

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 Energy)	Case No. U-12915
Program.)	
_____)	

In the matter of the application of)	
MACKINAW POWER, LLC, and NORTH)	
AMERICAN WIND ENERGY, LLC, to)	Case No. U-13843
amend and make permanent the Consumers)	
Energy Company green power pilot program.)	
_____)	

At the October 23, 2003 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

On September 29, 2003, Consumers Energy Company, The Detroit Edison Company, Wisconsin Electric Power Company, Wisconsin Public Service Commission, Upper Peninsula Power Company, Northern States Power Company-Wisconsin, Edison Sault Electric Company, Alpena Power Company, the Michigan Electric and Gas Association, the Michigan Independent Power Producers Association, Decker Energy International, Granger Electric Company, Michigan Cogeneration Systems, Inc., and Primary Power International filed applications for leave to appeal a variety of scheduling and intervention determinations made in these dockets by Administrative

Law Judge Barbara A. Stump (ALJ) at the September 15, 2003 prehearing conference established by the Commission's August 18, 2003 order.

On October 6, 2003, the Michigan Electric Cooperative Association and its member-cooperatives Alger Delta Cooperative Electric Association, Cherryland Electric Cooperative, Cloverland Electric Cooperative, Great Lakes Energy Cooperative, HomeWorks Tri-County Electric Cooperative, Midwest Energy Cooperative, Ontonagon County Rural Electrification Association, Presque Isle Electric & Gas Co-op, and Thumb Electric Cooperative expressed their support for the September 29, 2003 filings.

On October 13, 2003, Attorney General Michael A. Cox and Mackinaw Power, LLC., filed responses supporting the ALJ's determinations.

On October 14, 2003, North American Wind Energy, LLC., filed its answer in opposition to the applications for leave to appeal.

On October 15, 2003, Midland Energy, LLC., filed a pleading in support of various aspects of the applications for leave to appeal.

Rule 337 of the Commission's Rules of Practice and Procedure 1992 AACCS, R 460.17337, establishes the standards for reviewing applications for leave to appeal. Not every application merits immediate review. An appellant must establish one of the following conditions before the Commission will grant review:

1. A decision on the ruling before submission of the full case to the Commission for final decision will materially advance a timely resolution of the proceeding.
2. A decision on the ruling before submission of the full case to the Commission for final decision will prevent substantial harm to the appellant or the public-at-large.

If the Commission grants immediate review, it will reverse an administrative law judge's ruling if the Commission finds that a different result is more appropriate.

After reviewing the transcript of the September 15, 2003 prehearing conference and the applications for leave to appeal filed on September 29, 2003, the Commission is persuaded that the scheduling and intervention determinations made by the ALJ are appropriate and consistent with the August 18, 2003 order. Therefore, the Commission finds that the applications for leave to appeal filed on September 29, 2003 should be dismissed. The Commission intends to read the record in Case No. U-13843, obviating the need for a Proposal for Decision.

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 applications for leave to appeal filed on September 29, 2003 should be dismissed.

THEREFORE, IT IS ORDERED that the applications for leave to appeal filed on September 29, 2003 by Consumers Energy Company, The Detroit Edison Company, Wisconsin Electric Power Company, Wisconsin Public Service Commission, Upper Peninsula Power Company, Northern States Power Company-Wisconsin, Edison Sault Electric Company, Alpena Power Company, the Michigan Electric and Gas Association, the Michigan Independent Power Producers Association, Decker Energy International, Granger Electric Company, Michigan Cogeneration Systems, Inc., and Primary Power International are dismissed.

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

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 October 23, 2003.

/s/ Robert W. Kehres

Its Acting Executive Secretary

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MICHIGAN PUBLIC SERVICE COMMISSION

Chair

Commissioner

Commissioner

By its action of October 23, 2003.

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AMERICAN WIND ENERGY, LLC, to)
amend and make permanent the Consumers)
Energy Company green power pilot program.)

Case No. U-13843

Suggested Minute:

“Adopt and issue order dated October 23, 2003 dismissing the applications for leave to appeal filed on September 29, 2003 by Consumers Energy Company, The Detroit Edison Company, Wisconsin Electric Power Company, Wisconsin Public Service Commission, Upper Peninsula Power Company, Northern States Power Company-Wisconsin, Edison Sault Electric Company, Alpena Power Company, the Michigan Electric and Gas Association, the Michigan Independent Power Producers Association, Decker Energy International, Granger Electric Company, Michigan Cogeneration Systems, Inc., and Primary Power International, as set forth in the order.”