

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the application of)	
CONSUMERS ENERGY COMPANY)	
for approval of power purchase agreements.)	Case No. U-20604
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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

History of Proceedings

On November 22, 2019, Consumers Energy Company (Consumers) filed an application in Case No. U-20604 pursuant to Section 6j of 1982 PA 304 (Act 304) requesting *ex parte* approval of power purchase agreements (PPAs) with sPower Company, LLC affiliates Cement City Solar, LLC; Letts Creek Solar, LLC; Thorn Lake Solar, LLC; and Pullman Solar, LLC. The application is the result of a settlement agreement approved in the September 11, 2019 order in Case No. U-20615, which resolved rights and obligations under the Public Utility Regulatory Policies Act of 1978 (PURPA) between Consumers and numerous developers of proposed new solar facilities in the company's interconnection queue.

Pursuant to the settlement agreement approved in Case No. U-20615, Consumers is required to enter into contracts with PURPA qualifying facilities (QFs) for: (1) 170 megawatts (MW) of

energy and capacity at the full avoided cost rates approved in the November 21, 2017 order in Case No. U-18090 (November 21 order) and (2) 414 MW of energy and capacity at the energy and Midcontinent Independent System Operator, Inc. planning resource auction based avoided cost rates approved in the November 21 order. Consumers' application in this case is the second submission toward the 170 megawatts-alternating current (MWac)¹ of QF projects at the full avoided cost rates approved in the November 21 order.

In the application, Consumers requests *ex parte* approval for four PPAs, which total the remaining 75 MWac of the 170 MWac of full avoided cost PPAs identified in the settlement agreement approved in Case No. U-20615. The 75 MWac consist of the following projects:

- Cement City Solar, LLC, which has a contract capacity of 20 MWac;
- Letts Creek Solar, LLC, which has a contract capacity of 15 MWac;
- Thorn Lake Solar, LLC, which has a contract capacity of 20 MWac; and
- Pullman Solar, LLC, which has a contract capacity of 20 MWac.

All four PPAs set forth in Consumers' application are based on the standard offer PPA approved by the Commission for Consumers in the November 21 order. Modifications were made to the standard offer PPA consistent with the settlement agreement approved in Case No. U-20615. All four PPAs are subject to the financial compensation mechanism set forth in Consumers' integrated resource plan that was approved in the June 7, 2019 order in Case No. U-20165.

The PPAs were submitted with the same options chosen for energy and capacity. The energy purchase price option selected was Option 3: Scheduled Proxy Plant Variable Rate Forecast. The capacity purchase price was Option 1: \$11,708.75 per zonal resource credit (ZRC)-month

¹ MWac is the total electricity generation capacity available after conversion by the inverter from direct current to AC.

(\$140,505/ZRC-year). The four PPAs have 20-year terms and the total cost is projected to be \$301,765,700.

Discussion

MCL 460.6j(13) provides, in relevant part, that in a power supply cost reconciliation, the Commission shall do all of the following:

(b) Not disallow the capacity charges for any facilities for which the electric utility would otherwise have a purchase obligation if the commission has approved capacity charges in a contract with a qualifying facility, as that term is defined by the Federal Energy Regulatory Commission pursuant to the public utilities regulatory policies act of 1978, Public Law 95-617, 92 Stat 3117, unless the commission has ordered revised capacity charges upon reconsideration under this subsection. A contract is valid and binding in accordance with its terms, and capacity charges paid pursuant to that contract are recoverable costs of the utility for rate-making purposes notwithstanding that the order approving that contract is later vacated, modified, or otherwise held to be invalid in whole or in part if the order approving the contract has not been stayed or suspended by a competent court within 30 days after the date of the order, or by July 29, 1987 if the order was issued after September 1, 1986 and before June 29, 1987. The commission shall determine the scope and manner of the review of capacity charges for a qualifying facility. Except as to approvals for qualifying facilities granted by the commission before June 1, 1987, proceedings before the commission seeking those approvals shall be conducted as a contested case pursuant to chapter 4 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.271 to 24.287. The commission, upon its own motion or upon application of any person, may reconsider its approval of capacity charges for a qualifying facility in a contested case hearing after passage of a period necessary for financing the qualifying facility, if both of the following apply:

(i) The commission has first issued an order making a finding based on evidence presented in a contested case that there has been a substantial change in circumstances since the commission's initial approval.

(ii) The commission finding is set forth in a commission order subject to immediate judicial review.

The Commission has reviewed Consumers' application, supporting testimony and exhibits, and the language in Section 6j of Act 304 and finds that the PPAs should be approved. The PPAs utilize the avoided cost rates approved in the November 21 order. The Commission finds that *ex parte* review and approval are appropriate because approval of the PPAs will not affect rates or rate schedules and will not increase the cost of service to customers. *See*, MCL 460.6a(3).

THEREFORE, IT IS ORDERED that the power purchase agreements between Consumers Energy Company and sPower Development Company, LLC affiliates Cement City Solar, LLC; Letts Creek Solar, LLC; Thorn Lake Solar, LLC; and Pullman Solar, LLC, are approved as in compliance with 1982 PA 304.

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 pungpl@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 December 19, 2019.

Lisa Felice, Executive Secretary


PROOF OF SERVICE

STATE OF MICHIGAN)

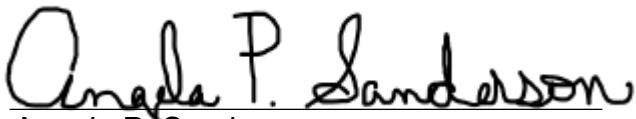
Case No. U-20604

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 19th day of December 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-20604

Name	Email Address
Anne M. Uitvlugt	anne.uitvlugt@cmsenergy.com
Christopher M. Bzdok	chris@envlaw.com
Consumers Energy Company 1 of 2	mpsc.filings@cmsenergy.com
Consumers Energy Company 2 of 2	michael.torrey@cmsenergy.com
Lydia Barbash-Riley	lydia@envlaw.com
Robert W. Beach	robert.beach@cmsenergy.com