

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

\* \* \* \* \*

In the matter of the application of	)	
<b>MIDWEST ENERGY COOPERATIVE</b> for	)	
authority to implement its power supply cost	)	Case No. U-14267
recovery plan for the 12-month period ending	)	
December 31, 2005.	)	
_____	)	

At the March 29, 2005 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. J. Peter Lark, Chairman  
Hon. Robert B. Nelson, Commissioner  
Hon. Laura Chappelle, Commissioner

**ORDER APPROVING SETTLEMENT AGREEMENT**

On September 30, 2004, Midwest Energy Cooperative (Midwest) filed an application, with supporting testimony and exhibits, seeking approval to implement a power supply cost recovery (PSCR) plan and to reflect PSCR factors in its 2005 monthly billings to its retail electric member-consumers for the 12-month period ending December 31, 2005.

Pursuant to due notice, a prehearing conference was held on December 15, 2004 before Administrative Law Judge Sharon L. Feldman. Midwest and the Commission Staff participated in the proceedings. Subsequently, the parties entered into a settlement agreement resolving all issues in the case.

According to the terms of the settlement agreement, attached as Exhibit A, the parties agree to a PSCR factor of \$0.01272 per kilowatt-hour (kWh) for each month of the plan year. As detailed

in the settlement agreement, \$0.00129 of the \$0.01272 per kWh is earmarked for Midwest's potential buyout from Wabash Valley Power Association. In the event Midwest rescinds the buyout, \$0.00129 per kWh plus interest will be returned to its member-consumers on a historically rebilled basis.

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 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. Midwest Energy Cooperative is authorized to implement a power supply cost recovery factor of \$0.01272 per kilowatt-hour, in its monthly bills to its retail electric member-consumers during the plan year.

C. Midwest Energy Cooperative shall file with the Commission, within 30 days, tariff sheets essentially the same as those attached to the settlement agreement.

D. Should Midwest Energy Cooperative desire to apply a lesser power supply cost recovery factor than that approved by this order, it shall notify the Commission ten days prior to the use of the lesser factor and shall file during that billing month a tariff sheet showing the lesser factor applied.

E. The power supply cost recovery further approved by this order may be adjusted in accordance with the terms of the settlement agreement.

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/ J. Peter Lark

Chairman

( S E A L )

/s/ Robert B. Nelson

Commissioner

/s/ Laura Chappelle

Commissioner

By its action of March 29, 2005.

/s/ Mary Jo Kunkle

Its Executive Secretary

E. The power supply cost recovery further approved by this order may be adjusted in accordance with the terms of the settlement agreement.

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

---

Chairman

---

Commissioner

---

Commissioner

By its action of March 29, 2005.

---

Its Executive Secretary

STATE OF MICHIGAN  
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the application of )  
MIDWEST ENERGY COOPERATIVE for )  
authority to implement its power supply cost )  
Recovery plan for the 12-month period ending )  
December 31, 2005. )

Case No. U-14267

SETTLEMENT AGREEMENT

On September 30, 2004, Midwest Energy Cooperative (Midwest) filed an application, with supporting testimony and exhibits, seeking approval to implement a Power Supply Cost Recovery (PSCR) Plan and to reflect PSCR factors in its 2005 monthly billings to its retail electric customers. On October 18, 2004, the Michigan Public Service Commission (Commission) issued its Notice of Hearing commencing a PSCR proceeding and establishing a procedural schedule for such proceeding. In accordance with the Commission's Notice of Hearing, Midwest provided notice of this proceeding throughout its service area.

At the prehearing conference on December 15, 2004, Midwest presented proof of service of the Notice of Hearing on all cities, incorporated villages, townships and counties in its service area, and also presented an affidavit evidencing the requisite publication of notice. In addition, a schedule was established for the remainder of the proceeding. Only the Commission Staff (Staff) and Midwest participated in these proceedings. This matter was conducted as a contested case matter pursuant to the Administrative Procedures Act of 1969, 1969 PA 306, as amended, MCL 24.201 *et seq.*

Except for Midwest's Ohio service territory, Midwest's expected major source of electric power supply during the 12-month period ending December 31, 2005 will continue to be the Wabash Valley Power Association (WVPA) under an all requirements contract approved by the

United States Department of Agriculture, Rural Utilities Service. In the past, Midwest's sources of electric power supply have included WVPA, Consumers Energy Company, Lansing Board of Water & Light, Stand Energy Corporation, and Buckeye Power Cooperative. Since 2002, however, all of Midwest's Michigan operations have been supplied wholesale electric power by WVPA. The Ohio portion of Midwest's Southeastern Division continues to be served by Buckeye Power Cooperative.

In its PSCR Plan filing, Midwest anticipated purchasing 523,636,759 kWh during the 12-month period ending December 31, 2005. After adjusting for line losses, the cooperative's own use and non-PSCR sales, 475,581,714 kWh were anticipated to be subject to the PSCR mechanism. The total cost for this power was projected to be \$24,851,409 that resulted in an average power supply cost of 52.26 mills per kWh. Because Midwest presently has 40.83 mills per kWh established as its allowance for cost of power supply in base rates, the resulting monthly PSCR factor is 11.43 mills per kWh, or \$0.01143 per kWh.

In addition, Midwest's PSCR Plan filing included an additional 1.29 mills per kWh to accommodate Midwest's potential buyout from WVPA (WVPA buyout). The calculation of the additional 1.29 mills per kWh is set forth in Exhibit A-6 of Midwest's application, entitled "Midwest Energy Cooperative – Projected Wabash Valley 2005 Buyout Payment", and is Attachment A hereto. With the additional 1.29 mills per kWh, the total requested PSCR factor for the 12-month period ending December 31, 2005 was 12.72 mills per kWh or \$0.01272 per kWh.

Following the prehearing conference, the parties engaged in extensive discussion and exchanged much information – with special focus on the 1.29 mills per kWh necessary to effectuate the WVPA buyout. As a result of those discussions and the information exchanged,

Midwest and Staff have concluded that, with the conditions set forth in this settlement agreement, the proposed 12.72 mills per kWh or \$0.01272 per kWh factor should be approved.

In view of the foregoing, and pursuant to Section 78 of the Administrative Procedures Act of 1969, as amended, 1969 PA 306, §78; MCL 24.278, Midwest and Staff hereby agree as follows:

A. A PSCR factor of 12.72 mills per kWh, or \$0.01272 per kWh, is reasonable and appropriate for the 12-month period ending December 31, 2005.

B. 11.43 mills per kWh of the 12.72 mills per kWh PSCR factor reflects Midwest's 2005 PSCR requirements calculated on a traditional basis. Stated in dollars per kWh, \$0.01143 per kWh of the \$0.01272 per kWh reflects Midwest's 2005 PSCR requirements calculated on a traditional basis.

C. 1.29 mills per kWh of the 12.72 mills per kWh reflects the amount necessary to effectuate the WVPA buyout for Midwest's 2005 PSCR Plan year. Stated in dollars per kWh, \$0.00129 per kWh of the \$0.01272 per kWh reflects the amount necessary to effectuate the WVPA buyout for Midwest's 2005 PSCR Plan year.

D. The proposed tariff sheet is Attachment B hereto.

E. Should Midwest apply lesser PSCR factors than those identified above, it shall notify the Commission Staff of that fact and file a revised tariff incorporating those factors.

F. With respect to the WVPA buyout and consistent with WVPA's buyout policy, (Attachment C) Midwest has taken the following steps :

1. Midwest Resolution – On September 28, 2004, Midwest adopted a resolution (Attachment D) by its board of directors notifying WVPA that Midwest

intends to terminate its membership in WVPA pursuant to WVPA's buyout policy. (Attachment C, §4).

2. WVPA Preparation and Execution of Documents – WVPA prepared and Midwest and WVPA executed two documents:

(a) A December 15, 2004 Supplemental Agreement to Wholesale Power Supply Contract (Supplemental Agreement)(Attachment E). The Supplemental Agreement provides for Midwest's continuing membership in WVPA for ten years and supersedes the current all requirements power supply agreement. (Attachment E, §1); and

(b) A December 15, 2004 escrow agreement regarding the 1.5 mills per kWh surcharge (Attachment F). The escrow agreement provides for Midwest to monthly deposit for ten years into the escrow fund 1.5 mills per kWh for each kWh purchased by member consumers in Midwest's Cassopolis Division, *i.e.*, the territory subject to the current all requirements power supply agreement. (Attachment E, §3).

3. Ability To Rescind Termination And Get 1.5 Mills Per KWh Returned -- Prior to December 31, 2011, Midwest may rescind its termination notice – in which case its Supplemental Agreement is terminated and the current all requirements power supply agreement is reactivated and escrow funds, with interest, are returned to Midwest by the Escrow Agent. (Attachment E, §1).

4. If Midwest Does Not Rescind Termination -- If Midwest does not rescind its termination notice by December 31 2011, the all requirements relationship between WVPA and Midwest is terminated, escrow funds, with interest are transferred to WVPA/its creditors by the Escrow Agent and WVPA property located in Midwest's

service territory is transferred to Midwest upon terms approved by the WVPA board of directors. (Attachment E, §1; Attachment C, §2(g)). Subsequent payments of the 1.5 mills per kWh surcharge will be deposited into the escrow fund until December 31, 2014.

5. Initiate Collection of Buyout Surcharge -- To implement the WVPA buyout, starting January 25, 2005, Midwest paid and will monthly pay into an escrow fund 1.5 mills per kWh for each kWh purchased by Midwest member consumers in Midwest's Cassopolis, Michigan Division, *i.e.*, the territory subject to the current all requirements power supply agreement.

G. By this settlement agreement, Midwest and Staff agree that, for the 2005 PSCR year, *to pay the 1.5 mills per kWh surcharge into the escrow fund, it is necessary for Midwest to recover an additional 1.29 mills per kWh over and above the 11.43 mills per kWh resulting from the traditional PSCR factor approach.* The calculation of the actual amount collected from the customers and deposited into the escrow fund will be reported and reconciled in Midwest's 2005 PSCR Reconciliation case.

H. By this settlement agreement, Midwest and Staff agree that, in the event Midwest rescinds the WVPA buyout and retains its long-term all requirements power supply agreement with WVPA, *all of the escrowed funds, including interest, will be returned to member consumers on a historically rebilled basis.*

I. By this settlement agreement, Midwest and Staff agree that, prior to any decision being made to proceed with the WVPA buyout, and before December 31, 2011, *Midwest will provide to the Commission Staff a report demonstrating benefits to Midwest's member consumers in the form of reduced future power costs, which will support the primary basis for the WVPA buyout.*

J. By this settlement agreement, Midwest and Staff agree that, until such time as Midwest either rescinds the WVPA buyout or the all requirements relationship with WVPA is terminated, *Midwest will annually provide details in its PSCR plan presentations to include (i) a calculation of the amount required to be incorporated in the PSCR factor to facilitate recovery of the 1.5 mills per kWh, (ii) the most recent balance in the escrow fund, (iii) the status of Midwest's power supply alternatives analysis including five year projections starting with the 2010 PSCR Plan filing, and (iv) assurance that the surcharge to be paid into the escrow fund does not exceed 1.5 mills per kWh.*

K. Each signatory hereto agrees not to appeal, challenge or contest the rates approved by the Commission in this case if they are the result of a Commission order accepting and approving this Settlement Agreement without modification. If the Commission does not accept this Settlement Agreement without modification, this Settlement Agreement shall be withdrawn and shall not constitute any part of the record in this proceeding or be used for any other purpose whatsoever.

L. Midwest and the Commission Staff jointly recommend that the Commission issue its Order Adopting Settlement Agreement.

M. Section 81 of the Administrative Procedures Act of 1969 is waived if this Settlement Agreement is approved by the Commission without modification.

Dated: February 25, 2005

? *Kristin M. Smith*

---

COMMISSION STAFF  
By: Kristin M. Smith (P46323)  
Assistant Attorney General  
6545 Mercantile Way, Ste. 15  
Lansing, MI 48911  
Telephone: (517) 241-6680

Dated: February 25, 2005

**Albert Ernst**

Digitally signed by Albert Ernst  
DN: CN = Albert Ernst, C = US  
Date: 2005.02.25 13:43:10 -05'00'

---

**MIDWEST ENERGY COOPERATIVE**

By:

Albert Ernst (P24059)

Christine Mason Soneral (P58820)

Stewart A. Binke (P47149)

**DYKEMA GOSSETT PLLC**

124 West Allegan, Suite 800

Lansing, MI 48933

Telephone: (517) 374-9155

DYKEMA GOSSETT, A PROFESSIONAL LIMITED LIABILITY COMPANY, 124 W. ALLEGAN STREET, SUITE 800, LANSING, MICHIGAN 48933