

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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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 6, 2009, Detroit Edison filed an application under MCL 460.1033(3) for *ex parte* Commission review and approval of two renewable energy credit (REC) contracts with Sterling Planet and Upper Peninsula Power Company (UPPCo). Detroit Edison’s application states that the REC contracts are “contract[s] to purchase renewable energy credits without the

associated renewable energy.” The contracts require that the RECs arise from renewable energy generated by renewable energy systems utilizing renewable energy resources.

The REC contracts are the result of a request for proposal (RFP) for Michigan-based RECs issued by Detroit Edison on December 23, 2008. In response to the RFP, Detroit Edison received a total of 43 proposals from 11 suppliers, which offered various combinations of terms and prices for RECs and advanced cleaner energy credits. In accordance with MCL 460.1033(1)(b), the REC contracts resulted from negotiations with qualified bidders with the lowest-price conforming bids.

Detroit Edison filed a copy of the contracts 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 contracts. Detroit Edison also provided the affidavit of Kenneth D. Johnston, a consultant on regulatory affairs at Detroit Edison.

The contracts between Detroit Edison and Sterling Planet and UPPCo have 10- and 7-year terms, respectively. The specific facilities from which these RECs will be generated are not identified in the Sterling Planet contract. The UPPCo contract lists seven hydroelectric facilities located in Michigan as the source of the RECs.

In its application, Detroit Edison states that the average firm price for the contracts is \$12.46 per REC, which is below the projected 20-year average renewable energy plan REC price of \$20.23 per REC and the projected average 10-year (years 2009-2018) REC price of \$17.72 per REC as set forth in Exhibit No. A-10 (JHB-6), lines 6 and 25 in Case No. U-15806. The REC contracts also provide for the additional purchase of approximately 850,000 RECs, which would result in a total average price for all RECs deliverable under these REC contracts of \$12.56 per

REC if all optional RECs were acquired by Detroit Edison. This is still well below Detroit Edison's projected renewable energy plan REC price estimates.

Detroit Edison requests that the Commission approve the contracts and provide assurance that the REC costs will be recoverable through the company's revenue recovery mechanism as an incremental cost of compliance with the renewable energy standards under Detroit Edison's renewable energy plan, pursuant to 2008 PA 295. Further, 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....

* * *

(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....

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.

As required by Section 37 of Act 295, the Commission has considered the factors in Section 37 and finds that the two REC contracts should be approved. The Commission agrees to provide assurance that the full costs of these contracts will be recoverable through application of the renewable energy surcharges.

THEREFORE, IT IS ORDERED that the renewable energy credit contracts between The Detroit Edison Company and Sterling Planet and Upper Peninsula Power Company are 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

Monica Martinez, Commissioner

Steven A. Transeth, Commissioner

By its action of December 1, 2009.

Mary Jo Kunkle, Executive Secretary