STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter, on the Commission's own motion, establishing the method and avoided cost calculation for **CONSUMERS ENERGY COMPANY** to fully comply with the Public Utility Regulatory Policies Act of 1978, 16 USC 2601 *et seq*.	)	Case No. U-18090
In the matter of the application of **CONSUMERS ENERGY COMPANY** requesting an order rescinding the avoided cost rates established in Case No. U-18090.	)	Case No. U-20469

At the June 7, 2019 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. Sally A. Talberg, Chairman
Hon. Norman J. Saari, Commissioner
Hon. Daniel C. Scripps, Commissioner

ORDER

History of Proceedings in Case No. U-18090

The Commission opened the Case No. U-18090 contested case proceeding in an order issued on May 3, 2016 (May 3 order), in which it directed Consumers Energy Company (Consumers) to file proposed avoided cost calculation methods and costs in accordance with the requirements of the Public Utility Regulatory Policies Act of 1978, 16 USC 2601 *et seq.*, 16 USC 824a-3 (PURPA).

Pursuant to the May 3 order, Consumers filed various avoided cost methods and costs on June 17, 2016. At the July 21, 2016 prehearing conference, the Administrative Law Judge granted petitions to intervene filed by, among others, Independent Power Producers Coalition of Michigan (IPPC); Environmental Law & Policy Center, Ecology Center, Solar Energy Industries Association, and Vote Solar (collectively, ELPC); and Great Lakes Renewable Energy Association (GLREA). The Commission Staff (Staff) also participated in the proceedings.

On May 31, 2017, the Commission issued an order (May 31 order) making several findings regarding the appropriate method for determining Consumers' avoided capacity and energy costs, using a "hybrid proxy model" that combines a natural gas combustion turbine (NGCT) proxy unit for capacity and allows a PURPA qualifying facility (QF) to choose among three options for the energy component, and reopening the record for the taking of additional evidence on the appropriate inputs for the hybrid proxy model. After a second hearing and briefing, the Commission issued an order on July 31, 2017, in which it made additional findings and remanded the case a second time for the submission of additional evidence addressing the appropriate schedule of avoided energy costs. After a third hearing and briefing, the Commission issued a final order in this proceeding on November 21, 2017 (November 21 order) approving final avoided cost methods and costs and a final standard offer tariff, subject to clarification of the early termination provision in the tariff. On December 20, 2017, the Commission issued an order suspending the implementation of new avoided costs pending decisions on any petitions for rehearing of the November 21 order.

On December 20, 2017, Consumers filed a motion to stay the company's obligation to purchase capacity from QFs and a petition for rehearing and clarification. The petition was accompanied by an affidavit alleging information regarding Consumers' future capacity needs.

Additionally, on December 20, 2017, IPPC filed a motion to stay the implementation of new avoided costs and a petition for rehearing.

On February 22, 2018, the Commission issued an order (February 22 order) finding that this proceeding should be reopened to address the terms of early termination in the standard offer tariff and any disputes over the terms and conditions in Consumers' draft power purchase agreement (PPA). The Commission further stated that issues surrounding the creation of a legally enforceable obligation (LEO) were being addressed in Case No. U-20095.[1] In the February 22 order, the Commission indicated it would read the record, and found that implementation of the new avoided costs should continue to be stayed. The Commission went on to state:

> Although Consumers' capacity requirements over the 10-year planning horizon were not extensively litigated (the majority of the dispute was over whether the planning horizon should be five years or 10), a review of the confidential record in this case demonstrates that the company forecasted a need for capacity beginning in 2022, which increased until the end of the planning horizon. Moreover, the issue of the type of capacity the company may require necessitates not only looking at the company's overall capacity position, but also the additional renewable energy required under 2008 PA 295 [Act 295], as amended by 2016 PA 342. While Consumers' claim that it does not require additional capacity in the next decade is disputed, there is no question that the company's renewable energy portfolio must increase by 50% by 2021. MCL 460.1028.
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> While the Commission's solution is less-than-ideal, it nevertheless finds that the only record available indeed supports a need for capacity over the 10-year horizon and, as noted, Consumers must increase its renewable energy credit portfolio significantly by 2021. Nevertheless, to allay any concerns that the company may find itself paying the full avoided capacity payment and becoming awash in unneeded QF capacity, the Commission finds it appropriate to limit payment of the full avoided capacity cost to the first 150 MWs [megawatts] of new QF capacity in the queue. This amount is approximately 25% of the renewables that Consumers will need to add to meet the 15% renewable capacity requirement under Act 295, as amended by 2016 PA 342. New QF applicants and those already in the queue, but having a queue position outside of the first 150 MWs, may continue processing their applications and, in the event that the amount of QF capacity in the queue falls

[1] The Commission has concluded the Case No. U-20095 comment proceeding, and has commenced stakeholder meetings preparatory to a rulemaking proceeding. *See,* October 5, 2018 order in Case No. U-20095, and November 8, 2018 order in Case No. U-20344.

> below 150 MW, Consumers shall add additional projects in the order that they were proposed. The 150 MW limit only applies to new QFs and not to existing facilities that are out-of-contract. The company shall notify each QF in the queue of its queue position relative to the first 150 MWs and file its queue list with the Staff under seal.

February 22 order, pp. 12-13.[2] Finally, the Commission denied Consumers' and IPPC's motions to stay.

On March 12, 2018, the Staff filed a petition for rehearing and clarification of the February 22 order. On March 22, 2018, Ranger Power LLC (Ranger) and Geronimo Energy (Geronimo) filed petitions for reconsideration of that order.

On March 13, 2018, a prehearing conference was held before Administrative Law Judge Sharon L. Feldman (ALJ) for the reopened proceeding, at which Cypress Creek Renewables, LLC (Cypress Creek) was granted intervention. On March 26, 2018, Cypress Creek also filed a petition for rehearing and clarification. After an evidentiary hearing on June 13, 2018, and briefing, consistent with the Commission's decision to read the record, the ALJ transmitted the case to the Commission on August 27, 2018.

In an order issued on October 5, 2018 (October 5 order), the Commission approved a standard offer PPA and tariff for Consumers, lifted the suspension of implementation of the approved avoided costs, and directed Consumers to file an application for a review of its avoided costs under MCL 460.6v(1) on the date determined in Case No. U-20165 (Consumers' integrated resource plan (IRP) proceeding). The Commission further directed Consumers to file executed contracts

[2] The Commission had previously found that "if no capacity is needed during the 10-year planning horizon, then Consumers shall make a filing so indicating, and the avoided cost for capacity shall be reset to the MISO [Midcontinent Independent System Operator, Inc.] PRA [planning reserve auction]." May 31 order, p. 19; November 21, order, p. 3. Consumers made such a filing in Case No. U-18491. In an order issued October 5, 2018, in that docket, the Commission dismissed Consumers' application.

with QFs in this docket for Commission approval.[3] Finally, the Commission denied the petitions for rehearing filed by the Staff, Ranger, Geronimo, and Cypress Creek, and dismissed a petition to intervene filed by sPower Development Company, LLC (sPower).

On October 12, 2018, Consumers filed the standard offer PPA and standard offer tariff.

On October 19, 2018, Geronimo filed a notice of appeal of the October 5 order in the Michigan Court of Appeals under MCL 462.26(1).

On October 26, 2018, Geronimo filed an application to present additional evidence under MCL 462.26(6) (application), and a motion for partial stay of the October 5 order under Mich Admin Code, R 792.10432 (Rule 432) (motion for partial stay). The motion for partial stay is accompanied by the affidavit of Tena Monson.

On November 16, 2018, Consumers, the Staff, and Cypress Creek filed responses to Geronimo's application and motion.[4]

On November 16, 2018, sPower filed a renewed petition for leave to intervene out of time. sPower states that it wishes to renew the petition in case the proceeding is reopened.

On February 4, 2019, Consumers filed a request to withdraw the standard offer tariff approved in the October 5 order, pursuant to MCL 462.24.

On February 20, February 28, and March 4, 2019, GLREA, ELPC, and IPPC, respectively, filed responses in opposition to Consumers' request to withdraw the standard offer tariff.

[3] As of the date of this order, no executed contracts have been filed.

[4] Consumers' response includes arguments in favor of a complete stay of the October 5 order and a reopening of the full record. Thus, on November 28, 2018, Cypress Creek, ELPC, and sPower filed a collective response in opposition to Consumers' apparent requests for a stay and to reopen the record. However, Consumers has not filed a motion to stay or a motion to reopen the record. Thus, no such requests are before the Commission and the response to Consumers' response has not been considered.

On March 6, 2019, Geronimo filed a petition to intervene out of time. Geronimo states that it seeks intervention should the Commission decide to reopen the case.

On April 25, 2019, Geronimo filed a request to withdraw its application to present additional evidence and a motion for immediate consideration of its motion for partial stay.

On April 30, 2019, sPower filed a response in support of Geronimo's request for immediate consideration.

History of Proceedings in Case No. U-20469

On February 4, 2019, Consumers filed an application, with a supporting affidavit, in Case No. U-20469 requesting authority to rescind the avoided cost rates set in Case No. U-18090 pursuant to MCL 462.24. This request was made concurrent with the request to withdraw the standard offer tariff in Case No. U-18090. Application, ¶ 46. Consumers requests expedited treatment of the application under MCL 462.22 and 462.24. On February 12, 2019, Consumers filed an amended affidavit and errata to the application.

On February 19 and 20, 2019, GLREA and Geronimo, respectively, filed responses in opposition to the application. Additionally, petitions for leave to intervene were filed by Hillman Power Company, LLC, Viking Energy of Lincoln, Inc., and Viking Energy of McBain, Inc. (together the biomass merchant plants or BMPs); GLREA; Geronimo; sPower; ELPC; IPPC; Cypress Creek; and the Association of Businesses Advocating Tariff Equity (ABATE).[5] The Staff also filed an appearance.

[5] As explained below, the responses and petitions to intervene filed in Case No. U-20469 were not considered by the Commission because the application was filed under MCL 462.24, which requires notice and a hearing only if the Commission rescinds, alters, or amends an order fixing rates.

Application in Case No. U-18090 to Present Additional Evidence

Geronimo applied to the Commission to present "additional evidence" in this proceeding under MCL 462.26(6), which states "Within 28 days from the filing of an appeal, a party may make application to the commission to present additional evidence." On April 25, 2019, Geronimo filed a "notice of withdrawal" of the application to present additional evidence. It is well established that the Commission controls its dockets, and that absent a statutory right to do so, an applicant may not terminate a proceeding merely by filing a notice of withdrawal of an application. February 3, 2014 order in Case No. U-17429, p. 3 (citations omitted). "Once an application has been filed [in an administrative proceeding], the decision rests with the Commission on whether the matter may be withdrawn." June 5, 2003 order in Case No. U-13739, p. 2. Typically, an applicant seeking to withdraw an application provides a reason for the withdrawal, and Geronimo has not done so. *See*, Mich Admin Code, R 792.10406(4). Nevertheless, in light of the fact that Geronimo is a non-party to this proceeding, the Commission finds that the request to dismiss the application to present additional evidence should be granted.

Motion in Case No. U-18090 for Partial Stay of the October 5, 2018 Order

Geronimo argues that, prior to issuing the February 22 order, the Commission conducted no hearing on Consumers' capacity need or on the basis for establishing a right to a new contract. Geronimo seeks a stay of parts of the October 5 order, pending the outcome of its appeal to the Court of Appeals. Specifically, Geronimo seeks a stay of the Commission's adoption of a temporary limit of 150 MW on capacity eligible for the approved avoided cost, and determination that those capacity contracts shall be allocated based on the date of the provider's application to join Consumers' interconnection queue. Motion for partial stay, p. 1. Geronimo does not seek a stay of the approved avoided costs, standard offer PPA, or tariffs.

Geronimo seeks a stay of proceedings pursuant to MCL 24.304, which provides the Commission with authority to grant a stay on "appropriate terms," and MCR 7.119(E)(3), which sets out the following four criteria for granting a motion to stay proceedings: (1) the moving party will suffer irreparable injury if a stay is not granted; (2) the moving party made a strong showing that it is likely to prevail on the merits; (3) the public interest will not be harmed if a stay is granted; and (4) the harm to the moving party in the absence of a stay outweighs the harm to the other parties to the proceeding if a stay is granted. Geronimo goes on to address the four criteria.

Geronimo contends that it will suffer irreparable harm if the stay is not granted because Consumers will be obliged to enter into PPAs with QFs "who can claim a position within the first 150 MW in Consumers' interconnection queue, regardless of whether other QFs actually established a legally enforceable obligation under PURPA (an "LEO") prior to facilities allowed to contract under the cap." *Id.*, p. 2. Geronimo alleges that it will lose up to $65 million in revenue under the October 5 order because it will not be among those awarded contracts, and will have no ability to recover those funds in the future if the October 5 order is reversed on appeal. Geronimo requests a stay of that order until its appeal is resolved. Geronimo states that it has also sought a stay of the October 5 order from the Court of Appeals, and indicates that it will withdraw its motion if that stay is granted.[6]

Geronimo contends that it faces imminent irreparable harm if a stay is not granted because it may be "supplanted by QFs with later LEOs." *Id.*, p. 8. Geronimo argues that it will be economically incapable of building its planned solar projects, and that it will be left with no action for monetary damages against either Consumers or the Commission when the October 5 order is

[6] In its response, Consumers states that on November 6, 2018, the Michigan Court of Appeals denied Geronimo's motion for partial stay of the October 5 order, without prejudice to Geronimo's right to refile for a stay once the Commission has ruled on Geronimo's motions.

reversed, because the Commission has sovereign immunity and the utility is acting at the direction of the Commission. Geronimo states that it made a formal offer to sell energy and capacity to Consumers and provided a proposed contract, which, it argues, goes well beyond the simple act of entering the interconnection queue and actually establishes an LEO. Geronimo points to the Monson affidavit (which supplies dates of contacts), and argues that it is "entirely conceivable that Geronimo's LEO predates those of QFs ahead of it in Consumers' interconnection queue." *Id.*, p. 9. Geronimo asserts that completed contracts will not be capable of being voided when the October 5 order is reversed on appeal.

Geronimo asserts that it is likely to prevail on the merits because the October 5 order was unlawful in three ways. First, Geronimo asserts, the Commission provided no notice to interested parties that the capacity need and contract allocation issues would be decided, thus violating due process requirements. Second, the decisions on these issues were arbitrary and unrelated to any record evidence. Third, the decisions on these issues violated the Michigan Administrative Procedures Act, MCL 24.201 *et seq.* (APA), in that the Commission chose to make decisions of general applicability by order rather than by rulemaking. MCL 24.232(6). Geronimo contends that the October 5 order is not supported by competent, material, and substantial evidence on the record as a whole.

Geronimo further asserts that public interest factors weigh in favor of granting a stay because the 150 MW capacity limit is contrary to the goal of PURPA to encourage the development of small power production facilities. Geronimo again contends that the 150 MW limit was chosen arbitrarily.

Finally, Geronimo states that no "other party" will be prejudiced by a stay of the order.[7] Geronimo argues that the harm to other parties will be a short delay. Geronimo contends that "the only parties that may lose the opportunity for a full avoided capacity cost contract if a stay is implemented would be those that would not have qualified for a contract if the legally enforceable obligation requirements were implemented correctly in the first instance." *Id.*, p. 15. Geronimo argues that Consumers will benefit from a more thorough analysis of the issues, and that a stay will ensure that the correct QFs are awarded the avoided cost contracts.

In response, the Staff argues that the motion to stay should be denied because Geronimo is unlikely to succeed on the merits.

Cypress Creek makes the same argument. Cypress Creek contends that Geronimo cannot meet the four criteria in MCR 7.123(E)(3).[8] Cypress Creek points out that the Commission clearly stated that the 150 MW limit is a temporary stopgap measure, and that the Commission must rule on Consumers' IRP no later than April 11, 2019, which will necessarily include a ruling on capacity need. Cypress Creek also argues that Geronimo is not precluded from contracting with Consumers. Cypress Creek asserts that the Commission has not established an LEO test and is considering rulemaking in this area. Cypress Creek contends that Geronimo is unlikely to prevail on the merits in its appeal for several reasons, one being that the Commission based its decision on a substantial record in this matter and reasonably deferred the issue of additional capacity need to

[7] Geronimo refers throughout its briefing to "other parties." This implies that Geronimo is a party to Case No. U-18090. While it may be possible for Geronimo to appeal the October 5 order, the filing of an appeal does not make Geronimo a party to Case No. U-18090, and Geronimo remains a non-party. *See*, MCL 462.26(1), MCL 24.301, and MCL 24.205(h). *See*, note 9, *infra.*

[8] MCR 7.123(E)(3) and MCR 7.119(E)(3) contain identical criteria. However, the Commission is an agency governed by the APA, making MCR 7.119(E)(3) the more appropriate cite.

the IRP proceeding. Cypress Creek maintains that the Commission's decision allows renewable energy development to continue and granting a stay would bring it to a halt. Cypress Creek argues in favor of regulatory certainty.

In its response, Consumers supports Geronimo's request for a stay. Consumers argues that the Commission should grant a complete stay of the October 5 order rather than the partial stay requested by Geronimo, though Consumers does not include a motion for a stay in its filing. Consumers also argues that if the Commission reopens the proceeding, it should be reopened for all issues. Consumers argues that the Commission should stay the 150 MW capacity finding, the use of the interconnection queue to determine participation by QFs, and "all of the Company's PURPA avoided costs and rates." Consumers' response, p. 13.

The Commission finds that Geronimo's motion for a partial stay should be denied. MCL 24.304 provides the Commission general authority to grant a motion for stay of proceedings "upon appropriate terms." The Commission has no rule of practice or procedure specifically addressing motions to stay, but Mich Admin Code, R 792.10403(1) (Rule 403(1)) provides that the Commission may apply appropriate provisions of the Michigan court rules. In deciding a motion to stay, the Commission considers the four criteria in MCR 7.119(E)(3): (1) the moving party will suffer irreparable injury if a stay is not granted; (2) the moving party made a strong showing that it is likely to prevail on the merits; (3) the public interest will not be harmed if a stay is granted; and (4) the harm to the moving party in the absence of a stay outweighs the harm to the other parties to the proceedings if a stay is granted. *See*, June 29, 2004 order in Case No. U-13764, pp. 3-4, and April 12, 2011 order in Case No. U-16200, p. 7. In order for the Commission to grant a motion for stay of proceedings, the movant must satisfy all four criteria. The Commission finds that Geronimo has not satisfied any of the four criteria.

To show irreparable harm a movant must demonstrate more than "mere apprehension of future injury" or harm that is "speculative or conjectural." *Michigan AFSCME Council 25 v Woodhaven-Brownstown Dist*, 293 Mich App 143, 149; 809 NW2d 444 (2011). The movant's alleged injury must be "evaluated in light of the totality of the circumstances affecting, and the alternatives available to" the movant. *Id.* Geronimo only states that it is "conceivable" that it will suffer irreparable harm by being "supplanted by QFs with later LEOs." Motion for partial stay, pp. 8-9. The direction provided by the October 5 order with respect to the interconnection queue is clear, follows historical practice, and provides guidance which will allow utilities and QFs to continue development efforts while the IRP proceeding is pending and the Commission undertakes rulemaking addressing the LEO. Geronimo's speculation regarding potential harm does not rise to the level of irreparable injury.

The Commission is not persuaded that Geronimo is likely to prevail on the merits of its appeal. The October 5 order was based on a considerable record and provides an ample explanation of the rationale behind each determination that Geronimo contests. October 5 order, pp. 8, 15-18. The Commission finds it unlikely that the court will overturn the October 5 order.

Regulation is an ongoing process. Thus, the Commission also finds that the public interest is best served by keeping the order in effect because, again, it allows the development of renewable resources to continue while aspects of the application of PURPA to Consumers are refined in other proceedings, including the IRP proceeding (which also concludes today).

Finally, the Commission is not convinced that the harm to Geronimo if a stay is not granted

would outweigh the harm to other parties[9] to the proceeding if the partial stay is allowed. Staying the two findings that Geronimo objects to would result in uncertainty as to Consumers' immediate capacity need, and in confusion as to how to allocate any capacity or energy need under PURPA to QFs seeking to contract with this utility. The Commission cannot find that such a result is in the public interest, or produces a relatively minor harm to the other parties (including the utility, the QFs, and the Michigan Department of the Attorney General) to Case No. U-18090. The motion for a partial stay is denied.

Having determined that the proceeding will not be stayed, and having granted Geronimo's request to withdraw its application to present additional evidence (which could have resulted in reopening Case No. U-18090), the Commission finds that the petitions to intervene filed by sPower and Geronimo should be dismissed as moot.

Request to Withdraw the Standard Offer Tariff Filed in Case No. U-18090

The Commission has reviewed Consumers' request pursuant to the provisions of MCL 462.24, and finds that the request to withdraw the standard offer tariff should be denied. MCL 462.24 reads as follows:

> The commission may, at any time upon application of any person or any common carrier, and upon at least 10 days' notice to the parties interested, including the common carrier, and after opportunity to be heard as provided in [MCL 462.22], rescind, alter or amend any order fixing any rate or rates, fares, charges or classifications, or any other order made by the commission, and certified copies shall be served and take effect as herein provided for original orders.

[9] Again, MCR 7.119(E)(3) refers to "other parties to the proceeding" and Geronimo is not a party to the proceeding. Despite having considered Geronimo's motion, the Commission does not by this order find that the Commission is bound to consider a motion for a stay filed by a non-party. Certain statutes specifically provide for the filing of a motion to stay by a non-party, such as in the area of parallel civil/criminal proceedings, or parallel litigation/arbitration proceedings. No such statute governs the Commission. The Commission has chosen to consider Geronimo's motion in light of the length and complexity of the Case No. U-18090 proceeding, and the fact that Geronimo is an appellant.

The statute grants the Commission discretionary authority to rescind, alter, or amend previous orders setting rates. Should the Commission proceed with rescission, alteration, or amendment of an order, the Commission is required to grant interested parties at least 10 days' notice and an opportunity to be heard. Because the Commission is not rescinding, altering, or amending the standard offer tariff set in Case No. U-18090, it is not required to issue notice or hold a hearing.

The Commission finds denial of Consumers' request to be appropriate. The parties to Case No. U-18090, including Consumers, had ample opportunity over the course of three remands and four phases of evidentiary hearings to provide input and advocate their positions with respect to the contents of the standard offer that would reflect the avoided costs and determinations approved by the Commission in that case. The Commission's approval of the standard offer tariff was based on an extensive record reflecting the best information available at the time. Approval of the standard offer tariff enables the Commission and the parties to move forward with the implementation of PURPA. *See*, October 5 order, pp. 22-42. The Commission finds that rescinding the standard offer tariff is not in the public interest and would lead to uncertainty and delay in renewable resource development, and that the request should be denied.

Case No. U-20469 Application to Rescind the Avoided Costs Set in Case No. U-18090

The Commission has also reviewed this request filed pursuant to MCL 462.24, and finds that the application to rescind the avoided costs set in Case No. U-18090 should be denied. As explained above, the Commission did not issue notice and an opportunity to be heard pursuant to MCL 462.22 because the Commission is not rescinding, altering, or amending the avoided costs set in Case No. U-18090. Therefore, in deciding this matter, the Commission has not relied on the arguments set forth in the petitions to intervene and responses filed by the BMPs, GLREA, Geronimo, sPower, ELPC, IPPC, Cypress Creek, or ABATE.

In the October 5 order, the Commission concluded a nearly two-year long proceeding by putting into effect an avoided cost methodology and rates that were based on an extensive and thoroughly developed record. While the Commission acknowledged that, due to the length of the proceeding, the record in Case No. U-18090 had become stale, the Commission made its decision based on the best available information at the time. The regulatory process by nature can be protracted and outpaced by changes in technology and in the regulated industry itself. As such, the evidence relied upon in a given proceeding may not be the most current at the time a Commission decision is issued, as was the case in Case No. U-18090. However, this does not render the Commission's decision or the avoided costs unjust and unreasonable. The Commission must base its decision in any contested proceeding on the record before it. MCL 24.285.

The Commission, in Case No. U-18090, found that the most reasonable path forward to comply with its statutory obligation to implement PURPA was to put into effect the avoided costs and determinations developed in that record. *See,* October 5 order, pp. 15-22. The Commission found that the appropriate forum for updating PURPA related issues was Consumers' IRP proceeding in Case No. U-20165. *Id*., pp. 42-43. The Commission notes that an order addressing PURPA avoided costs, the standard offer tariff, and related determinations is issuing contemporaneously in that proceeding with the order in the instant case, and finds that granting Consumers' request would lead to unnecessary confusion, uncertainty, and delay in executing PURPA contracts. *See,* June 7, 2019 order in Case No. U-20165. With the issuance of today's order approving a settlement agreement in Case No. U-20165, the avoided cost methodology (and associated costs), the size of eligible facilities, the term length of the standard offer, and the standard offer tariff are being revised to conform to the settlement. The company has presented no argument that convinces the Commission that rescinding, altering, or amending the avoided cost

rates set in Case No. U-18090 would be in the public interest, and the Commission finds that the application should be denied.

THEREFORE, IT IS ORDERED that:

A. Geronimo Energy's application to present additional evidence in Case No. U-18090 is dismissed.

B. Geronimo Energy's motion for a partial stay of the October 5, 2018 order in Case No. U-18090 is denied.

C. The petitions for intervention filed by sPower Development Company, LLC, and Geronimo Energy in Case No. U-18090 are dismissed.

D. Consumers Energy Company's request to withdraw the standard offer tariff approved in Case No. U-18090 is denied.

E. Consumers Energy Company's application filed in Case No. U-20469 to rescind the avoided cost rates approved in Case No. U-18090 is denied.

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, pursuant to MCL 462.26. To comply with the Michigan Rules of Court's requirement to notify the Commission of an appeal, appellants shall send required notices to both the Commission's Executive Secretary and to the Commission's Legal Counsel. Electronic notifications should be sent to the Executive Secretary at mpscedockets@michigan.gov and to the Michigan Department of the Attorney General - Public Service Division at pungp1@michigan.gov. In lieu of electronic submissions, paper copies of such notifications may be sent to the Executive Secretary and the Attorney General - Public Service Division at 7109 W. Saginaw Hwy., Lansing, MI 48917.

MICHIGAN PUBLIC SERVICE COMMISSION

Sally A. Talberg, Chairman

Norman J. Saari, Commissioner

Daniel C. Scripps, Commissioner

By its action of June 7, 2019.

Barbara S. Kunkel, Acting Executive Secretary

P R O O F O F S E R V I C E

STATE OF MICHIGAN)

Case No. U-18090 *et al.*

County of Ingham)

Brianna Brown being duly sworn, deposes and says that on June 7, 2019 A.D. she electronically notified the attached list of this **Commission Order via e-mail transmission**, to the persons as shown on the attached service list (Listserv Distribution List).

Brianna Brown

Subscribed and sworn to before me
this 7th day of June 2019.

Angela P. Sanderson

Angela P. Sanderson
Notary Public, Shiawassee County, Michigan
As acting in Eaton County
My Commission Expires: May 21, 2024

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