

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the application of)
CHERRYLAND ELECTRIC COOPERATIVE for)
a power supply cost recovery reconciliation and)
TIER mechanism review for the 12-month period)
ended December 31, 2008.)
_____)

Case No. U-15410-R

At the August 25, 2009 of the Michigan Public Service Commission in Lansing, Michigan.

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

ORDER

On April 20, 2009, the Board of Directors of Cherryland Electric Cooperative (Cherryland) adopted a resolution to become member-regulated in accordance with 2008 PA 167, MCL 460.31 *et seq.*, the Electric Cooperative Member-Regulation Act, and notified the Commission. *See*, MCL 460.34. “Member-regulation” means that the Board of Directors of Cherryland is charged with establishing, maintaining, and applying all rates, charges, accounting standards, billing practices, and terms and conditions of service. MCL 460.32(f). Assuming that all of the statutory prerequisites are met, member-regulation commences 90 days after notification to the Commission. MCL 460.34(f).

On April 30, 2009, Cherryland filed an application under Section 6j of 1982 PA 304, MCL 460.6j, seeking reconciliation of its power supply cost recovery (PSCR) plan and review of

its times interest earned ratio (TIER) ratemaking mechanism for the 12-month period that ended December 31, 2008.

On July 16, 2009, the Commission issued an order in Case No. U-15983, p. 9, wherein the Commission found that Cherryland had met all of the prerequisites for exercising member-regulation, and stated that “upon the commencement of member-regulation by Cherryland, the Commission will cease asserting any authority over the cooperative’s right to determine its rates, charges, accounting standards, billing practices, and terms and conditions of service.”

On July 23, 2009, Great Wolf Lodge of Traverse City, LLC (GWL) filed a petition to intervene, and Cherryland filed a motion to terminate this proceeding for lack of subject matter jurisdiction. On July 28, 2009, Cherryland filed objections to GWL’s petition to intervene based on lack of subject matter jurisdiction.

A prehearing conference was held on July 30, 2009, before Administrative Law Judge Mark D. Eyster (ALJ). Cherryland, the Commission Staff (Staff), and GWL participated in the proceedings. The ALJ granted GWL’s petition to intervene. 1 Tr 10. Subsequently, based upon the Commission’s July 16 order, the ALJ granted the motion to dismiss for lack of jurisdiction, and issued a Proposal for Decision to that effect. 1 Tr 18. No party filed exceptions.

The Commission agrees with the ALJ and finds, as of July 20, 2009, the Commission retains no jurisdiction over proceedings determining or reviewing Cherryland’s rates, charges, accounting standards, billing practices, and terms and conditions of service. PSCR reconciliations and TIER mechanism reviews are such proceedings. Thus, this matter is dismissed.

THEREFORE, IT IS ORDERED that this proceeding is dismissed for lack of subject matter jurisdiction.

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

Monica Martinez, Commissioner

Steven A. Transeth, Commissioner

By its action of August 25, 2009.

Mary Jo Kunkle, Executive Secretary