

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter, on the Commission's own motion,)	
to implement the provisions of Section 10(a)15 of)	Case No. U-15897
2008 PA 286.)	
_____)	

At the March 18, 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), an amendment to 1939 PA 3. Section 10a(15) of Act 286 provides that:

A customer who elects to receive service from an alternative electric supplier may subsequently provide notice to the electric utility of the customer's desire to receive standard tariff service from the electric utility. The procedures in place for each electric utility as of January 1, 2008 that set forth the terms pursuant to which a customer receiving service from an alternative electric supplier may return to full service from the electric utility are ratified and shall remain in effect and may be amended by the commission as needed. If an electric utility did not have the procedures in place as of January 1, 2008, the commission shall adopt those procedures.

On October 21, 2008, the Commission issued an order requesting comments on return to service procedures, to be filed by November 19, 2008. The Commission directed that all recommendations for the procedures should be consistent with the provisions of Act 286.

On November 19, 2008, The Detroit Edison Company (Detroit Edison), Consumers Energy Company (Consumers), Energy Michigan, and Constellation NewEnergy, Inc. (CNE) filed comments.

Detroit Edison and Consumers both stated that they had return to service procedures in place on January 1, 2008. Consumers added that the Commission approved a modification in the notice of return to full service rules in an order issued on June 10, 2008 in Case No. U-15245.

CNE and Energy Michigan commented that current return to service procedures require an electric choice customer to provide notice to the utility by December 1 if the customer intends to return to service during the summer of the following year. Choice customers who wish to return to utility service during periods other than the summer need only provide 60 days notice. According to CNE and Energy Michigan, the recent change in legislation, specifically Section 10a(1) of 2008 PA 286 that limits electric choice load to 10% of total utility load, eliminates the need for the extended notice period for choice customers wishing to return to bundled service during the summer. CNE urged the Commission to keep this docket open to continue to review and address, if necessary, any changes to return to service procedures.

Energy Michigan commented that there are potential conflicts between Section 10a(1) and Section 10a(15) of Act 286. Energy Michigan noted that Section 10a(1) provides a 10% cap on choice, while existing Detroit Edison and Consumers return to service procedures mandate that choice customers must provide at least a 60 day notice to the utility before returning to bundled service. In addition, Detroit Edison and Consumers each have nonresidential tariffs requiring that choice customers remain on choice service for a minimum of two years. Energy Michigan contends that a conflict exists in the case where a utility finds that choice service exceeds the 10% weather adjusted sales limit triggering the requirement that some customers return to utility service

after termination of a calendar year. This could violate utility notice requirements or the requirement that a choice customer remain on choice service for at least two years. In addition, Energy Michigan claims that forcing choice customers to return to retail service, as provided in Section 10a(1), could impair the contract between the choice customer and the alternative electric supplier (AES) in violation of Const. 1963, art 1, § 10. Energy Michigan included a number of recommendations that it also included in its comments on administering the 10% limit on choice sales in Case No. U-15801.

The Commission finds that changes to utility return to service procedures and tariffs should be raised and addressed in the companies' rate cases. Further, the Commission finds that any changes to return to service procedures to conform these procedures with Section 10a(1) of Act 286 should be deferred until the Commission adopts rules for administration of the 10% electric choice limits.

THEREFORE, IT IS ORDERED that changes to existing return to service procedures and tariffs shall be addressed in future rate case proceedings.

The Commission reserves jurisdiction and may issue further orders as necessary.

MICHIGAN PUBLIC SERVICE COMMISSION

Orjiakor N. Isiogu, Chairman

Monica Martinez, Commissioner

Steven A. Transeth, Commissioner

By its action of March 18, 2009.

Mary Jo Kunkle, Executive Secretary