

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter of the application of)
CONSUMERS ENERGY COMPANY) Case No. U-16174
for clarification of procedure.)
_____)

At the December 28, 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 December 23, 2009, Consumers Energy Company (Consumers) filed an application seeking clarification of certain procedures that would be followed by the Commission in the event that the utility files future applications. Specifically, Consumers explains in its December 23 application that the utility has requested the Michigan Department of Environmental Quality (MDEQ) to issue a Permit to Install for the construction of a new advanced supercritical coal boiler and associated equipment at the utility's Karn-Weadock Generating Station in Bay City, Michigan.¹

According to Consumers, comments submitted in connection with the MDEQ permit request have focused upon anticipated retirement of existing units with the proposed new coal plant.

¹Pursuant to an April 1, 2009 memorandum of understanding between MDEQ and the Commission, the Commission Staff (Staff) reviewed an electric generation alternatives analysis filed by Consumers in Case No. U-15996 in connection with this proposed project. The Staff's report was issued September 8, 2009.

Because of this, Consumers is anticipating that, if a permit were to be granted, there would be a requirement that Consumers commit to certain retirements of existing coal-fired units on a specified schedule. Therefore, Consumers seeks guidance from the Commission regarding how two possible future applications will be processed by the Commission.

Consumers indicates that one application would involve MCL 460.6s, which concerns the Commission's administration of the certificate of necessity (CON) process established by the Legislature in 2008 PA 286. Consumers states that the utility's other application is likely to focus on the process that will be followed by the Commission to resolve ratemaking treatment to be accorded any remaining undepreciated book value of retired generating units, associated decommissioning costs, and other costs of removal.

Consumers asserts that due diligence requires the utility to weigh how the Commission may process these applications before the utility offers comments and commitments to the MDEQ. For that reason, Consumers filed this application to ask the Commission for clarification regarding how the Commission might process its two proposed future applications, assuming that the MDEQ issues the Permit to Install. Consumers seeks a commitment from the Commission that it will process the two applications, which may be filed at different times, in a manner that will allow for the final orders in the related cases to be issued by the Commission at approximately the same time. Specifically, Consumers is most concerned that the final order in the application seeking ratemaking treatment to be accorded any remaining undepreciated book value of retired generating units, associated decommissioning costs, and other costs of removal be processed on a schedule that would allow a final order on that application to be issued no later than the issuance of a final order in its associated CON proceeding.

The Commission finds that Consumers' request for clarification should be granted. In reaching this decision, the Commission notes that Consumers is not asking for anything more than some certainty regarding how the Commission will treat two future applications that the utility may file in 2010. The Commission also notes that Consumers has committed to filing its ratemaking application at least 90 days before its MCL 460.6s application for a CON, which must be processed by the Commission in a 270 day timeframe.

Today's determination does not resolve or prejudge any issue that may be litigated in either of those applications. Rather, it merely directs the Staff to schedule and process two related cases according to schedules that will permit the issuance of orders in these matters in conjunction with each other.

THEREFORE, IT IS ORDERED that the application filed by Consumers Energy Company is granted. The Commission Staff is directed to process the applications described in this order in a manner that will allow the Commission to issue a final order in the application seeking ratemaking treatment to be accorded any remaining undepreciated book value of retired generating units, associated decommissioning costs, and other costs of removal no later than the issuance of a final order in the associated certificate of necessity proceeding.

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 28, 2009.

Mary Jo Kunkle, Executive Secretary