happening is the
14 utilities were fixing like 75 or 80 percent of their
15 purchase and only floating about 20 or 25 percent, and
16 then it was costly for ratepayers. So he got the rest of
17 the -- and you know the history maybe, correct me if I
18 misspeak here -- but he got it down to a much lower fixed
19 rate amount, and a lot more spot purchases where you
20 could be more strategic and save ratepayers a lot of
21 money. So we got him into some cases, as Paul was
22 pointing out, and we didn't have -- we got him in, and
23 then we ran out of money. And we've had a lot thrown at
24 us this last few years because of the cost of service
25 cases, we spent \$250,000 on those between Consumers

1 Energy, DTE, and I&M, Indiana Michigan Power, so we had
2 to go to our banker, the AG here, and borrow \$280,000
3 from them, which we are repaying at a rate of about
4 70,000 a year, so that's really put us in a bind on
5 money.

6 MR. PASSMORE: Gotcha.

7 MR. MacINNES: And so Dave, I contacted
8 David and said, hey, where are you, haven't heard from
9 you for a while; he said, oh, I'm doing other work now.
10 Because my gas cases didn't get funded, you know, the
11 remaining part of it, I went, you know, I couldn't do it
12 and I decided it's too, it's too sporadic and, you know,
13 I can't do it.

14 So the reality is, at least in my
15 opinion, that, you know, the returns that we get for the
16 ratepayers on the money that we spend are phenomenal. We
17 tried get more money, and we got \$150,000 in the new
18 energy bill, which is good, but we tried to get, you
19 know, 800,000, and the money is really, you know, I mean
20 it's -- we get a good return, very good return on it, and
21 we've got all kinds of cases, and even more are going to
22 be coming our way, so but we just don't have enough money
23 to fund them all and we have to just very carefully pick
24 and choose what we can fund.

25 MR. PASSMORE: Gotcha.

1 MR. MacINNES: And unfortunately, RRC was
2 a casualty of that. So that's been a couple years ago,
3 and now I would love to find somebody else interested in
4 gas cases, somebody who's got expertise, to consider, you
5 know, gas cases, and I mean at least have us take a look
6 at them, and I know we're, you know, we're working on the
7 NEXUS pipeline case, it's a good case, too, but this is
8 more about -- I mean historically it's been more about
9 the mix, the fixed mix versus the spot. So that's a
10 little of the history.

11 MR. PASSMORE: I appreciate that.

12 MR. ISELY: Chris, do you see, if we run
13 in this gas direction, that this is something that you
14 would continue doing, or do you see this as just a sheer
15 interim while we're looking around for someone else?

16 MR. BZDOK: We would hope to be a bridge
17 I think. I think James Clift had mentioned to you when
18 he was here at the last meeting that he and some others
19 have begun a process of getting involved in sort of an
20 advisory group that consists of other entities that have
21 interests in this area, and so maybe that would be a path
22 towards finding somebody, or if the board finds somebody,
23 but really I think it's meant to be a bridge.

24 MR. MacINNES: Okay. Anything else for
25 Michigan Environmental Council from the board?

1 Okay. Let's see. So this is -- did we,
2 let's see, 16-04 Phase 2 Grant Request, what was that?
3 There's one more item on there. We talked about Items 2,
4 3 and 4. Is that what we're talking about here?

5 MR. BZDOK: I'm not sure what that
6 designation is.

7 MR. MacINNES: That got on the agenda
8 here.

9 MR. ISELY: I read that as that was about
10 the recon cases, because --

11 MR. BZDOK: It could be. So in the --
12 yeah. So in the, in our Request No. 3, our Request No. 3
13 is a request for supplemental money for the Consumers
14 PSCR reconciliation, which is an expiring budget from
15 fiscal year '16 on Grant 16-04, that could be a reference
16 to that. We're not asking for any '16 funds, we are
17 identifying '16 funds we're committing to lapse so as to
18 ensure that that's, in the long run, that that's a net
19 zero impact.

20 MR. MacINNES: So this is not a request?

21 MR. BZDOK: Correct. It's not a separate
22 item for us.

23 MR. MacINNES: Okay. Great. Okay. Then
24 that should take care of it for MEC.

25 Let's move on to CARE. John.

1 MR. LISKEY: Thank you. Let me hand out
2 a couple of things; they should have been sent to you,
3 but in case they weren't, I thought I'd print them out.

4 We have four grant requests today;
5 \$15,000 for the appeal of the UPPCo rate case, and
6 \$20,000 for the --

7 MR. MacINNES: Excuse me. Can you list
8 the case numbers so we can keep track of these.

9 MR. LISKEY: Yes. So \$15,000 for Case
10 No. U-17895, and that's for the appeal, and that's the
11 information I just handed you was some of those issues
12 we'll get into in a minute; Case No. U-17911-R is
13 reconciliation case for UPPCo, and that would be the 2016
14 reconciliation case.

15 MR. MacINNES: And you're requesting how
16 much for that?

17 MR. LISKEY: \$20,000. The third one is
18 the WEPCo, Wisconsin Electric Power Company, 2016
19 reconciliation case, Case No. U-17912-R, and that's in
20 also the amount of \$20,000; and then the fourth request
21 is the continuation of our MISO and FERC activities in
22 the amount of \$17,500. And just a little bit of
23 background on that, in last August we had requested
24 \$35,000 for the whole year, and it was, half of that was
25 granted, and that \$35,000 was the same amount we had in

1 the previous fiscal year. So those total to 72,500.

2 And I'd like to take the UPPCo rate case
3 first, and we prepared a little bit of a presentation on
4 UPPCo and the Upper Peninsula for the new board members
5 and for all of us, and I'd turn it over to Douglas at
6 this point.

7 MR. PASSMORE: Can I just ask a quick --

8 MR. MacINNES: I wondered where you were.

9 MR. JESTER: Yeah, I moved down here.

10 MR. PASSMORE: Can I ask a quick
11 question. Were there materials on this distributed in
12 advance of the meeting?

13 MR. LISKEY: Yeah, I sent an e-mail.

14 MR. PASSMORE: Because I don't -- sorry.

15 MR. MacINNES: The materials I have are
16 these two, I've got this and this.

17 MR. LISKEY: Yep.

18 MR. MacINNES: Did you not get those?

19 MS. HAROUTUNIAN: I didn't.

20 MR. MacINNES: So LeAnn, somehow the
21 materials aren't getting to the board members, I get them
22 and I have been forwarding them on, so just something to
23 check on. And they were, I think they were --

24 MR. LISKEY: I sent them to each board
25 member as well.

1 MR. MacINNES: Oh, you did? Oh, okay.

2 MR. LISKEY: I mean by e-mail. Maybe I
3 have the wrong e-mail address.

4 MR. PASSMORE: I don't know because I --
5 I was looking for them, and I even looked in my junk
6 e-mail to make sure it wasn't caught, I searched your
7 name. I don't know.

8 MS. HAROUTUNIAN: I didn't either.

9 MR. MacINNES: So I'm just wondering if
10 maybe we should make sure that LARA sends them out, or
11 our person, whoever, whether it's LARA or our assistant,
12 that they actually come from one person who --

13 MR. VILMONT: That would be helpful.

14 MR. MacINNES: The one I sent January 11
15 and the other I sent January 23. And I have those, I
16 have both of those.

17 MR. LISKEY: I don't know what happened.

18 MS. HAROUTUNIAN: Can they be re-sent,
19 Jim, us to from LARA?

20 MR. MacINNES: I'm sure, yeah.

21 MS. HAROUTUNIAN: So we have it, then.

22 MR. MacINNES: Actually maybe --

23 MR. LISKEY: I can do it from here
24 probably.

25 MS. DROSTE: I have them in my file, I

1 can.

2 MR. MacINNES: I think it's really
3 necessary that people have the background because there's
4 a lot involved.

5 MS. HAROUTUNIAN: Yep. And a lot of
6 effort goes into it, so it's a waste if we don't --

7 MR. LISKEY: Well, the one January 11
8 included our entire application from last August, so that
9 was a 90-page PDF.

10 MR. MacINNES: Got it, with the little
11 maps and everything.

12 MR. LISKEY: Right.

13 MR. PASSMORE: I mean I feel comfortable
14 moving forward, but just it would be great for me, just
15 because I'm still in the steep learning curve, --

16 MR. MacINNES: Oh, everyone needs it.

17 MR. PASSMORE: -- to even look at it even
18 after the meeting.

19 MR. MacINNES: Sure. So is it --

20 MR. LISKEY: Well, I'm glad we've
21 prepared a presentation, because it's --

22 MR. MacINNES: Yeah. Okay. Douglas --

23 MR. LISKEY: This covers a lot of what --

24 MR. MacINNES: -- take it away.

25 MR. JESTER: Just wanted to establish

1 some basis for the discussion of these proposals. The
2 Upper Peninsula started out with a lot of small
3 utilities, villages and towns and rural co-ops and
4 various things, and over time they've consolidated to a
5 degree, but not always in a nice geometric way. So this
6 is a map from the Public Service Commission website of
7 the service territories of electric utilities in the
8 Upper Peninsula. And just to make sure that you're
9 clear, the ones that are in white and have letters in
10 them, the letters represent various rural cooperatives,
11 so that's kind of a confused map. It does sort of
12 simplify when you look at the bigger utilities, and I'll
13 show you a bit of that in a minute, but I just wanted you
14 to understand that the Upper Peninsula is all broken up.

15 In addition to what's shown on the map,
16 there are 13 municipal utilities in the Upper Peninsula
17 as well, so these are typically utilities that serve a
18 single municipal government area, or perhaps a little bit
19 of neighboring territory, and these municipal utilities
20 do include Marquette and Escanaba, so two of the larger
21 communities in the Upper Peninsula and then a lot of
22 smaller ones. Most of the municipal utilities, with for
23 sure the current exception of Marquette, are distribution
24 utilities, they purchase their power at wholesale from
25 somebody else rather than having any kind of a power

1 plant.

2 MR. LISKEY: If I can add one thing, the
3 funds for, of this board can only be used for the
4 investor-owned utilities, so not the co-ops or the
5 municipals. So intervention and use of these funds is
6 only for investor-owned utilities.

7 MR. JESTER: So there you are. The Upper
8 Peninsula regulated electric utilities are Xcel Energy,
9 which we often refer to as Northern States Power, that's
10 a subsidiary of Xcel, Upper Peninsula Power Company, and
11 then I'm going to speak about this, this is a transition,
12 but Wisconsin Electric Power Company and Wisconsin Public
13 Service Company, the board's been supporting grants to
14 intervene in cases for those utilities for some time.

15 As a result of the whole fiasco over the
16 Presque Isle power plant closing, not closing, system
17 support resource payments from MISO and et cetera, the
18 administration here in Michigan, working through the
19 Public Service Commission, reached an agreement with
20 Wisconsin Public Service Company and Wisconsin Electric
21 Power Company, who used to be separate but are now owned
22 by the same, you know, parent company, took action to
23 establish a Michigan-only jurisdictional utility. So the
24 way that those were set up in the past, WEPCo served some
25 of Wisconsin and some of Michigan, Wisconsin Public

1 Service Company also served some Wisconsin, some in
2 Michigan, the Michigan pieces were very small parts of
3 their respective service territories, and the regulatory
4 pattern was that their major decisions really all are
5 made through the Wisconsin, the Public Service Commission
6 of Wisconsin, and while the Michigan Commission had the
7 potential to exercise its jurisdiction separately and say
8 no, we don't agree, in practice, it was really a slice of
9 system approach, meaning that whatever the costs were
10 for, say, WEPCo to serve its entire territory were
11 divided based on the power used between Michigan and
12 Wisconsin, with the Wisconsin Commission having made the
13 decisions approving investments and those kinds of
14 things, and then the Michigan Commission, through the
15 PSCR cases and rate cases and so on that the board has
16 supported us to participate in, was really taking that
17 share of the costs that was determined by the slice of
18 system and deciding, you know, who would pay how much
19 through rates and things of that kind, and because that
20 proved problematic over the last few years, the
21 administration said, no, we want a utility that we
22 regulate here in Michigan. So that is what is happening
23 here.

24 Earlier this year the Commission approved
25 and the Company executed the legal transactions to
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1 establish what is now known as UMERC, the Upper Michigan
2 Energy Resources Corporation, and transferred to UMERC
3 the customers and the Michigan assets, the ones based in
4 Michigan, of both Wisconsin Public Service and Wisconsin
5 Electric Power Company, so that's what we now have. The
6 way that it was done initially, the rates of the WEPCo
7 service territory are sort of grandfathered in for the
8 WEPCo part of UMERC, and the rates for Wisconsin Public
9 Service are grandfathered in for the Wisconsin Public
10 Service part of UMERC, and then over time it will emerge
11 as a, you know, sort of separate entity and it will have
12 its own rates and those kinds of things.

13 Another part of the agreement was that
14 UMERC would seek to acquire its own generation resources
15 based in Michigan, based in the Upper Peninsula, and
16 retire the Presque Isle power plant, and that would then
17 address some reliability concerns in the Upper Peninsula,
18 but also sort of cement the deal on this being a separate
19 Michigan regulated utility as opposed to getting its
20 power from the Wisconsin utilities. So that's kind of
21 the threshold for a lot of things happening here. John
22 will talk about it a little later, but earlier this week
23 UMERC filed a certificate of necessity for a couple of
24 natural gas plants in the Upper Peninsula to begin that
25 process.

1 MR. MacINNES: Are those combined cycles?

2 MR. JESTER: No, they're RICE plants,
3 they're reciprocating engine plants.

4 MR. MacINNES: Oh, okay. Any waste heat
5 use?

6 MR. JESTER: None indicated in the
7 materials I've read so far, but I'm not completely
8 through them.

9 So just to give you a little bit of a
10 sense of who's serving how many customers, these are the
11 regulated utilities and co-ops, not including the
12 municipal utilities because those statistics are less
13 readily available, but you can see that Upper Peninsula
14 Power Company has just about 52,000 customers; UMERG,
15 combining those two previous service territories, between
16 36,000 and 37,000; Cloverland, which is the eastern Upper
17 Peninsula, is a cooperative, and they're a bit over
18 42,000; and then you've got, you know, three others that
19 are in the sub-10,000 customer range. If you were to
20 take a ratio of sales, which is megawatt hours to
21 customers, you would see that those vary enormously, and
22 that's because a few of these utilities have very large
23 customers; mines, paper mills, you know, things like
24 that, that really drive up the per customer energy use.
25 Others are just primarily residential/small commercial,

1 you know, with perhaps some small industrial customers.
2 So that's just to sort of give you a picture of the basic
3 setup in the Upper Peninsula.

4 Lots of numbers here, we don't need to
5 walk through all of them, but as preparation for talking
6 about UPPCo, you should note the rates, the residential
7 rates for UPPCo, these are for customers using 250, 500,
8 and 1,000 kilowatt hours per month, so it averages in the
9 kilowatt hour charge and fixed charge for those, but you
10 can see that the numbers are fairly large, and these are
11 as of October of last year I believe, it's the most
12 recent that's been compiled by the Commission. UPPCo
13 Iron River is a little bit of a separate entity, it gets
14 most of its services from UPPCo, so it has different
15 rates, and then UMER, WEPCo, and Wisconsin Public
16 Service you can see down here at the bottom, and then up
17 toward the top are some Lower Peninsula utilities for
18 comparison purposes.

19 MR. MacINNES: So question. How many --
20 take the UPPCo situation; what percentage of customers
21 are only using 250-kilowatt hours a month versus 500
22 versus 1,000?

23 MR. JESTER: I don't know the actual
24 percentages, but just broadly, the number using in the
25 neighborhood of 250 is pretty small; small, sort of low-

1 income households tend to cluster around the 500 kilowatt
2 hours a month, varying a little bit depending on their
3 heating arrangements; and then average income customers
4 probably are typically 750 to 1,000 kilowatt hours a
5 month.

6 MR. VILMONT: So if you go back a slide
7 on this, you're saying UPPCo appears by far the
8 largest -- no, it doesn't. I'm sorry.

9 MR. JESTER: It's larger, but there are a
10 couple that are in the neighborhood.

11 MR. PASSMORE: Is UMEREC owned by the same
12 parent company still?

13 MR. JESTER: Yes. Yeah, it's called WEC,
14 Wisconsin Electric -- Energy Corporation I think is the
15 original source of the acronym.

16 MR. VILMONT: And prior to the split,
17 were they anticipating building new facilities already,
18 or did that come as a result of the split?

19 MR. JESTER: Presque Isle power plant
20 belonged, or I guess still does belong to WEPCo, and it's
21 quite a large coal plant that's really providing a large
22 share of the power used in the Upper Peninsula, it needs
23 to close for a variety of good reasons, so in order to
24 close it, new generation has to be built in the Upper
25 Peninsula.

1 MR. VILMONT: But was that power
2 previously available under the old organization that was
3 joined in Wisconsin?

4 MR. JESTER: Yes, yes, it was. We'll
5 perhaps another time take you through some the other,
6 some of the transmission issues in the Upper Peninsula,
7 but the problem with closing the Presque Isle power plant
8 is not that they couldn't import sufficient power to
9 serve the Upper Peninsula, but that we needed a power
10 plant in the transmission grid to provide voltage support
11 for the transmission within the Upper Peninsula, so
12 there's a voltage support problem, and when WEPCo
13 proposed to retire Presque Isle, MISO said they could not
14 for that reason, and under the rules, when they do that,
15 then they have to make special payments to cover the
16 costs of keeping it alive. Those payments under
17 traditional allocation would have been spread across all
18 of the customers of WEC in both Wisconsin and Michigan,
19 there were a series of cases that said the Michigan
20 customers have to pay most of that, and so do some of
21 these other utilities, and so it wound up being a heavy
22 burden on the Michigan Upper Peninsula ratepayers.

23 Do you want to add anything to that?

24 MR. LISKEY: No.

25 MR. JESTER: Okay. So at this point, I

1 think everything up to now the companies would agree
2 with. This is the substantive matter about UPPCo's rates
3 where we are in dispute with the Company. So UPPCo
4 belonged to Integrys as the parent company until 2014.
5 Integrys was also the parent company of Wisconsin Public
6 Service. They sold Wisconsin Public Service to WEC,
7 thereby making WEPCo and Wisconsin Public Service sister
8 companies, and sold off UPPCo to an infrastructure
9 investment company, and in that spinoff, pension costs
10 went heavily to UPPCo, there was an accumulated deferred
11 income tax credit that was a reduction from the rate
12 base, from the UPPCo rate base before that stayed with
13 Integrys, thereby raising UPPCo's rate base by
14 approximately a third, UPPCo came over with an all
15 requirements power supply contract with Wisconsin Public
16 Service which was uneconomic, the Company might disagree
17 about how much, but I think they agree. We made an issue
18 of that with board funding in a couple of cases, they
19 have now decided to terminate that contract under the
20 terms of the contract and pursue it in other power
21 arrangements which so far are less expensive. There's a
22 special tariff for Verso that gives them relatively low
23 rates, but the costs, in our view, get shifted on to
24 residential and small commercial ratepayers --

25 MR. MacINNES: Now -- question. Question

1 on that.

2 MR. JESTER: -- and then there are some
3 transition expenses.

4 MR. MacINNES: Is that any different
5 than -- I mean they get an industrial rate, right, and
6 then is this special tariff, is that what that is, the
7 industrial rate, or is it on top of the already lower
8 industrial rate?

9 MR. JESTER: It's on top of the already
10 lower industrial rate. It basically is a passthrough
11 wholesale market prices and MISO-allocated transmission
12 costs.

13 MR. MacINNES: See, for the new board
14 members, one of the issues, big issue for us is these
15 cost of service, the cost shifting between industrial,
16 high-energy intensity users, to residential ratepayers,
17 and it's a big number, and it -- I mean it goes forever
18 kind of thing. It's a big number every year going
19 forward. And so we keep seeing this, and if you look at
20 the history of rate increases for residential, it's been
21 like this, and for industrials, it's been like this, and
22 so we're constantly fighting that. And the utilities
23 keep bringing the same issue back time after time after
24 time, and we need to expend resources to fend them off,
25 even though the new legislation more or less states that

1 it's 75/25, of course we don't -- we think that's too
2 generous, but the MPSC can still change it from there,
3 too. So that's a big issue, this cost of service
4 shifting is a very expensive issue for residential
5 ratepayers.

6 MR. JESTER: And in the cost of service
7 issues sort of specific to UPPCo are that they have, like
8 most utilities, interruptible industrial rates; some
9 customers will agree that when power is very expensive or
10 there's a shortage, they will shut down some or all of
11 their operations and reduce their load, and in return for
12 that, they get a benefit in their rates that they're
13 charged. Utilities vary in how much credit they give.
14 UPPCo basically does not allocate any capacity costs and
15 power plant costs to interruptible industrial customers;
16 other utilities, I mean some also do the same, but others
17 give them a break, but not a full write-down of power
18 plant costs. And in that --

19 MR. MacINNES: So let me just clarify.
20 So the point is that I'm an industrial user, I decide to
21 go with an industrial rate, or with an interruptible
22 rate, so I get a discount, but then I never get
23 interrupted. So you get a discount -- and it's not just
24 here. I attended a session through the ABATE, which is
25 the energy-intensive users group, and a fellow from MISO

1 basically said we very rarely interrupt anybody, I mean
2 we don't see that happening. So what's happening is the
3 industrial customers get a cheap, further cheaper rate,
4 and but they don't, because it's not nice to interrupt a
5 business, which I get that, I've got a business, but they
6 get a benefit for that and then everybody pays for that.
7 But the residential ratepayers don't get that benefit,
8 they get the cost, so that's an issue.

9 MR. VILMONT: How are they physically
10 interrupting the power supplies?

11 MR. JESTER: In UPPCo's case and for most
12 utilities, it's a matter that the utility calls on the
13 phone to the customer and says, this afternoon we're
14 going to have a shortage, we would like you to shut down,
15 you know, per our agreement, and then they do that.

16 MR. MacINNES: But it doesn't happen very
17 much?

18 MR. JESTER: Right. Michigan utilities,
19 it's been sort of once in 15 or 20 years.

20 Under that Wisconsin Public Service
21 contract, it not only was somewhat expensive, but the
22 costs within it were allocated heavily to capacity as
23 opposed to energy, and residential ratepayers use,
24 contribute more to peak demand than other kinds of
25 customers, so that also shifted costs on to residential

1 ratepayers, and then the overhead costs of the Company,
2 things like pension and so on, in UPPCo's case are
3 largely allocated on the basis of the distribution system
4 costs, as a burden on the distribution system costs
5 rather than on energy or total costs. So that also puts
6 most of that weight on residential and small commercial
7 customers.

8 So if we go back --

9 MR. MacINNES: So they don't allocate
10 much of the overhead to the generation side, is that what
11 you're saying?

12 MR. JESTER: Right. So they are somewhat
13 higher than the Lower Peninsula, if you look over at
14 industrial, on a per unit of energy basis, but, you know,
15 WEPCo, for example, is higher for a smaller industrial
16 plant, but they're much higher on the residential rates,
17 and it's those cost-of-service allocation issues that
18 cause this to happen.

19 MR. MacINNES: So what's the argument for
20 that, that, oh, hey, we just buy our generation and then
21 we don't spend much time on it, or -- and we do spend a
22 lot of time keeping the distribution system upgraded
23 and --

24 MR. JESTER: Basically.

25 MR. MacINNES: And there's probably truth
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1 to that, too, I mean.

2 MR. JESTER: So that's the background.

3 And John, we don't have internet access, so we --

4 MR. LISKEY: Okay. We had a short video
5 that some people in the U.P. put together, but we'll
6 e-mail it to you.

7 So back -- so our first request is for
8 \$15,000 to appeal the rate case decision. And for the
9 new board members, let me give you some background. UCPB
10 funds, under current law, the law changes April 21, but
11 under current law can only be used to pursue PSCR issues,
12 power supply cost recovery issues. So in a rate case, if
13 we, for example -- in a rate case, for example, there are
14 other issues, the \$70 million deferred income tax credit,
15 that's not a power supply issue; we pursued those issues
16 on our own dime essentially. The lead attorney in this
17 case is Don Erickson, and he put in probably over 400 pro
18 bono hours to pursue those other issues. We are
19 operating under the same restrictions for this appeal,
20 and so we are estimating that the PSCR issues will, there
21 will be about 80 hours involved, and that's where we get
22 the \$15,000. We also are estimating another 80 hours to
23 pursue the other non-PSCR issues, the \$70 million issue,
24 and the one thing I handed out, the one pager, so the
25 PSCR issue are the -- is the outlined there. And if

1 we're successful, it would benefit residential ratepayers
2 approximately \$495,000 a year. So in terms of a cost
3 benefit, we're asking for \$15,000, and if we win, it
4 would save residential ratepayers \$450,000 a year.

5 MR. MacINNES: A year?

6 MR. LISKEY: A year. The non-PSCR
7 issues, the \$70 million rate base adjustment that was
8 made because the cumulated deferred income tax stayed
9 with Integrys is worth \$5.229 million per year. There
10 are other allocations that we objected to that are worth
11 \$14 million per year. So, you know, past practice, the
12 board has always kind of wanted to know, well, this is
13 what it's going to cost us, what can we possibly win.
14 Now, I can't tell you we're going to win, but I can tell
15 you we're fighting like hell. And from this article in
16 The Mining Journal a week ago Sunday, front page article,
17 the support among citizens up there is tremendous, so
18 that's why we didn't feel in good conscious we could just
19 drop it, we fought too hard, and I don't know if we'll
20 win or not, and it's going to take a couple years, but
21 we're willing to do it at a cap of \$15,000. We won't
22 come back for any more.

23 Any questions on that before I go to the
24 others?

25 MR. PASSMORE: Why -- I mean it sounds

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1 like you feel like you need to limit your request. Could
2 you -- why is that?

3 MR. LISKEY: Well, the board's under
4 restricted funds, and when we first started out back in
5 2009, we would intervene in seven different utility
6 cases, and we've just had to narrow our focus because of
7 limited funding, and our focus is basically UPPCo, WEPCo,
8 and our activities within MISO and FERC.

9 MR. MacINNES: To just shed a little more
10 light on that, if you read the new energy bill, one of
11 the things that it points out is that -- I mean we have a
12 lot of goals for our board, and many of them are outlined
13 in that new bill, but one of them is to try to allocate
14 the funds, allocate the grant funds, to the extent
15 possible, kind of pro rata based on, you know, where the
16 money comes in from, and the, you know, vast amounts of
17 money come in from DTE and Consumers Energy, and a much
18 smaller amount comes in from others. So, you know, I
19 mean you're trying to balance all these things, but --
20 and actually the last few years we have allocated a lot
21 of money to this UPPCo case because I think really a very
22 important reason is the rates are so high up there, 24
23 cents for the 500-kilowatt hour a month users, that we
24 felt it was appropriate to allocate a disproportionate
25 amount of funding to that issue, so, you know, that's why

1 we've done it, and I guess we're going to have to weigh
2 all that out going forward because, as John said, we have
3 limited funds, and so we'll just have to see where it
4 goes, but help to clarify that.

5 MR. LISKEY: Any other questions on the
6 rate case appeal request?

7 The other three requests, two of them,
8 the UPPCo and WEPCo requests, are the 2016 reconciliation
9 cases that we just as a matter of course are always
10 involved in those. They will be filed March 30, as
11 required by law, and so there's really nothing unusual
12 about those except that the UPPCo one where we definitely
13 expect to look at that closely. Whenever we can, we
14 settle cases, I should mention that, and we have a very
15 good record of that. And I should point out that in the
16 very first item of your agenda, when it was you were
17 determining how much money you actually had, we turned
18 back in \$15,197.60 because we settled cases. So the fact
19 that we're asking for \$20,000 per case doesn't mean we're
20 going to spend it, and we have a good track record with
21 that.

22 Then the very fourth case is called our
23 MISO FERC activities, and we have experts, and including
24 Douglas, that were very engaged in the MISO stakeholder
25 process, and that's important for a lot of reasons, and

1 it's always something new. And I'm happy to report that
2 in this first six months, at the request of the
3 Governor's office, we have supplied supporting briefs in
4 two FERC dockets on behalf of the citizens of the state,
5 so that we work hand-in-hand with the Governor's office
6 on these activities. And oftentimes we don't know what's
7 coming because somebody can file something at FERC and
8 you may only have 30 days to file your comments. So in
9 the last fiscal year, our budget was \$35,000 for this,
10 these activities, and that's what we requested last
11 August. The board at that time said, well, we'll grant
12 you half now and then we'll revisit the issue, and so
13 we're back at the table asking for that second half of
14 17,500.

15 MR. MacINNES: So Mike, on these, all
16 these cases here, what's your -- what's the AG's office
17 involvement in all these cases?

18 MR. MOODY: I'm going to start at the
19 last one first, the MISO one; we don't get as involved,
20 but we're large beneficiaries of your assistance to John,
21 because usually it's just so much going on and we get,
22 you know, limited involved and we -- like when the
23 Governor's office is interested, usually I turn to John
24 and his consulting group to get filled in because I know
25 he's in them, you know, and actively monitoring with his

1 experts, so that's been a huge benefit for us, just to
2 throw that in there. So we don't get into the day-to-day
3 MISO stuff, we just pop in when, you know, John tells me
4 there's something big happening, then we get in.

5 The other two, the PS, the UPPCo, the
6 WEPCo, the PSCRs, we don't get in those because we figure
7 you guys are handling them, so it's good coordination, so
8 we haven't been spending the money on those. And the
9 UPPCo rate case, we didn't do. But we are involved in
10 the Upper Peninsula dealing with that the formation of
11 UMEREC, the power plant, the fight over -- well, the
12 merger case that happened, and then the fights between
13 Wisconsin and Michigan for a while there about cost
14 allocation and stuff. So we've been active in there and
15 kind of utilizing a lot of the brains here with the
16 things that you guys fund.

17 MR. MacINNES: Does that include these
18 items, you know, the errors, that he lists as the errors
19 in UPPCo's total expense and the reduction in the rate
20 base by 70 million, those issues, are those issues you
21 get involved in?

22 MR. MOODY: No, so we haven't been
23 involved in the UPPCo rate --

24 MR. MacINNES: Like that pension fund?

25 MR. MOODY: No, no. We have similar

1 issues in other cases, but not in the UPPCo. So John's
2 been, John and Don Erickson, who's former from our
3 office, you know, have been working on this type of
4 stuff, so it's been beneficial.

5 MR. MacINNES: Do you think those are --
6 of course, those are out of the scope of the UCPB funds,
7 but --

8 MR. MOODY: Don's been doing it pro bono
9 I think.

10 MR. MacINNES: Are these good issues, in
11 your view?

12 MR. MOODY: Yeah. If I recall, it's the
13 pension. Usually that one happened because of the
14 merger, right, and that, so it's not something's going to
15 happen all the time, it's going to happen when, you know,
16 there's a buying out.

17 MR. MacINNES: But it's a big number?

18 MR. MOODY: Yeah. So I can't remember,
19 we had the merger issue with Wisconsin and UMERG, and
20 because of John's dealing with the issue, he was telling
21 me, hey, watch out for when they create UMERG, so we've
22 been paying attention to the pension issues and how they
23 gets allocated between the Wisconsin parent and the
24 formation of UMERG, so it happens, it's nice to have that
25 knowledge, and you guys have been funding it, so.

1 MR. VILMONT: So just out of curiosity,
2 and I apologize if this is rehashing some information
3 already, but so those retirement debt basically, are
4 those for employees that will be in the Michigan system,
5 then, or are those from employees that are also in
6 Wisconsin system?

7 MR. LISKEY: You want to take it.

8 MR. VILMONT: Is there a brief answer for
9 that?

10 MR. JESTER: Yeah. The UPPCo pension
11 plan provides pension for employees that were retained or
12 transferred to UPPCo and for a substantial number of
13 previously retired employees. The ratio of retirees to
14 currently employed staff at Integrys was about 1.1 to 1;
15 the net after this spinoff is in the neighborhood of 6 to
16 1, 6 retirees for every employee.

17 MR. LISKEY: Six active retirees for
18 every UPPCo employee.

19 MR. MacINNES: So they put that with the
20 new company, that liability?

21 MR. JESTER: Correct.

22 MR. LISKEY: Yep. And residential
23 ratepayers are --

24 MR. JESTER: Now, just a little fairness,
25 there was a transaction, there was a transfer of money,

1 which didn't necessarily help with rate base and
2 residential ratepayers, but paid for what was the
3 projected pension cost at the time of the spinoff, but
4 then there were subsequent decisions which could have
5 been anticipated, in our view, at the time of the spinoff
6 that raised the costs of those pensions, and so that's
7 really the money we're talking about is that increment of
8 cost that resulted from refiguring the costs of the
9 pension.

10 MR. MacINNES: Any other questions from
11 the board?

12 MR. PASSMORE: Is the MISO FERC
13 activities specific to the U.P.?

14 MR. LISKEY: No.

15 MR. PASSMORE: So it's --

16 MR. LISKEY: Statewide.

17 MR. PASSMORE: Are there other Michigan
18 advocates that are active there, or are you guys --

19 MR. LISKEY: We're the only ones.

20 MR. MacINNES: And we've had a lot of --
21 well, we've had encouragement from your office, we had
22 encouragement from the former MPSC chair to be involved
23 in these MISO issues and FERC issues, and there's a lot
24 going on, I mean it's big, and they're playing a bigger
25 and bigger role in the whole system. So it's, I think

1 there's a lot of good reasons to be involved, you know,
2 one of which was -- is also the change that's happening
3 in FERC now, that's going to be a whole new deal I mean,
4 so it will be good to have an eye on that I think.

5 One question I have is, you know, in
6 looking at -- I mean recognizing our budget restrictions
7 and everything -- is, you know, you're asking for 20,000
8 for PSCR reconciliation case for WEPCo, and I was
9 looking -- and on Douglas's chart, it looked like WEPCo's
10 rates were -- that's part of that -- I mean they were
11 much lower than UPPCo rates, right?

12 MR. JESTER: Yes, they are. Some of that
13 is because they're the beneficiary of the SSR payments.
14 So in the orders that came out of that process, a lot of
15 other utilities are paying money into MISO that is then
16 being paid out to them, and so there's a bit of a tangle
17 between utilities in all that.

18 MR. MacINNES: But my point here is that,
19 you know, UPPCo's the one that's really hurting up there,
20 the UPPCo residential ratepayers, 24 cents, and we hear
21 them, you know, and we've talked to them, and so if I
22 were to decide where to put more money, that, you know,
23 to me I would put more emphasis on the UPPCo work,
24 everything we can, within reason I mean, we can't spend
25 all our money on one area than the other. So I just

1 point that out to the board, you know, if we have to
2 decide on curtailing how much we can spend, I'd probably
3 be more inclined to be, put it in the UPPCo area than the
4 other. Am I correct in that, John?

5 MR. LISKEY: Yeah. With the possible
6 nuance that this is a new -- well, I guess it won't be.
7 This reconciliation will be the old WEPCo, so yes. I was
8 going to say the new UMEREC is different and we want to
9 look at that real close, but that would be the next plan
10 case I think.

11 MR. MacINNES: Okay. So in summary,
12 15,000 for the UPPCo rate case and 20,000 for each of the
13 two reconciliation cases and 17,500 for the MISO/FERC
14 federal proceedings. And the, any -- can you -- do you
15 have any specifics on what you're going to be looking at
16 if we grant money for the MISO/FERC, anything, any hot
17 items that you have in mind?

18 MR. LISKEY: Go ahead.

19 MR. JESTER: So as you noted, MISO is
20 kind of big and sprawling, involved in lots of things,
21 but for the new board members, their two principal
22 functions are they operate the regional markets for
23 wholesale power and capacity, this is basically buying
24 and selling as between utilities in the middle part of
25 the country, and then the other is planning and then

1 paying for transmission in the region, so that's what
2 their function is. The two activities that are most
3 prominent right now that we're paying attention to are
4 that they're working on the next iteration of their
5 transmission expansion plan, and in that context one of
6 the things that we're particularly working on is they
7 traditionally have limited that work to end the cost
8 allocation schemes related to it to transmission at sort
9 of 345 kilovolts and up. In the Upper Peninsula, that
10 doesn't help us very much. So we and a few other areas
11 of their territory have been asking to consider lower
12 voltage transmission projects where it's appropriate for
13 voltage and support and other reasons, so that's under
14 consideration over the next few months, and we want to
15 stay engaged there. That potentially benefits us in the
16 Upper Peninsula if and when it comes true.

17 The other area that we're particularly
18 looking at is that this whole capacity, market capacity
19 construct that has been under debate, and as a part of
20 the former chairman of FERC departing last week, they
21 hurried and made a decision and rejected the MISO tariff
22 proposal that addressed capacity markets for the
23 competitive areas. Again, for new members, most of the
24 MISO states are fully regulated states, and so the, you
25 know, the cost of a power plant are recovered entirely

1 through rates administered by their public utility
2 commission. Illinois is what's called a restructured
3 state, power supply is all done through wholesale
4 competitive markets.

5 MR. MacINNES: Zone 4, right?

6 MR. JESTER: Yes, Zone 4 of MISO's
7 service area, and then because of our 10-percent
8 allowance for retail choice, the Lower Peninsula of
9 Michigan counts as a competitive.

10 MR. MacINNES: Which is Zone 7.

11 MR. JESTER: Yeah. So the MISO market is
12 not designed to provide adequate revenue to support power
13 plants in these competitive market areas, it's just not,
14 wasn't its intent, and so it doesn't address all of the
15 needs for that. So they set out to try to develop a
16 tariff that would apply in Zone 4 and Zone 7 that would
17 create a forward capacity market that would induce
18 appropriate, would provide appropriate cost recovery and
19 induce appropriate investment in capacity in those zones
20 where the capacity market in the rest of MISO is a quick
21 auction in the current year just to balance things out
22 between utilities. FERC denied that because they
23 determined that having those two different ways of
24 earning running the markets would create pricing problems
25 as between, you know, the forward auction and the quick

1 auction, and so MISO's going to have to rethink all of
2 that and that obviously has implications for lower
3 Michigan.

4 MR. MacINNES: So that's something you'll
5 be watching?

6 MR. JESTER: Yeah.

7 MR. MacINNES: And that deals with the
8 nuclear plants in Illinois, right?

9 MR. JESTER: Yes, it does. And I haven't
10 heard yet what Illinois's reaction is to the FERC order,
11 but --

12 MR. MacINNES: Which, you know, we
13 have --

14 MR. JESTER: -- could be a bit of a mess.

15 MR. MacINNES: We have a shortage of
16 capacity, and particularly in Zone 7, and some of it was
17 supposed to come from the nuclear plants, some of the
18 additional capacity for the whole MISO footprint. So
19 it's a big issue, we need somebody watching it I think,
20 if we can.

21 Okay. Any other questions from the board
22 members?

23 I wonder if we could make take a break,
24 five-minute break, would that be okay.

25 (At 2:20 p.m., there was a ten-minute recess.)

1 MR. MacINNES: Okay. Let's restart the
2 meeting here, and we're going to talk to, hear from the
3 Residential Customer Group, and I guess GLREA, too, do
4 you have requests?

5 MR. KESKEY: Not requests.

6 MR. MacINNES: Not requests, okay. So
7 these are requests we're after right now. So we're going
8 to hear the requests from Residential Customer Group, and
9 if you can kind of walk us through the cases, case
10 numbers, and the amount that you want just as the others
11 did.

12 MR. KESKEY: Okay. Thank you. Don
13 Keskey on behalf of the Residential Customer Group, and I
14 have cocounsel in our firm, Brian W. Coyer, and also CPA
15 William Peloquin, who had more than 25 years with the
16 State of Michigan, maybe as much as 30 years, he can
17 explain, as a utility auditor and witness with the MPSC
18 staff for ten years and then with the special litigation
19 division of the Attorney General's office specializing in
20 utilities, and then has worked with our firm over the
21 last 11 or so years on scores of cases.

22 MR. MacINNES: And both of your experts
23 have already been approved?

24 MR. KESKEY: Yes, they have. And also
25 MSB Energy from Wisconsin, which includes a Wisconsin
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1 staff veteran and a former staff person of the Michigan
2 Commission, which also assists as witnesses which are
3 approved as well.

4 We have filed a supplemental grant
5 request to increase the budget approved by the board in
6 August. At that time 18,000 was approved for Consumers
7 Energy's current PSCR case, U-18142, which includes a
8 five-year forecast. We had requested 36,000 at that
9 time, and the board indicated they would approve 18,000
10 and withhold the remainder for more reports on progress.

11 MR. MacINNES: So that case, again, is,
12 that you're just referring to, what number is it?

13 MR. KESKEY: 18142. Our request today is
14 requesting an increase from 18,000 to 72,000, and this is
15 an increase of 54,000. And in our original work plan, we
16 focused in our August submission on two issues, two
17 primary issues; one is the Palisades nuclear plant, which
18 we have collectively a lot of experience with for, since
19 the -- since about 1989. In terms of its cost and what
20 was its future and what was happening, we suspected
21 something was under foot. The second issue was what is
22 the impact on Consumers' recent and upcoming retirement
23 of older coal plants on existing coal contracts that
24 Consumers had entered into sometimes as much as 20 or 30
25 years, and how are you going to reduce your inventory of

1 coal and take less coal, and who's going to pay for it.
2 And again, we had been involved in several cases perhaps
3 in the past five- to ten-year period involving Consumers
4 relative to coal issues, and also with DTE Electric.

5 Anyway, today we're focusing on what has
6 happened since our original grant request on the
7 announcement in December by Entergy and Consumers Energy
8 that Entergy was going to close the Palisades nuclear
9 plant about 6 years ahead of the 15-year power supply
10 agreement, or purchased power agreement, and that Entergy
11 would refuel the plant one more time and then terminate
12 the plant in about 2018, and Consumers also announced
13 that they would propose to have the ratepayers pay \$172
14 million, which they would obtain through securitization,
15 which we have also been in securitization cases with them
16 in the past. Essentially what we would like to describe,
17 pending further discovery and proof, is to have the
18 ratepayers pay a significant portion of the cost to
19 reward Entergy as an unregulated third-party power
20 supplier to default on its contract.

21 Now, we were involved, Mr. Peloquin was a
22 prime witness, I was involved in all of the hearings back
23 in the 2006 period where the initial Palisades purchase
24 agreement was litigated very heavily, and we opposed it,
25 the clients we represented, we represented in both

1 witness testimony and the briefing, strong opposition to
2 the proposal. There were several criticisms in the
3 proposal, not only the shift of risk, not only the
4 sizeable cost being charged under the purchased power
5 agreement, which would enhance the proceeds Consumers
6 would receive from the sale, questions regarding the
7 viability of the plant for 15 years, and there were other
8 criticisms, such as that the capacity payments were
9 front-loaded, in other words, the first eight years the
10 ratepayers would pay more than half of the overall
11 capacity cost of the plant, concerns about the spent
12 nuclear fuel, and we challenged other aspects of the
13 spent nuclear fuel, the sites, the decommissioning funds,
14 through two or three or four rate cases, and what Entergy
15 and Consumers had done back then is marry the SNF
16 responsibility at Big Rock in Charlevoix with the
17 Palisades purchase, Consumers agreed to pay Entergy \$30
18 million for Entergy to take over responsibility for the
19 spent nuclear fuel. So there are numerous questions that
20 previously were, pursuant to funds granted by this board,
21 and part done pro bono, partly as described earlier,
22 sometimes you get heavily involved in issues and you
23 discover other things, and it's worth going pro bono for
24 it because it's in the public interest.

25 One of the things we discovered through
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1 two or three rate cases and going off into then a special
2 case, and we were the originators of the issue, we found
3 it, Mr. Peloquin and I litigated it through two or three
4 rate cases and finally on a special case on it, where we
5 discovered that Consumers Energy in the years 1999, 2000,
6 2001, had charged the ratepayers under trust agreements
7 approved by the Commission \$33 million a year for the
8 decommissioning of the Big Rock plant in Charlevoix and
9 they never put the money in the fund, that money went
10 down to the profit line, and we were able to get the
11 Commission to ultimately, and we had proven this in the
12 rate cases and it kept getting deferred to the next case
13 and the next case and it kept adding, we were able to get
14 the Commission ultimately over a seven-month period to
15 outright require Consumers Energy to refund the \$99
16 million plus interest.

17 Now, these are the kinds of things you
18 can discover when you get into these issues, there's a
19 nexus between some of these issues, and there's a real
20 nexus to Act 304. Purchased power agreement is a -- the
21 ratepayers that invested in this agreement against the
22 opposition starting in 2007, and it's now about 10 years
23 down the road or less, and now that 15- year agreement is
24 not ultimately proving successful. So --

25 MR. MacINNES: So Don, let me ask you

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1 this: Is there some technical reason that they want to
2 do this? I mean background us a little bit. I mean is
3 there some, oh, hey, they found some problem with the
4 steam generator or there's some technical issue that the
5 plant can't operate or it would be way, you know, there's
6 some really high cost that they'd have to incur to keep
7 it running and that's why they want -- I mean why do they
8 want to terminate this agreement, this PPA?

9 MR. KESKEY: Well, I was going to try to
10 at some point quickly list some of the procedural and
11 strategy things that have to be faced quickly. But one
12 of them is that, and this is the way Consumers structured
13 their application in 2007 on the original PPA, is Entergy
14 was not a party to the case so the parties couldn't get
15 discovery. So Consumers has had a long history of
16 problems, they've got -- there's embrittlement, the
17 ratepayers paid huge sums to revamp the plant around
18 1989, and then they tried to spin it off to a subsidiary
19 affiliate, in which I represented both the State of
20 Michigan and the MPSC in litigation that lasted for weeks
21 at FERC, and we got ultimately the administrative law
22 judge, it was about 1990 or '91, rejected the deal, and
23 so it stayed with Consumers because that arrangement was
24 going to be so expensive for ratepayers, and Consumers
25 had just recently refurbished the plant. Well, now it's

1 sort of deja vu all over again, because now then 2007
2 comes around, 2006, and they find Entergy Nuclear
3 Palisades was willing to buy the plant, but Entergy on a
4 nationwide basis was buying up nuclear plants, New York,
5 I think Illinois, there's probably one in Louisiana
6 somewhere, and they were advertising that they had a lot
7 of expertise, core competence in nuclear operations and
8 refurbishment, so they were going to refurbish it.

9 MR. MacINNES: Weren't they the biggest
10 nuclear operator in the country?

11 MR. KESKEY: Well, after they bought
12 several plants, they probably were, but they're not
13 regulated by the local commissions. In fact, they're
14 largely unregulated except for the Nuclear Regulatory
15 Commission. So what is not known right now, but should
16 be the subject of discovery, is just what you asked: Is
17 there some -- was there some upcoming massive expense
18 that would be required to continue Palisades for the
19 remaining five years? Was this an Entergy decision or
20 was this a Consumers Energy decision? What are all the
21 considerations, cross-considerations, side agreements,
22 impacts, on decommissioning funds, spent nuclear fuel
23 sites, SNF, purchased power costs, alternative
24 replacement costs? For example, the loss of this
25 capacity, which I think is around 800 megawatts, is going

1 to make Consumers' capacity short. Well, one of the
2 proposals is how are you going to replace this, and one
3 of the rumors I guess you'd call it at this point, is it
4 going to replace it with perhaps more purchased power,
5 perhaps closing some of their other plants later, or
6 buying from an affiliate, an affiliate-owned plant. One
7 of the questions there is, is this replacement power
8 economical? How does that compare with the market
9 prices? Are we going to -- are they going to propose to
10 have the ratepayers through securitization pay Entergy
11 for defaulting on its contract so we can pay again maybe
12 more for the replacement power?

13 MR. MacINNES: So in support of what
14 you're saying, here are some orders -- I don't know if
15 you all received these -- the MPSC is obviously very
16 concerned about all this and has outlined in these
17 orders.

18 MR. KESKEY: And that's a good sign, I
19 think they've been through this with us before,
20 however -- and some of their questions are good, however,
21 the questions they've asked are not complete.

22 The other thing that's disturbing is
23 there was a very positive sign that they opened the
24 docket in 18218 to be proactive and to investigate only
25 two weeks after the announcement of this ball of issues,

1 however, on January 20 they closed that docket and now it
2 appears to be that we're in a floating default situation
3 procedurally whereby the Commission is going to wait for
4 Consumers to file its application probably in the
5 securitization docket, which is subject to a narrow time
6 range and narrow issues, and everybody else is expected
7 to try to intervene in that case, in which you're going
8 to be hampered with the lack of discovery, the lack of
9 Entergy being in the case, the lack of adequate time to
10 analyze, subject to a limited scope of that particular
11 docket and a limited timeframe. The Commission in its
12 order said December 31 they want to get an -- not
13 December -- August 31 they want to get an order. The
14 issue is very strong in the Act 304 case, 18142, which is
15 listed as a co-docket on their initiatory investigation
16 order of December 20. But what we're saying is, no, this
17 should be proactively pursued right now, certainly in the
18 Act 304 case, but in these other dockets because there's
19 a procedural problem. Securitization is a narrow
20 proceeding, but they want to use 172 million of
21 ratepayer-funded securitization to pay Entergy. I don't
22 know if that's a proper use of the securitization
23 statute. But that statute ostensibly would require a
24 90-day period to be decided. What's the impact on the
25 PPA costs, the replacement power, the loss of capacity?

1 Has Consumers Energy adequately enforced its existing
2 PPA? Should one of the procedural avenues be not just
3 Act 304, which has immense impact on the issues, but also
4 should the original PPA case be reopened, because the
5 evidence and the facts in that case are relevant to the
6 reasonableness and prudence of a revision to that very
7 same PPA.

8 MR. MacINNES: So when is the PPA due to
9 expire normally?

10 MR. KESKEY: It was approved in 2007 for
11 15 years, so that would be 2022.

12 MR. MacINNES: Okay. So seven more
13 years. No.

14 MR. KESKEY: Five, five plus.

15 MR. MacINNES: Five more years. Okay.
16 Five more years. Okay.

17 MR. KESKEY: So I had usually attached to
18 previous grant applications of several years ago the
19 formal Attorney General ruling that relevant cases under
20 Act 304 that could be funded by this board can include
21 not only the direct power supply cost, purchased power
22 agreement costs, impact on fuel costs, et cetera, which
23 our grant request falls within, but any other kind of
24 case that has an impact on those costs; it could be a
25 judicial case, it could be a FERC case, it could be

1 another Commission docket, and the Attorney General in
2 another unpublished opinion and a subsequent letter
3 clarified and reconfirmed that position, so that's the
4 Attorney General's office's last charter on what you can
5 fund, to my knowledge.

6 MR. MacINNES: So what you're saying,
7 then, is all of this will qualify under Act 304?

8 MR. KESKEY: Yes.

9 MR. MacINNES: And how do you feel about
10 that?

11 MR. MOODY: I think for the PSCR and the
12 Palisades, I think that makes sense, if that's what we're
13 talking about. But the breadth of the language sometimes
14 that we talk about, I don't know if it's any and all
15 impacts or if -- you know what I mean. The Attorney
16 General's opinion and letter and stuff does give some
17 leeway for cases that, issues that could have been
18 litigated in a PSCR and other cases, but I try not to
19 make it so broad. It's better on a case-by-case basis to
20 take a look at it. But it sounds like on the PSCR,
21 definitely that's a core one, and the Palisades is a
22 purchased power issue, I think that would be normal.

23 MR. KESKEY: You see, the original PPA
24 was an Act 304 issue and was approved and this board
25 funded our participation. So when you're amending the
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1 same PPA, and the securitization is really a maneuver,
2 because that, the reason why securitization -- why did
3 Consumers not reopen the PPA case? It's a strategy to
4 make it look like a brand new case and divorce from the
5 record and the litigation and the premise and the
6 promises that were made in that case and the facts that
7 we presented in that case. Logically it should be a
8 reopening the of the PPA. Why are they trying to limit
9 the Commission to a short timeframe without any adequate
10 discovery in a securitization format? Because they want
11 to limit participation and examination of the issues.
12 Why is Entergy not a party to these cases? What is the
13 contract agreements, what are the reasons, as you asked,
14 why this plant is closing early; is it because of
15 Entergy, or is it because of Consumers, or is it because
16 of the NRC, or can this plant run another five years?

17 MR. MacINNES: Well, hasn't this plant
18 had a lot of problems?

19 MR. KESKEY: A lot of nuclear plants have
20 had problems.

21 MR. MacINNES: But this particular one.

22 MR. KESKEY: This has had problems, but
23 some of its capacity factors in recent years have been
24 rather high.

25 MR. MacINNES: No. But hasn't there been

1 an lot an awful lot of problems with this plant in the
2 last five years, the shutdowns and issues with it?

3 MR. KESKEY: There have been --

4 MR. MacINNES: I mean I know all nuclear
5 plants, I mean I know they're complicated and that they
6 can have problems, but some of them have more problems
7 than others. It seems to me this, I've been reading
8 about this one for a while.

9 MR. KESKEY: Well, this plant needed
10 refurbishment back in 1990, and this plant has had
11 problems, it has been one of the more problematic plants.

12 MR. MacINNES: Right. So there may be a
13 good reason that they're -- I mean I don't disagree with
14 anything you've said here, but there may be a good
15 business reason for them to do this. If the plant is
16 plagued with problems, then they might want to just get
17 out of it, right?

18 MR. KESKEY: Exactly.

19 MR. MacINNES: The question is, how do we
20 do it so that it minimizes the cost, right?

21 MR. KESKEY: And so what is unknown is
22 what the timeline for the prudent closure of the plant on
23 that basis is and what is the business case for the
24 ratepayers not being asked to pay for the losses that
25 Entergy might incur, and we don't know that they would

1 incur any losses, we don't know what profit they've made
2 on the plant or whether it is still profitable until,
3 let's say, three or four years from now rather than right
4 now. We do know they're going through another fuel cycle
5 to make it run for another 18 months. So where is the
6 cutoff, you have to get discovery and information for
7 that.

8 MR. MacINNES: Okay. So I think we get
9 the idea there's an issue there that needs attention.

10 MR. KESKEY: Let me -- there's just all
11 kinds of issues, but let me just point out at least one
12 more; that is, from the press release, not an examination
13 of the underlying data, that they want to structure this
14 so that Consumers Energy has the PPA for another year,
15 and then after that, for four months, a second PPA, which
16 is totally unprecedented, and current state law, as
17 amended by the new law, provides that if you want to sell
18 capacity for more than six months, you have to get the
19 advance approval of the Commission. Well, a second PPA
20 in the future, and both of these PPAs would be based on
21 forecasts, you know, which have proven to be unreliable,
22 and the point is that second PPA looks like it would
23 escape any scrutiny by the Commission.

24 Now, what kind of prices do they propose
25 for that? So there's two aspects to this; one is

1 substantive, numerous substantive issues which were found
2 to be within the scope of this board's funding before,
3 which is going to take a lot of work and we've been
4 modest in our request; and second of all, procedural and
5 strategic matters to be decided rather soon as to whether
6 or not we should all sit back and wait for Consumers to
7 drop some kind of an application that has to be decided
8 in 90 days or whether we act now to set up what appeared
9 to be the Commission's path on December 20. I was
10 surprised that they didn't provide for intervention.
11 Maybe I wasn't surprised. But they proactively started
12 saying, you know, this takes more time to look at and
13 then they backed away. That strategy the Commission had
14 on December 20 is probably the right strategy, but it
15 should be either in that docket or either in a complaint
16 case, or it should be in a reopener of the PPA, original
17 PPA, and in Act 304, this is all related to Act 304
18 costs, and we shouldn't just sit here waiting for the
19 bomb to drop through the ceiling. There's a lot of money
20 involved here, at least 172 million, but the replacement
21 power costs may be escalating further, and it's not
22 proven that the ratepayers have to pay Entergy for
23 defaulting on its own contract. They're an unregulated,
24 third-party generator, and --

25 MR. MacINNES: Okay.

1 MR. VILMONT: So is that correct that
2 then in 2007 Consumers sold the facility to Entergy?

3 MR. KESKEY: Yes.

4 MR. VILMONT: And now ten years later
5 Entergy decides to close the facility early?

6 MR. KESKEY: We don't know who's deciding
7 that. It could be mutual.

8 MR. VILMONT: Somebody has decided to
9 close that early, and apparently there's a payment that
10 needs to be made to them for closing the plant early
11 because of unrealized profit or some other reason that
12 they're to be paid for closing early, and that cost, at
13 least a portion of that will be passed on through the
14 Consumers contract to then the ratepayers; is that an
15 accurate --

16 MR. KESKEY: Well, pending further review
17 and discovery, I don't believe the original PPA required
18 Consumers Energy to pay Entergy anything for Entergy's
19 decision to close the plant early. In fact, I believe
20 there was a provision in that that if Entergy had an
21 outage, that Consumers had the ability to require Entergy
22 to supply replacement power. Now, I have to relook at it
23 as to what the renegotiation rights were of Consumers
24 Energy, but most all contracts can be, at least a
25 renegotiation can be attempted. So one of the questions

1 is, is Consumers adequately enforcing its contract and
2 its remedies that this is not a necessary payment to
3 Entergy to have Entergy fail to supply the power for 15
4 years.

5 Now, Mr. Coyer and Mr. Peloquin could add
6 a minute or two or whatever if you want, or answer
7 questions also on these issues. But you've, what you've
8 got here is only the information that Consumers wants
9 released, you do not have complete information from
10 Entergy, they're not even a party to the case, and there
11 are means in discovery to essentially force them to be a
12 party to the case by subpoenas for information in
13 discovery.

14 MR. MacINNES: Okay. Are there anymore
15 questions from the board?

16 MR. KESKEY: There are two other dockets
17 that I had mentioned briefly in our supplement.

18 MR. MacINNES: Okay.

19 MR. PASSMORE: Just a quick question,
20 Don. Do you know enough yet to know what outcome you're
21 looking for here, or is that -- I mean is it to keep the
22 plant operating or it's just to make sure that the
23 ratepayers don't pay for closing it early, or do you
24 still need the discovery phase to even know what you're
25 after?

1 MR. KESKEY: You have a strong intuition
2 to what the issues are and lots of times that intuition
3 is correct, particularly based on the past cases we've
4 been through, which has built up a substantial amount of
5 information and memory. And I guess one of the ideas
6 would be that if it's a business decision for Entergy to
7 close the plant early because of some impending
8 refurbishment requirement that's not economic or any
9 other reason, they were an independent party that entered
10 into the PPA, the ratepayers paid substantial amounts,
11 perhaps the PPA prices were too high to begin with,
12 because that would enhance the proceeds Consumers got on
13 the sale of the plant, and that this was foreordained,
14 they knew in going in that it wasn't going to last 15
15 years. But the point is, if that was their business
16 decision, is it for ratepayers to be an insurance company
17 to help finance their decision to close the plant, and in
18 fact, would they actually lose any money by closing the
19 plant; or was there a possibility they should close the
20 plant in three or four years, not right now, or next
21 year? Where's the economic crossover here; what's the
22 legal or equitable basis for having the ratepayers pay
23 for this, at least in half?

24 Now, one way Consumers sells this is, by
25 entering into this, there's going to be net savings to

1 the ratepayer because we don't have to pay for the
2 purchased power plant -- purchased power agreement costs,
3 which are higher than MISO costs at the moment, which
4 that could change. But the point is, if Entergy was
5 going to close this plant itself, we shouldn't have to
6 fund any of it, and Entergy had the duty to supply
7 replacement power.

8 MR. MacINNES: But couldn't there be some
9 provisions in this PPA where Entergy required Consumers
10 to, you know, help fund some, if there's some unusual
11 costs; in other words, do we just assume that, hey, this
12 is pretty straight forward, here's the money, you give me
13 the power and I don't want to have anything else to do
14 with it, or could there be provisions in there that say,
15 hey, if certain things happen, then, Consumers, we want
16 you to participate in those costs; I mean would that be a
17 possibility?

18 MR. KESKEY: That's one of the things you
19 have discovery for, to see if any of the clauses, or some
20 of them, would provide that option.

21 MR. MacINNES: Because that would then
22 make it more of a mutual, hey, you know, we're going to
23 have to do this and it's, you know, we're going to use
24 this clause here and we need some more money from you and
25 let's negotiate an early closure.

1 MR. KESKEY: Yeah. But that doesn't get
2 through to some of the offset remedies, like replacement
3 power --

4 MR. MacINNES: Yeah, Don, I know.

5 MR. KESKEY: -- and it also doesn't mean
6 that the ratepayers have to pay it; it may be Consumers
7 Energy has to pay it, not the ratepayers.

8 MR. MacINNES: Well, we just don't know.

9 So Mike, is the AG's office going to get
10 involved in this?

11 MR. MOODY: Yeah, we are actually. It's
12 funny, we are using the Michigan Environmental Council's
13 expert I think that we talked a little bit about. We're
14 getting in both the PSCR and we've put out requests for
15 proposal and we got one from George Evans to do the
16 Palisades piece of it, too, so we intend to spend some
17 time on both those big -- I think Celeste Gill, you've
18 met before, the other attorney from our office, is
19 focusing on those two. I don't know if we've gotten
20 final approval on the money yet, but I'm pretty sure we
21 have already focused on those, we know it's a big issue,
22 we plan on, you know, putting some resources in it.

23 MR. KESKEY: And we would certainly
24 coordinate with the AG, as we did back in 2006 and 7,
25 where both parties presented positions on this and

1 that -- this is one of those cases I think where all the
2 board members at the last meeting where someone asked the
3 chairman as to why you hold back some money, because
4 surprises happen; this is a big ticket item, this is the
5 case of the year. This involves an immense amount of
6 money. This involves presumptions about how you design
7 the applications to ultimately have the ratepayers go
8 down a trough of limited procedural rights, limited time,
9 limited discovery, where the end result is that the
10 ratepayers end up having to pay when that's an assumption
11 that should to be tested. It's sort of like -- what's
12 that bull running in Spain, what's it called? You know,
13 you get chased by a bull and you don't have many options.
14 And so we're saying that this should be proactive, we
15 should start right now in trying to find out where,
16 what's the right solution for the ratepayer.

17 MR. MacINNES: So this is case --

18 MR. BZDOK: Is that Pamplona?

19 MR. KESKEY: I was thinking, trying to
20 think of that.

21 MR. MacINNES: This is Case, just for
22 clarification, 18142?

23 MR. KESKEY: Yes.

24 MR. MacINNES: You're asking for an
25 increase from which was already granted at 18,000?

1 MR. KESKEY: From 18 to 72.

2 MR. MacINNES: To 72.

3 MR. KESKEY: And that's for both legal
4 and expert.

5 MR. MacINNES: Okay. So what's -- I
6 think you've convinced us this is an important thing. So
7 what's the next -- what's your next --

8 MR. KESKEY: There were two other dockets
9 which we asked for seed money basically, that's -- and we
10 had budget sheets attached in our January 23 e-mail, and
11 that's MPSC Docket 18239 and 18248, one is for Consumers
12 Energy and the other is for DTE.

13 MR. MacINNES: 248, okay.

14 MR. KESKEY: And this is where the
15 Commission is starting a docket to, and providing for
16 full intervention of parties to examine the
17 implementation of Section 6w(12)(1) and -- excuse me --
18 6w(1) and (2) of the new Act, and basically an
19 examination of resource adequacy, there's a FERC process
20 that has a certain timeframe, there are certain parts of
21 the state responsibility on the adequacy of resources by
22 these two companies, and the Palisades and the coal
23 plants directly impact on that, and we're asking for a
24 total of 5,000 that includes both legal and expert to
25 intervene in the case and examine the issues as they

1 unfold. The intervention date is March 10, the
2 intervenor testimony would be due in July, so there would
3 be an opportunity at the next meeting and perhaps even
4 the next meeting to find out where this is progressing.
5 But this whole Palisades thing and what they're doing
6 with their coal plants and MISO are directly implicated
7 in this initiatory proceeding by the Commission, and I
8 had sent you on the 23rd of January a copy of each of
9 those two orders.

10 MR. MOODY: You may want to take it up at
11 another meeting; we still need to look to see where that
12 falls under the statute, though, because a 6w isn't one
13 of the named provisions in the statute, so you'd have to
14 kind of, I don't know, think about it, like how it fits,
15 because it's a brand new statutory section, it's clearly
16 not part of the named ones in your funding statute.
17 Whether issues might be funded or not, you might want to
18 do a little more research. I haven't done the research
19 yet, I don't know if Don has or not.

20 MR. MacINNES: So what's your take on
21 that, Don?

22 MR. KESKEY: Well, it's directly related
23 to impacts on Act 304 costs, which under the Attorney
24 General's opinions are valid funding if they have a nexus
25 to the costs under Act 304, and the coal plants and the
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1 reliability issues, the Palisades issues are directly
2 related to Act 304.

3 Now, when we cease -- when we talk about
4 seed funding, the intervention date is March 10, and we'd
5 assert that it's under not only Act 304, but when you
6 look at the expanded statute where you can have more
7 funding for other things expressly by the legislature
8 now, not just in the Attorney General's opinion, I think
9 you're on safe ground.

10 MR. MOODY: Yeah, it's not expressed in
11 either the new statute, though. That's what I'm saying,
12 it's not expressed in either the old or new, but you
13 might be able to expand. So even if you -- even the
14 April 20 date when the new one comes in effect, it's not
15 listed, you know what I mean, it's not one of the ones
16 6a, 6h, 6t, whatever.

17 MR. MacINNES: So if they were to -- if
18 we funded the initial intervention and the Commission
19 decided or the ALJ decided they don't qualify, then --

20 MR. MOODY: Yeah, there could be a
21 question. I don't know if they would comment on your
22 funding, though; probably not. I mean they would -- I
23 don't know how that would work.

24 MR. MacINNES: Well, so far Don's had a
25 good track record of everything he's wanted to get into,
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1 he's gotten into.

2 MR. MOODY: Well, I don't think they
3 would say -- because they usually don't get into the
4 funding issue, that's not really their -- the only
5 argument the Commission would make is are those issues
6 ones that, whatever he's raising, falls within w, which
7 is a different question. Your question is, can you fund
8 someone into 6w; the Commission probably doesn't care
9 about that. I mean they do, but that's your --

10 MR. MacINNES: So what would you
11 recommend we do with this, then? I mean this is a
12 request today, we're going to make some decisions today.

13 MR. MOODY: I'd like to look at it a
14 little closer. I looked at the agenda, but I guess
15 didn't pay attention to that case number, and I want to
16 make sure you guys are on solid footing. Looks like you
17 have some more time still to intervene, right?

18 MR. KESKEY: March 10.

19 MR. MOODY: March 10.

20 MR. KESKEY: It's before the next
21 meeting.

22 MR. PASSMORE: Can we make a decision
23 pending review or --

24 MR. MOODY: Yeah, that might be something
25 you could do, that would be fine.

1 MR. MacINNES: Can you look into it for
2 us --

3 MR. MOODY: Yeah, I can do that, that
4 way --

5 MR. MacINNES: -- being our general
6 counsel?

7 MR. MOODY: Yeah, just to make sure.
8 Because we're looking at it, too, to get into the case,
9 so I'm trying to figure out if our funding source, like
10 if we use our general fund or can we use our --

11 MR. MacINNES: Okay. So you'll be
12 looking into it, and so if we would make it subject to
13 your -- when do you think you would be able to get a
14 determination on that?

15 MR. MOODY: I don't know. At least a
16 couple weeks to give us, but yeah.

17 MR. MacINNES: A couple of weeks?

18 MR. MOODY: Yeah, I think we could do it,
19 because I've got to look it up myself, too, so it has to
20 be done.

21 MR. MacINNES: I just don't want to get
22 our board into trouble because we've been too zealous.

23 MR. MOODY: Yeah, I think, you know,
24 especially with, you know, now they just changed the
25 statute and that one's not listed, somebody might say,

1 hey, you know, that was not in your scope.

2 MR. MacINNES: Somebody might.

3 MR. MOODY: So just want to look at it
4 and make sure you guys are on solid footing.

5 MR. MacINNES: Okay. So you'll do that
6 for us. And if it turns out that it's not appropriate,
7 then -- when will you be spending the money? Well,
8 you'll be doing that right away probably.

9 MR. KESKEY: Well, the first phase of the
10 intervention would not cost 2,500 each or 5,000 each, but
11 you have to intervene timely otherwise you run into other
12 problems.

13 MR. MacINNES: Yeah. So we wouldn't have
14 wasted a lot of money --

15 MR. KESKEY: That's right.

16 MR. MacINNES: -- if it ever turned out
17 to be a waste.

18 MR. KESKEY: We would want to take a look
19 at it a little bit more in depth and then file the
20 intervention, so I would think the intervention petition
21 plus that process could be done for \$600 each.

22 MR. MacINNES: Okay.

23 MR. MOODY: It's not the amount is the
24 question, it's just --

25 MR. KESKEY: That gets us to the April

1 board.

2 MR. MacINNES: So until we know, that
3 would get you in --

4 MR. KESKEY: Yeah.

5 MR. MacINNES: -- 600 each? I wish we
6 had more of those.

7 MR. KESKEY: I guess I'm probably
8 forgetting about the prehearing conference, but I don't
9 think, just as I recall, I've got the order here, I don't
10 think that's before the April meeting. Because sometimes
11 you have to fight out why you're in the case, or
12 utilities used to oppose our interventions, but they lost
13 every time, so that doesn't happen too much anymore. Let
14 me see. I think it was the 7:00 o'clock e-mail I sent to
15 you on the 23rd, it's got the schedule in it.

16 MR. VILMONT: So something like \$1,000
17 might cover each of the two, so two \$1,000 requests?

18 MR. KESKEY: Yeah, yeah.

19 MR. MacINNES: So let's say we did it at
20 \$2,000, 1,000 each, what do you think, Don?

21 MR. KESKEY: That would be fine. And we
22 could also offset -- if it's ultimately determined it's
23 not within the scope, we could offset, put that thousand
24 toward a credit to another case that you have approved.

25 MR. MacINNES: But I think, you know,
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1 obviously we look to you to represent to us that if it
2 falls under Act 304, too, you know.

3 MR. KESKEY: It would be Act 304 plus the
4 Act as amended, by April is when the new Act is going to
5 be.

6 MR. MacINNES: Because we're not lawyers,
7 so we need you to help us, and we need you guys to help
8 us.

9 MR. KESKEY: The prehearing conference is
10 on March 16, but the thousand would cover that and then
11 we would see what happens.

12 MR. MacINNES: Okay. So those are
13 cases --

14 MR. KESKEY: 18239 and --

15 MR. MacINNES: 239 and --

16 MR. KESKEY: And 18248.

17 MR. MacINNES: 248. Got that?

18 MR. ISELY: First one is CECo, second is
19 DTE?

20 MR. MacINNES: Yeah.

21 MR. KESKEY: 239 is Consumers Energy and
22 248 is DTE.

23 MR. MacINNES: Okay. Are there any other
24 questions that the board would have of Don and his team?

25 MR. ISELY: But we're talking, if
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1 everything goes as you're thinking, these would be \$5,000
2 cases.

3 MR. KESKEY: No.

4 MR. ISELY: They'd be --

5 MR. KESKEY: With intervenor testimony,
6 and they haven't expressly provided for intervenors, so
7 that's something as well, but that's due in July.

8 MR. ISELY: Okay.

9 MR. KESKEY: So we can keep reporting to
10 the board on that in terms of what we would propose or
11 what we --

12 MR. ISELY: Can you give me a best guess
13 as to if it blows up, what does it cost?

14 MR. KESKEY: Well, we would certainly
15 coordinate with the Attorney General's office on this,
16 and we would try to see what unique aspects the
17 residential customers have on the issues being presented,
18 and we will have additional background on the Palisades
19 issue and on the coal issues, and so I don't think it's a
20 big ticket number --

21 MR. ISELY: Okay.

22 MR. KESKEY: -- but we would bring it to
23 the board each time so that you have a fix on it.

24 MR. MOODY: We're looking at, for our
25 expert right now, I think we're at \$80,000 or so, but I'm

1 not sure, we're doing a bigger, you know, we're spending
2 a significant amount on the Palisades and then more on
3 the PSCR.

4 MR. ISELY: Okay. Part of what I'm
5 feeling out here is that we've today dealt with several
6 pieces where we've talked about giving a little bit and
7 deferring costs, so I'm trying to get a handle on, you
8 know, how many of those can we do and still have enough
9 to do it if we need to.

10 MR. MacINNES: Well, also, I think, you
11 know, you fund a few of these things just to get the foot
12 in the door, and then you see what the potential is, and
13 then you reprioritize your remaining funds. I mean, you
14 know, we do that all the time in our business, we pursue
15 something and then, oop, we might change priorities, so
16 you just have to deal with that.

17 Okay. Well, I think we should discuss
18 what we want to do amongst the board, unless there's
19 any -- do you have any last, anything else? I don't want
20 to shortchange you, but I think you've made your point.

21 MR. KESKEY: Well, I think, as I said, as
22 the board said last time, last cycle was production
23 allocation issues, and I think this is a big one.

24 MR. MacINNES: Palisades, yeah. Okay.

25 So we have \$240,000 to the end of the
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1 season, end of the year, so.

2 MR. ISELY: Can you get -- do you want to
3 start with a motion so we can discuss, or do you want
4 to -- how do you want to play it?

5 MR. MacINNES: What does everybody want
6 to do? I'm open.

7 MR. PASSMORE: I'd love to hear what
8 you've got, you've been keeping notes, I'd love to hear
9 what you've got there, sort of how the numbers add up.
10 Is that possible?

11 MR. ISELY: Sure. All right. I've
12 rounded up numbers many different ways, so let me give
13 the total sum, because I don't have that, but let me get
14 it quick here. So right now we have \$191,306 in
15 requests, of that, there's a \$10,000 adjustment, so that
16 leaves us with approximately \$60,000 for the rest of the
17 year if we would fund everything fully.

18 MR. MacINNES: Okay.

19 MR. ISELY: Having said that, if one of
20 the recon cases turns into a normal recon case, those go
21 for about 50,000 a piece; we have the gas case where we
22 could choose less money up front, and that would be --
23 that would have those options as well. So that's a
24 couple of things to think about. And then we had your
25 suggestion earlier about the WEPS [sic] reconciliation,

1 that maybe that doesn't have the same priority as the
2 UPPCo. So just a quick summarization.

3 MR. MacINNES: I mean to me I think I
4 would be inclined to take this, take the low dollar on
5 the gas case, residential gas case, the 7,070, and just
6 to, you know, get us in there, sounds like there's
7 potential opportunity there; I would also eliminate the
8 one, the WEPCo case, eliminate funding that because, I
9 mean, you know, I think we need to put our money with the
10 UPPCo cases, which is what we've been doing. So here it
11 is. So the UPPCo -- or the WEPCo PSCR reconciliation, I
12 don't think I would fund that. That's just my thought.
13 I mean I don't know. So those would be two areas where
14 we could reduce the request by 50,000, or not quite,
15 48,000.

16 MR. ISELY: That would leave us on the
17 order of \$100,000 left, which would be enough for two of
18 these cases to go full and, you know, in the way we've
19 traditionally funded them.

20 MR. MacINNES: What do you think about
21 the MISO, funding MISO?

22 MR. PASSMORE: That sounds important to
23 me, kind of pretty high level, but potentially high
24 leverage, too.

25 MR. MacINNES: There's a lot going on
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1 there, especially with the FERC changes and MISO, it's
2 just huge impact potentially, and nobody else, you guys
3 aren't following it.

4 MR. MOODY: We benefit tremendously from
5 it, so we do like it.

6 MR. MacINNES: And then, Don, your
7 request --

8 MR. KESKEY: Is an incremental 54 --

9 MR. MacINNES: Could we do with less,
10 could do you with less to just kind of get your, dive in
11 a little bit and come back to us?

12 MR. KESKEY: Well, the problem with that
13 is that the legal and strategy of what to do to prevent
14 being in the bull run in Spain, whatever it is, and
15 having experts dig in for the discovery is all upfront,
16 it's all happening right now, and you're going to short
17 yourself on something that's extremely important in terms
18 of cost.

19 MR. MacINNES: Is there any pro bono
20 money that's going in this --

21 MR. KESKEY: Well --

22 MR. MacINNES: -- the Palisades?

23 MR. KESKEY: Well, the last time we went
24 through all these cases, it was a substantial amount of
25 pro bono that ended up to get through it.

1 MR. MacINNES: I see some laughter over
2 there. Silly question.

3 MR. KESKEY: So I guess our theory along
4 the line is that we get into it heavy and we find out
5 where everything is, and you don't stop a case because
6 you ran out of money, you come back and ask for more
7 and/or if you don't get anymore, then you try -- you
8 patch through to the end because that's what we started
9 out to do, you know.

10 MR. LISKEY: One thing I should mention,
11 and we didn't submit it yet, but there is a WEPCo
12 certificate of need case.

13 MR. MacINNES: Oh, uh-huh.

14 MR. LISKEY: And the reason I didn't
15 submit it yet is because the new statute isn't -- I
16 didn't think you would have the authority to approve it
17 yet because it's not until April.

18 MR. MacINNES: Right. And what's that,
19 is that for the --

20 MR. MOODY: That's a gas plant.

21 MR. MacINNES: -- 180-megawatt recip?

22 MR. LISKEY: Yep. And that will probably
23 be a 12-month case, so.

24 MR. MacINNES: Is that going to be a hard
25 case?

1 MR. JESTER: Well, it's not going to be
2 anything like the integrated resource plan case that
3 comes from DTE.

4 MR. MacINNES: I mean the recip, those
5 are pretty straight forward, the costs are pretty well
6 known, and that should be --

7 MR. JESTER: Yeah. There are not a wide
8 variety of alternatives to evaluate; transmission is one
9 of them. The other thing we didn't mention, but there is
10 a request for a special contract embedded in this case
11 with the Tilden Mines, so we're --

12 MR. MacINNES: Another special contract?

13 MR. JESTER: Yes. So we're as interested
14 as the special contract as in the certificate of
15 necessity, but they're in the same case.

16 MR. MacINNES: And how much do you think
17 that will be to --

18 MR. LISKEY: 25 to 50 probably.

19 MR. MacINNES: Yeah, okay. I don't know.
20 Well, I don't know, we'll have to see.

21 MR. LISKEY: We intend to intervene in it
22 because it's one of these deadline is March something --
23 no -- February 27 we need to intervene, so we were going
24 to do that anyway.

25 MR. MacINNES: On your own?

1 MR. LISKEY: Yeah. But I just didn't
2 think it, you know, because I didn't want you to -- it
3 doesn't take effect yet, so.

4 MR. MacINNES: We can't spend the money
5 yet.

6 MR. LISKEY: Right.

7 MR. BZDOK: Mr. Chairman.

8 MR. MacINNES: Yes.

9 MR. BZDOK: As we identified in our PSCR
10 reconciliations proposal where we said we are already
11 downshifting this, the reason was we anticipated this
12 UMERG thing that CARE was going to be involved in, and
13 also DTE going to come in for a CON, certificate of
14 necessity IRP case in the summer is what we've heard, but
15 we don't know timing on that.

16 MR. MacINNES: Is this going to be a big
17 gas turbine project do you think?

18 MR. BZDOK: It will be a big case, but it
19 will overlap fiscal years, and we'll be able to get some
20 other money as well. But we are anticipating -- I mean
21 and we put that in our materials, we're anticipating a
22 request to you sometime this summer for that.

23 MR. MacINNES: Right. Well, I think we
24 should conserve as many resources as we can for now.

25 MR. BZDOK: That will be our, the
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1 Consumers reconciliation and then that DTE case coming
2 this summer are our biggest remaining priorities for this
3 fiscal year.

4 MR. MacINNES: Okay. Any other thoughts?
5 Words of wisdom?

6 MR. PASSMORE: Wish we had more.

7 MR. MacINNES: More money, yes. That's
8 always the problem.

9 MR. ISELY: So you want a motion?

10 MR. MacINNES: Let me see if I have
11 anymore questions here.

12 MR. VILMONT: Do you want to take these
13 individually, then?

14 MR. MacINNES: I might have another
15 question here, I'm not quite ready.

16 MR. VILMONT: I just want to make sure
17 I'm clear on the numbers we have. So we have the Grant
18 Request No. 1 is \$4,500, correct?

19 MR. ISELY: 45/45 for U-17920 and
20 U-17918-R.

21 MR. BZDOK: R on the end of both of them,
22 and the 45 is each.

23 MR. ISELY: Right.

24 MR. MacINNES: So I did have another
25 question for John. Is that mine?

1 MR. ISELY: I stole it.

2 MR. MacINNES: The UPPCo PSCR
3 reconciliation case, 20,000, can you do with any less
4 than that?

5 MR. LISKEY: Well, we always do. I mean
6 it's an important case because it's the followup to
7 U-17911, which went the distance, I mean that was a fully
8 litigated case.

9 MR. MacINNES: Yes, it did.

10 MR. LISKEY: And so I -- I don't know
11 what to tell you.

12 MR. MacINNES: I wish I didn't even have
13 to ask you that.

14 MR. LISKEY: Right. No, I understand. I
15 think it's a realistic number.

16 MR. MacINNES: Okay. So when we get done
17 with this one, if we get done -- will we get done with
18 this one, with this, when we do this?

19 MR. LISKEY: The UPPCo reconciliation
20 case?

21 MR. MacINNES: Yeah. Will this -- you
22 know, we put 90,000 to the other UPPCo stuff, right?

23 MR. LISKEY: Right.

24 MR. MacINNES: And now we're talking
25 another 20,000?

1 MR. LISKEY: Right.

2 MR. MacINNES: Will that kind of get us
3 through these questions of the transition?

4 MR. LISKEY: Yes. Yep.

5 MR. MacINNES: I mean we haven't been
6 shy.

7 MR. LISKEY: No.

8 MR. MacINNES: But it would be nice find
9 an end, or some kind of an end.

10 MR. LISKEY: Well, it will get us
11 through. Now, you know, in our request today is \$15,000
12 for the appeal, but we are committed to say we won't ask
13 for any more, we will -- you know, that's going to take a
14 couple of years, so it's not just -- the conclusion of
15 these two PSCR cases doesn't necessarily end the
16 transition because that's -- the transition issues
17 because that's all tied up also in the rate case.

18 MR. MacINNES: Uh-huh.

19 MR. LISKEY: But in terms of your dollar
20 output, yep, that would be the end of it.

21 MR. MacINNES: Okay. Do you have a
22 motion?

23 MR. ISELY: All right. I'll start some
24 motions. I'll start with the MEC requests. So I move
25 that we approve the DTE PSCR recon and CEC Co PSCR recon,

1 which are U-17920-R, U-17918-R, for \$4,545 each.

2 MR. VILMONT: I'll second that.

3 MR. MacINNES: Do we have any discussion?

4 All those in favor, please signify by
5 saying aye.

6 BOARD MEMBERS: Aye.

7 MR. MacINNES: Opposed, same sign. Okay.

8 MR. ISELY: All right. I then move that
9 we approve the Case U-17678-R, which is the Consumers
10 piece, which MEC requested \$10,100 for, I move we approve
11 that.

12 MR. MacINNES: Is there support?

13 MS. HAROUTUNIAN: Support.

14 MR. MacINNES: Any discussion?

15 All those in favor, please say aye.

16 BOARD MEMBERS: Aye.

17 MR. MacINNES: Opposed, same sign.

18 MR. ISELY: I then move that we approve
19 funding the gas case, U-18152, for \$7,070.

20 MR. MacINNES: Is there support?

21 MS. HAROUTUNIAN: Support.

22 MR. MacINNES: Discussion?

23 All those in favor, please say aye.

24 BOARD MEMBERS: Aye.

25 MR. MacINNES: Opposed, same sign.

1 MR. ISELY: All right. I'm going to move
2 on to the CARE requests. So I move that we approve the
3 UPPCo Case U-17911-R for \$20,000.

4 MR. MacINNES: Is there support?

5 MS. HAROUTUNIAN: Support.

6 MR. MacINNES: Any discussion?

7 MR. PASSMORE: That's the reconciliation
8 case --

9 MR. ISELY: That's the reconciliation.

10 MR. PASSMORE: -- and not the appeal?

11 MR. ISELY: Correct.

12 MR. MacINNES: And this is the UPPCo
13 reconciliation case?

14 MR. ISELY: Yes.

15 MR. MacINNES: Any other discussion?

16 All those in favor, please say aye.

17 BOARD MEMBERS: Aye.

18 MR. MacINNES: Opposed, same sign.

19 MR. ISELY: All right. I move that we
20 approve the second half of MISO funding for CARE for
21 \$17,500.

22 MR. MacINNES: Is there support?

23 MS. HAROUTUNIAN: Support.

24 MR. MacINNES: Any discussion?

25 All those in favor, please say aye.

1 BOARD MEMBERS: Aye.

2 MR. MacINNES: Opposed, same sign.

3 MR. ISELY: All right.

4 MR. MacINNES: You're on a roll.

5 MR. ISELY: All right. So I will also
6 move that we approve the UPPCo appeal of U-17957; is that
7 right?

8 MR. LISKEY: No, 17895.

9 MR. ISELY: 17895 for \$15,000.

10 MR. MacINNES: Is there support?

11 MS. HAROUTUNIAN: Support.

12 MR. MacINNES: Any discussion?

13 All those in favor, please say aye.

14 BOARD MEMBERS: Aye.

15 MR. MacINNES: Opposed, same sign. Okay.

16 MR. ISELY: All right. I'm going to move
17 to -- let me get my names right.

18 MR. MacINNES: Shawn, are you keeping
19 track of all this stuff?

20 MS. WORDEN: I'm trying to.

21 MR. ISELY: All right. So I'm moving to
22 Residential Customer Group requests. I move that we
23 approve funding for U-18142, and I want to confirm that
24 that's the correct number since I have two different
25 numbers on our sheets here.

1 MR. KESKEY: Yes, that's the correct
2 number. But then we said and related cases and in case
3 the strategy is that we should also seek to reopen the
4 PPA case, which was 14992, or seek to reopen -- not
5 reopen, but request the Commission to reopen the 1 --

6 MR. COYER: 8218.

7 MR. KESKEY: -- 18218 docket where they
8 opened up an investigation.

9 MR. MacINNES: So is there a way to
10 reword that so that --

11 MR. KESKEY: In other words, that would
12 be a lump sum.

13 MR. MacINNES: But we say related cases
14 that qualify under Act 304 as amended maybe, I don't
15 know. What do you think? Something like that. In case
16 there's some issue with one of those other ones.

17 MS. HAROUTUNIAN: How about the 18142 and
18 related cases with their numbers, just say it that way.

19 MR. MacINNES: Do we know the numbers of
20 the related cases?

21 MR. KESKEY: Yes. A possible reopener on
22 the U-14492, which was the original PPA case which you
23 funded before, now this is an amendment to that.

24 MR. MacINNES: Okay.

25 MR. KESKEY: And then U-18142 is the
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1 current PSCR case for Consumers Energy, and U-18128 --
2 excuse me -- U-18218 is the investigation opener docket
3 that the Commission had which included a lot of questions
4 about purchased power impacts, amongst others.

5 MR. ISELY: All right. I will start
6 over. I move that we approve funding for the Residential
7 Consumer Group's request for U-18142 and related Cases
8 U-18218 or U-14492, if the need arises and they conform
9 to Act 304.

10 MR. MacINNES: As amended.

11 MR. ISELY: As amended. I move that we
12 approve \$54,000.

13 MR. KESKEY: Actually, it's \$54,000
14 increase over the already approved 18, so the new
15 budget --

16 MR. ISELY: An additional \$54,000.

17 MR. MacINNES: Okay. Do we have support?

18 MR. ISELY: Do I have to restate it?

19 MS. HAROUTUNIAN: Support.

20 MR. MacINNES: Is there any discussion?

21 All those in favor, say aye.

22 BOARD MEMBERS: Aye.

23 MR. MacINNES: Opposed, same sign. Okay.

24 MR. ISELY: All right.

25 MR. MacINNES: You're on a roll.

1 MR. ISELY: And then last, but not least,
2 I don't have the numbers in front of me, so can you give
3 me Don's -- never mind, I got it.

4 All right. So I move that we approve
5 funding for CECO Case U-18239 and DTE Electric Case
6 U-18248 for \$1,000 a piece, to the extent that they
7 conform to Act 304.

8 MS. HAROUTUNIAN: Support.

9 MR. MacINNES: Is there any further
10 discussion?

11 All those in favor, please say aye.

12 BOARD MEMBERS: Aye.

13 MR. MacINNES: Opposed, same sign.

14 Okay. We did it.

15 MR. PASSMORE: Thank you.

16 MR. MacINNES: Do you think you have
17 those listed, Shawn, pretty much? So we tried to be
18 prudent and leave some more money for the future.

19 MR. COYER: Thank you very much.

20 MR. MacINNES: Okay. Now we have Item
21 (e), our UCPB assistant candidate, and who's sitting
22 there very quietly and patiently all afternoon. Thank
23 you.

24 MS. KITCHEN: Completely enthralled.

25 MR. MacINNES: Kelly Jo Kitchen. I've
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1 sent all of you her background information. As you know,
2 we've been looking for some time for a candidate to help
3 us and de-load our LARA friends here a little bit. And
4 Kelly, you've expressed an interest in this position,
5 you've been to a couple of meeting now.

6 MS. KITCHEN: I have.

7 MR. MacINNES: You and I have had some
8 visits. I think it would be great if you could kind of
9 talk about your background and experience relating to the
10 work we do and your interest in the work we do.

11 MS. KITCHEN: Well, the latter is a
12 longer list than the former. I'm a retired school
13 teacher, math and science, of 32 years, I am a licensed
14 attorney, I've been the president of CARE for nine years.
15 Energy law is -- has an interest to me on a lot of
16 levels. This board is so important to the consumers of
17 this state, and I am an advocate at heart, and I would
18 love to be a participant in helping the board in any way
19 I can to better do the function that they are set up to
20 do.

21 My experience is I've had a week of
22 training at the NARUC conference at MSU. I'm looking for
23 more opportunities to learn more, because the learning
24 curve is, as the new board members I'm sure are now
25 experiencing, pretty vertical. I am a quick study, I

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1 love to be able to present material in different ways,
2 and I've got some ideas that might help the board
3 integrate some of this stuff a little bit easier for
4 them.

5 That -- I'm going to wrap that up. If
6 you have any questions for me, I would love to answer
7 them.

8 MR. MacINNES: Are there any questions
9 for Kelly Jo?

10 MR. VILMONT: So you know that you'll be
11 giving up your position with CARE, then?

12 MS. KITCHEN: I do. In fact, we're
13 all -- we're set with that, yes. We found a good
14 replacement for me.

15 MR. MacINNES: I gave John the bad news
16 the other day, that if we went ahead, he'd have to get
17 somebody else.

18 MR. LISKEY: We've got a fellow --

19 MR. MacINNES: Sorry, John.

20 MR. LISKEY: Well, you can't replace
21 Kelly, but we have a very good person who's a 30-year
22 retiree from the Lansing Board of Water & Light, he's an
23 engineer, and that is a different skill set than we have
24 on our board, so that -- Paul Lang is his name.

25 MR. MacINNES: So Kelly Jo, you -- we
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1 talked about having you operate basically under the same
2 principles as the other agreement we had with Michelle
3 Wilsey --

4 MS. KITCHEN: Yes.

5 MR. MacINNES: -- and you've reviewed
6 that.

7 MS. KITCHEN: Yes, I have.

8 MR. MacINNES: And you're okay with that?

9 MS. KITCHEN: Absolutely, yes.

10 MR. MacINNES: Okay. I mean I think you
11 have a good, you know, your legal experience is good and
12 you've certainly been a passionate advocate for
13 residential ratepayers for how many years now?

14 MS. KITCHEN: Nine.

15 MR. MacINNES: Nine years. So that in
16 itself is good, I think, and eagerness to learn.

17 MS. KITCHEN: Uh-huh.

18 MR. MacINNES: And you are a quick study,
19 from what I can tell.

20 MS. HAROUTUNIAN: I think that Kelly
21 seems very well qualified, and if she's willing to take
22 us on and do the support work that we find so helpful.

23 MR. MacINNES: Are you willing to take us
24 on?

25 MS. KITCHEN: I used to teach eighth
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1 graders.

2 MR. MacINNES: Hopefully we won't be as
3 bad. Okay.

4 Any other questions of Kelly or comments?
5 Kelly, do you have any questions of us?

6 MS. KITCHEN: No. I'm eager to get
7 started.

8 MR. MacINNES: Okay. Very good. Well,
9 do we have a motion to bring Kelly Jo Kitchen on as our
10 board assistant?

11 MS. HAROUTUNIAN: So moved.

12 MR. VILMONT: Second.

13 MR. MacINNES: Is there any further
14 discussion?

15 Okay. All those in favor, please say
16 aye.

17 BOARD MEMBERS: Aye.

18 MR. MacINNES: Opposed, same sign.
19 Thank you, and congratulations to you and
20 to us.

21 MS. KITCHEN: Thank you very much.

22 MR. VILMONT: Yes, thank you very much.
23 Welcome aboard.

24 MR. MacINNES: We're very excited to have
25 you join us.

1 Okay. Reports. The hour is late, but we
2 probably should take a few reports here before we go.

3 MR. MOODY: I'm going to slip out a
4 little early.

5 MR. MacINNES: You're going to slip out
6 early?

7 MR. MOODY: Thanks, guys.

8 MR. MacINNES: Chris, do you have
9 anything that you want to, any highlights you want to
10 hit? You've sent us a nice -- well, not everybody got it
11 unfortunately -- but you sent a good summary.

12 MR. BZDOK: Thank you. Well, yeah, so we
13 sent you a lot of information in a case status report
14 which hopefully you'll get a chance to look at. In
15 addition, since we sent you that, and the only case I'll
16 highlight, we sent an additional e-mail with a report on
17 receiving a Commission final order in the DTE general
18 rate case, which was 18014, which you have invested
19 substantial funds in it.

20 MR. VILMONT: Is that the 3385513?

21 MR. BZDOK: Yeah. And so this was -- we
22 got a really good result in this case, and so that's the
23 only reason why I would want to highlight that. So the
24 Company -- and when I say we did, we did on some of our
25 issues and the Staff did a good job in this case and the

1 Attorney General, there were a lot of parties in this
2 case, right, and on a lot of different issues. But the
3 big picture was the Company sought a rate increase of
4 \$344 million a year, and the total increase granted was
5 184, or about half, and that, just having been around the
6 block and things like settlement conferences and things,
7 sort of the general rule of thumb that, for example,
8 Staff uses is more like a two-thirds in figuring out
9 where they think the Commission will land, and so half is
10 moving the needle in a very solid direction.

11 For our issues, T.J. did a done of work
12 on this case, and then you also funded experts for us,
13 including George Sansoucy on production cost allocation
14 and Douglas on some of the distribution system work, and
15 I'm sure I'm not thinking about somebody else.

16 MR. MacINNES: So the PROMOD, was the
17 PROMOD --

18 MR. BZDOK: We didn't do PROMOD in this
19 case.

20 MR. MacINNES: But production cost?

21 MR. BZDOK: Production cost allocation.

22 MR. MacINNES: Oh, okay.

23 MR. BZDOK: So let me just run down
24 issues real quick. So one issue that we have talked
25 about is a request by us to deny inclusion in rate base

1 of projected capital expenditures on the River Rouge Unit
2 3 coal plant, and that is because River Rouge Unit 2 is
3 broken and will not be fixed and, therefore, costs
4 associated with that are now placed, you know, on the
5 whole plant are now being borne by a single unit. We had
6 some of those economic analyses that look at energy
7 market prices and revenues and capacity revenues, and the
8 needle in those has moved in a direction that was not
9 favorable. This was not a lot of money, it was about \$2
10 million in projected capital expenditures, but the ALJ
11 recommended that they be denied for inclusion, and the
12 Commission agreed. The Commission basically said, in
13 these economic -- you know, basically you needed to do
14 more and show that it was reasonable to keep investing
15 capital in River Rouge Unit 3 when it looks like it's on
16 the borderline of being economic going forward, and
17 further, if something big happens, like you make a
18 decision to retire Unit 2, you need to file something and
19 not rely on intervenors to bring this out via discovery.
20 So there was a little bit of some strong language on
21 that, as well as a disallowance, not huge money, but
22 really important as far as the principle of it is a
23 concern, and we were the only party on that issue.

24 Natural gas plant development costs,
25 we -- there were \$13 million were requested for working

1 capital approval for money that's been spent on
2 developing engineering and design and plans for the
3 natural gas plant or plants that DTE is going to come in
4 for a certificate of necessity on; we argued that that
5 should not be included in rate base until DTE makes some
6 further showing that this is the right direction ahead.
7 Simultaneously, they're still asking for money for the
8 license for the Fermi 3 nuclear plant, which those are
9 two inconsistent, long-term resource plans, to build gas
10 plants and to, you know, and to build this nuclear plant,
11 so there was -- some of this had to do with the
12 inconsistency.

13 MR. MacINNES: And that's, wasn't that
14 like a hundred million or something?

15 MR. BZDOK: Yep. And I'll get to that
16 more in a minute here. But yes, it was. And then we
17 also said, look, you had this vehicle available via an
18 IRP certificate of necessity case where you can come in
19 and get your predevelopment design, siting, all those
20 costs paid for under a specific law, so you shouldn't
21 just have a blank check up until then, and we argued, I
22 mean -- and if you don't put some kind of handle on it
23 ahead of time, you're going to get a \$100 million bill
24 like you did with Fermi 3. I mean that's an extreme case
25 because it's a nuclear plant, right, but the point is

1 still. And the Staff had a difference of opinion about
2 how the accounting should be done, but we, and to a
3 lesser extent the AG, were the only ones who opposed
4 this, and the ALJ agreed with us and the Commission
5 agreed with the ALJ and denied approval of those in rate
6 base.

7 Distribution capital expenditures, this
8 is an issue that Douglas has worked on -- I don't know if
9 he's still here; oh, yeah, he's over there -- has worked
10 on for us via Consumers and DTE. This was the issue
11 where they were going to spend half a billion dollars of
12 capital on the distribution system, which we didn't argue
13 against them doing that, we just said, if you're going to
14 spend all this money to fix aged equipment, you need to
15 have a plan for cost benefit and for figuring out what's
16 the most efficient, what's the way you can reduce your
17 energy waste and your energy losses along the way; and
18 the Commission gave us I would say partial relief on that
19 by requiring DTE to develop and submit a five-year plan
20 for distribution system capital planning that will
21 include cost benefit and analysis of alternatives. So
22 that's not a money issue, but we do think it's a move in
23 the right direction, and Douglas and T.J. worked that
24 issue heavily.

25 The Fermi 3 was a request for return on
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1 that hundred million in costs to develop and obtain the
2 license, the Nuclear Regulatory Commission license for
3 Fermi 3. As you'll recall, we have fought recovery of
4 that money because that plant is not used and useful, and
5 there is no apparent plan that it will be used and
6 useful. I know that Jim brought someone in from DTE some
7 years ago to talk about that whole process, and I
8 remember at my one question when you let us ask questions
9 at that time was, how much have you spent on this so far,
10 and he said 87 million at this time, and I thought, well,
11 we're going to see this in a rate case. So the
12 Commission --

13 MR. MacINNES: By the way, I brought a
14 similar person in from DTE at another event that I had
15 and I asked him what the probability -- he's a nuclear
16 guy with DTE -- I asked him what was the probability that
17 that plant would get built, and he said a probability of
18 1.0, so they were very confident that they're going to
19 build that plant at the time.

20 MR. BZDOK: And yet it's not in their
21 current long-term resource plan, right, instead there are
22 gas plants in there now, and have been since 2013 maybe.
23 For a few years now there's been no nuclear plant in the
24 long-term plan.

25 So the Commission granted them on
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1 reconsideration in the last rate case an amortization of
2 the return of that money, of the hundred million over 20
3 years, but again, denied return on it. So yes, you can
4 get your money back for having gone down this road, we're
5 not going to let you earn a profit on top of that. So
6 this was solely a fight about return on, and the ALJ
7 recommended against return on, and the Commission upheld
8 that again. I think that was a revenue requirement, I
9 think it was 5 or 6 million a year in the first year, and
10 then it goes down as it -- as the amortization happens,
11 but we can firm up that number.

12 Production cost allocation was this 75/25
13 or 100/0/0 issue. That was successful again in that
14 there was not a shift approved from 75/25 to 100/0/0,
15 which would have been a shift in favor of the industrial
16 customers by a large amount, which was included in our
17 larger report of -- I thought I had it here, but I don't
18 have that. I'm going to firm up all these numbers
19 because we are going to have to do that, you know,
20 because this was an e-mail and we had -- so we didn't do
21 our return on investment yet, but we'll firm that up as
22 well. It's \$40-50 million, something, it's big. Maybe
23 it's 36, that's a number that's sticking in my head.

24 And then we also said we were going to
25 go -- rather than just always saying no to this, we were

1 also going to advance our own theory that if you're going
2 to do this in the future, you should require them to
3 treat peaking units one way and treat base load units
4 another way, and the ALJ recommended and the Commission
5 agreed to basically, to more or less adopt that
6 recommendation and say, if you want to come in here again
7 and change production cost allocation, we're not just
8 going to play whack-a-mole, you know, every single time,
9 we're going to make you provide an analysis of treating
10 peaking units and base load units differently as MEC
11 has -- is advocating.

12 Fixed charges --

13 MR. MacINNES: And that's going to be --
14 that could be -- I mean the peaking units are so much
15 less expensive to build, right?

16 MR. BZDOK: Yep. Yep. If you're doing
17 this to deal with capacity peaks, then you should be
18 doing that with -- yep, and that should be a lot cheaper.

19 MR. MacINNES: Right.

20 MR. BZDOK: Fixed charges, there was --
21 DTE sought to increase the fixed monthly service charge
22 for residential customers from \$6.00 a month to \$9.00 a
23 month; we opposed that. Staff proposed 7.50, and that's
24 what the Commission ultimately did. So that was like a
25 half, half a result we felt there.

1 And then Douglas, as you know, has
2 advocated for us and for CARE when we've worked
3 collaboratively with CARE in the rate design cases to
4 move more in the direction of pricing being based on time
5 of use and being based on demand at the time of use so as
6 to try to price more realistically to what, you know,
7 usage is costing at that particular time. And partly in
8 reaction to what some of our proposals in this case, DTE
9 said, well, we're not going to do what Jester says, but
10 we would agree to increasing the differential for our
11 industrial customers between on-peak and off-peak energy
12 costs. And the ALJ initially denied that, but then
13 ABATE, interestingly enough, also supported it, and so
14 the Commission agreed to do that as well.

15 So all in all -- and they made a positive
16 ROE decision, which we were not involved in because
17 that's not been eligible previously, it will be under the
18 new statute, which was a big part of the overall
19 reduction. So the issues that we worked on, we felt
20 there were a lot of good results, and we'll firm up the
21 numbers in our next formal report, but I wanted to let
22 you know because this is hot off the press, so to speak.

23 MR. MacINNES: So for all the grantees,
24 you know, we, as we mentioned before, once we close out
25 the year, we like to, you know, have -- you need to do

1 that report, right, for the annual report, and having
2 that return on the money spent, you know, that's a good
3 thing. And believe me, I use that when talking with
4 legislators, and it definitely helped. So the more we
5 can keep track of that, you know, we spent 47,000 here
6 and we saved 3 million here, that's a good thing to be
7 able to show people.

8 MR. BZDOK: As you've become familiar
9 with and we've certainly become familiar with when you're
10 doing this, kind of this sustained advocacy, you have
11 hits and you have misses, so this was a hit. So this is
12 going to be one I think we can look back to multiple
13 times in the future.

14 MR. MacINNES: The nice thing is when we
15 do have a hit, it can pay for a lot of misses.

16 MR. BZDOK: That's true.

17 MR. PASSMORE: Remind me what ABATE is.

18 MR. BZDOK: Oh, I'm sorry. ABATE is the
19 Association of Businesses Advocating Tariff Equity, and
20 it basically represents the large industrial customers.

21 MR. MacINNES: And actually, we have a
22 lot in common with them, with the exception of the cost
23 of service issues.

24 MR. BZDOK: I would agree with that.

25 MR. MacINNES: Okay. Thank you, Chris.

1 MR. BZDOK: Thank you.

2 MR. MacINNES: Don, do you have anything,
3 any report that you'd like to make?

4 MR. KESKEY: I'll focus on the ones that
5 the board has approved funds for because RCG has
6 participated in the rate, general rate cases for both
7 Consumers and DTE, which is one of those just discussed.

8 With respect to RCG, the board had
9 previously approved and they've augmented the grant today
10 in the Consumers Energy PSCR 18142, and we've discussed
11 that, but to be sure, we were granted full intervention
12 in that case and we're in the case, and so that's being
13 subject to review and discovery preparation.

14 With respect to what you've granted for
15 GLREA, you granted a budget for DTE PSCR Case 18143 to
16 pursue issues concerning things that relates to solar
17 energy, including advocating that DTE's forecast should
18 incorporate increases in customer-owned, community-owned
19 solar energy, and also utility-owned solar energy, and
20 related to that can be issues concerning where we're
21 going with net metering and where we're going with solar
22 value proceedings, which are upcoming, so that's under
23 active work.

24 With respect to GLREA, you also approved
25 budgets of \$12,000 each for the PURPA cases, that's 18090

1 and 18091. This involves trying to find what the
2 Commission should approve in terms of contracts between
3 independent power producers and the utilities under the
4 federal mandates of the federal law, it's called PURPA,
5 and there's FERC regulations under that and some court
6 cases, and we were granted intervention in both of those
7 cases, we filed testimony in both of those cases, and we
8 filed initial briefs in both cases, and we will file
9 reply briefs in both cases.

10 MR. MacINNES: But where is that going?

11 MR. KESKEY: The next step after the
12 briefs are filed will be a proposal for decision by the
13 administrative law judges, and then there's the
14 exceptions process and then ultimately the Commission --

15 MR. MacINNES: But now that you're in the
16 case, where do you see -- how do you see it unfolding?

17 MR. KESKEY: Well, the utilities in their
18 proposed tariffs and proposals had advocated that they
19 should only be -- have to commit to very short contract
20 periods of three to five years, and only if they need
21 capacity; however --

22 MR. MacINNES: And that's not going to
23 work for the IPPs.

24 MR. KESKEY: It's not going to work under
25 the law either because the law, federal law requires that

1 there be just and reasonable rates and nondiscriminatory
2 rates, essentially neutral rates as between what the
3 utility would pay for its next incremental of capacity
4 and energy compared to what the independent nonutility-
5 owned power producers would supply and both be on the
6 same platform, and as you know, utilities plan for
7 building plants in large increments for 30, 40 or more
8 years, it's all put into rate base, they're covered in
9 many different ways with respect to their costs of those
10 plants, and so you can't have a three- to five-year
11 commitment only for allowing any kind of production or --

12 MR. MacINNES: It's not financeable.

13 MR. KESKEY: -- development, investment.

14 But there's also a state statute, it's, and it still
15 remains with the new amendments section, 6(j)13b, which
16 addresses PURPA projects and talks about a minimum
17 financing period of 17.5 years. And so one of the things
18 that we've raised in these cases is how can our proposals
19 comply even with state law, because you have to have a
20 financing period of time that can bring certainty to even
21 keeping the door open for the opportunity to promote
22 these projects, which is one of the purposes of federal
23 law. So those are important cases.

24 As far as the ratepayer impact, customer
25 rates are both base rates and then the Act 304, and the

1 totality is the rates that people are paying, and PURPA,
2 if properly implemented, should make the ratepayer
3 neutral; in other words, are we going to get all the
4 power from the utilities only or are we going to get a
5 certain percentage of the power from independent
6 projects, non-monopoly projects; you get more diversity,
7 you get more reliability. A lot of PURPA projects are
8 smaller, they're smaller increments, diverse throughout
9 the area, rather than suddenly having 800 megawatts of a
10 utility plant added and you've got surplus capacity now.
11 In other words, there's some reasonable balance between
12 utility-owned and PURPA projects. So those cases are
13 progressing, it will be some time before the Commission
14 issues it's ruling.

15 With respect to 17920, the Commission did
16 issue an order in that case. They sort of held in their
17 same message about the new energy acts, they did reject
18 Edison's claim that our presentation was the same as last
19 time and was already not accepted by the Commission
20 because of the new acts coming forward. The Commission
21 did recommend that an avenue for looking at this, these
22 issues would be -- include the renewable energy plan
23 cases that come up every year, every other year, and
24 they're going to come up this year, which we have been
25 involved in in the 2015 cycle. So we've been granted

1 full intervention, as I say, in the new case, and we're
2 developing testimony that addresses the Edison forecast
3 and some of these other issues. And, by the way, the ALJ
4 and the Commission rejected Edison's argument trying to
5 say that it was barred by previous presentation, they
6 pointed out it was new and somewhat different. So we'll
7 see where we go in the new case.

8 But as I indicated at the last meeting,
9 the upcoming renewable energy plan cases should be
10 important cases to fund to some degree.

11 MR. MacINNES: Okay. John.

12 MR. LISKEY: We don't have anything
13 further to report other than what we've stated.

14 But I would like to take this opportunity
15 to thank you, Jim, for all your work on the legislation
16 on behalf of CARE and our ratepayers, you did a
17 tremendous job. And the more I think about meeting with
18 legislators and how important that was, there are 43 new
19 house members right now, and so we've talked among
20 ourselves, some of the grantees, and we're going to,
21 apart from any official action, start building power
22 points and education 101 because we realize how important
23 it is to get there early and --

24 MR. MacINNES: A lot more work to do, for
25 sure.

1 MR. LISKEY: Yeah, for sure. So thank
2 you very much.

3 MR. MacINNES: Yeah. Okay. Any public
4 comment?

5 Next meeting is April 23. Thank you,
6 all, for your work on behalf of the residential
7 ratepayers.

8 And do we have a motion to adjourn?

9 MS. HAROUTUNIAN: So moved.

10 MR. MacINNES: Okay.

11 (The meeting adjourned at 4:05 p.m.)

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1 STATE OF MICHIGAN)
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2 COUNTY OF MACOMB)

3 I, Lori Anne Penn, certify that this
4 transcript consisting of 133 pages is a complete, true,
5 and correct record of the proceedings held on Monday,
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February 15, 2017
Date

Lori Anne Penn
Lori Anne Penn, CSR-1315
Notary Public, Macomb County, Michigan
My Commission Expires June 15, 2019