

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter, on the Commission's own motion,)	
to implement Section 10a(3) of Public Act 141)	Case No. U-12640
of 2000.)	
_____)	

At the March 29, 2002 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

ORDER

On December 20, 2001, the Michigan Electric and Gas Association (MEGA) filed a petition seeking rehearing and clarification of the November 20, 2001 order in this proceeding implementing Section 10a(3) of 2000 PA 141, MCL 460.10a(3), which requires the Commission to issue orders to protect electric customers in this state from being switched to another supplier without the customer's consent (slamming) or from being billed for unwanted services (cramming). MEGA maintains that the November 20 order is inconsistent with regulatory measures adopted or pending in other proceedings.

Definition of a supplier

MEGA stated in its December 20 petition that implementation of the anti-slamming and anti-cramming procedures could be complicated by the definition of a "supplier" contained in the glossary of electric terms that appears on the Commission's website. However, this issue has been

resolved because the definition of a supplier was addressed in the December 20, 2001 order in Case No. U-12487.

Inclusion of a glossary

MEGA suggests that the terms used in the anti-slamming and anti-cramming procedures would be better understood if the Commission were to include specific definitions or more clearly link the definitions of such terms to the glossary on its website.

In the December 20, 2001 order in Case No. U-12487, the Commission indicated that the definitions in the website glossary were intended as a general informational guide and do not supersede or modify definitions used in statutes, administrative rules, Commission orders, tariffs, or contracts. After reviewing the anti-slamming and anti-cramming procedures, the Commission is not persuaded of the necessity of further defining the terminology or adding a glossary to the anti-slamming and anti-cramming procedures.

Notification procedures

Two issues raised by MEGA relate to Part II of the anti-slamming procedures, which states as follows:

Within seven days of a request for a change in service, the new supplier shall notify the customer and the supplier being replaced of the change by the internet, fax, letter, or telephone call to a designated number. The notification shall specify the date upon which the service will be changed or cancelled. Upon processing of the switch of service, the old supplier shall immediately discontinue billing the customer for the discontinued service.

Exhibit A, November 20, 2001 order, Case No. U-12640.

a. Multiple notifications

MEGA asserts that the anti-slamming procedures probably should not require a supplier to re-contact a new customer within seven days of a request for a switch to that supplier. MEGA

reasons that the customer already should be aware of the upcoming supplier switch due to marketing contact that resulted in the contract between the customer and the new supplier.

According to MEGA, the receipt of an additional notification from the new supplier could confuse the customer. Indeed, MEGA contends that it would make more sense for the distribution utility, not the new supplier, to be given the responsibility for providing such notices to new customers.

In any event, MEGA maintains that something still needs to be done to correct the minor discrepancy between the three-day notice period provided for in the tariffs of participating MEGA companies and the seven-day notice period contained in Part II of the anti-slamming procedures.

The Commission finds that MEGA's initial recommendation should not be adopted. The Commission is not persuaded that requiring a new supplier to provide a notification to a new customer in addition to the initial marketing contact is burdensome or could lead to confusion. Requiring such a notification is consistent with the anti-slamming procedures adopted by the Commission for telecommunication service providers. See, Section 7(a) of the procedures approved in the April 23, 1999 order in Case No. U-11900, as amended by subsequent orders of the Commission.

b. Selection and notification of date of switch

MEGA maintains that there is a problem with requiring the new supplier to provide notification to the customer and the supplier being replaced of the specific date upon which the customer's service will be switched. According to MEGA, the new supplier may not know the identity of the old supplier or the switch date. More importantly, MEGA contends that the selection of the switch date should be the responsibility of the customer's distribution utility because the utility providing distribution service is in a better position to provide such notice.

The Commission finds that the notice of the specific date upon which the customer's service will be switched should come from the customer's distribution utility. Therefore, the Commission agrees with MEGA that Part II of the anti-slamming procedures should be clarified to emphasize that the burden of notifying the customer, the new supplier, and the existing supplier of the actual switch date resides with the customer's distribution utility.

In order to incorporate the revisions and clarifications adopted in this order, the Commission has revised Part II of the anti-slamming procedures to read as follows:

After fulfilling the prerequisites, if any, contained in the tariffs of a new customer's distribution utility, a new supplier shall expeditiously transmit a switch request to the customer's distribution utility and shall at the same time provide notification of the customer's intention to switch suppliers to the customer by the internet, fax, letter, or telephone call to a designated number. Upon receipt of a switch request, the distribution utility shall act as soon as possible to accomplish the switch in accordance with its tariff provisions. In so doing, the distribution utility shall notify the new supplier, the existing supplier, and the customer of the switch date, which shall be determined in accordance with the distribution utility's tariffs. The old supplier shall immediately discontinue billing the customer for the discontinued service after the processing of the switch of service is completed.

This revision renders moot the discrepancy between the three day and the seven day periods referred to by MEGA.

Rescission time

MEGA points out that the settlement agreement approved in the October 11, 2001 order in Cases Nos. U-12649 et al. provides for end users to be afforded a rescission period of 10 days. As contemplated, the new supplier would hold an order for new service for 10 days before transmitting it to a participating MEGA distribution utility for further processing. MEGA states that the anti-slamming procedures should be revised to reference the rescission period and to clarify how the rescission period affects the processing of requests for service from a new supplier.

The Commission finds that this recommendation should be rejected. Although the tariffs of the participating MEGA distribution utilities provide for 10-day rescission periods for all customers, the tariffs of The Detroit Edison Company (Detroit Edison) and Consumers Energy Company (Consumers) do not contain similar provisions. The rescission provisions contained in the tariffs of Detroit Edison and Consumers apply only to residential customers and are limited to a three-day rescission period. Accordingly, the Commission does not agree that the anti-slamming provisions, which apply to all electric utilities, should incorporate details regarding the rescission provisions contained in the tariffs of the various distribution utilities subject to the Commission's jurisdiction.

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, 1992 AACCS, R 460.17101 et seq.
- b. The anti-slamming procedures approved by the November 20, 2001 order in this proceeding should be revised and clarified.

THEREFORE, IT IS ORDERED that the standards protecting electric customers in this state from being switched to another supplier without consent or from being billed for unwanted services, approved by the November 20, 2001 order in this proceeding, shall be revised and clarified in accordance with the determinations made in this order. An amended copy of the standards is attached as Exhibit A.

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/ Laura Chappelle
Chairman

(S E A L)

/s/ David A. Svanda
Commissioner

/s/ Robert B. Nelson
Commissioner

By its action of March 29, 2002.

/s/ Dorothy Wideman
Its Executive Secretary

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MICHIGAN PUBLIC SERVICE COMMISSION

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Its Executive Secretary

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Case No. U-12640

Suggested Minute:

“Adopt and issue order dated March 29, 2002 revising and clarifying the anti-slammings procedures adopted in the November 20, 2001 order in this proceeding, as set forth in the order.”