

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	)	Case No. U-15805
<b>CONSUMERS ENERGY COMPANY</b> to fully	)	
comply with Public Act 295 of 2008.	)	
_____	)	

At the December 19, 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 October 24, 2019, Consumers Energy Company (Consumers) filed an application, with supporting testimony and exhibits, pursuant to Section 28(4) of 2008 PA 295, as amended by 2016 PA 342, MCL 460.1028(4), requesting *ex parte* review and approval of the Balance of Plant Engineering, Procurement and Construction (BOP EPC) Agreement between Consumers and Barton Malow Company (Barton Malow), and the Gratiot Farms Wind Project Turbine Purchase Agreement (TPA) between Consumers and General Electric Company (GE), attached to Consumers' application as Attachments 1 and 2, respectively.<sup>1</sup> The proposed agreements support the Development Asset Acquisition (DAA) Agreement, which enables Consumers to acquire the

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<sup>1</sup> Consumers filed partially redacted versions of the agreements. On November 7, 2019, the Commission Staff (Staff) reviewed unredacted versions of the agreements.

Gratiot Farms Wind Project (Gratiot Farms) assets and construct and operate Gratiot Farms after the acquisition. Gratiot Farms is a 150 megawatt (MW) wind farm located in Gratiot County, Michigan. The DAA Agreement was approved in the February 7, 2019 order in this case.

On May 1, 2018, Consumers entered into the DAA Agreement with Gratiot Farms Wind Project, LLC, to acquire Gratiot Farms. Prior to this agreement, Consumers evaluated turbine purchase agreement proposals from two vendors. Proposals were evaluated for scope, schedule, technology, and contractual terms and conditions. Consumers states that it also used a financial model to determine a 31-year levelized cost using purchase price, selected options, estimated BOP EPC cost, net capacity factor derived from wind resource modeling and the turbine's power curve, and operations and maintenance services for each project. The resulting DAA Agreement was negotiated based on the technology of the turbine supplier that offered the lowest levelized cost of energy (LCOE). Included in the DAA Agreement was a provision for safe-harbor turbines.

Consumers began discussions with turbine suppliers for the remaining turbines needed for the Gratiot Farms project. Consumers states that it was advised that the cost of the turbines would increase due to changing market conditions and recently enacted steel import tariffs. Application, p. 4. The combined effect of these cost increases has increased the total project cost of Gratiot Farms. In light of this change, Consumers renewed discussions with another turbine supplier: GE. Consumers states that GE provided capital costs that were in line with previous TPAs executed by Consumers and with the TPA cost estimate that the company had originally assumed for the Gratiot Farms TPA. Since the GE safe-harbor turbines were able to be substituted for the turbines originally provided for in the DAA Agreement, Consumers negotiated and executed the TPA for the balance of plant turbine supply for Gratiot Farms with GE.

Under the TPA for Gratiot Farms, GE will provide 53 GE 2.5-127 turbines and deliver the seven GE 2.3-116 safe-harbor turbines obtained under the DAA Agreement. The GE 2.5-127 turbines produce 2.5 MW each, have a 127 meter rotor diameter, and stand on 89 meter towers. Consumers states that it expects to qualify for 100% of the production tax credit by relying on the 5% financial safe harbor test and by placing the turbines in service by December 31, 2020. Application, p. 5. Consumers states that if delays prevent placing the turbines in service before December 31, 2020, there are contractual provisions designed to protect customers and the company. *Id.*

Consumers established a list of possible contractors capable of providing the balance of plant construction services, including equipment, labor, tools, supervision, materials, engineering, and procurement services for a 150 MW wind farm. Four contractors from this list were issued a formal request for proposal (RFP) on November 8, 2018, and a revised RFP on April 5, 2019. Consumers received three proposals by the due date of May 16, 2019. Consumers selected Barton Malow as the Gratiot Farms BOP EPC contractor.

Consumers' original financial modeling yielded an LCOE of \$46 per megawatt-hour (MWh) for Gratiot Farms. Consumers states that updated financial modeling has yielded an LCOE of \$52/MWh for two primary reasons. First, the higher LCOE is due to increased turbine costs resulting from steel import tariffs, which resulted in the change in the wind turbine technology for the TPA. Second, the higher LCOE is the result of a change in calculating the capacity factor for Gratiot Farms. Consumers states that the cost of the BOP EPC Agreement is consistent with costs previously assumed when calculating the LCOE for Gratiot Farms. Application, p. 6.

The change in capacity factor for Gratiot Farms came from a third-party study conducted under the direction of Consumers. The study generated a report indicating a capacity factor almost

2% lower than originally estimated for Gratiot Farms. Application, p. 7. The change in capacity factor contributed to increasing the project LCOE to \$52/MWh. While the new LCOE has increased, it is still lower than the \$57.75/MWh levelized cost for new wind projects included in Consumers' renewable energy plan.

Consumers seeks approval of the TPA and the BOP EPC Agreement, and "assurance that the full actual costs of Gratiot Farms will be recoverable through the combined application of the transfer price mechanism and, if necessary, the Renewable Energy surcharge." Application, p. 10. Consumers also requests approval of the use of the 2017 Transfer Price Schedule approved in the March 29, 2018 order in Case No. U-18241.

### Discussion

MCL 460.1028 states, in pertinent part:

(3) Subject to subsection (5), each electric provider shall meet the renewable energy credit standards with renewable energy credits obtained by 1 or more of the following means:

(a) Generating electricity from renewable energy systems for sale to retail customers.

(b) Purchasing or otherwise acquiring renewable energy credits with or without the associated renewable energy.

(4) For an electric provider whose rates are regulated by the commission, the electric provider shall submit a contract entered into for the purposes of subsection (3) to the commission for review and approval. If the commission approves the contract, it shall be considered consistent with the electric provider's renewable energy plan. The commission shall not approve a contract based on an unsolicited proposal unless the commission determines that the unsolicited proposal provides opportunities that may not otherwise be available or commercially practical through a competitive bid process.

Further, MCL 460.1047(6) provides:

After achieving compliance with the renewable energy standard for 2015, the actual costs reasonably and prudently incurred to continue to comply with this subpart both during and after the conclusion of the 20-year period beginning when the

electric provider's plan is approved by the commission shall be considered costs of service. The commission shall determine a mechanism for an electric provider whose rates are regulated by the commission to recover these costs in its retail electric rates, subject to the retail rate impact limits in section 45. Remaining and future regulatory assets shall be recovered consistent with subsections (3) and (4) and section 49.

The Commission has reviewed the TPA and the BOC EPC Agreement submitted by Consumers and finds that they should be approved. The Commission finds that both agreements are consistent with Consumers' approved REP in Case No. U-18231 and notes that the new LCOE is still lower than the LCOE for new wind projects approved in that plan. The Commission agrees to provide assurance that the full costs of the TPA and the BOC EPC Agreement will be recoverable through the application of the transfer price schedule approved in the March 29, 2018 order in Case No. U-18241 (which has previously been approved for this project). The Commission notes that it will review Consumers' actions and costs associated with these two agreements in a contested case proceeding pursuant to MCL 460.1047 during the utility's corresponding REP reconciliation process. The Commission also finds that *ex parte* review and approval is appropriate because the TPA and the BOC EPC Agreement will not result in an increase in the cost of service to customers. *See*, MCL 460.6a(3).

THEREFORE, IT IS ORDERED that:

A. The Turbine Purchase Agreement between Consumers Energy Company and General Electric Company and the Balance of Plant Engineering, Procurement, and Construction Agreement between Consumers Energy Company and Barton Malow Company for the Gratiot Farms Wind Project, are approved as in compliance with Section 28 of 2008 PA 295, as amended by 2016 PA 342, MCL 460.1028(4).

B. The Commission provides assurance that the full costs of the Turbine Purchase Agreement between Consumers Energy Company and General Electric Company and the Balance of Plant Engineering, Procurement, and Construction Agreement between Consumers Energy Company and Barton Malow Company for the Gratiot Farms Wind Project will be recoverable through the application of the transfer price schedule approved in the March 29, 2018 order in Case No. U-18241, subject to the renewable energy plan reconciliation process.

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](mailto:mpscedockets@michigan.gov) and to the Michigan Department of the Attorney General - Public Service Division at [pungp1@michigan.gov](mailto: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

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Sally A. Talberg, Chairman

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Daniel C. Scripps, Commissioner

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Tremaine L. Phillips, Commissioner

By its action of December 19, 2019.

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Lisa Felice, Executive Secretary


# PROOF OF SERVICE

STATE OF MICHIGAN )

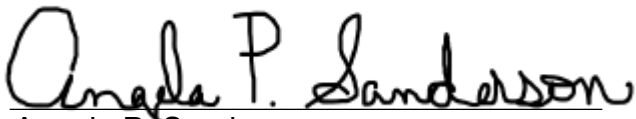
Case No. U-15805

County of Ingham )

Brianna Brown being duly sworn, deposes and says that on December 19, 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 19<sup>th</sup> day of December 2019.



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



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