

STATE OF MICHIGAN  
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the application of	)	
<b>UPPER PENINSULA POWER COMPANY</b>	)	Case No. U-12675
for authority to restructure and increase rates.	)	
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At the August 16, 2001 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. Laura Chappelle, Chairman  
Hon. David A. Svanda, Commissioner  
Hon. Robert B. Nelson, Commissioner

**OPINION AND ORDER**

On October 13, 2000, Upper Peninsula Power Company (UPPCo) filed an application, with supporting testimony and exhibits, for authority to restructure and increase its retail electric rates in the annual amount of \$5,682,450. The Commission Staff, Michigan Technological University (MTU), and Smurfit-Stone Container Corporation (Smurfit-Stone) participated in the case.

On February 21, 2001, the Commission Staff, UPPCo, and Smurfit-Stone submitted for the Commission's approval a settlement agreement that they had negotiated. On March 7, 2001, MTU filed objections to the settlement agreement, and on March 30, 2001, filed its direct case opposing the settlement agreement. UPPCo filed rebuttal testimony on April 13, 2001. On April 23, 2001, MTU's direct case opposing the settlement agreement and UPPCo's rebuttal testimony were cross-examined and the record closed.

After the close of the record and the briefing of the case, MTU filed a number of motions to reopen the proceedings. These motions focus primarily on matters related to UPPCo's transfer of its transmission facilities to American Transmission Company LLC (ATCLLC). UPPCo has filed answers to the various motions to reopen, the most recent answer being filed on July 24, 2001. In its answer, UPPCo expressed concern that more than nine months had elapsed since it had filed its application on October 13, 2000 and that more than five months had elapsed since the settlement agreement was filed with the Commission. UPPCo stated that it was not interested in remaining hostage to the settlement agreement that had not been acted upon in the time frame contemplated by it, the Staff, and Smurfit-Stone, or participating in a reopened proceeding where the test year would be historical by the time the reopened proceedings were concluded. Accordingly, UPPCo requested the Commission to finally resolve the case by either approving the settlement agreement or dismissing the case.

On August 9, 2001, MTU responded to UPPCo's answer. MTU continues to oppose approval of the settlement agreement and also opposes unconditional dismissal of the case. MTU claims that UPPCo should be compelled to make further filings regarding its revenue requirements. Further, MTU urges the Commission to order UPPCo to either modify its existing power supply cost recovery mechanism or establish a new mechanism to track changes in the ATCLLC network transmission service charges to UPPCo.

Having reviewed the various motions to reopen and the answers filed by UPPCo in response, the Commission has concluded that it will not approve the settlement agreement. UPPCo's transfer of its transmission facilities to the ATCLLC in late June 2001 is a significant event that occurred after the submission of the settlement agreement in February of 2001 and the close of the record. Because the record is inadequate to determine the effect of this transfer on UPPCo's

revenue requirements, the Commission is unable to find that the settlement agreement is in the public interest.

The Commission also rejects MTU's various motions for reopening. Due to the ongoing rate proceedings at the Federal Energy Regulatory Commission where ATCLLC's charges for transmission service to UPPCo are yet to be determined, a reopening of these proceedings to further consider UPPCo's revenue requirements would only result in speculative testimony and opinions being presented as to UPPCo's revenue requirements. Thus, a reopening of the proceedings at this time would not be an effective use of the parties' and the Commission's resources. The Commission, therefore, finds it in the public interest to dismiss the case as requested by UPPCo.

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 AACS, R 460.17101 et seq.
- b. The application should be dismissed.

THEREFORE, IT IS ORDERED that the application of Upper Peninsula Power Company for authority to restructure and increase its rates is dismissed with prejudice.

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; MSA 22.45.

MICHIGAN PUBLIC SERVICE COMMISSION

/s/ Laura Chappelle  
Chairman

( S E A L )

/s/ David A. Svanda  
Commissioner

/s/ Robert B. Nelson  
Commissioner

By its action of August 16, 2001.

/s/ Dorothy Wideman  
Its Executive Secretary

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MICHIGAN PUBLIC SERVICE COMMISSION

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Commissioner

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By its action of August 16, 2001.

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Suggested Minute:

“Adopt and issue order August 16, 2001 dismissing with prejudice Upper Peninsula Power Company’s application for authority to restructure and increase its rates, as set forth in the order.”