

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter, on the Commission's own motion,)	
to establish the MICHIGAN RENEWABLES)	Case No. U-12915
ENERGY PROGRAM.)	
_____)	

At the May 18, 2004 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. J. Peter Lark, Chair
Hon. Robert B. Nelson, Commissioner
Hon. Laura Chappelle, Commissioner

OPINION AND ORDER

In its August 18, 2003 order in this docket, the Commission directed the Commission Staff (Staff) to file its 2003 Michigan Renewables Energy Program (MREP) report by November 18, 2003 and directed Administrative Law Judge Barbara A. Stump (ALJ) to set a procedure for further consideration of the Staff report.

At a prehearing conference on September 15, 2003, the ALJ set December 2 and December 23, 2003, respectively, as deadlines for filing comments and reply comments to the Staff's 2003 MREP report.

Comments were submitted by Consumers Energy Company (Consumers), The Detroit Edison Company (Detroit Edison), the Michigan Electric Cooperative Association (MECA), the Michigan Electric and Gas Association (MEGA), Mackinaw Power, L.L.C., Midland Energy L.L.C., the Michigan Independent Power Producers Association (MIPPA), Attorney General Michael A. Cox

(Attorney General), and the Association of Businesses Advocating Tariff Equity (ABATE), all of whom are parties in Case No. U-12915. In addition, comments were received from State Representative Chris Kolb, David Gard from the Michigan Environmental Council, Mark Clevey from the Small Business Association of Michigan, Charles Morris from Michigan Interfaith Power & Light, Carl Anton, Evelyn Bergaila, Thomas Knoll, Steve Leuty, Joel Nigg, Susan Parks, Tony Donley, and Joan Kalso. Reply comments were filed by Detroit Edison, Waste Management of Michigan, Inc., David Fideler of the Concord Grove Educational Center of West Michigan (Concord Grove), MIPPA, NextEnergy, Jim Leidel of Oakland University, and John Wakeman of S.U.R. Energy Systems, LC, and the Staff.

Legal Framework

MCL 460.10r(6) provides:

The commission shall establish the Michigan renewables energy program. The program shall be designed to inform customers in this state of the availability and value of using renewable energy generation and the potential of reduced pollution. The program shall also be designed to promote the use of existing renewable energy sources and encourage the development of new facilities.

MCL 460.10g(1)(f) provides:

“Renewable energy source” means energy generated by solar, wind, geothermal, biomass, including waste-to-energy and landfill gas, or hydroelectric.”

Program Design and Implementation

1. Coordination

In its report, the Staff recommends that it should continue and expand its coordination with other organizations. The Staff recommends that all interested parties be invited and encouraged to participate in the MREP collaborative, which functions as an open forum for information exchange. The Staff notes that those persons subscribing to the MREP email distribution list at

<http://www.michigan.gov/mrep> will be notified of meetings and can share information with the group. Additionally, the Staff recommends that subcommittees should be established to explore solar energy, biomass energy, net-metering, pilot programs for deaveraged distribution credits, and financing mechanisms.

The commenters agree that dialog should continue, although Detroit Edison claims that only interveners in the case should be allowed to comment. The Commission finds that the collaborative should continue with all interested parties regardless of intervener status, and that the subcommittees, as recommended by the Staff, should be established. The Commission is particularly appreciative of the private citizens who took time to comment on the MREP report. Additionally, the Commission directs the Staff to continue to coordinate efforts with other non-profit groups, state and federal agencies, including the Michigan Department of Labor and Economic Growth Energy Office, the Michigan Economic Development Corporation, the United States Department of Energy, and other renewable energy resource organizations.

2. Education

The Staff recommends that the Commission support additional education and public awareness efforts. Specifically, the Staff recommends that the Commission consider: (1) altering its disclosure requirements so that each customer group receives a report that reflects the energy sources used to serve them; (2) additional education and public awareness regarding wind energy siting, solar education, biomass energy, and hydroelectric power; and (3) expanding the MREP web site.

The Commission agrees with the Staff that the utilities' annual disclosure requirements should accurately reflect that green power customers are paying additional costs for renewable and

environmentally-friendly energy and that utilities should not represent in future reports that they are providing these services to all rate classes.

Further, the Commission agrees that education efforts regarding wind, solar, biomass, and hydroelectric energy should be emphasized in the 2004 MREP year. The collaborative should work cooperatively with Michigan colleges and universities willing to add renewable energy to the core curriculum. The collaborative should also continue to work cooperatively with the Michigan Wind Working Group and other interested states, as suggested by the Staff, to develop a briefing paper on offshore wind energy development for the Great Lakes. The solar subcommittee shall explore issues related to solar access rights or easements and how utility rates can be altered so that solar technologies can be appropriately rewarded when they provide system benefits. The biomass subcommittee should work with the Michigan Biomass Energy Program office and the Commission appreciates MIPPA's willingness serve on this subcommittee.

Finally, the Commission directs the Staff to keep the Commission apprised of progress on the MREP energy atlas project and on expansion of the MREP website. MEGA believes the website should remain objective and not devote its resources to serving private persons in their business affairs. The Commission agrees with MEGA's concerns that MREP website postings should be presented in an informational, neutral format, which is fair, accurate, and reasonable for use by all Michigan ratepayers.

3. Tariffs and Rates

The Staff recommends that the Commission invite proposals in all future rate cases, for changes in current rate structures to promote renewable energy technologies, although Consumers notes that retail rate structures have traditionally been based on recovering costs and sending economically efficient price signals. The Commission finds that MCL 460.10b requires it to

establish rates, terms, and conditions of service that promote new generation, transmission, and distribution technologies.

4. Net Metering

When a customer produces electric energy in excess of its needs, it may provide power back to the serving utility. Net metering accounts for deliveries from the customer to the utility by “running the meter backwards,” thereby reducing the amount of electricity usage for which the customer will be billed. Currently, net metering is not available to most Michigan customers, although customers of utilities in 38 states and the District of Columbia may take advantage of it.¹

MECA supports net metering (with certain guidelines). Mr. Knoll feels net metering is premature. Concord Grove submitted a petition with 140 signatures supporting net metering legislation. Representative Chris Kolb, who is working on a net metering bill, urges the Commission to be proactive in supporting net metering.

In addition to establishing a net metering subcommittee, the Commission finds that the Staff should work cooperatively with members of the subcommittee to develop a net metering program for the Commission’s consideration in its next MREP report. Accordingly, the Commission directs the Staff to include in its evaluation of net metering a proposal for statewide implementation of net metering in Michigan. If consensus cannot be reached on a statewide net metering proposal on the part of MREP collaborative members, the Commission directs Staff to put forth a proposal of its design. The proposal should at a minimum allow net metering for all residential and small commercial customers, for systems powered by renewable energy.

¹As noted in the Staff’s Annual Report on MREP (p. 40), in the DOE directory Michigan is not listed as a state that allows net metering, though the Commission has already approved net metering for the customers of Wisconsin and Minnesota utilities that also serve parts of Michigan’s Upper Peninsula.

5. Cost/Benefit Analysis

The Staff recommends that a cost/benefit analysis of the development of Michigan's various renewable energy resources be undertaken, and that an extensive evaluation of renewable energy technologies, products, and markets be conducted through Michigan colleges and universities. This analysis, the Staff says, should include evaluation of technologies that produce high-value, low-cost energy in forms other than electricity for various applications including fuels for heating and transportation. MEGA and MIPPA support a cost/benefit analysis, whereas Mr. Anton and Detroit Edison question socio-economic comparisons. Consumers agrees that a comprehensive statewide cost/benefit analysis for various forms of renewable resources is vital.

The Commission finds that a cost/benefit analysis would be beneficial and directs the Staff to work cooperatively with those Michigan colleges and universities that would be willing to add renewable energy education to the core curriculum or undertake such research. The Commission is particularly pleased with the recent dedication of the Michigan Alternative and Renewable Energy Center by Grand Valley State University, which is funded in part by a grant from the Commission.

6. State Use of Renewable Energy

The Staff says that State government should take a leading role in promoting growth in renewable energy use, by purchasing more renewable energy to serve its own facilities and operations. The Commission agrees that the State of Michigan, whenever appropriate, should use green power for state facilities and directs the Staff to work with the Department of Management and Budget to encourage efficiency and renewable energy resource use, which could produce cost savings to the state in the long run.

7. Financing Mechanisms

The Staff recommends that the Commission explore and implement innovative financing mechanisms to reduce costs. The Commission agrees with Consumers that the cost of new renewable energy sources should not be borne by one utility. The Commission directs the establishment of a collaborative subcommittee to work with interested parties to prepare implementation proposals for appropriate approaches to creative financing for renewable energy.

8. Emissions Credits

The Staff proposes that the collaborative continue to support a program for renewable energy emissions credits, in coordination with Michigan air quality regulators. The Commission agrees that the collaborative should continue to encourage the Michigan Department of Environmental Quality to work cooperatively with the United States Environmental Protection Agency to amend emission credit guidelines so that utilities can be rewarded for developing green power tariffs.

9. Portfolio Standards

The Staff recommends that an important first step, prior to further consideration of a renewable energy resource portfolio standard, is for the state's renewable energy resource potential to be better understood. The Staff proposes to work with the MREP collaborative members and others to obtain good estimates of the potential for cost-effective development of Michigan's renewable energy resources. The commenters generally agree that renewable portfolio standards (RPS) should be voluntary. Consumers believes the collaborative has spent a disproportionate amount of its scarce resources on RPS and that a statewide RPS would be illegal under current state law. MECA opposes any mandatory RPS and believes RPS standards could interfere with all-require-

ments contracts that member cooperatives have with their wholesale power suppliers. Detroit Edison says that Act 141 does not establish Commission authority to issue renewable energy mandates to electric utilities.

The Staff recommends ecological tax reform and encourages the Commission to open dialogue to search for solutions. The Commission remains committed to any potential for expanding the renewable energy market in Michigan and encourages the Legislature to explore ecological tax reform and directs that copies of the 2003 MREP report be made available to all state lawmakers. Additionally, the Commission directs collaborative members to explore options for utility incentives and performance standards so that a consensus proposal can be developed.

10. Generic Green Power Program

Renewable energy represents less than 3% of the total electric generation in Michigan, most of it coming from relatively large hydroelectric and biomass facilities. The hydroelectric plants at the Sault Locks operated by the U. S. Army Corps of Engineers and Edison Sault Electric Company (Edison Sault) are over 50 and 100 years old, respectively. Although hydroelectric power is a small part of the total state electric generation, for Edison Sault it provides enough energy to serve 35-40% of the utility's annual power needs. Additionally, green tariff programs are currently in place at Consumers, Lansing Board of Water and Light (BWL), Traverse City Light and Power (TCLP), Upper Peninsula Power Company (UPPCo), We Energies, and Wisconsin Public Service Corporation.²

In 2001, the Commission approved an experimental Green Power Program for Consumers, which authorized it to contract with eligible renewable generators to supply energy to customers

²Detroit Edison's SolarCurrents® program, which allowed customers to purchase power generated through a solar photovoltaic service, was discontinued effective December 31, 2003.

willing to pay a premium for cleaner energy. Mackinaw Power, L.L.C., provides the energy for the program from two wind turbines located near Mackinaw City.

The BWL launched a renewable energy program in July 2001, called GreenWise Electric Power®, available to customers willing to pay a premium for this service. The GreenWise portfolio includes one megawatt of electricity produced from two small hydroelectric plants owned by Tower Kleber in Cheboygan County and from landfill gas provided by Granger Electric in Lansing.

TCLP installed a utility scale wind turbine in 1996, which produces about 800,000 kilowatt-hours (kWh) of electricity a year. With the federal production incentive of 1.5 cents per kWh and the customer premium of 1.58 cents per kWh, this makes the cost of electricity from the wind turbine practically the same as other power purchased by the utility on a wholesale basis.

We Energies has focused its renewable energy efforts in Wisconsin where it services about 1% of the customer base. Very few Michigan customers are currently participating; less than 0.1% of Michigan customers. Under We Energies' Energy for Tomorrow Program, customers pay a premium for green power.

Wisconsin Public Service Corporation (WPS) began a renewable energy program called NatureWise in Michigan in July 2003, where ratepayers pay a premium for the service. The energy comes from power generated by wind turbines located in eastern Wisconsin, power purchased from a farmer who generates electricity from onsite manure via an anaerobic digester, and power from landfill gas facilities. UPPCo's customers can participate in the NatureWise program through purchases UPPCo makes from its parent company, WPS. Due to the recent Michigan implementation, there are not many customers currently participating in the NatureWise program.

Significant new renewable energy facilities have not been developed in Michigan primarily due to the cost differential between those facilities and more conventional fossil fuel facilities. Lack of need for new capacity of any type is also a consideration. Therefore, the Staff proposes a framework for a generic green pricing program to encourage renewable energy production and use in the State of Michigan. The Staff urges the Commission to require all Michigan regulated utilities to solicit bids for renewable energy proposals by Fall 2004, and at regular intervals thereafter, for (a) the purchase of specific renewable energy resources from individual project developers or suppliers; or (b) agreements with third-party suppliers who would provide for the turnkey operation of a utility or co-branded green power program. The Staff believes that utilities should work quickly to sign contracts and that the contracts should be for a fixed rate (with a possible modest allowance for annual price escalations) and reasonably long in duration, such as for 10 to 20 years. Finally, the Staff recommends that new renewable energy contracts can be funded through a nonbypassable surcharge or the power supply cost recovery process if sufficient revenues are not generated through the sale of green power to customers under voluntary price premium tariffs or through the utilities' sale of emissions credits.

Collaborative participants generally believe that competitive market forces should be used, as much as possible, to determine which renewable energy resources are developed in Michigan. MIPPA agrees that now is the time for the State of Michigan to implement a meaningful renewable energy policy, but MIPPA has concerns about using competitive bidding to select projects for development. Consumers cautions against a social-costing approach to resource selection, which it believes could likely have a negative effect on economic development. Detroit Edison believes that experimentation with renewable energy resources and rates should be market-based and voluntary. Similarly, the Attorney General contends that the essential ingredient for a just and

reasonable green pricing program is allowing customers to voluntarily pay a premium to purchase power from renewable sources. The Staff believes that by issuing a request for proposals and scoring proposals on a competitive basis, utilities ought to be able to obtain the maximum quantities of renewable energy at the lowest available prices. The Commission, in keeping with the findings in Case No. U-13843,³ hereby orders all remaining regulated utilities with more than 250,000 customers in Michigan to issue requests for proposals for renewable energy programs, in accordance with the Staff's recommendations by August 16, 2004. Thereafter, the Commission will consider requiring smaller investor-owned utilities, many whom have renewable energy programs already, to do so.

The commenters generally agree that the Staff's 2003 MREP report accurately reflects the divergent opinions of the participants in the collaborative process. The Commission commends the Staff on its preparation of a fair, well-balanced report and approves the Staff's 2003 annual MREP report. The Commission further directs the Staff to file its 2004 MREP report no later than November 30, 2004, wherein the progress of the directives in this order are to be discussed.

The Commission FINDS that:

- a. Jurisdiction is pursuant to 1909 PA 106, as amended, MCL 460.551 et seq.; 1919 PA 419, as amended, MCL 460.51 et seq.; 1939 PA 3, as amended, MCL 460.1 et seq.; 1969 PA 306, as amended, MCL 24.201 et seq.; and the Commission's Rules of Practice and Procedure, as amended, 1999 AC, R 460.17101 et seq.
- b. The Staff's proposed 2003 annual MREP report should be approved.

³In an order issued today in Case No. U-13843, the Commission determined that Consumers should file an application by June 20, 2004 to implement a renewable resource funding mechanism.

c. The Staff should file its 2004 annual MREP report by November 30, 2004, wherein the directives outlined in this order are to be addressed.

d. Regulated utilities with more than 250,000 customers in Michigan should issue requests for proposals for renewable energy resources or for agreements with the third-party suppliers who provide green power turnkey operations. Consumers would be exempt from this requirement because it will be implementing a renewable resources funding mechanism.

THEREFORE, IT IS ORDERED that the Commission Staff's Michigan Renewables Energy Program 2003 report is approved and the Commission Staff is directed to file its Michigan Renewables Energy Program 2004 report by November 30, 2004. It is further ordered that regulated utilities with more than 250,000 customers in Michigan other than Consumers Energy Company shall issue requests for proposals no later than August 16, 2004.

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

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26.

MICHIGAN PUBLIC SERVICE COMMISSION

/s/ J. Peter Lark
Chair

(S E A L)

/s/ Robert B. Nelson
Commissioner

/s/ Laura Chappelle
Commissioner

By its action of May 18, 2004.

/s/ Mary Jo Kunkle
Its Executive Secretary

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MICHIGAN PUBLIC SERVICE COMMISSION

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By its action of May 18, 2004.

Its Executive Secretary

In the matter, on the Commission's own motion,)
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Case No. U-12915

Suggested Minute:

“Adopt and issue order dated May 18, 2004 accepting the Commission Staff’s 2003 annual report on the Michigan Renewables Energy Program, as set forth in the order.”