

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
	)	

At the October 27, 2022 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 August 29, 2022, Consumers Energy Company (Consumers) filed an application (August 29 application), with supporting testimony and exhibits, requesting *ex parte* approval of amendments to power purchase agreements (PPAs) with Byrne Solar, LLC (Byrne Solar); Lightfoot Solar, LLC (Lightfoot Solar); Shipsterns Solar, LLC (Shipsterns Solar); and Willford Solar, LLC (Willford Solar) and new PPAs between Consumers and Addle Solar, LLC (Addle Solar); Copenhagen Solar, LLC (Copenhagen Solar); Holly Solar, LLC (Holly Solar); Olivier Solar, LLC (Olivier Solar); Puck Solar, LLC (Puck Solar); Shoreline Solar, LLC (Shoreline Solar); and Sunbelievable Solar, LLC (Sunbelievable Solar).

On September 11, 2019, the Commission issued an order in Case Nos. U-20615 *et al.* (September 11 order) approving a settlement agreement. As part of that settlement agreement, Consumers was required to enter into contracts with Public Utility Regulatory Policies Act of

1978, PL 95–617; 92 Stat 3117 (PURPA) qualifying facilities (QFs) for: (1) 170 megawatts of alternating current (MWac) of energy and capacity at the full avoided cost rates set forth in Case No. U-18090; and (2) 414 MWac of energy and capacity at the energy and Midcontinent Independent System Operator, Inc. (MISO) planning resource auction (PRA)-based avoided cost rates set forth in Case No. U-18090. Pursuant to the settlement agreement, Consumers states that it entered into PPAs with Byrne Solar, Lightfoot Solar, Shipsterns Solar, and Willford Solar on September 26, 2019. The PPAs were approved by the Commission in its April 15, 2020 order in Case No. U-20604 (April 15 order). August 29 application, p. 2; *see also*, April 15 order, pp. 4-5.

Per Consumers, on August 15, 2022, the company amended the Byrne Solar, Lightfoot Solar, Shipsterns Solar, and Willford Solar PPAs. Amendment No. 1 to the PPAs extends the expected start dates to May 1, 2023; June 1, 2023; July 1, 2023; and December 1, 2023, respectively, and extends the expected termination dates to May 1, 2043; June 1, 2043; July 1, 2043; and September 1, 2043, respectively. Additionally, the energy price was modified to be fixed at the rate applicable to the date that is 15 years after the start date of each PPA. August 29 application, pp. 2-3. Consumers states that the amended PPAs are expected to result in an increased cost of approximately \$11.2 million, cumulatively for all four amended PPAs, over the 20-year terms compared to the original PPAs. The cost increase, according to Consumers, is due to the delayed start dates, which increases the energy price in year one of the PPAs and increases the assumption for the PRA clearing price. The company contends that it offset some of the cost increase by fixing the energy price in year 15 of the PPAs and utilizing a 50% capacity credit factor. *Id.*, direct testimony of Beth A. Skowronski, p. 6.

Turning to the request for approval of the new PPAs, Consumers explains that, pursuant to the September 11 order, the company originally entered into PPAs with Albion North Solar, LLC;

Bamboo Solar, LLC; Beaverton Solar, LLC; Burns Park Solar, LLC; Cloudbreak Solar, LLC; Congo Solar, LLC; Durban Solar, LLC; Esmarelda Solar, LLC; Rosco Solar, LLC; Shady Solar, LLC; and Swede Solar, LLC, for a total contract capacity of 132 megawatts (MW). The Commission granted approval of the PPAs in its April 15 order and July 23, 2020 order in Case No. U-20604 (July 23 order). August 29 application, p. 3; *see also*, April 15 order, pp. 4-5 and July 23 order, p. 4. Pursuant to the September 11 order, which allowed for developers to transfer their allocation in the award queue to another eligible QF within a specified time period, the company received notices of termination in December 2021 for the PPAs above totaling 132 MW, as well as requests to transfer the associated allocation in the award queue to Addle Solar, Copenhagen Solar, Holly Solar, Olivier Solar, Puck Solar, Shoreline Solar, and Sunbelievable Solar, which total 132 MW. August 29 application, p. 3.

On August 15, 2022, Consumers states that it formally entered into the replacement PPAs with Addle Solar, Copenhagen Solar, Holly Solar, Olivier Solar, Puck Solar, Shoreline Solar, and Sunbelievable Solar. According to Consumers, the provisions of the replacement PPAs are based on the company's PURPA Standard Offer PPA, as approved in Case No. U-18090, and are consistent with the modifications identified in the settlement agreement approved in the September 11 order. The replacement PPAs provide for the purchase of capacity from the plant based on the MISO zonal resource credits (ZRCs), calculated according to the methodology contained in MISO's business practice manual in effect at the time of ZRC delivery. Additionally, because the new PPAs are replacing existing PPAs, which were all subject to the financial compensation mechanism (FCM) approved in the June 7, 2019 order in Case No. U-20165, Consumers notes that the FCM continues to apply to the replacement PPAs. August 29 application, p. 3. Consumers

anticipates the costs of the replacement PPAs to be approximately \$418.7 million. *Id.*, direct testimony of Beth A. Skowronski, p. 8.

Consumers asserts that the benefits related to the amended and replacement PPAs include cost certainty for the QFs for financing purposes and extended start dates for each of the PPAs. August 29 application, p. 4.

Discussion

MCL 460.6j(13)(b) 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 PPA amendments and replacement PPAs should be approved. The original PPAs were previously approved by the Commission, and the PPAs utilize the avoided cost rates approved by the Commission in Case No. U-18090. The Commission further finds that approval will not result in an increase in rates and therefore, *ex parte* review and approval are appropriate. *See*, MCL 460.6a(3).

THEREFORE, IT IS ORDERED that the amended power purchase agreements between Consumers Energy Company and Byrne Solar, LLC; Lightfoot Solar, LLC; Shipsterns Solar, LLC; and Willford Solar, LLC, and the new power purchase agreements between Consumers Energy Company and Addle Solar, LLC; Copenhagen Solar, LLC; Holly Solar, LLC; Olivier Solar, LLC; Puck Solar, LLC; Shoreline Solar, LLC; and Sunbelievable Solar, LLC, are approved.

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 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

Daniel C. Scripps, Chair

Tremaine L. Phillips, Commissioner

Katherine L. Peretick, Commissioner

By its action of October 27, 2022.

Lisa Felice, Executive Secretary

PROOF OF SERVICE

STATE OF MICHIGAN)

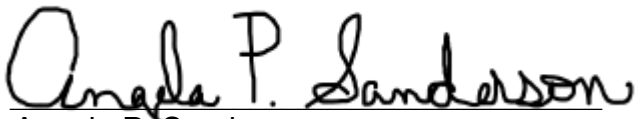
Case No. U-20604

County of Ingham)

Brianna Brown being duly sworn, deposes and says that on October 27, 2022 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 27th day of October 2022.



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

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