

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter of the application of)
CONSUMERS ENERGY COMPANY for recovery of)
enhanced security costs for electric generating)
facilities.)
_____)

Case No. U-14126

At the August 10, 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 May 3, 2004, Consumers Energy Company (Consumers) filed an application,
accompanied by supporting testimony, requesting recovery of approximately \$24.5 million for
enhanced security costs for electric generating facilities through a security recovery factor. This
application was filed pursuant to the Customer Choice and Electric Reliability Act, as amended,
MCL 460.10d.

Pursuant to due notice, a prehearing conference was held before Administrative Law Judge
Daniel E. Nickerson, Jr., on June 22, 2004. At the prehearing conference, the Commission Staff
entered its appearance and the Association of Businesses Advocating Tariff Equity's (ABATE)
petition to intervene was granted. No other party appeared or participated in the proceeding.
Subsequently, the parties entered into a settlement agreement resolving all issues in this case.

The settlement agreement, attached as Exhibit A, sets forth the agreement of the parties. As defined in the Customer Choice and Electricity Reliability Act:

“Enhanced security costs” means reasonable and prudent costs of new and enhanced security measures incurred before January 1, 2006 for an electric generating facility by a covered utility that are required by federal or state regulatory security requirements issued after September 11, 2001 or determined to be necessary by the commission to provide reasonable security from an act of terrorism. Enhanced security costs include increases in the cost of insurance that are attributable to an increased terror related risk and the costs of maintaining or restoring electric service as a result of an act of terrorism.

MCL 460.10d(17)(c).

The Nuclear Regulatory Commission (NRC) issued interim compensatory measure (ICM) orders to the electric industry after September 11, 2001, modifying the operating licenses of all commercial nuclear reactors and requiring them to meet the orders in a timely manner. The ICM orders dealt with facility access authorization, vehicle barrier systems, an increase in the design basis threat, and for those sites like Palisades with an existing dry cask storage system, independent spent fuel storage. The NRC has issued advisories, information notices, and orders in three distinct and separate categories: operating nuclear facilities, decommissioning nuclear facilities, and spent fuel storage installations.

As reflected in the testimony and exhibits filed by Consumers witnesses, the total present value of enhanced security costs incurred and expected to be incurred by Consumers for the time period between September 11, 2001 and December 31, 2005 is \$20,203,509. The settlement agreement alleges that these costs are reasonable and prudent costs of new and enhanced security measures at nuclear electric generating facilities required by federal regulatory security requirements issued after September 11, 2001, and reasonable and prudent increases in the cost of insurance attributable to an increased terror-related risk. The parties further allege that these costs should be assigned to Consumers’ retail customers in Michigan. The period for recovery of

enhanced security costs, including a reasonable return on the unamortized balance, is proposed to be 60 months from the first month that Consumers begins billing the security recovery factor.

Finally, the parties suggest that the security recovery factor should be an unbundled charge for all retail customers, except for customers of alternative electric suppliers.

In accordance with the Commission's February 5, 2003 order in Case No. U-13693, Consumers is obligated to file a reconciliation application to ensure that revenues produced by the factor match the total costs incurred through December 31, 2005. Such costs will be net of any proceeds that have been received by Consumers from any other source, including, but not limited to, any applicable insurance settlements received by Consumers or any grants or other emergency relief from federal, state, or local governmental agencies for the purpose of defraying enhanced security costs.

The Commission finds that the relief recommended in the settlement agreement should be granted and concludes that it should approve the security recovery factors attached to the settlement agreement. The Commission is persuaded that granting the relief requested in the settlement agreement is in the public interest.

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.; 2002 PA 609, MCL 460.10d et seq.; and the Commission's Rules of Practice and Procedure, as amended, 1999 AC, R 460.17101 et seq.

b. The settlement agreement is reasonable and in the public interest, and should be approved.

THEREFORE, IT IS ORDERED that:

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

B. Consumers Energy Company is authorized to incorporate into its rates, a security recovery factor as reflected in the exhibit attached to the settlement agreement.

C. Consumers Energy Company shall file, within 30 days, tariff sheets consistent with the exhibit attached to the settlement agreement.

D. Consumers Energy Company shall file a reconciliation application after the end of the five-year period of the security recovery factor in accordance with the Commission's order in Case No. U-13693.

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 E A L)

/s/ J. Peter Lark
Chair

By its action of August 10, 2004.

/s/ Robert B. Nelson
Commissioner

/s/ Mary Jo Kunkle
Its Executive Secretary

/s/ Laura Chappelle
Commissioner

THEREFORE, IT IS ORDERED that:

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

B. Consumers Energy Company is authorized to incorporate into its rates, a security recovery factor as reflected in the exhibit attached to the settlement agreement.

C. Consumers Energy Company shall file, within 30 days, tariff sheets consistent with the exhibit attached to the settlement agreement.

D. Consumers Energy Company shall file a reconciliation application after the end of the five-year period of the security recovery factor in accordance with the Commission's order in Case No. U-13693.

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

Chair

By its action of August 10, 2004.

Commissioner

Its Executive Secretary

Commissioner

In the matter of the application of)
CONSUMERS ENERGY COMPANY for recovery of)
enhanced security costs for electric generating)
facilities.)
_____)

Case No. U-14126

Suggested Minute:

“Adopt and issue order dated August 10, 2004 approving the request of Consumers Energy Company for recovery of enhanced security costs for electric generating facilities, as set forth in the order.”