

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter, on the Commission's own motion,)
to consider the restructuring of the electric)
utility industry.)
_____)

Case No. U-11290

At the October 29, 1997 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. John G. Strand, Chairman
Hon. John C. Shea, Commissioner
Hon. David A. Svanda, Commissioner

ORDER

On June 5, 1997, the Commission issued an order establishing a framework for restructuring the electric industry in Michigan in a manner than provides customers with the ability to choose from competing suppliers of electric generation if they wish to do so. The order provided that the program of retail open access would be phased in and provided that, at least for the first year of the program, the direct access capacity would be allocated on the basis of bids. The order established November 1 to 20, 1997 as the period for submitting bids for the first year.

On July 14, 1997, the Commission issued an order establishing hearings to address various aspects of the restructuring program. Today the Commission has issued five orders addressing the issues in those dockets.

It is apparent that some delay in bidding for the first increments of open access capacity will be necessary to allow the utilities and their customers to evaluate the Commission's orders and to take the steps necessary

to implement those orders. Therefore, the Commission suspends the bidding schedule for the first increments of capacity. The Commission will issue a subsequent order setting the schedule for submitting bids.

The Commission FINDS that:

a. Jurisdiction is pursuant to 1909 PA 106, as amended, MCL 460.551 et seq.; MSA 22.151 et seq.; 1919 PA 419, as amended, MCL 460.51 et seq.; MSA 22.1 et seq.; 1939 PA 3, as amended, MCL 460.1 et seq.; MSA 22.13(1) et seq.; 1969 PA 306, as amended, MCL 24.201 et seq.; MSA 3.560(101) et seq.; and the Commission's Rules of Practice and Procedure, as amended, 1992 AACCS, R 460.17101 et seq.

b. The schedule for submitting bids for the first increments of capacity under the retail open access tariffs approved in Cases Nos. U-11451 and U-11452 for Consumers Energy Company and The Detroit Edison Company, respectively, should be suspended pending a further order.

THEREFORE, IT IS ORDERED that the schedule for submitting bids for the first increments of capacity under the retail open access tariffs approved in Cases Nos. U-11451 and U-11452 for Consumers Energy Company and The Detroit Edison Company, respectively, are suspended pending a further order.

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

MICHIGAN PUBLIC SERVICE COMMISSION

John G. Strand
Chairman

(S E A L)

John C. Shea
Commissioner, dissenting in a separate opinion.

David A. Svanda
Commissioner

By its action of October 29, 1997.

Dorothy Wideman
Executive Secretary

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

MICHIGAN PUBLIC SERVICE COMMISSION

Chairman

Commissioner, dissenting in a separate opinion.

Commissioner

By its action of October 29, 1997.

Its Executive Secretary

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Suggested Minute:

“Adopt and issue order dated October 29, 1997 suspending the schedule for submitting bids for the first increments of capacity under the retail open access tariffs for Consumers Energy Company and The Detroit Edison Company, as set forth in the order.”

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DISSENTING OPINION OF COMMISSIONER JOHN C. SHEA

_____(Submitted on October 29, 1997 concerning order issued on same date.)

With its series of orders today in dockets Nos. U-11290, U-11451, U-11452, U-11453, U-11454, U-11456 and U-11449, the majority completes its wholesale transformation of the December 19, 1996 MPSC Staff Report on Electricity Restructuring ("MPSC Staff Report") and the March 7, 1997 filings by Consumers Energy Company ("Consumers") and The Detroit Edison Company ("Edison"). Earlier this year, the Commission requested "informational filings" from Consumers and Edison concerning ways to implement the MPSC Staff Report. See, February 5, 1997 order in Case No. U-11290 at 2-3, 5. In today's orders, those informational filings have mutated into a mandatory direct access service program upon terms and conditions far different from the plan proposed in the MPSC Staff Report or set forth in the utilities' filings. See, Docket Nos. U-11451, U-11452, supra, at 29-30.

As I have stated previously, see, June 5, 1997 Dissenting Opinion in MPSC Case No. U-11290, the most important analysis concerning the matters addressed by today's orders should have been the extent of the Commission's authority to issue these orders. Regrettably, today's orders shed little light on the power of the Commission to mandate sweeping changes in the way electricity has been delivered to customers in this state for almost a century. More importantly, today's orders fail to articulate why it is in the public interest to do so.

Without a clear statement as to the power of the Commission and an articulation of the benefit of these orders to the public interest, I cannot agree to today's orders. I therefore dissent.

____ John C. Shea, Commissioner