

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)
CONSUMERS ENERGY COMPANY to fully)
comply with Public Act 295 of 2008.)
_____)

Case No. U-15805

At the January 26, 2012 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. John D. Quackenbush, Chairman
Hon. Orjiakor N. Isiogu, Commissioner
Hon. Greg R. White, Commissioner

OPINION AND ORDER

On October 6, 2008, Public Acts 286 and 295 of 2008 were signed into law, which amended MCL 460.1 *et seq.* and created MCL 460.1001 *et seq.* (Act 295), respectively. On October 21, 2008, the Commission commenced this case to facilitate Consumers Energy Company (Consumers) obtaining the regulatory reviews, determinations, and approvals necessary for it to fully comply with the new acts.

In its November 19, 2010 order (November 19 order) in this case, the Commission approved two Consumers long-term renewable energy purchase agreements (REPAs) with Heritage Garden Wind Farm I LLC and Heritage Stoney Corners Wind Farm II LLC. On December 13, 2011, Consumers filed an application pursuant to MCL 460.1033(3) requesting *ex parte* approval of six

documents involving the wind farms that were the subject of the REPAs approved in the November 19 order:

1. Amended and restated Heritage Garden Wind Farm I REPA dated June 29, 2011.
2. Amendment No. 1 to the Heritage Stoney Corners Wind Farm II REPA dated June 29, 2011.
3. Amendment No. 1 to the Heritage Garden Wind Farm I REPA dated November 28, 2011.
4. Amendment No. 2 to the Heritage Stoney Corners Wind Farm II REPA dated November 28, 2011.
5. New REPA with Heritage Stoney Corners Wind Farm I (Phase 3) for 8.35 megawatts (MW) dated November 28, 2011.
6. Assignment between Heritage Stoney Corners Wind Farm II and Heritage Stoney Corners Wind Farm I dated November 28, 2011.

According to Consumers, pricing components of the REPAs approved in the November 19 order intricately connect the REPAs together, and the amendments, REPA, and assignment will not result in an aggregate change in cost or delivered quantity.

The REPAs will result in an aggregate capacity of approximately 40.7 MW, plus an optional 4.7 MW of energy, capacity, and renewable energy credits from the wind turbine developments. Approximately 20 MW of the Heritage Garden Wind Farm I will be constructed in Delta County in the upper peninsula, while the 12.3 MW Heritage Stoney Corners Wind Farm II and the remaining 8.35 MW of the Heritage Garden Wind Farm I will be constructed in Missaukee, Osceola, and Wexford Counties in the lower peninsula. Delivery under these contracts is expected to begin in 2012.

Pursuant to the amendments, new REPA, and assignment, the Heritage Garden Wind Farm I project will begin commercial operation in stages and will now be located in Delta, Missaukee, and Osceola Counties, while the Heritage Stoney Corners Wind Farm I and II is located in

Missaukee and Osceola Counties. This 8.35 MW portion of the Heritage Garden Wind Farm I project is renamed Stoney Corners Wind Farm I LLC (Phase 3). A portion of the Heritage Garden Wind Farm I project will begin commercial operation on January 1, 2012. The remaining capacity will be completed in two additional stages.

Heritage Garden Wind Farm I labor and equipment incentive renewable energy credits will be sold to Consumers for a three-year period beginning with the commercial operation of applicable turbines. Additionally, the Federal Energy Regulatory Commission notified Heritage Garden Wind Farm I and Heritage Stoney Corners Wind Farm II that under the Public Utility Regulatory Policies Act, three qualifying facilities could not make market-based rate sales from the same location. This required the assignment of the Heritage Stoney Corners Wind Farm II REPA to Stoney Corners Wind Farm I.

Consumers filed copies of the amendments, REPA, and assignment with certain sensitive portions redacted to protect confidential information that might negatively affect the competitive market. However, Consumers offered the Commission Staff the opportunity to review unredacted versions of the documents.

Consumers states that the requested approvals will not result in “an alteration or amendment in rates or rate schedules” and “will not result in an increase in the cost of service to customers” because the amendments and agreement are consistent with the planning activities, expenses, and revenue recovery mechanisms and surcharges described in Consumers’ amended renewable energy plan as approved by the Commission on May 10, 2011 in Case No. U-16543. Therefore, Consumers’ application may be authorized and approved without notice or hearing pursuant to MCL 460.6a(1).

Discussion

The Commission has considered the factors in Section 37 of Act 295 and finds that the amendments, REPA, and assignment should be approved. The Commission agrees to provide assurance that the full costs of the amended REPAs and new REPA will be recoverable through the combined application of the transfer price mechanism and application of renewable energy surcharges.

The Commission finds that *ex parte* review and approval is appropriate because the amendments, REPA, and assignment will not affect rates or rate schedules resulting in an increase in the cost of service to customers. As stated in the Commission's December 4, 2008 order in Case No. U-15800, the Commission intends to do a thorough, yet timely, review of requests for contract approval in order to encourage development of the most cost-practical and highest-quality renewable energy resources. The Commission has all necessary information needed to approve these REPAs. The Commission finds no prohibition against *ex parte* approval of the amendments, REPA, or assignment in Act 295.

THEREFORE, IT IS ORDERED that:

A. The June 29, 2011 amended and restated renewable energy purchase agreement between Consumers Energy Company and Heritage Garden Wind Farm I LLC is approved.

B. The June 29, 2011 Amendment No. 1 to the renewable energy purchase agreement between Consumers Energy Company and Heritage Stoney Corners Wind Farm II LLC is approved.

C. The November 28, 2011 Amendment No. 1 to the renewable energy purchase agreement between Consumers Energy Company and Heritage Garden Wind Farm I LLC are approved.

D. The November 28, 2011 Amendment No. 2 to the renewable energy purchase agreement between Consumers Energy Company and Heritage Stoney Corners Wind Farm II LLC is approved.

E. The November 28, 2011 renewable energy purchase agreement between Consumers Energy Company and Heritage Stoney Corners Wind Farm I LLC (Phase 3) for 8.35 megawatts is approved.

F. The November 28, 2011 assignment between Heritage Stoney Corners Wind Farm II LLC and Heritage Stoney Corners Wind Farm I LLC is approved as in compliance with 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

John D. Quackenbush, Chairman

By its action of January 26, 2012.

Orjiakor N. Isiogu, Commissioner

Mary Jo Kunkle, Executive Secretary

Greg R. White, Commissioner