

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter, on the Commission's own motion, to)	
inquire into the status of INDIANA MICHIGAN)	
POWER COMPANY's compliance with Section 10w)	Case No. U-13360
of 2000 PA 141.)	
_____)	

At the May 28, 2003 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

In an order issued on April 16, 2002, the Commission directed Indiana Michigan Power Company (I&M) to file a report by May 17, 2002 and to show cause why it should not be determined to be in violation of Section 10w(1) of 2000 PA 141 (Act 141), MCL 460.10w(1), which provides each investor-owned electric utility in this state with the option of joining either a multistate regional transmission organization (RTO) or a multistate independent transmission organization approved by the Federal Energy Regulatory Commission (FERC).¹

On May 17, 2002, I&M filed its report. In so doing, I&M described the development and subsequent collapse of a stand-alone RTO submitted by the Alliance Companies (the Alliance RTO), of which I&M's corporate parent, American Electric Power (AEP), was a participant.

¹In the event that an investor-owned electric utility opts not to join either type of organization, then it must divest its interest in its transmission facilities to an independent transmission owner.

According to the report, AEP next explored joining the Midwest Independent Transmission System Operator, Inc. (MISO), but withdrew after it became apparent that the parties had reached an impasse.

Finally, I&M indicated that on May 7, 2002, AEP signed a memorandum of understanding (MOU) with the Pennsylvania-New Jersey-Maryland Interconnection, LCC (PJM), a fully-functioning independent system operator. According to I&M, the MOU contemplated a development period of 120 days for negotiation of the essential conditions for its participation in PJM. I&M stated that upon completion of negotiations with PJM, AEP would file an application with the FERC to transfer operational control of its East Zone transmission facilities to PJM.

I&M argued that it was not in violation of Section 10w(1) because it pursued membership in the Alliance RTO, MISO, and, most recently as a member of PJM. Moreover, I&M insisted that the FERC's December 20, 2001 order, which sounded the demise of the Alliance RTO, did not trigger the Commission's authority pursuant to Section 10w(3) because the FERC's order was subject to rehearing and did not constitute an outright rejection of the Alliance Companies' filing.² Finally, I&M also stressed that AEP was in need of time to negotiate new arrangements that will allow it to bring the benefits of RTO membership to its customers as expeditiously as possible, while fulfilling its duty to shareholders to preserve the value of its multi-billion dollar investment in transmission assets. For these reasons, I&M maintained that the Commission should not penalize it because AEP continues to take all reasonable actions leading to participation in an RTO.

²Upon determining that an electric utility is not in compliance with Section 10w(1), the Commission is empowered by Section 10w(3) to order the electric utility to join a FERC-approved multistate RTO selected by the Commission.

Subsequently, the Commission has learned that AEP's efforts to join a FERC-approved RTO are still incomplete. In a February 28, 2003 filing in FERC Docket Nos. EC98-40-000, ER98-2770-000, and ER98-27786-000, AEP stated that although it continues to pursue RTO membership, it has encountered several federal/state obstacles. Among the problems cited by AEP was State of Virginia legislation prohibiting the transfer of AEP's transmission system to another entity before July 1, 2004. Thereafter, AEP would be required to obtain the consent of the Virginia State Corporation Commission. According to AEP, by order of the Louisiana Public Service Commission (LPSC), utilities operating in Louisiana are now prohibited from joining an RTO until the implications of the RTO on public interest factors are reviewed by the LPSC. AEP also reported that the Arkansas Public Service Commission rejected a cost-benefit analysis of the RTO alternatives of one of its other operating companies and ordered that the analysis be resubmitted. Additionally, AEP's effort to gain regulatory approval from the Public Utilities Commission of Ohio (PUCO) of the participation in PJM of one of its affiliated companies was dashed. The PUCO's February 20, 2003 entry indicated that there were too many unresolved issues beyond the PUCO's jurisdiction for that agency to meaningfully review the utility's independent transmission plan at this time. Finally, AEP's February 28, 2003 filing indicated that the states of Kentucky and Indiana were both in the process of conducting hearings on AEP's applications for approval of its participation in PJM.

The Legislature provided that an investor-owned electric utility could comply with Section 10w(1) of Act 141 by becoming a party to a legitimate filing that was pending before the FERC on December 31, 2001 for approval of a proposed multistate RTO. However, the Legislature also specified in Section 10w(2) that an electric utility should be deemed to have failed to

comply with Section 10w(1) if the FERC rejects the pending filing, the electric utility withdraws from the filing, or the utility withdraws from its RTO.

Given the passage of time since its May 17, 2002 report and the difficulties described in AEP's FERC filing, the Commission is persuaded that I&M should be directed to provide the Commission with an update on its efforts to comply with Section 10w. The Commission remains concerned that I&M has not yet complied with Section 10w despite having more than adequate time to do so. Therefore, the Commission directs I&M to report on the status of its compliance with Section 10w by June 30, 2003. In so doing, the Commission directs I&M to show cause why it should not be determined to be in violation of Section 10w of Act 141 and subject to the remedies and penalties set forth in Sections 10w and 10c(1) of Act 141, including being ordered to join a multistate RTO selected by the Commission.

The Commission has selected this case for participation in its Electronic Filings program. All documents filed in this case must be submitted in both paper and electronic versions. An original and four paper copies and an electronic copy in the portable document format (PDF) should be filed with the Commission. The Commission's Electronic Filings Users Manual explains how to file electronic documents at: <http://ermisbbs.cis.state.mi.us/efile/usersmanual.pdf>. Contact the Commission Staff at 800.292.9555, 517.241.6170, or by E-mail at efile@ermisbbs.cis.state.mi.us prior to filing to obtain access privileges and with any questions.

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 AACS, R 460.17101 et seq.

b. I&M should report on the current status of its compliance with Section 10w by June 30, 2003 and show cause why it should not be determined to have failed to comply with Section 10w of Act 141 and ordered to join a multistate RTO selected by the Commission.

THEREFORE, IT IS ORDERED that:

A. Indiana Michigan Power Company shall file a report in this docket by June 30, 2003 regarding the current status of its compliance with Section 10w.

B. In its June 30, 2003 report to the Commission, Indiana Michigan Power Company shall show cause why it should not be determined to have failed to comply with Section 10w of 2000 PA 141 and ordered to join a multistate regional transmission organization selected by the Commission.

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

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 May 28, 2003.

/s/ Dorothy Wideman
Its Executive Secretary

b. I&M should report on the current status of its compliance with Section 10w by June 30, 2003 and show cause why it should not be determined to have failed to comply with Section 10w of Act 141 and ordered to join a multistate RTO selected by the Commission.

THEREFORE, IT IS ORDERED that:

A. Indiana Michigan Power Company shall file a report in this docket by June 30, 2003 regarding the current status of its compliance with Section 10w.

B. In its June 30, 2003 report to the Commission, Indiana Michigan Power Company shall show cause why it should not be determined to have failed to comply with Section 10w of 2000 PA 141 and ordered to join a multistate regional transmission organization selected by the Commission.

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

MICHIGAN PUBLIC SERVICE COMMISSION

Chairman

Commissioner

Commissioner

By its action of May 28, 2003.

Its Executive Secretary

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Case No. U-13360

Suggested Minute:

“Adopt and issue order dated May 28, 2003 directing Indiana Michigan Power Company to file a report by June 30, 2003 and to show cause why it should not be determined to be in violation of Section 10w of 2000 PA 141 and ordered to join a multistate regional transmission organization selected by the Commission, as set forth in the order.”