

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter, on the Commission's own motion,)	
regarding the regulatory reviews, revisions,)	
determinations, and/or approvals necessary for)	Case No. U-21326
UPPER MICHIGAN ENERGY RESOURCES)	
CORPORATION to fully comply with Public Act)	
295 of 2008, as amended by Public Act 342 of 2016.)	
<hr/>)	

At the December 1, 2023 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. Daniel C. Scripps, Chair
Hon. Katherine L. Peretick, Commissioner
Hon. Alessandra R. Carreon, Commissioner

ORDER APPROVING SETTLEMENT AGREEMENT

On June 28, 2023, Upper Michigan Energy Resources Corporation (UMERC) filed its application, along with supporting testimony and exhibits, seeking authority to implement its biennial 2024-2025 energy waste reduction plan, reflective of alternative compliance payments to the state administrator, Efficiency United.

On August 16, 2023, a prehearing conference was held before Administrative Law Judge Christopher S. Saunders (ALJ), at which the ALJ granted intervention to the Michigan Department of Attorney General and Tilden Mining Company L.C. UMERC and the Commission Staff also participated in the proceeding. Subsequently the parties filed a settlement agreement resolving all issues in the case.

The Commission has reviewed the settlement agreement and finds that the public interest is adequately represented by the parties who entered into the settlement agreement. The Commission further finds that the settlement agreement is in the public interest, represents a fair and reasonable resolution of the proceeding, and should be approved.

THEREFORE, IT IS ORDERED that the settlement agreement, attached as Exhibit A, is 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 Highway, Lansing, MI 48917.

MICHIGAN PUBLIC SERVICE COMMISSION

Daniel C. Scripps, Chair

Katherine L. Peretick, Commissioner

Alessandra R. Carreon, Commissioner

By its action of December 1, 2023.

Lisa Felice, Executive Secretary

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter, on the Commission's own motion,)	
regarding the regulatory reviews, revisions,)	
determinations, and/or approvals necessary for)	Case No. U-21326
UPPER MICHIGAN ENERGY RESOURCES)	
CORPORATION to fully comply with Public Act)	
<u>295 of 2008, as amended by Public Act 342 of 2016.</u>)	

SETTLEMENT AGREEMENT

Pursuant to MCL 24.278 and Rule 431 of the Michigan Administrative Hearing System's Administrative Hearing Rules, Mich Admin Code R 792.10431, Upper Michigan Energy Resources Company ("UMERC" or the "Company"), Attorney General Dana Nessel ("Attorney General"), Tilden Mining Company LC ("Tilden"), and the Michigan Public Service Commission Staff ("Staff") agree as follows:

1. On June 28, 2023, UMERC filed its application, testimony, and exhibits seeking Michigan Public Service Commission ("MPSC" or the "Commission") approval of its 2024-2025 Energy Waste Reduction ("EWR") biennial plan to continue to make alternative compliance payments to the state appointed EWR administrator, Efficiency United ("EU").

2. On July 10, 2023, the Commission's Executive Secretary issued the (revised) Notice of Hearing in this proceeding directing UMERC to mail a copy of the Notice of Hearing to all cities, incorporated villages, townships, and counties in its service area and to intervenors of record in Case Nos. U-20880 and U-18061. Further, UMERC was directed to publish the Notice of Hearing in newspapers of general circulation throughout its service area. On July 31, 2023, UMERC electronically filed its affidavit of mailing and proofs of publication.

3. On August 16, 2023, Administrative Law Judge (“ALJ”) Christopher Saunders conducted a prehearing conference. UMERC and Staff participated in the proceedings. ALJ Saunders granted intervenor status to the Attorney General and Tilden.

4. In response to the filing, Staff thoroughly reviewed the Company’s filing, including the direct testimony and exhibits of the Company’s witnesses. Staff accepts that the election to participate in the State EWR Administrator program, EU, is reasonable. The outcome of that review resulted in settlement discussions.

5. Consistent with understandings reached in settlement discussions, the parties agree as follows:

- a. The Company’s energy waste reduction plan, to continue to make alternative compliance payments to EU on behalf of its customers, meets the requirements of Act 295, as amended by Act 342, and is reasonable and in the public interest and should be approved by the Commission.
- b. The Company shall, on behalf of its customers, make the following payments to the EWR state administrator, EU: (i) \$3,083,114 for 2024 and \$2,377,791 for 2025 for WEPCo Rate Zone electric customers; (ii) \$422,465 for 2024 and \$320,019 for 2025 for WPSC Rate Zone electric customers; and (iii) \$114,983 for 2024 and \$92,078 for 2025 for natural gas customers. All of these payments shall be in equal amounts for 2024 and 2025. As the 2025 payments are based on estimated revenue, the actual payments will be determined based on 2.00% of actual 2023 revenues..
- c. The energy savings target to be achieved by EU for UMERC’s 2024 and 2025 electric operations will be 1.5% of UMERC’s 3-year

average historical sales exclusive of the Tilden Mine and customers opting to self-direct their own energy efficiency programs. As such, the electric energy savings target for 2024 will be 12,386 MWh and for 2025 will be 12,227 MWh. If the state administrator implements EWR measures at the Tilden Mine in 2024 or 2025, then the resulting energy savings will be added to that year's energy savings target. As the 2025 target is based on estimated revenue, the 2025 target may change.

- d. The energy savings target to be achieved by EU for UMERCE's 2024 and 2025 natural gas operations will be .75% of UMERCE's 3-year average historical sales resulting in gas energy savings target of 2024 of 6,227 Mcf and 6,320 Mcf for 2025. As the 2025 target is based on estimated revenue, the 2025 target may change.

6. All the parties are of the opinion that this Settlement Agreement is reasonable, in the public interest, will aid in the expeditious conclusion of this case and resolves all contested issues in this case on a final basis.

7. This Settlement Agreement is entered into for the sole and express purpose of reaching a compromise among the parties. All offers of settlement and discussions relating to this settlement are considered privileged under Michigan Rules of Evidence, Rule 408. If the Commission approves this Settlement Agreement without modification, neither the parties to the Settlement Agreement nor the Commission shall make any reference to, or use this Settlement

Agreement, the order approving it, or any testimony or exhibits filed in this case, as a reason, authority, rationale or example for taking any action or position or making any subsequent decision in any other case or proceeding however, references to this Settlement Agreement or the order approving it may be made to enforce or implement the provisions of this Settlement Agreement and the order approving it.

8. The parties further agree that any order approving this Settlement Agreement shall not establish precedent for future proceedings. This Settlement Agreement is based on the facts and circumstances of this case and is intended as the final disposition of Case No. U-21326. If the Commission approves this Settlement Agreement, without modification, the undersigned parties agree not to appeal, challenge or otherwise contest the Commission order approving this Settlement Agreement.

9. This Settlement Agreement is not severable. Each provision of this Settlement Agreement is dependent upon all other provisions of this Settlement Agreement. Failure to comply with any provision of this Settlement Agreement constitutes failure to comply with the entire settlement agreement. If the Commission rejects or modifies this Settlement Agreement or any provision of this Settlement Agreement, this Settlement Agreement shall be deemed to be withdrawn. It shall not constitute any part of the record in this proceeding or be used for any other purpose and shall not operate to prejudice the pre-negotiation position of any party.

10. All signatories agree to waive § 81 of the Administrative Procedures Act of 1969, as amended, MCL 24.281, as it applies to the issues in this proceeding, if the Commission approves this Settlement Agreement without modification.

UPPER MICHIGAN ENERGY RESOURCES CORPORATION

Sherri

Digitally signed by: Sherri Wellman
DN: CN = Sherri Wellman email =
wellmans@millercanfield.com C =
AD O = Miller Canfield
Date: 2023.11.02 13:02:49 -04'00'

By: **Wellman**

Dated: November 2, 2023

Its Attorney

Sherri A. Wellman (P38989)

MILLER, CANFIELD, PADDOCK AND STONE, P.L.C.

One Michigan Avenue, Suite 900

Lansing, MI 48933

(517) 487-2070

MICHIGAN PUBLIC SERVICE COMMISSION STAFF

Michael J. Orris

2023.11.06

10:06:03 -05'00'

Dated: November 2, 2023

By: _____

One of Its Attorneys

Michael J. Orris (P51232)

Monica M. Stephens (P73782)

Assistant Attorneys General

7109 West Saginaw Hwy, 3rd Floor

Lansing, MI 48917

(517) 284-8140

ATTORNEY GENERAL DANA NESSEL

Michael E.

Digitally signed by Michael E.
Moody

Date: 2023.11.07 09:07:36 -05'00'

Dated: November 2, 2023

By: **Moody**

Her Attorney

Michael E. Moody (P51985)

Assistant Attorney General

Special Litigation Division

525 West Ottawa Street, Floor 5

P.O. Box 30755

Lansing, MI 48909

(517) 335-7627

TILDEN MINING COMPANY L.C.

Dated: November 2, 2023

By: Jennifer Utter Heston Digitally signed by Jennifer Utter
Heston
Date: 2023.11.07 11:32:14 -05'00'

Its Attorney
Jennifer U. Heston (P65202)
Fraser Trebilcock Davis & Dunlap, P.C.
124 West Allegan Street, Suite 1000
Lansing, MI 48933
(517) 482-5800

38800020.5/156197.00042


PROOF OF SERVICE

STATE OF MICHIGAN)

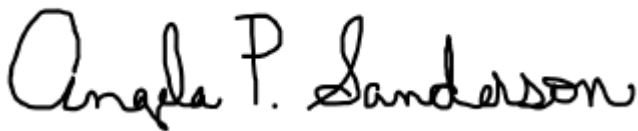
Case No. U-21326

County of Ingham)

Brianna Brown being duly sworn, deposes and says that on December 1, 2023 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 1st day of December 2023.



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

Service List for Case: U-21326

Name	On Behalf of	Email Address
Christopher S. Saunders	ALJs - MPSC	saundersc4@michigan.gov
Jennifer U. Heston	Tilden Mining Company, LC	jheston@fraserlawfirm.com
Michael E. Moody	Department of Attorney General	moodym2@michigan.gov
Michael J. Orris	MPSC Staff	orrism@michigan.gov
Sherri A. Wellman	Upper Michigan Energy Resources Corporation (UMERC)	wellmans@millercanfield.com
Upper Michigan Energy Resources Corporation (UMERC)	Upper Michigan Energy Resources Corporation (UMERC)	colleen.sipiorski@wecenergygroup.com

GEMOTION DISTRIBUTION SERVICE LIST

kabraham@mpower.org
mkuchera@AEPENERGY.COM
mfurmanski@algerdelta.com
kd@alpenapower.com
kerrmann@atcllc.com
acotter@atcllc.com
cityelectric@BAYCITYMI.ORG
rbishop@BISHOPENERGY.COM
braukerL@MICHIGAN.GOV
cherie.fuller@bp.com
greg.bass@calpinesolutions.com
Ichappelle@potomaclaw.com
tanderson@cherrylandelectric.coop
frucheyb@DTEENERGY.COM
crystalfallsmgr@HOTMAIL.COM
gpirkola@escanaba.org
mpolega@GLADSTONEMI.COM
ttarkiewicz@CITYOFMARSHALL.COM
ElectricDept@PORTLAND-MICHIGAN.ORG
cwilson@cloverland.com
mheise@cloverland.com
todd.mortimer@CMSENERGY.COM
sarah.jorgensen@cmsenergy.com
Michael.torrey@cmsenergy.com
CANDACE.GONZALES@cmsenergy.com
mpsc.filings@CMSENERGY.COM
mpsc.filings@CMSENERGY.COM
david.fein@CONSTELLATION.COM
kate.stanley@CONSTELLATION.COM
kate.fleche@CONSTELLATION.COM
lpag@dickinsonwright.com
info@dillonpower.com
Neal.fitch@nrg.com
Kara.briggs@nrg.com
Ryan.harwell@nrg.com
mpscfilings@DTEENERGY.COM
adella.crozier@dteenergy.com
karen.vucinaj@dteenergy.com
customerservice@eligoenergy.com
ftravaglione@energyharbor.com
rfawaz@energyintl.com
sejackinchuk@varnumlaw.com
customer care@plymouthenergy.com

Abraham, Katie - MMEA
AEP Energy
Alger Delta Cooperative
Alpena Power
American Transmission Company
American Transmission Company
Bay City Electric Light & Power
Bishop Energy
Brauker, Linda
bp Energy Retail Company, LLC
Calpine Energy Solutions
Chappelle, Laura
Cherryland Electric Cooperative
Citizens Gas Fuel Company
City of Crystal Falls
City of Escanaba
City of Gladstone
City of Marshall
City of Portland
Cloverland
Cloverland
CMS Energy
Consumers Energy Company
Consumers Energy Company
Consumers Energy Company
Consumers Energy Company
Consumers Energy Company
Constellation Energy
Constellation Energy
Constellation New Energy
Dickinson Wright
Dillon Power, LLC
Direct Energy
Direct Energy
Direct Energy
DTE Energy
DTE Energy
DTE Energy
Eligo Energy MI, LLC
Energy Harbor
Energy International Power Marketing d/b/a PowerOne
Energy Michigan
ENGIE Gas & Power f/k/a Plymouth Energy

GEMOTION DISTRIBUTION SERVICE LIST

felice@MICHIGAN.GOV	Felice, Lisa
bgorman@FIRSTENERGYCORP.COM	First Energy
phil@allendaleheating.com	Forner, Phil
dburks@glenergy.com	Great Lakes Energy
slamp@glenergy.com	Great Lakes Energy Cooperative
sculver@glenergy.com	Great Lakes Energy Cooperative
lrgustafson@CMSENERGY.COM	Gustafson, Lisa
jhammel@hillsdalebpu.com	Hillsdale Board of Public Utilities
coneill@homeworks.org	HomeWorks Tri-County Electric Cooperative
psimmer@HOMWORKS.ORG	HomeWorks Tri-County Electric Cooperative
mgobrien@aep.com	Indiana Michigan Power Company
dan@megautilities.org	Integrays Group
daustin@IGSENERGY.COM	Interstate Gas Supply Inc
general@itctransco.com	ITC Holdings
kadarkwa@itctransco.com	ITC Holdings
igoodman@commerceenergy.com	Just Energy Solutions
krichel@DLIB.INFO	Krichel, Thomas
dbodine@LIBERTYPOWERCORP.COM	Liberty Power
ham557@GMAIL.COM	Lowell S.
tlundgren@potomacclaw.com	Lundgren, Timothy
jreynolds@MBLP.ORG	Marquette Board of Light & Power
suzy@megautilities.org	MEGA
dan@megautilities.org	MEGA
mmann@USGANDE.COM	Michigan Gas & Electric
shannon.burzycki@wecenergygroup.com	Michigan Gas Utilities Corporation
mrzwiars@INTEGRYSGROUP.COM	Michigan Gas Utilities/Upper Penn Power/Wisconsin
kabraham@mpower.org	Michigan Public Power Agency
JHDillavou@midamericanenergyservices.com	MidAmerican Energy Services, LLC
JCAltmayer@midamericanenergyservices.com	MidAmerican Energy Services, LLC
LMLann@midamericanenergyservices.com	MidAmerican Energy Services, LLC
dave.allen@TEAMMIDWEST.COM	Midwest Energy Cooperative
bob.hance@teammidwest.com	Midwest Energy Cooperative
kerri.wade@teammidwest.com	Midwest Energy Cooperative
Marie-Rose.Gatete@teammidwest.com	Midwest Energy Cooperative
meghan.tarver@teammidwest.com	Midwest Energy Cooperative
d.motley@COMCAST.NET	Motley, Doug
rarchiba@FOSTEROIL.COM	My Choice Energy
customerservice@nordicenergy-us.com	Nordic Energy Services, LLC
karl.j.hoesly@xcelenergy.com	Northern States Power
esoumis@ontorea.com	Ontonagon County Rural Elec
mpauley@GRANGERNET.COM	Pauley, Marc
mmpeck@fischerfranklin.com	Peck, Matthew
bschlansker@PREMIERENERGYLLC.COM	Premier Energy Marketing LLC

GEMOTION DISTRIBUTION SERVICE LIST

MVanschoten@pieg.com

johnbistranin@realgy.com

BusinessOffice@REALGY.COM

mvorabout@ses4energy.com

rabaey@SES4ENERGY.COM

cborr@WPSCI.COM

kmarklein@STEPHENSON-MI.COM

kay8643990@YAHOO.COM

regulatory@texasretailenergy.com

bessenmacher@tecmi.coop

vickie.nugent@wecenergygroup.com

jlarsen@upppo.com

estocking@upppo.com

vobmgr@UP.NET

info@VILLAGEOFCLINTON.ORG

jeinstein@volunteerenergy.com

leew@WVPA.COM

tking@WPSCI.COM

Amanda@misostates.org

Deborah.e.erwin@xcelenergy.com

Michelle.Schlosser@xcelenergy.com

Presque Isle Electric & Gas Cooperative, INC

Realgy Corp.

Realgy Energy Services

Santana Energy

Santana Energy

Spartan Renewable Energy, Inc. (Wolverine Power Marketing Corp)

Stephenson Utilities Department

Superior Energy Company

Texas Retail Energy, LLC

Thumb Electric Cooperative

Upper Michigan Energy Resources Corporation

Upper Peninsula Power Company

Upper Peninsula Power Company

Village of Baraga

Village of Clinton

Volunteer Energy Services

Wabash Valley Power

Wolverine Power

Wood, Amanda

Xcel Energy

Xcel Energy