

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter, on the Commission's own motion,)	
to implement the provisions of Sections 6a(6) and)	Case No. U-15895
10p(11) of 2008 PA 286.)	
_____)	

At the February 20, 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

ORDER

On October 6, 2008, Governor Jennifer M. Granholm signed into law 2008 PA 286 (Act 286). Section 6a(6) of Act 286 provides that, within 90 days of the effective date of the act, the Commission "shall adopt standard rate application filing forms and instructions for use in all general rate cases filed by utilities whose rates are regulated by the commission."

On October 21, 2008, the Commission issued an order seeking comments from all interested parties on standard rate application filing forms and instructions. Among others, the Commission received joint comments from The Detroit Edison Company (Detroit Edison), Michigan

Consolidated Gas Company, Consumers Energy Company (Consumers), and the Michigan Electric and Gas Association (MEGA)¹ (collectively, the Regulated Utilities).

On December 23, 2008, the Commission issued an order adopting standard rate case filing forms and instructions. That order adopted both the existing standard rate case filing forms that provide information on the historical test year, and new forms, which were submitted by the Regulated Utilities that provide information on the projected test year.

On January 22, 2009, MEGA filed a petition for rehearing or clarification. In the petition, MEGA states that the Commission's adoption of both existing and proposed forms has resulted in the requirement of overlapping exhibits (Exhibits A-1 and A-2, for example), and a mismatch in some of the exhibit and schedule designations for rate case elements in both gas and electric rate cases. MEGA argues that the Regulated Utilities' proposed exhibits and schedules for projected test years represent an improvement over the existing forms, and should be used for both historical and projected case filings. MEGA requests that the Commission clarify its December 23 order to "allow utilities to conform their historic rate case exhibits and schedules to those approved for the projected year filing." Petition, p. 2.

MEGA notes that it participated in the comments and the presentation of the original exhibits submitted by the Regulated Utilities. MEGA states that the other members of the Regulated Utilities support its petition.

On February 12, 2009, the Commission Staff (Staff) filed a response. The Staff does not oppose this request.

¹ In this proceeding, MEGA represents Alpena Power Company, Edison Sault Electric Company, Indiana Michigan Power Company, Michigan Gas Utilities Corporation, Upper Peninsula Power Company, Wisconsin Electric Power Company, d/b/a We Energies, Wisconsin Public Service Corporation, and Northern States Power Company, a Wisconsin corporation. Petition, p. 1.

The Commission agrees with MEGA that this is a useful clarification to the December 23 order. In addition to reducing confusion, conformity of the historic and projected data will aid the Commission in comparing the two sets of data.

MEGA further argues that, while the Commission directed utilities to file exhibits in Microsoft Excel format, “there may be situations where a particular supporting exhibit is not available in Excel format,” and “some other software might become the market leader in the future.” Petition, p. 3. MEGA urges the Commission to clarify the December 23 order to indicate that filing exhibits in Excel is a preference rather than a requirement.

MEGA further requests that the Commission acknowledge the potential intellectual property rights of third party providers of economic models that may prevent such models from being disseminated to all parties who request them. MEGA requests that the Commission clarify the December 23 order to authorize “a variance procedure for good cause as determined by its staff and indicates [sic] that the intellectual property rights of the model owners will be protected.” Petition, p. 3.

The Staff opposes MEGA’s final two clarification requests regarding the use of Excel and the possibility of proprietary rights in economic models. The Staff argues that the petition fails to meet the standard for rehearing. The Staff contends that MEGA’s arguments are speculative, Excel is widely available, and the utilities should be responsible for the conversion to Excel of an exhibit that is not in that form. The Staff points out that protective orders are available to address proprietary concerns. Finally, the Staff notes that most utilities are using the standardized cost of service study (COSS) model that was developed through the collaborative in Case Nos. U-14399 and U-14347, and adopted by the Commission on March 21, 2007.

The Commission agrees with the Staff. Excel is certainly the most widely used spreadsheet format. The use of Excel-based software was adopted by the Commission at the close of the industry collaborative (in which the Regulated Utilities participated) for the current COSS model. March 21, 2007 order in Case No. U-14399 *et al.*, p. 2. The Commission declines to make Excel optional simply because it may be eclipsed someday by another program. Further, the Staff is correct that protective orders are always available to parties in rate cases to address proprietary and confidentiality concerns. Additionally, the administrative law judge assigned to the rate case is available to handle problems with, or objections to, the form or accessibility of particular pieces of evidence.

THEREFORE, IT IS ORDERED that the December 23, 2008 order is clarified to allow utilities to conform their rate case exhibits and schedules for the historic test year to those approved for the projected test year.

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 February 20, 2009.

Mary Jo Kunkle, Executive Secretary