

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the application of
INDIANA MICHIGAN POWER COMPANY,
d/b/a AMERICAN ELECTRIC POWER,
for certain approvals in connection with
2000 PA 141 Section 10v.

Case No. U-12780 (e-file)

In the matter of the application of
INTERNATIONAL TRANSMISSION COMPANY,
CONSUMERS ENERGY COMPANY, and
GREAT LAKES ENERGY COOPERATIVE.

Case No. U-12781 (e-file)

**MICHIGAN PUBLIC SERVICE COMMISSION
STAFF'S INITIAL BRIEF**

I. Background

Section 10v of 2000 PA 141 provides that electric utilities serving more than 100,000 customers in Michigan shall file by January 1, 2001, a joint plan to permanently expand, by June 5, 2002, the available transmission capability by at least 2,000 megawatts over the amount in place as of January 1, 2000. If the utilities are unable to agree on a joint plan, the Michigan Public Service Commission (MPSC) is required to conduct a hearing to establish a plan.

On December 28, 2000, Indiana Michigan Power Company (I&M) filed an application in Case No. U-12780, seeking approvals associated with its proposed plan. Also, on December 28, 2000, International Transmission Company (ITC) on behalf of Detroit Edison Company (DE), Consumers Energy (CE) and Great Lakes Energy Cooperative (GLE) filed an application in Case No. U-12781, seeking approval associated with a plan that they had proposed. Since the utilities were not able to agree on a joint plan, the MPSC was required to conduct a hearing to establish a plan. Accordingly, on January 4, 2001, the MPSC issued an order and notice of hearing. The

MPSC set a prehearing conference for February 7, 2001 and required petitions to intervene to be filed by January 31, 2001.

On February 7, 2001, a prehearing conference was for purposes of establishing a schedule to allow completion of the matter in a time frame consistent with the statutory requirement to expand transmission capability by June 5, 2002. The schedule adopted required the applicants to file direct testimony by March 16, 2001, and the Staff and Intervenors to file by April 25, 2001. Rebuttal testimony for all parties was due by May 18, 2001, with cross-examination of all parties scheduled for May 30, 2001 and May 31, 2001.

Concurrent with the schedule for filing testimony, the parties (principally ITC, CE and I&M) conducted settlement discussions directed toward reaching agreement on a joint transmission expansion plan acceptable to all parties. On May 30, 2001, the parties met at hearing for the scheduled commencement of cross-examination of witnesses. At the hearing, the parties stated that a settlement was imminent and requested the cross-examination schedule be moved forward to June 6, 2001. The ALJ agreed and cross-examination of all parties was set to commence on June 6, 2001.

At the hearing on June 6, 2001, and prior to the commencement of cross-examination, the parties stated that a settlement agreement had not been reached. I&M, however, unilaterally stipulated to the joint report filed by ITC, CE and GLE (Tr. 39). The MPSC now has one joint plan for permanently expanding by June 5, 2002 the available transmission capability by at least 2,000 megawatts over the amount in place as of January 1, 2000 as required by Section 10v of 2000 PA 141.

II. The Issues

As stated in Section 10v of 2000 PA 141, if the electric utilities are unable to agree upon a joint plan to meet the requirements of the act, the Commission shall conduct a hearing to establish a joint plan. The reason for this hearing is due to the difference between the plan jointly filed by ITC, CE and GLE and the plan filed by I&M. Since I&M has unilaterally stipulated to the plan filed by ITC, CE and GLE, the requirement for a hearing no longer exists.

While testimony was filed regarding the necessity for a second Dumont transformer, which was the principal difference between the two plans filed, it is Staff's understanding that by I&M's stipulation it agrees to construct the second Dumont transformer. See Tr. 39. I&M and other parties filing testimony presented various arguments for recovery of costs associated with actions and facilities taken to expand the transmission system. Also, as part of its unilateral stipulation, I&M stated that it believes that as part of approval of the joint plan in this case, that the Commission must assure I&M and other utilities, as provided in Section 10v of 2000 PA 141, that if their investments are not recovered from FERC-approved rates, then recovery will come from those Michigan retail customers benefiting from those improvements. This requirement is consistent with Section 10v of 2000 PA 141 which states that "the commission shall authorize recovery from benefiting customers of all reasonable and prudent costs incurred by transmission owners for authorized actions taken and facilities installed to meet the requirements of this section that are not recovered through FERC transmission rates".

The issue of cost recovery should not be resolved at this time because it has not been determined what recovery will be allowed through FERC transmission rates. The language of Section 10v of 2000 PA 141 regarding cost recovery of "authorized actions taken and facilities

installed” that are not recovered through FERC transmission rates” should be sufficient to ensure utility cost recovery.

III. Staff Recommendation

Since the filing parties initially filed two plans, the purpose of the hearing in Case Nos. U-12780 and U-12781 was for purposes of establishing a joint plan. I&M’s stipulation presented at the hearing on June 6, 2001, included agreement with the joint plan submitted by ITC, CE and GLE. This action results in agreement by all parties to a joint transmission expansion plan, which satisfies the requirements of Section 10v of 2000 PA 141. Thus, since the reason for the hearing no longer exists, Staff recommends the case be closed. Further Staff recommends that the Commission conclude this case with an order authorizing the plan by confirming its compliance with the requirements of Section 10v of 2000 PA 141. Finally, the general issue of cost recovery is premature and not within the scope of this case as defined by 10v of Act 141. A utility’s application for cost recovery with the MPSC, prior to FERC determining whether the costs are covered by old or new FERC rates, is not in keeping with the implied requirement of Section 10v that the utility must first seek cost recovery from FERC.

Respectfully Submitted,

**MICHIGAN PUBLIC SERVICE COMMISSION
STAFF**

A handwritten signature in black ink, appearing to read "D M Gadaleto", written over the printed name.

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DATED: June 29, 2001

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PROOF OF SERVICE

STATE OF MICHIGAN)
) ss
COUNTY OF INGHAM)

Mishelle R. Pagels, being first duly sworn, deposes and says that on Friday, June 29, 2001, she served a copy of Michigan Public Service Commission Staff's Initial Brief upon the following parties via email and by depositing the same in a United States postal depository enclosed in an envelope bearing postage fully prepaid, plainly addressed as follows:

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Mishelle R. Pagels

Subscribed and sworn to before me
this 29th day of June, 2001.


Carol Ann Dane, Notary Public
Eaton County, Michigan
My Commission Expires: 07/23/2004