

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter, on the Commission's own motion, )  
to commence a proceeding to establish a framework )  
for future capacity solicitations by **CONSUMERS** )  
**POWER COMPANY** from qualifying facilities ) Case No. U-9586  
as defined by the Public Utility Regulatory Policies )  
Act of 1978. )  
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In the matter of the petition of **CONSUMERS** )  
**ENERGY COMPANY** to rescind the Commission's )  
June 12, 1992 Opinion and Order in Case ) Case No. U-12148  
No. U-9586 and to approve an alternative capacity )  
solicitation process. )  
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At the December 16, 1999 meeting of the Michigan Public Service Commission in Lansing,  
Michigan.

PRESENT: Hon. John G. Strand, Chairman  
Hon. David A. Svanda, Commissioner  
Hon. Robert B. Nelson, Commissioner

**OPINION AND ORDER**

On June 12, 1992, the Commission issued an order in Case No. U-9586 (the June 12 order) establishing a procedural framework for future capacity solicitations undertaken by Consumers Power Company, a utility whose name was subsequently changed to Consumers Energy Company (Consumers). Indicative of the fact that it was established prior to any significant move toward the restructuring of

the electric industry, the framework provided numerous opportunities for contested case proceedings and vested the Commission with final decision-making responsibility over a wide array of capacity-related issues.

Based on claims that subsequent changes in the industry have rendered the capacity solicitation process outdated, Consumers recently began requesting that it be released from all requirements imposed by the June 12 order. Although denying those requests as part of its June 10 and August 31, 1999 orders in Cases Nos. U-11941 and U-11954, the Commission indicated that it might be willing to review and consider an alternative capacity solicitation process if Consumers submitted a reasonable proposal.

In response to that indication, Consumers filed a petition on September 30, 1999 seeking rescission of the June 12 order and requesting approval of a revised capacity solicitation process. The recommended process set forth in Consumers' September 30, 1999 filing would generally consist of the following three steps:

- (1) Consumers would submit an annual report to the Commission outlining the utility's expected summer generating capacity needs and describing the manner in which Consumers expects to meet those needs. Interested persons would then be given an opportunity to review the report and submit comments concerning its reasonableness. However, no contested case hearings would be scheduled.

- (2) Consumers would utilize a standardized Request for Proposal (RFP) in soliciting offers to supply any needed capacity for terms exceeding one year in duration. Consumers would retain the authority, and bear the full responsibility, for reviewing and accepting any of the capacity offers submitted under that RFP process.

- (3) Consumers would make available for review by the Commission Staff all offers received in response to the RFP and all capacity-related contracts ultimately entered into as a result of the RFP process. Nevertheless, there would be no public disclosure of those documents.

See Consumers' September 30, 1999 petition, pp. 3-5. Consumers' petition went on to assert that its request to rescind the June 12 order and adopt this alternative capacity solicitation framework should be approved following completion of an expedited notice and comment process.

On October 18 and 21, 1999, respectively, Energy Michigan and Attorney General Jennifer M. Granholm filed objections to Consumers' petition. Those objections claim, among other things, that Consumers' request to rescind the June 12 order cannot be granted without first conducting contested case hearings.<sup>1</sup> Thus, these parties assert, Consumers' proposal to rely solely on a notice and comment structure for considering its petition must be rejected.

In contrast, Consumers contends that it is not necessary to initiate contested case proceedings to review its proposed alternative capacity solicitation process. Specifically, Consumers asserts that the relief requested in its September 30, 1999 petition will not result in an increase in the rates, charges, or cost of service to any of its customers. It therefore recommends that the Commission establish a schedule for receiving comments, reply comments, and responses to replies concerning the alternative capacity solicitation process set forth in Consumers' petition and the proposed RFP (which is appended, along with a copy of the standard contract, as Attachment 1 to the petition). Following receipt and review of those comments, Consumers continues, the Commission could issue an order rescinding the June 12 order, approving implementation of the utility's alternative capacity solicitation process, and approving the form of Consumers' proposed RFP and standard contract.

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<sup>1</sup>Energy Michigan also objects to specific aspects of the alternative capacity solicitation process outlined in Consumers' petition. This includes objections to the use of Consumers' affiliates as suppliers, the exclusion of short-term purchase agreements, and the lack of both public disclosure of relevant data and Commission oversight of the process. Because those objections may be better addressed in the context of all parties' positions regarding capacity solicitation, any discussion regarding their merit should await receipt of comments from all interested parties.

The Commission agrees with Consumers and concludes that, because granting the September 30, 1999 petition would not result in an increase in the rates, charges, or cost of service to Consumers' customers, contested case proceedings are not required. The Commission further concludes that the procedure suggested by Consumers and outlined above should be used to receive comments from interested parties regarding Consumers' proposal to rescind the June 12 order and revise its capacity solicitation process, although the schedule suggested in Consumers' petition should be shortened.

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. Interested parties should file, by January 18, 2000, comments regarding Consumers' September 30, 1999 petition requesting rescission of the June 12 order and adoption of a revised capacity solicitation process. Copies of the petition, as well as Consumers' proposed RFP and standard contract, may be obtained by contacting the Commission or accessing the Commission's Internet web site (<http://cis.state.mi.us/mpsc>).
- c. Reply comments should be filed by February 1, 2000.
- d. Responses to reply comments should be filed by February 8, 2000.

THEREFORE, IT IS ORDERED that comments, reply comments, and responses to reply comments regarding the proposals set forth in Consumers Energy Company's September 30, 1999 petition shall be due no later than January 18, February 1, and February 8, 2000, respectively.

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

MICHIGAN PUBLIC SERVICE COMMISSION

/s/ John G. Strand

Chairman

( S E A L )

/s/ David A. Svanda

Commissioner

/s/ Robert B. Nelson

Commissioner

By its action of December 16, 1999.

/s/ Dorothy Wideman

Its Executive Secretary

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MICHIGAN PUBLIC SERVICE COMMISSION

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Case No. U-12148

Suggested Minute:

“Adopt and issue order dated December 16, 1999 establishing a schedule for the submission of comments, reply comments, and responses to reply comments concerning the request by Consumers Energy Company to establish an alternative capacity solicitation process, as set forth in the order.”