

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter, on the Commission's own motion,)	
regarding the regulatory reviews, revisions,)	
determinations, and/or approvals necessary for)	Case No. U-15806
THE DETROIT EDISON COMPANY to fully)	
comply with Public Acts 286 and 295 of 2008.)	
_____)	

At the December 1, 2009 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. Orjiakor N. Isiogu, Chairman
Hon. Monica Martinez, Commissioner
Hon. Steven A. Transeth, Commissioner

OPINION AND ORDER

On October 6, 2008, Governor Jennifer M. Granholm signed into law Public Acts 286 and 295 of 2008, which amended MCL 460.1 *et seq.* and created MCL 460.1001 *et seq.*, respectively. On October 21, 2008, the Commission commenced this case to facilitate The Detroit Edison Company's (Detroit Edison) obtaining the regulatory reviews, determinations and approvals necessary to fully comply with the new acts.

On November 12, 2009, Detroit Edison filed an application under MCL 460.1033(3) for *ex parte* Commission review and approval of an unsolicited renewable energy contract amendment (Amendment) to a contract with Heritage Stoney Corners Wind Farm I LLC (Contract). The Contract was approved by the Commission on April 30, 2009. This proposed Amendment to the contract involves an additional 12.2 megawatts (MW) nameplate capacity of wind-powered

electric energy and renewable energy credits, including a pilot utility scale 2.2 MW wind turbine generator. Detroit Edison states that the Amendment “provides an opportunity to site a pilot unit of this new wind turbine design which offers Michigan a unique opportunity to demonstrate leadership in renewable technologies and which may offer advantages in attracting wind turbine generation manufacturing facilities to the State.”

Detroit Edison filed a copy of the Amendment with certain portions redacted to protect confidential information that might affect the competitive market. However, Detroit Edison offered the Commission Staff an opportunity to review an unredacted version of the Amendment. Detroit Edison also provided affidavits of three witnesses: Irene M. Dimitry, the company’s Director of Renewable Energy; Kenneth D. Johnston, a company consultant on regulatory affairs; and Barbara Tuckfield, a member of Detroit Edison’s Regulatory Accounting and Strategy Section of the Controllers Organization.

In its application, Detroit Edison explains that the Amendment pricing is the same as the already approved contract pricing of net \$115.00 per megawatt-hour. In addition, the Amendment is consistent with Detroit Edison’s renewable energy plan filed and approved by the Commission in its June 2, 2009 and August 25, 2009 orders in Case No. U-15806.

Detroit Edison states that this Amendment is an unsolicited proposal that provides opportunities that may not otherwise be available or commercially practical. According to Detroit Edison, the most unique aspect of the Amendment is the creation of potential economic development benefits for the state of Michigan. Detroit Edison states that this Amendment will help site a pilot utility scale 2.2 MW wind turbine generator featuring an innovative permanent magnet generator with a direct drive configuration that is designed to deliver superior performance, reliability, and efficiency. To the best of the company’s knowledge and belief, this

style of wind generator turbine has not yet been commercially installed at this scale in the United States.

Detroit Edison is also requesting that the Commission approve for recovery under the company's power supply cost recovery process under MCL 460.6j renewable energy transfer prices for the energy and capacity associated with the Detroit Edison/Heritage Renewable Energy Contract Amendment. The transfer prices from the company's 2009 Forecasted Transfer Price schedule were admitted in Detroit Edison's renewable energy plan in Case No. U-15806, Exhibit No. A-8 (JHB-4), during testimony given on April 23, 2009.

Detroit Edison requests that the Commission (1) approve the contract in its entirety, including the associated 2009 Forecasted Transfer Pricing schedule (Exhibit A-8); (2) determine that the contract is reasonable and prudent and provides opportunities that may not otherwise be available or commercially practical; (3) approve the capacity charges set forth in Exhibit A-8, and any other approvals necessary under MCL 460.6j; and (4) determine that the contract and related approvals will not result in an alteration or amendment in Detroit Edison's rates or rate schedules and will not result in an increase in the cost of service to Detroit Edison's customers, thus making *ex parte* approval appropriate. Detroit Edison states the requested approvals will not result in an alteration or amendment in rates or rate schedules, they will not result in an increase in the cost of service to customers, and the contracts are consistent with the planned activities, expenses and revenue recovery mechanisms and surcharges described in Detroit Edison's approved renewable energy plan (June 2, 2009, Commission order in Case No. U-15806). Therefore, Detroit Edison's application may be authorized and approved without notice or hearing pursuant to MCL 460.6a(1). No party contested Detroit Edison's request for *ex parte* approval of its application.

Discussion

MCL 460.1033 provides in part:

(1) Subject to subsections (2) and (3), an electric provider that had 1,000,000 or more retail customers in this state on January 1, 2008 shall obtain the renewable energy credits that are necessary to meet the renewable energy credit standard in 2015 and thereafter as follows:

* * *

(b) At least 50% of the renewable energy credits shall be from renewable energy contracts that do not require transfer of ownership of the applicable renewable energy system to the electric provider or from contracts for the purchase of renewable energy credits without the associated renewable energy. A renewable energy contract or contract for the purchase of renewable energy credits under this subdivision shall be executed after a competitive bidding process conducted pursuant to guidelines issued by the commission. However, an electric provider may consider unsolicited proposals presented to it outside of a competitive bid process by a renewable energy system developer that is not affiliated with the electric provider. If the provider determines that such an unsolicited proposal provides opportunities that may not otherwise be available or commercially practical, the provider may enter into a contract with the developer. The contract is subject to review and approval by the commission under section 21. . . .

* * *

(3) An electric provider shall submit a contract entered into pursuant to subsection (1) to the commission for review and approval. If the commission approves the contract, it shall be considered to be consistent with the electric provider's renewable energy plan. The commission shall not approve a contract based on an unsolicited proposal unless the commission determines that the unsolicited proposal provides opportunities that may not otherwise be available or commercially practical.

MCL 460.1037 provides in part:

If, after the effective date of this act, an electric provider whose rates are regulated by the commission enters a renewable energy contract or a contract to purchase renewable energy credits without the associated renewable energy, the commission shall determine whether the contract provides reasonable and prudent terms and conditions and complies with the retail rate impact limits under section 45. In making this determination, the commission shall consider the contract price and term. If the contract is a renewable energy contract, the commission shall also consider at least all of the following:

(a) The cost to the electric provider and its customers of the impacts of accounting treatment of debt and associated equity requirements imputed by credit rating agencies and lenders attributable to the renewable energy contract. The commission shall use standard rating agency, lender, and accounting practices for electric utilities in determining these costs, unless the impacts for the electric provider are known.

(b) Subject to section 45, the life-cycle cost of the renewable energy contract to the electric provider and customers including costs, after expiration of the renewable energy contract, of maintaining the same renewable energy output in megawatt hours, whether by purchases from the marketplace, by extension or renewal of the renewable energy contract, or by the electric provider purchasing the renewable energy system and continuing its operation.

(c) Electric provider and customer price and cost risks if the renewable energy systems supporting the renewable energy contract move from contracted pricing to market-based pricing after expiration of the renewable energy contract.

As required by Section 37 of Act 295, the Commission has considered each of the factors in Section 37(a), (b), and (c), and finds that the Amendment should be approved. With regard to Subsection (a), because the costs associated with this contract will be recovered under the funding mechanisms provided for in Act 295, it is unlikely that Detroit Edison would experience a financial rating change due to this Amendment. With regard to Subsection (b), the 20-year term, which the Commission believes is the longest contract term being offered by developers, provides Detroit Edison's customers with an adequate source of renewable energy for a reasonable time. With regard to Subsection (c), the possibility of this activity will not occur until the end of the 20-year contract term. Because this is an adequate duration, review of possible replacement costs is unnecessary. Further, the Commission finds that the Amendment is reasonable and prudent and provides opportunities that may not otherwise be available or commercially practical.

The Commission is persuaded that the Amendment should be approved. The Commission finds the following: (1) the contract is approved in its entirety, including the associated 2009

Forecasted Transfer Pricing schedule (Exhibit A-8); (2) the contract is reasonable and prudent and provides opportunities that may not otherwise be available or commercially practical; (3) the capacity charges set out in Exhibit A-8 are approved, and any other approvals necessary under MCL 460.6j; and (4) the contract and related approvals will not result in an alteration or amendment in Detroit Edison's rates or rate schedules and will not result in an increase in the cost of service to Detroit Edison's customers, thus making *ex parte* approval appropriate.

THEREFORE, IT IS ORDERED that the renewable energy contract amendment between The Detroit Edison Company and Heritage Stoney Corners Wind Farm I LLC is approved as in compliance with the requirements of Public Act 295 of 2008.

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, under MCL 462.26.

MICHIGAN PUBLIC SERVICE COMMISSION

Orjiakor N. Isiogu, Chairman

By its action of December 1, 2009.

Monica Martinez, Commissioner

Mary Jo Kunkle, Executive Secretary

Steven A. Transeth, Commissioner