

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the application of)	
CONSUMERS ENERGY COMPANY)	
for reconciliation of its power supply cost recovery)	Case No. U-20068
plan (Case No. U-18142) for the 12-months)	
ended December 31, 2017.)	
_____)	

At the October 17, 2019 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. Sally A. Talberg, Chairman
Hon. Daniel C. Scripps, Commissioner
Hon. Tremaine L. Phillips, Commissioner

ORDER

On March 30, 2018, Consumers Energy Company (Consumers) filed an application, with supporting testimony and exhibits, requesting approval of its reconciliation of power supply cost recovery (PSCR) expenses and revenues for calendar year 2017 pursuant to MCL 460.6j.

A prehearing conference was held on June 14, 2018, before Administrative Law Judge Sharon L. Feldman (ALJ). The ALJ granted petitions for leave to intervene filed by the Michigan Department of the Attorney General (Attorney General), the Association of Businesses Advocating Tariff Equity (ABATE), the Residential Customer Group (RCG), and the following biomass merchant plants (collectively, BMPs): Cadillac Renewable Energy, LLC; Genesee Power Station Limited Partnership; Grayling Generating Station Limited Partnership; Hillman Power Company, LLC; TES Filer City Station Limited Partnership (TES Filer City); Viking Energy of

Lincoln, Inc.; and Viking Energy of McBain, Inc. The Commission Staff (Staff) also participated in the proceeding.

An evidentiary hearing was held on February 21, 2019, at which cross-examination took place. Timely initial and reply briefs were filed, and the ALJ issued a Proposal for Decision (PFD) on August 12, 2019. Exceptions were filed by Consumers on August 29, 2019, and replies to exceptions were filed by the Attorney General and RCG on September 13, 2019. The record consists of 374 pages of transcript and 55 exhibits.¹

The ALJ begins the PFD by noting that there is no dispute among the parties regarding the BMPs' request to recover a total of \$13,710,600 in capped payments (adjusted for inflation) under MCL 460.6a(10) and (11); and no dispute regarding an additional \$74,460 that is owed to TES Filer City for certain emission allowance expenses not subject to the cap. PFD, pp. 23, 44. She indicates that the agreed upon amounts are stipulated to as shown in Exhibit BMP-25. *Id.* The Commission adopts the findings and recommendations of the ALJ and finds that the BMPs should receive payment in accordance with Exhibit BMP-25 and that the costs are recoverable PSCR costs under MCL 460.6a(11).

The ALJ also notes that the Attorney General withdrew two of her five proposed disallowances, leaving three disputed issues regarding the proposed disallowance of replacement power costs which resulted from Outage Events 135, 158, and 159 at Campbell Unit 2 (Unit 2). PFD, pp. 23-24. This order is organized around the three outage-related issues.

¹ On July 10, 2019, the parties filed a stipulation to revise certain calculations presented by the BMPs. On July 11, 2019, the ALJ reopened the record and permitted the BMPs to substitute BMP-24, BMP-25, and BMP-26 for BMP-1, BMP-2, and BMP-9, respectively. PFD, p. 3.

Outage Event 135

Outage Event 135 began on July 31, 2017, and ended on August 4, 2017. However, the ALJ noted that the events that led to the outage actually began in 2000 when Consumers, according to its own evidence, “wired backwards” a current transformer (CT) for a current polarizing scheme. Exhibit A-5, p. 21; 2 Tr 212; PFD, pp. 25-26. The improper wiring left the unit “susceptible to false trips on external grid faults.” Exhibit A-5, p. 21. In 2002, Consumers’ transmission system, including this CT, was transferred to Michigan Electric Transmission Company (METC). On July 31, 2017, a fault occurred on METC’s 345 kilovolt (kV) Roosevelt Line (July 31 fault), which resulted in the loss of startup power to Unit 2. 2 Tr 212-213. Consumers concluded that the root cause of the Unit 2 outage was the improper wiring. Exhibit A-5, p. 22. This outage resulted in \$458,696 in replacement power costs for Unit 2. Exhibit AG-3, p. 3.

The Attorney General proposed disallowance of this entire replacement power cost because the outage was caused by the wiring error made by Consumers in 2000.

The ALJ recommended adoption of the disallowance. Acknowledging that Consumers was not responsible for the fault on the line and that significant time has passed since the transfer of ownership of the mis-wired CT to METC, the ALJ nevertheless found that Consumers was responsible “for the failure of protection to minimize the damage from the fault.” PFD, p. 30. In addition to the mis-wiring, the ALJ found that Consumers was also responsible for a more recent event that contributed to the failure, when the company installed air quality control system (AQCS) transformers in 2013 and 2015 which changed the operational characteristics of the polarizing scheme in the event of a fault. Citing Consumers’ testimony, the ALJ found that, but for that change, it was likely that the outage would not have occurred. PFD, p. 31; *see*, 2 Tr 213-

214, 245-246. Additionally, the ALJ took note of Consumers' testimony indicating that the utility did not know how METC could have known that there was a problem with the wiring. 2 Tr 246.

Consumers excepts, and argues that but for the July 31 fault which occurred on METC's line, the outage would not have occurred. Thus, Consumers contends that the ALJ erred in placing responsibility for the outage on Consumers. Consumers points out that METC has been the owner of the CT since 2002, and is solely responsible for its operation and maintenance. Consumers posits that the mis-wiring and the installation of the AQCS are both irrelevant because the outage would not have occurred absent the July 31 fault. Consumers accuses the ALJ of applying hindsight to find that Consumers knew of the mis-wiring when the CT was transferred in 2002 and argues that there is no record evidence that bears this out. Consumers maintains that this case is analogous to one in which the Commission found the employee of a transmission company to be responsible for an outage caused by transmission equipment failure. *See*, July 22, 2016 order in Case No. U-17317-R, pp. 6-8.

In its reply, RCG supports all of the disallowances.

In her reply, the Attorney General argues that, despite the July 31 fault, Consumers' actions ultimately led to this outage which can be traced directly to the fact that the polarizing scheme was wired backwards. The Attorney General contends that the ALJ did not apply hindsight, but rather reconciliation cases are inherently backward-looking. The Attorney General maintains that the changes wrought by installation of the AQCS on a mis-wired system complicated matters, and that this case is not analogous to a case in which there was operator error by a transmission company employee.

In a PSCR reconciliation case, the Commission is charged with considering the reasonableness and prudence of expenditures. MCL 460.6j(12), (14), and (15). The utility is responsible for the

actions of its employees, and the Commission has previously found that instances of operator error or deficiencies in preventative maintenance which lead to unplanned outages demonstrate a lack of reasonableness and prudence on the part of the utility not commensurate with what is required under the statute. September 14, 1990 order in Case No. U-8866-R, pp. 20-22; December 5, 1991 order in Case No. U-9172-R, pp. 26-27.

The Commission adopts the findings and recommendations of the ALJ. Consumers clearly concedes that but for the mis-wiring which took place in 2000 the outage would not have occurred. Exhibit A-5, p. 21; 2 Tr 212-213. The Commission finds that Consumers and the Attorney General have provided competent, material, and substantial evidence showing that the outage resulted from imprudent actions taken by Consumers, and the replacement power costs should not become the burden of ratepayers. While the outage would not have occurred but for the July 31 fault, such faults are to be anticipated and protected against, and Consumers also concedes that the outage likely would not have occurred but for the change to the operating characteristics of the polarizing schemes at the Campbell substation upon its installation of the AQCS equipment transformers. 2 Tr 213-214. The Commission adopts the proposed disallowance of \$458,696. Exhibit AG-3, p. 3.

Outage Event 158

Outage Event 158 was a 45-hour outage at Unit 2 on September 19-20, 2017, which occurred during turbine trip testing at the unit. Consumers described the root cause as follows: “[D]uring turbine trip testing, the operator released the Test Lever prior to returning the Trip and Reset Lever to the normal position, resulting in the turbine trip.” Exhibit A-5, p. 23; 2 Tr 216, 248-249. Consumers thus ascribes the outage to operator error.

Because the Consumers employee responsible for the trip testing failed to follow proper procedure, the Attorney General proposed disallowance of the associated \$179,537 in replacement power costs. Exhibit AG-4.

The ALJ recommended adoption of the disallowance, finding that preventable human error caused the outage. PFD, p. 35. The ALJ further noted that none of the employees involved in the miscommunication that resulted in the outage testified to give an account of the misunderstanding, and that Consumers did not attribute the error to a faulty piece of communications equipment.

Consumers excepts and argues that, because the company had reasonable procedures in place for performing this trip testing prior to the operator's error, the disallowance should be rejected.

In her reply, the Attorney General argues that simply because a written procedure was in place does not mean that ratepayers should bear the cost of any outage associated with that procedure. The Attorney General contends that there was a miscommunication between the control room and the operator and, despite the written procedure, the outage occurred due to human error. 2 Tr 216, 248-249.

The Commission agrees with the ALJ and the Attorney General and adopts the proposed disallowance. Again, Consumers is ultimately responsible for the performance of its employees. The Commission acknowledges that the company has taken steps to make sure that this particular error does not reoccur, but that does not make the replacement power cost the responsibility of ratepayers. The Commission adopts the proposed disallowance of \$179,537. Exhibit AG-4.

Outage Event 159

Outage Event 159 began on September 20, 2017, and ended on October 3, 2017, and resulted in replacement power costs of \$1,135,495 for Unit 2. Exhibit A-5, p. 24; Exhibit AG-5, pp. 2-3.

In brief, the outage was caused by the failure of the start-up boiler feed pump (SUBFP), which was

left on too long during transfer of operations to the main boiler feed pump (MBFP). The result of leaving the SUBFP on was that it continued to run as the water flashed to steam inside of the pump, which caused damage to the pump, and the recirculation flow decreased to only 200,000 pounds/hour, when the minimum flow rate is actually 400,000 pounds/hour. Exhibit AG-5; 2 Tr 217, 220. Errors made during the transfer of the boiler load from one pump to the other resulted in damage to the SUBFP, which resulted in the outage. Exhibit A-5, p. 24; 2 Tr 218-221.

Noting that Consumers has performed this pump transfer many times at Unit 2 and has written procedures that apparently did not cover this contingency, the Attorney General proposed disallowance of all of the replacement power costs because the employee failed to perform the procedure properly. Exhibit AG-5; 2 Tr 346.

The ALJ recommended adoption of the proposed disallowance, finding that the outage was caused by Consumers' "failure to follow its long-established procedure of immediately shutting down the [SUBFP] after the switch to the [MBFP]." PFD, p. 40. The ALJ found that the 14-day outage was caused by failure to follow the normal procedure, and noted that the utility provided no explanation as to why the operator failed to immediately shut down the SUBFP as required by the procedure. *See*, 2 Tr 251-256. "In addition, the ALJ is not convinced that the company's written procedures were designed based on an analysis of the capability of operating the pump at rates below 400,000 pounds per hour derived from the pump curve, or that the actual operation of the pump on September 20, 2017 was made in consideration of the pump curve." PFD, p. 43. The ALJ concluded that Consumers failed to follow its own well-established procedure.

Consumers excepts, and argues that the procedure was followed exactly as written and the company acted reasonably and prudently. Consumers explains that it only discovered through subsequent analysis that the SUBFP will not operate for even a short time (seconds) at the lower

recirculation rate. 2 Tr 220-221, 255-256. Consumers emphasizes that the operator followed the procedure as written, and there was no time limit indicated in the procedure for shutting down the SUBFP after transferring the load to the MBFP because Consumers was unaware that this trouble would arise. 2 Tr 218, 254.

In her reply, the Attorney General argues that the operator did not actually follow the usual procedure, given that Consumers' witness testified that the company was aware that the pump curve for the SUBFP shows that the minimum flow rate is 400,000 pounds/hour and that anything below that causes instability, and further testified that in all other startups the transfer of the boiler load between pumps has happened "very rapidly" and the water did not have the opportunity to convert to steam. 2 Tr 252-255. The Attorney General notes that Consumers, by its own admission, has had 10 years of success performing this load transfer, but all previous transfers were done more quickly.

As the Attorney General points out, Consumers has operated Unit 2 for at least a decade using these water pumps and transferring the boiler load between them. The Commission is not persuaded that, because Consumers did not document the need to make the transfer quickly (and to shut down the SUBFP immediately) in its written procedure, therefore ratepayers must shoulder the burden of the replacement power. 2 Tr 255-256. Except in this instance, the shutdown was routinely carried out immediately. As the ALJ notes, if the company was aware of what the pump curve indicated, which Consumers' witness indicated was true, the operator should have been made aware that anything below 400,000 pounds/hour would cause instability and potential damage to the pump. The Commission agrees with the ALJ and adopts the proposed disallowance of \$1,135,495. Exhibit AG-5, p. 2.

Consumers calculated total power supply costs of \$1.9 billion for 2017, and an overrecovery, excluding interest, of about \$14.82 million. Consumers carried a 2016 PSCR year overrecovery of \$11.77 million into 2017 and so has a \$26.59 million overrecovery which it proposed to roll over to the 2018 PSCR plan year, however this amount did not include the BMP-related amounts. Application, pp. 2-3. The Staff calculated an overrecovery of \$29,919,993, inclusive of interest, which also reflects the agreed-upon BMP and TES Filer City amounts. 2 Tr 371-372. Adding the approved disallowances to this amount, the Commission finds that the PSCR ending balance for 2017 is an overrecovery of \$31,730,557, inclusive of interest, and should be reflected as the beginning balance for the 2018 PSCR reconciliation.

THEREFORE, IT IS ORDERED that:

A. Consumers Energy Company's application for a power supply cost recovery reconciliation for calendar year 2017 is approved as modified by this order.

B. The requests of the biomass merchant plants for cost recovery of \$13,710,600, and of TES Filer City Station Limited Partnership for \$74,460 in uncapped environmental costs, are approved.

C. Consumers Energy Company's net overrecovery balance of \$31,730,557, inclusive of interest, shall be reflected as the company's 2018 power supply cost recovery reconciliation beginning balance.

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

Daniel C. Scripps, Commissioner

Tremaine L. Phillips, Commissioner

By its action of October 17, 2019.

Lisa Felice, Executive Secretary


PROOF OF SERVICE

STATE OF MICHIGAN)

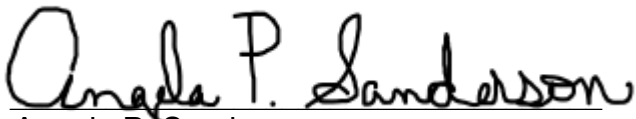
Case No. U-20068

County of Ingham)

Brianna Brown being duly sworn, deposes and says that on October 17, 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 17th day of October 2019.



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

Service List for Case: U-20068

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