

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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

At the July 25, 2006 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. J. Peter Lark, Chairman
Hon. Laura Chappelle, Commissioner
Hon. Monica Martinez, Commissioner

AMENDATORY ORDER

On May 18, 2004, the Commission issued an order in this proceeding that, among other things, provided for extension and revision of the green power pilot program originally approved for Consumers Energy Company (Consumers) by the Commission's July 25, 2001 order in Case No. U-13029. In so doing, the Commission directed that the newly revised program should be funded to the extent that voluntary payments fall short of all program costs through use of a five-cent per meter per month customer charge levied on all customer meters. The Commission required that revenues collected from the monthly five-cent charge were to be placed into a renewable resource program (RRP) fund and used to compensate Consumers for costs that were not recovered from customers who voluntarily choose to participate in the RRP or that were not recovered through the power supply cost recovery (PSCR) process.

Attorney General Michael A. Cox (Attorney General) appealed the May 18, 2004 order to the Court of Appeals. In a decision issued on November 22, 2005, the Court of Appeals reversed the portion of the Commission's May 18, 2004 order in Case No. U-13843 dealing with the five-cent per meter per month customer charge, but affirmed that the remainder of that order was lawful, reasonable, in compliance with the legislative intent of the Commission's enabling statutes, and supported by requisite evidence. *Attorney General v Pub Service Comm*, 269 Mich App 473; 713 NW2d 290 (2005).

The Commission appealed the Court of Appeals' decision to the Michigan Supreme Court. On June 21, 2006, the Supreme Court issued an order denying the Commission's application for leave to appeal. No party sought reconsideration of the Supreme Court's June 21 order. The effect of the Supreme Court's order is to let stand the Court of Appeals' determination that the Commission lacked the statutory authority to authorize Consumers to require customers who had not agreed to pay a premium to receive green power to pay the monthly five-cent per meter charge.

Consumers commenced collecting the five-cent per meter per month customer charge from its larger commercial and industrial customers immediately following issuance of the May 18, 2004 order in Case No. U-13843. On January 1, 2005, the five-cent per meter per month customer charge was also collected from Consumers' smaller commercial and industrial customers. Finally, the five-cent per meter per month customer charge was added to the bills of Consumers' residential customers as of January 1, 2006.

In light of the finality of the appellate process for Case No. U-13843, the Commission is required to amend its May 18, 2004 order to direct Consumers to cease collection of the five-cent per meter per month customer charge and to refund amounts previously collected from its customers through use of a one-time credit to its customers' September 2006 bills.

The Commission FINDS that:

a. Jurisdiction is pursuant to 1991 PA 179, as amended, MCL 484.2101 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. Consumers should be directed to cease collection of the five-cent per meter per month customer charge and to refund amounts previously collected from its customers through use of a one-time credit to the customers' September 2006 bills.

c. Consumers should be directed to amend and file tariff sheets reflecting termination of the monthly five-cent per meter charge.

THEREFORE, IT IS ORDERED that:

A. Consumers Energy Company shall cease collection of the five-cent per meter per month customer charge commencing with the first billing cycle following the date of the Commission's order and shall refund amounts collected from its customers through use of a one time credit to the customers' September 2006 bills.

B. Consumers Energy Company shall, within 30 days, amend and file tariff sheets with the Commission reflecting termination of the monthly five-cent per meter charge.

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/ Laura Chappelle
Commissioner

/s/ Monica Martinez
Commissioner

By its action of July 25, 2006.

/s/ Mary Jo Kunkle
Its Executive Secretary

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MICHIGAN PUBLIC SERVICE COMMISSION

Chairman

Commissioner

Commissioner

By its action of July 25, 2006.

Its Executive Secretary