

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 its integrated resource plan)	Case No. U-20165
pursuant to MCL 460.6t and for other relief.)	
_____)	

At the May 26, 2021 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. Daniel C. Scripps, Chair
Hon. Tremaine L. Phillips, Commissioner
Hon. Katherine L. Peretick, Commissioner

ORDER

On February 22, 2021, Consumers Energy Company (Consumers) filed an application (February 22 application) requesting *ex parte* approval of Public Utility Regulatory Policies Act of 1978, PL 95–617; 92 Stat 3117 (PURPA) full avoided cost rates in accordance with the company’s integrated resource plan (IRP) settlement agreement, as approved in the June 7, 2019 order in Case No. U-20165 (June 7 order).

On June 15, 2018, Consumers filed its IRP application in Case No. U-20165 that included procuring approximately 6,000 megawatts (MW) of new solar resources by 2040. On June 7, 2019, the Commission approved a contested settlement agreement resolving all issues in the IRP. *See*, June 7 order, p. 91. Included in the settlement agreement was the company’s agreement to utilize an annual competitive solicitation process to acquire technologies specified in the proposed course of action (PCA). In 2019, Consumers implemented a competitive solicitation that complied

with the requirements of the IRP settlement agreement. A request for proposals (RFP) was issued on September 30, 2019, for 300 MW of additional aggregate nameplate capacity projects with commercial operation dates on or before May 31, 2022. The company sought 150 MW through long-term power purchase agreements (PPAs) and 150 MW through build-transfer agreements (BTAs) or company-proposed projects.

For the RFP, Consumers selected Enel X North America, Inc. (Enel X) as the independent administrator. A copy of the report prepared by the independent administrator was included as an exhibit to Consumers' February 22 application. Enel X performed initial screenings of proposals and developed two separate blind rankings of proposals, one consisting of PPA proposals and another consisting of BTA proposals. After receiving Enel X's evaluations, Consumers ultimately executed a 140 MW PPA with Calhoun Solar Energy, LLC (Calhoun Solar) and 150 MW BTA with Mustang Mile Solar Energy, LLC (Mustang Mile Solar). An *ex parte* application for the Calhoun Solar PPA was filed on January 22, 2021 and an *ex parte* application for the Mustang Mile Solar BTA was filed on February 12, 2021, both in Case No. U-20165. Both applications were approved by the Commission in orders dated April 8, 2021. April 8, 2021 order in Case No. U-20165, filing #U-20165-0588; April 8, 2021 order in Case No. U-20165, filing #U-20165-0589.

In accordance with the IRP settlement agreement, Consumers is required to file new full avoided cost rates, stemming from the 2019 competitive solicitation within 30 days of the conclusion of the competitive solicitation. Pursuant to the IRP settlement agreement, the PURPA full avoided cost rates must be equal to the highest priced proposal that received a contract in the competitive solicitation. The company has determined that the BTA with Mustang Mile, with a forecasted average depreciable life cost of \$66.51 per megawatt-hour (MWh) or \$3.3 million per installed MW, is the highest priced proposal that received a contract and will therefore, establish

PURPA full avoided cost rates. Attached to the application as Exhibits A-5 and A-6, Consumers also provides updated avoided cost rates in its Standard Offer Contract and Standard Offer Tariff, respectively, based on the versions most recently filed on July 5, 2019. *See*, Case No. U-20165, filing #U-20165-0581.

As described in the IRP settlement agreement, the PURPA full avoided costs are available to qualifying facilities (QFs), up to the maximum MW size that Consumers has a legal obligation to purchase under PURPA, under the following circumstances: (1) regardless of the company's capacity need, existing QFs that had a PURPA-based PPA with the company, as of January 1, 2019, are eligible to receive new PPAs at the company's full avoided cost rates upon the expiration of their current PPAs; (2) regardless of the company's capacity need, QFs at or below 150 kilowatts of nameplate capacity are eligible to receive PPAs at the company's full avoided cost rates; and (3) when there is remaining capacity that is not filled by responses to each annual IRP competitive solicitation, the remaining unfilled capacity will be made available to QFs at the company's full avoided cost rate.

In its application, Consumers explains that with the execution of the 140 MW Calhoun Solar Energy PPA and the 150 MW Mustang Mile BTA, Consumers will have 10 MW of unfulfilled capacity. In accordance with the IRP settlement agreement, the 10 MW will be offered to PURPA QFs on a first-come, first-served basis at the full avoided cost rates approved in this filing. Consumers states that it will begin offering the 10 MW of capacity on the first business day following the date of the Commission's approval of this filing. On April 14, 2021, Consumers filed a letter in the instant docket explaining that eligible QFs seeking to fill the 10 MW of unfilled capacity resulting from the 2019 competitive solicitation should submit formal offers to: energypurchase@cmsenergy.com.

Discussion

MCL 460.6t provides, in relevant part, that in an IRP proceeding, the Commission shall do all of the following:

(11) In approving an integrated resource plan under this section, the commission shall specify the costs approved for the construction of or significant investment in an electric generation facility, the purchase of an existing electric generation facility, the purchase of power under the terms of the power purchase agreement, or other investments or resources used to meet energy and capacity needs that are included in the approved integrated resource plan. The costs for specifically identified investments, including the costs for facilities under subsection (12), included in an approved integrated resource plan that are commenced within 3 years after the commission's order approving the initial plan, amended plan, or plan review are considered reasonable and prudent for cost recovery purposes.

(12) Except as otherwise provided in subsection (13), for a new electric generation facility approved in an integrated resource plan that is to be owned by the electric utility and that is commenced within 3 years after the commission's order approving the plan, the commission shall finalize the approved costs for the facility only after the utility has done all of the following and filed the results, analysis, and recommendations with the commission:

- (a) Implemented a competitive bidding process for all major engineering, procurement, and construction contracts associated with the construction of the facility.
- (b) Implemented a competitive bidding process that allows third parties to submit firm and binding bids for the construction of an electric generation facility on behalf of the utility that would meet all of the technical, commercial, and other specifications required by the utility for the generation facility, such that ownership of the electric generation facility vests with the utility no later than the date the electric generation facility becomes commercially available.
- (c) Demonstrated to the commission that the finalized costs for the new electric generation facility are not significantly higher than the initially approved costs under subsection (11). If the finalized costs are found to be significantly higher than the initially approved costs, the commission shall review and approve the proposed costs if the commission determines those costs are reasonable and prudent.

MCL 460.6v(1) provides:

(1) Notwithstanding any existing power purchase agreement, the commission shall, at least every 5 years, conduct a proceeding, as a contested case pursuant to chapter 4 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.271 to 24.287, to reevaluate the procedures and rates schedules including avoided cost rates, as originally established by the commission in an order dated March 17, 1981 in case no. U-6798, to implement title II, section 210, of the public utility regulatory policies act of 1978, as it relates to qualifying facilities from which utilities in this state have an obligation to purchase energy and capacity. Nothing in this section supersedes the provisions of PURPA or the Federal Energy Regulatory Commission's regulations and orders implementing PURPA.

The Commission has reviewed Consumers' *ex parte* application, supporting testimony and exhibits, the language in MCL 460.6t and MCL 460.6v, and the June 7 order and finds that the proposed PURPA full avoided cost rates should be approved. The Commission also agrees with Consumers' assertion that it will have 10 MW of capacity available to QFs at its updated avoided cost rates. The Commission further finds that *ex parte* review and approval are appropriate because approval will not affect rates or rate schedules resulting in an increase in the cost of service to customers. *See*, MCL 460.6a(3).

THEREFORE, IT IS ORDERED that:

A. Consumers Energy Company's February 22, 2021 *ex parte* application to update the Public Utility Regulatory Policies Act of 1978 full avoided cost rates is approved.

B. Consumers Energy Company's updated Standard Offer Contract and the Standard Offer Tariff, attached as Exhibits A-5 and A-6 to the February 22, 2021 *ex parte* application are approved.

C. Within 30 days of the date of this order, Consumers Energy Company shall file its Standard Offer Contract and Standard Offer tariff sheets substantially similar to those contained in Exhibits A-5 and A-6 to the February 22, 2021 *ex parte* application.

D. Consumers Energy Company shall begin offering 10 megawatts of capacity to qualifying facilities on the first business day immediately following the date of this order.

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

Daniel C. Scripps, Chair

Tremaine L. Phillips, Commissioner

Katherine L. Peretick, Commissioner

By its action of May 26, 2021.

Lisa Felice, Executive Secretary


PROOF OF SERVICE

STATE OF MICHIGAN)

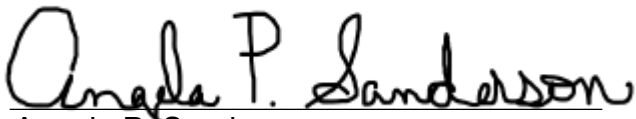
Case No. U-20165

County of Ingham)

Brianna Brown being duly sworn, deposes and says that on May 26, 2021 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 26th day of May 2021.



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

Service List for Case: U-20165

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