

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
CONSUMERS ENERGY COMPANY to	)	
fully comply with Public Acts 286 and 295 of 2008.	)	
_____	)	

At the July 23, 2020 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 May 22, 2020, Consumers Energy Company (Consumers) filed an application in Case No. U-15805 pursuant to 2008 PA 295 (Act 295), as amended, MCL 460.1028(4), and 1982 PA 304 (Act 304), MCL 460.6j, requesting *ex parte* approval of amendments to contracts previously approved by the Commission: the amended and restated Power Purchase Agreement (PPA) for the output of the Venice Park Generating Station (Venice Park PPA) and the Renewable Energy Purchase Agreement (REPA) for the output of the Lennon Generating Station (Lennon REPA).

Consumers has long-term agreements with North American – Central, LLC (NAC) for both the Venice Park PPA and the Lennon REPA that include a Subsequent Plant Site provision, allowing NAC to move the point of delivery of its generator. Both amendments are the result of

Venice Park Generating Station and Lennon Generating Station exercising the Subsequent Plant Site Provision. The amendments also alter other terms of each agreement.

Venice Park Generating Station provides energy, capacity, and renewable energy credits (RECs) from four 800-kilowatt landfill gas generating units through the Venice Park PPA. The Amended and Restated PPA is applicable after generation begins at the Subsequent Plant Site, Pierson Road Landfill Generator Unit Number One, after January 1, 2022. The amendment reduces Consumers' purchase obligation by reducing the limit of contract energy purchased annually from 26,000-megawatt hour (MWh) to 21,000 MWh. It also allows for NAC to deliver up to an additional 5,000 MWh of supplemental energy beginning in 2022 if additional landfill gas is available at the location. The agreement provides capacity to Consumers at no cost. The term of the agreement has been extended to align with the Midcontinent Independent System Operator planning year, and is expected to expire on May 31, 2026.

The amended terms of the agreement between Consumers and NAC result in increased expected costs of \$264,000 over the life of the contract. The costs from the Venice Park PPA are recovered through the Renewable Resource Program (also known as the Green Generation Program) with the average power supply cost recovery (PSCR) recovered through the PSCR mechanism. The Green Generation Program is a voluntary program with subscription charges only incurred by customers who choose to participate in the program. Customers who do not participate in the Green Generation Program will not be subject to the charges or cost increase resulting from this amendment.

Lennon Generating Station provides energy, capacity, and RECs from a 1.6-megawatt landfill gas electric generator through the Lennon REPA. Similar to the Venice Park amendment, the Lennon amended REPA is applicable after generation begins at the Subsequent Plant Site, Pierson

Road Landfill Generator Unit Number Two. The amendment reduces Consumers' purchase obligation from 14,497 RECs annually to 13,315 RECs annually. It also modifies the performance requirement for the generator from 90% to 80%.

The Lennon REPA provides for compensation for energy at the day ahead locational marginal price and no payment for capacity. The price paid for RECs remains unchanged at \$48.52 per REC. The RECs from this contract supply Consumers' renewable energy plan. The amended terms of the agreement between Consumers and NAC result in reduced PPA costs of \$530,000 over the life of the contract. The Lennon REPA is expected to terminate on December 15, 2030.

The company, through its application, seeks approval of the amendments to the Amended and Restated PPA for the output of the Venice Park Generating Station and the REPA for the output of the Lennon Generating Station for purposes of MCL 460.1028(4), MCL 460.6j, the Commission's February 7, 2019 order in Case No. U-18231, and any other applicable law. The company also asks that the transfer price previously approved with respect to the original contract is also applicable and approved with respect to Lennon REPA Amendment.

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 affidavit and exhibits, and the language in Section 6j of Act 304 and finds that the amendments should be approved. *Ex parte* review and approval is appropriate pursuant to MCL 460.6a(3), because the changes will not affect rates or rate schedules resulting in an increase in the cost of service to customers.

THEREFORE, IT IS ORDERED that the amendments between Consumers Energy Company and North American – Central, LLC, for the Amended and Restated Power Purchase Agreement for the output of the Venice Park Generating Station and the Renewable Energy Purchase Agreement for the output of the Lennon Generating Station are approved as in compliance with 2008 PA 295, as amended, MCL 460.1028(4), and 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 July 23, 2020.

Lisa Felice, Executive Secretary

PROOF OF SERVICE

STATE OF MICHIGAN)

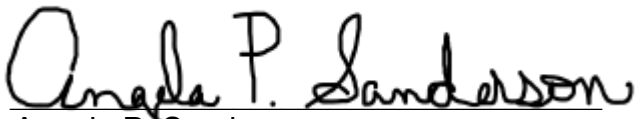
Case No. U-15805

County of Ingham)

Brianna Brown being duly sworn, deposes and says that on July 23, 2020 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 23rd day of July 2020.



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

Service List for Case: U-15805

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Cherryland Electric Cooperative
Great Lakes Energy Cooperative
Great Lakes Energy Cooperative
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Ontonagon County Rural Elec
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Bishop Energy
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Constellation Energy
Constellation Energy
Constellation New Energy
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City of Portland

Alpena Power

Liberty Power

Wabash Valley Power

Wolverine Power

Lowell S.

Realgy Energy Services

Volunteer Energy Services

Hillsdale Board of Public Utilities

Michigan Gas Utilities/Upper Penn Power/Wisconsin

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Direct Energy

Direct Energy

Direct Energy

Realgy Corp.

Katie Abraham, MMEA

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