

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the application of )  
ALPENA POWER COMPANY for authority to )  
reconcile its power supply costs and revenues for )  
the 12-month period ended December 31, 2003. )  
\_\_\_\_\_ )

Case No. U-13552-R

At the November 9, 2004 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

**ORDER APPROVING SETTLEMENT AGREEMENT**

On March 26, 2004, Alpena Power Company (Alpena) filed an application, with supporting testimony and exhibits, for a power supply cost recovery (PSCR) reconciliation for the 12-month period ended December 31, 2003.

Pursuant to due notice, a prehearing conference was held on May 13, 2004 before Administrative Law Judge Daniel E. Nickerson, Jr. Subsequently, the parties resolved all issues in the case and submitted a settlement agreement.

According to the terms of the settlement agreement, attached as Exhibit A, Alpena incurred a total overrecovery, with interest through December 31, 2003, of \$62,192 through operation of its PSCR clause. The settlement agreement indicates that the overrecovery has been refunded to Alpena's non-industrial customers through appropriate billing credits applied to customers' bills

during February through May 2004 and to industrial customers through use of a credit applied to their January 2004 bills.

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.; 1982 PA 304, as amended, MCL 460.6h 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 final settlement agreement is reasonable and in the public interest, and should be approved.

THEREFORE, IT IS ORDERED that:

A. The final settlement agreement, attached as Exhibit A, is approved.

B. Alpena Power Company is authorized to refund to its customers the overrecovery of its power supply costs during 2003, plus interest, as provided in the settlement agreement.

C. Any balances, consisting of overcollected or undercollected amounts, shall be carried forward, with interest as an addition or offset to Alpena Power Company's future adjustment requirements in Account 242.

D. Rights to any portion of this refund shall not vest until a refund amount has been credited to a customer's bill. The company shall file a report regarding the refund in accordance with its refund procedures.

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  
issuance and notice of this order, pursuant to MCL 462.26.

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 November 9, 2004.

/s/ Mary Jo Kunkle  
Its Executive Secretary

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

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Chair

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Commissioner

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Commissioner

By its action of November 9, 2004.

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Its Executive Secretary

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the application of )  
**ALPENA POWER COMPANY** for a )  
Power Supply Cost Reconciliation )  
proceeding for the 12-month period )  
ended December 31, 2003 )  
\_\_\_\_\_ )

**Case No. U-13552-R**  
(Power Supply Cost Reconciliation)

**SETTLEMENT AGREEMENT**

Alpena Power Company ("Alpena"), by and through its attorney, Timothy M. Gulden, of the Law Firm of Gillard, Bauer, Mazrum, Florip, Smigelski and Gulden, and the Michigan Public Service Commission Staff ("Staff"), by and through its attorney, Assistant Attorney General Patricia S. Barone, hereby present this Settlement Agreement in resolution of the above matter.

1. On March 26, 2004, Alpena filed its application for a Power Supply Cost Recovery (PSCR) reconciliation proceeding for the 12-month period ended December 31, 2003, together with its prepared testimony and exhibits of its witnesses in support of the application. On April 15, 2004, the Michigan Public Service Commission ("Commission") issued its Notice of Hearing, setting this matter for a Prehearing Conference on May 13, 2004. Pursuant to the Notice of Hearing, Alpena mailed a copy of the Notice of Hearing to all cities, incorporated villages, townships and counties in its service area, and published the substance of the notice in daily newspapers of general circulation within its service area. A prehearing conference was conducted by Administrative Law Judge Daniel E. Nickerson, Jr. Staff

conducted its audit. Based upon the audit, and discussions of the Staff and Alpena subsequent thereto, the Staff and Alpena enter this Settlement Agreement.

Alpena and Staff agree that Alpena's 2003 Power Supply Cost over-recovery amount of \$43,776 on its Non-Industrial customers (including interest to December 31, 2003 and the 2002 PSCR over-refund and interest thereon) and its over-recovery amount on its Industrial customers of \$18,416 (including interest to December 31, 2003) resulting in a total company over-recovery of \$62,192, including interest to December 31, 2003, and including the 2002 PSCR over-refund (and interest thereon) is reasonable. (Please refer to Exhibit A-2, Schedules 1, 2, 3 and 4, attached to Alpena's Application, for additional details regarding these sums.)

2. There are no power supply costs or charges which should be disallowed pursuant to Section 6j(13) of P.A. 304 of 1982.

3.A. Alpena shall refund its Non-Industrial customers, and has made the refund of, a total over-recovery amount of \$43,776, including interest through December 31, 2003, plus interest to the first day of the month of the refund period, plus interest on the average refund period balance. Alpena states that this refund has been applied over a four month billing period for the period of February 2004 through May 2004.

B. Alpena states that the refund was made by applying a refund factor of negative 0.70 mills on a per kWh of usage basis applied during the four month period described in 3.A.

C. Any over or undercollection shall be carried forward, with interest, and recognized in Alpena's future adjustment requirements in Account 242.

4.A. Alpena's refund to its Industrial customers is \$18,416, including interest through December 31, 2003, plus interest through January 31, 2004, of \$98, plus \$6 resulting from rounding, for a total of \$18,520.

B. Alpena states that the refund was made by applying a refund factor of negative 0.234 mills per kWh to historical 2003 usage in the January 2004 billing period.

5. The expenditures charged by Alpena for power supply costs for 2003 were consistent with the requirements of PA 304 of 1982.

6. This Settlement Agreement is intended for final disposition of this proceeding, and the parties hereto join in respectfully requesting the Commission to grant prompt approval of the Agreement.

7. This Settlement Agreement will become binding upon the parties only if the Commission accepts and approves the same without modification. If the Commission does not approve this Settlement Agreement without modification, this Agreement shall be withdrawn and shall not constitute any part of the record in the proceeding or be used for any purpose whatsoever.


8. This Agreement has been made for the sole and express purpose of reaching a compromise among the positions of the signatories without prejudice to their rights to take new and/or different positions in other proceedings. All offers of settlement and discussions relating to this Agreement shall be considered privileged under MRE 408. If the Commission approves this Agreement without modification, the parties to this Agreement shall make no reference to or use this Agreement or the order approving it as a reason, authority, rationale or example for taking any action or position or making any subsequent decision in any other case or proceeding; provided, however, such references or use may be made to enforce the Agreement and order.

9. All parties waive Section 81 of the Administration Procedures Act of 1969, as amended, MCL 24.281.

10. It is the opinion of the parties that this Settlement Agreement will aid the expeditious conclusion of this case, and will minimize the time and expense which would otherwise have to be devoted to this matter by the Staff and Alpena.

Dated:

MICHIGAN PUBLIC SERVICE COMMISSION


By:  *Patricia S. Barone* Patricia S. Barone  
2004.09.23  
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Patricia S. Barone  
Its: Assistant Attorney General

Dated:

ALPENA POWER COMPANY

By:  Timothy M. Gulden  
M. Gulden, c=US  
Date: 2004.09.21  
14:22:42 -05'00'

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Timothy M. Gulden (P41232)  
Its: Attorney