STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter, on the **Commission's Own Motion**,)
to establish the Michigan Renewable Energy Program) Case No. **U-12915 (efile)**
/

REPLY COMMENTS OF THE
MICHIGAN PUBLIC SERVICE COMMISSION STAFF

Following the schedule established by the Administrative Law Judge and affirmed by the Commission in its October 23, 2003 Order issued in this proceeding, the Michigan Public Service Commission Staff (Staff) files these replies to the December 2, 2003 comments from interested parties on the first Annual Report to the Commission on the Michigan Renewable Energy Program.

In its August 18, 2003 Order in this proceeding, the Commission directed the Staff to file by November 18, 2003, the Staff's first Annual Report to the Commission on the Michigan Renewable Energy Program (MREP Report). Comments on the Staff MREP Report were submitted by two utility companies and two utility company associations, including Consumers Energy, Detroit Edison, the Michigan Electric Cooperative Association (MECA), and the Michigan Electric and Gas Association (MEGA). Comments were submitted by two renewable energy development companies and one association of renewable energy developers: Mackinaw Power, LLC, Midland Energy, LLC,[1] and the Michigan Independent Power Producers Association (MIPPA). Comments were submitted by Attorney General Michael A. Cox (AG) and the Association of Businesses Advocating Tariff Equity (ABATE). All of these

[1] Midland Energy is a party to Case No. U-12915. Midland Energy's comments were submitted by fax from Mr. Fisher, President of Midland Energy, and included in the e-file, document 0124.

organizations are parties to Case No. U-12915.

In addition, comments were received from State Representative Chris Kolb, Mr. David Gard on behalf of the Michigan Environmental Council, Mr. Mark Clevey on behalf of the Small Business Association of Michigan, and Rev. Charles Morris on behalf of Michigan Interfaith Power & Light. Finally, eight citizens submitted comments: Carl Anton, Ludington; Evelyn Bergaila, AICP, Ludington; Tony Donley (no address provided); Joan Kalso (no address provided); Thomas Knoll, Ceresco; Steve Leuty, Kalamazoo; Prof. Joel Nigg, East Lansing; and Susan Parks, Charlevoix.

Staff thanks everyone for their comments, especially the citizens who, in the best traditions of democracy, took the time to make their views known to the Commission.

I. MREP Report Errata

A few of the commenters identified mistakes in the MREP Report. In addition, Staff has identified several typographical errors, omissions of citations and links to some resources on the World Wide Web, problems with typesetting and pagination, and so forth. In these Reply Comments, Staff is noting corrections to substantive mistakes that have been discovered to date. Staff's plan is to issue a corrected version of the MREP Report early in 2004, which will incorporate all of the corrections Staff has identified.

MIPPA commented (p. 8) that the MREP report contains conflicting data. On page 9, the MREP Report indicates that "less than 3% of the total generation in Michigan" came from renewable energy sources from January through June 2003, but on page 25 the MREP Report includes a table of Energy Information Administration data which indicates 4.1% of the electric generation in Michigan came from renewable power in 2000. Staff notes that the data represents renewable energy production during two different time periods. Also the figure on page 9 represents installed generating capacity (measured in MW) and the data in the table on page 25 represents energy deliveries, in MWh. Thus, both numbers may be correct, though the discrepancy does appear confusing. Staff will continue to try to obtain the most accurate information available about renewable energy production and consumption in Michigan, and will update that data annually.

Several places in the MREP report, references to 2000 PA 141 Section 10g(1)(f) [MCL 460.10g(1)(f)] were typed incorrectly. This is somewhat confusing because in some printed versions of 2000 PA 141, the subsection number (1) was omitted. Section 10g(1)(f) is this definition:

> "'Renewable energy source' means energy generated by solar, wind, geothermal, biomass, including waste-to-energy and landfill gas, or hydroelectric."

On page 10, the MREP Report indicates that Mackinaw Power, LLC, is the provider of wind energy to Consumers Energy's Green Power Program. The correct name of the wind energy producer is Bay Windpower, LLC, and the Consumers Energy program is the Green Power Pilot Program.

On page 12, the name "Michigan Independent Power Producers Association" (MIPPA) was incorrectly listed as "Michigan Independent Power Providers". On page 18, the MREP Report indicates that MIPPA's Green Power Exchange has been developed but is not operational. MIPPA claimed in its comments (p. 8), the Green Power Exchange is operational, but it is not in use because the green power market in Michigan has so little activity, at the present time.

On page 26, the MREP Report indicates “medical expenses cited equate to between $0.56 and nearly 3 ¢/kWh.” As pointed out by Midland Energy, this should have indicated a range between 0.56 ¢/kWh and nearly 3 ¢/kWh.

In the table shown on page 27, there was some confusion because the “Operation and Maintenance Costs” column is labeled in units of $/kW; but, contrary to that column label, some of the figures for biomass facilities are presented in terms of cents/kWh. In addition, some readers interpreted this table as if Staff intended it to be explicitly representative of costs for these technologies as they might be installed and operated in Michigan. Staff’s only intention in presenting this table was to convey a general sense of average estimated costs and performance ranges for these technologies, based on a recently released national study.

On page 57 of the MREP Report, Staff indicated that the issue of either a non-bypassable surcharge or a pass-through of costs via the power supply cost recovery (PSCR) process was “being resolved” in Case No. U-13843. As pointed out by both Consumers Energy and MEGA, this issue may be “considered” but not “resolved” in Case No. U-13843.[2]

In Appendix B of the MREP Report (pages 61-64), listings of several programs were omitted. They include programs from the Michigan Department of Environmental Quality, Michigan Energy Center Network (MECNET), Michigan Energy Education Network (MEENET), Oakland Community College, and Urban Options. Staff will add descriptions of these programs to Appendix B, and will issue a corrected version, along with the full MREP report, early in 2004.

[2] On page 39 of the MREP report, Staff correctly indicated that an issue is “being considered” in Case No. U-13843, but typed the Case No. U-13483 by mistake. Case No. U-13843 is correct.

In Appendix C, MEGA noted that the MWh numbers presented on page 70 were off by a factor of 10. That should have read, "…10 MW blocks of power; roughly equivalent to 25,000 to 75,000 MWh/year, depending on the capacity factors of the technologies selected."

MEGA also stated that the statistical evidence in Section 5 of the MREP report is partial and should be updated (MEGA Comments p. 12). Without more specific information on MEGA's concerns, Staff can only say that the data therein was requested from the most reliable known sources and every attempt was made to ensure its accuracy. Staff welcomes input from MEGA and other parties on exactly what data is incomplete and how it might best be collected in the future.

II. Staff's Generic Green Pricing Program Framework

Almost without exception, all of the utility companies and utility associations provided comments in opposition to Staff's Generic Green Pricing Program Framework, which is the subject of the MREP Report Section 8.3 (p. 57) and Appendix C (pp. 65-72). In addition, ABATE (p. 1) and the Attorney General (pp. 4-7) both expressed their support for voluntary as opposed to mandatory renewable energy programs.

Consumers Energy characterized Staff's Framework (Appendix C) as "go[ing] well beyond the traditional voluntary programs by requiring utilities to contract for a minimum amount of renewable capacity" (Consumers Energy Comments, p.4). And, Consumers claimed, "the 'Staff Draft Proposal'…appears to envision and require [a renewable portfolio standard]" (p. 5). Detroit Edison suggested that the MREP Report proposed "mandates…directed only toward electric utilities" and Detroit Edison repeatedly admonished the Commission against any "mandates" (Detroit Edison Comments, fn 1 on p. 3 and pp. 6-8).

MEGA said, "Such proposals [including the Staff 'bidding framework'] would… signal an end to market driven voluntary efforts, increasing government direction and [renewable energy] industry supports beyond present levels." MEGA said it does not support "the Staff generic framework for mandatory purchases" (MEGA Comments, pp. 12, 14, 17-18, 20-21).

Staff believes that this is an overreaction, based on what appears to be a misunderstanding of the content and import of the Staff Generic Framework. Staff repeatedly told MREP Collaborative participants that the Staff proposal was intended as but one example of a program design that could be voluntarily agreed to by utilities, and the cornerstone of Staff's proposal is more effective green pricing programs to be offered to Michigan electric utility customers on a voluntary basis. The MREP Report says (p. 57):

> "MPSC Staff presents this draft generic framework as a starting point for dialogue among interested parties. Staff believes this generic framework might form the basis for a consensus among interested parties. Staff's focus is to attempt to identify mechanisms that can be used to promote renewable energy according to the goals identified in MCL 460.10r(6), given our state's particular circumstances, including our state's utility regulatory and legislative structures."

Staff's proposal does include mention of a possible surcharge or pass-through of costs that might result from implementation of this type of program design (MREP Report, Appendix C, pp. 71-72), but that possibility is clearly discussed only: (a) as a worst-case scenario, with any pass-through to be minimized based on the application of a set of principles gleaned from successful green pricing programs throughout the U.S., and (b) because Staff believes utilities will not implement such programs unless they have some assurance of full cost recovery. This is a far cry from a mandatory Renewable Portfolio Standard.

To be sure, some Michigan utilities have recently started renewable energy efforts, and Staff hopes they prove successful. Staff does admit some impatience, however; noting 3-1/2 years have already passed since 2000 PA 141 took effect, and there has been little progress to date towards MREP goals and objectives.

Of all the utilities providing comments, only MECA, though also expressing its opposition to any mandatory renewable portfolio standard, at least indicated its willingness to "consider the establishment of voluntary targets for renewable energy supply and possible incentives for reaching those targets" (MECA Comments, pp. 3-4). Staff welcomes that offer, and encourages all of Michigan's utilities and competitive energy suppliers to work through the MREP Collaborative process to put forward, and then adopt, programs that will result in significant progress towards increasing contributions from renewable energy resources in the near future.

In its comments (pp. 4, 10), MIPPA supported Staff's framework for voluntary programs. MIPPA (p. 4) said it "supports a voluntary approach to program cost recovery so long as there is an ultimate assurance that costs incurred by utilities for reasonable and prudent purchases of renewable energy are recoverable." MIPPA also offered some positive suggestions for Staff's Generic Framework (p. 12), including some helpful clarifications about qualitative considerations that could be applied to utility requests for proposals (RFPs), and selecting winning bidders. Staff thanks MIPPA for those constructive ideas, and welcomes additional input from other interested parties.

Finally, before leaving the subject of Staff's Generic Framework, Staff wishes to reply to some of the Attorney General's comments (pp. 4-5), which appear to misconstrue some of the ideas Staff presented. The Attorney General noted that Staff's Framework identifies four potential sources of revenues "through which the utility can pay for the costs of a renewable energy purchase" (MREP Report, Appendix C, p. 71). The four are: (1) Avoided Utility Production or Purchased Power Costs; (2) Green Price Premiums paid by Green Rate Customers; (3) Emissions Credits; and (4) System Benefits.

The Attorney General incorrectly concluded, "The first revenue listed implies that green power will cost less than the cost of alternative energy." That is not necessarily true, and would frequently not be the case for purchases in the near term. That is not what Staff meant by including this source of revenue. Staff meant only that at least a portion of the cost of a renewable energy purchase could be recovered by a utility because it could help to avoid the purchase of some other, typically lower priced, resource.

The Attorney General appeared to correctly understand the second and third potential revenue streams, but indicated that the third "would require careful consideration of the details concerning how to recognize credits and that any additional credits might reduce state or federal revenues." Staff will be interested to explore the predicted relationship between state or federal revenues and a utility's potential benefits from renewable energy resource emissions credits. Staff simply meant that a utility might sell emissions credits gleaned from renewable energy purchases, and the resulting revenues could also be used to offset any incremental costs of the renewable energy (see MREP Report, pp. 46-47).

The Attorney General also concluded, "The fourth revenue listed implies that some customers will receive economic benefits that would be greater than any increased costs of electricity from green sources" (AG Comments, pp. 4-5). That is a misunderstanding. The fourth revenue, System Benefits, implies benefits to an end use customer or the host location of a renewable energy facility, but it more typically applies to utility transmission or distribution system costs that might be reduced through a renewable energy purchase, in addition to any generation costs (which would be captured in the first revenue stream listed). The point is not that these System Benefits would equal or exceed the increased costs of renewable energy, but simply that they are other benefits that can be quantified and monetized, and might be counted as additional offsets against renewable energy purchase costs.

When all four revenue streams are counted, Staff believes it is possible that all renewable energy purchase costs associated with voluntary programs like the one described by Staff can be covered, and there will be no need to pass through any costs to customers who did not volunteer to participate. Again, the possible provision in Staff's Generic Framework for a surcharge or pass-through of costs to non-participating customers represents only a kind of safety net. It is presented only to assure utilities or other electric power suppliers of their opportunity to recover all costs associated with a green pricing program, in the event that the sum of these four potential revenue streams does not equal or exceed the total costs of the associated renewable energy purchases.

III. Reconsidering Utility Rate Structures

In its comments, Consumers Energy (p.6) reviewed the MREP Report proposals regarding alternative rate structures, utility incentives, and performance based regulation. Staff believes Consumers Energy went too far when it concluded, "renewable energy is *not* a public policy goal" (Consumers Energy Comments, p. 3; emphasis in original). Staff believes that a straightforward reading of 2000 PA 141 Section 10r(6) [MCL 460.10r(6)] does indicate that the continued use and expansion of renewable energy technologies in Michigan has been determined to be a public policy goal.

Staff agrees, in principle, with Consumers Energy's observations that it is not appropriate to manipulate rates, utility incentives, or performance standards solely to promote any specific generating technology. Staff agrees that rates ought to be "based on sound pricing goals" (Consumers Energy Comments, p. 6). Nevertheless, Staff believes existing rate structures should be carefully reviewed in order to determine whether and how they may be inducing unwanted barriers to renewable energy technologies. And, Staff believes the same discipline should be extended to analysis of the effects of existing rate structures on combined heat and power and energy efficiency technologies (MREP Report, p. 19). To the extent that barriers are identified and improvements can be justified based on sound pricing goals, then rate structures ought to be changed.

MEGA said in its comments (p. 13), "The statement that current rate structures do little to encourage [renewable energy] systems is contrary to the recent [voluntary green pricing] tariff programs... ." Staff does recognize that several Michigan utility companies now offer green pricing tariffs, but these offerings are not sufficiently responsive to this issue, which is about the relationship between renewable energy technologies and the traditional rate structures that are currently applied to well over 99 percent of all Michigan electric utility customers. Staff is somewhat encouraged by the recent interest shown by a few additional utility companies requesting Commission approval to offer voluntary green pricing programs, but Staff notes there are still many Michigan utility companies with no specific renewable energy efforts underway and Staff remains skeptical about program designs that have attracted, thus far, only the slightest participation by Michigan utility customers. Staff agrees with Consumers Energy's comment (pp. 4, 7) that the existing voluntary green pricing programs should be carefully evaluated, and

Staff will welcome the assistance of any and all Michigan utilities and interested parties in achieving that goal.

Staff does not agree, however, with Consumers Energy's admonition (p. 6) that, "the MREP Collaborative should not recommend changes based solely (or even primarily) on their impact on renewable technologies." On the contrary, Staff believes that a detailed exploration of how existing rate structures affect renewable energy technologies is an important element of the Commission's charge to the MREP Collaborative; perhaps even a requirement, under MCL 460.10b.

IV. "NIMBY" Opposition is not Intrinsically Irrational or Unreasonable

In its comments (p. 13), MEGA cautioned, "The discussion of siting issues should not classify all opposition as 'NIMBY,' which is a term that denies the legitimacy of any opposing position" (MEGA Comments, p. 13). In addition, it appears that some of the citizens who provided comments felt aggrieved at Staff's use of the term "NIMBY" (Not In My Back Yard) in the MREP Report (pp. 6, 28; see also pp. 29-31).

NIMBY is a generic term used to describe local opposition to numerous types of projects that people might find undesirable in their neighborhoods and was not intended to be derogatory or in any way diminish the legitimacy of citizens' concerns. The NIMBY discussion was included in the report because local opposition has been identified as one of the main barriers to renewable energy development in Michigan.

Nevertheless, from the comments received, Staff continues to be concerned that significant gaps in understanding unfortunately remain about many of the details about wind energy siting and zoning and the various concerns held by different people regarding public health and safety, aesthetics, and wind energy engineering and economics. For example, Ms.

Bergaila, Mr. Donley, and Ms. Parks criticized the efforts of the Wind Working Group based on misunderstandings and a lack of correct information. In addition, Mr. Anton, Ms. Bergaila, Mr. Donley, and Ms. Kalso provided comments about wind resources, wind generator production, and land use, that are based on only a partial understanding of pertinent facts, some of which are discussed on pages 29-32 of the MREP Report.

In a similar vein, MEC "recommends that new hydropower projects not be supported by state policy due to significant environmental impacts and limited hydro resources available in Michigan" (MEC Comments, p. 2). Staff notes that the most promising hydroelectric resources yet to be developed in Michigan are likely to involve improvements at existing dams. There may also be some opportunities for new hydroelectric developments that use run-of-river generators and do not necessitate damming of rivers or streams to create impoundments. These kinds of facilities will have very limited negative environmental impacts. These ideas are already touched on in the MREP Report (pp. 34-35). For all renewable energy proposals in Michigan, Staff supports careful analysis of environmental impacts and policies that appropriately value environmental impacts.

Staff is hopeful that provision of the more detailed wind energy atlas of Michigan (MREP Report, pp. 30-31, 43) and expanded renewable energy education throughout Michigan (pp. 37-38) will help to reduce the contentiousness which characterizes the current public dialogue and debate on renewable energy development. And, Staff wants to take this opportunity to repeat the information provided on page 29 of the MREP report about the Wind Working Group (WWG), which is convened by the State Energy Office:

> "Participation in the Michigan WWG is open to anyone who is interested. You can ask to be included in the email distribution list for WWG announcements. Contact

John Sarver at the Michigan State Energy Office, mailto:jhsarve@michigan.gov or call (517) 241-6280."

Furthermore, all recent WWG and MREP Collaborative meetings have provided the opportunity for anyone interested to participate via the MPSC's toll-free teleconference capability, and Staff expects to continue that practice.

Staff will continue to operate the MREP Collaborative in the most open and inclusive manner, and welcomes additional input from all who are interested in participating. As Staff indicated in the MREP Report (p. 37):

> "MPSC Staff is committed to maintaining open channels of communication with as many groups as possible. All interested parties have been invited and encouraged to participate in the MREP collaborative, which has functioned as an open forum to information exchange."

V. Learning From Other States or Countries

Detroit Edison took some issue with Staff's use of Wisconsin (MREP Report, p. 40) and Germany (MREP Report, pp. 48-49) as examples of areas that have positive renewable energy programming (Detroit Edison Comments, pp. 5-6). MEGA also criticized Staff's use of Germany as a case study (MEGA Comments, pp. 14-15).

The purpose of Staff references to renewable energy progress in other areas was not to suggest that any of their specific policies ought to be copied here. Rather, the Wisconsin net metering programs were described for their relevance to Michigan customers, and Staff presented the review of German policies and progress simply to indicate that policies need to be sufficient, in breadth and depth, if they are to make a significant difference.

Staff realizes no state or country is going to be exactly like Michigan. Staff agrees that the policy environments in Wisconsin and Germany are substantially different from Michigan's, and that Michigan policies will have to be specifically tailored to meet our state's particular needs and circumstances. Nevertheless, Staff does believe that Michigan policy makers can learn from successes elsewhere.

VI. Future Priorities for MREP Collaborative

A. Education

The utilities all suggested the MREP Collaborative should focus on education activities (Consumers Energy Comments, p. 7; Detroit Edison Comments, p. 6; MECA Comments, p. 3; MEGA Comments, p. 3).

Staff strongly supports educational efforts and believes education is essential for market-based development of this industry; however, no funding has been allotted to a centralized renewable energy education program for the State of Michigan. The best avenue currently available to Staff to engage in renewable energy education is the MREP web site, which will also require some dedicated staff time to fully utilize (MREP Report, Section 7.3). Staff does not mean to disparage existing renewable energy education efforts by any means, but unless and until a funding mechanism can be established, renewable energy education is not likely to be significantly expanded in Michigan.

MEGA further cautioned that educating school children and the general public about renewable energy will be difficult, because of the complex nature of the electric industry; and with that complexity a potential for less than full understanding of the ramifications of renewable energy development (MEGA Comments, pp. 6-7). Though Staff agrees there are significant challenges to mounting serious renewable energy education efforts, Staff disagrees with the contention that the relevant issues are too complex or that Michigan citizens and energy consumers must fully understand the electric industry in order to benefit from renewable energy education. On the contrary, Staff contends that improved education is one necessary ingredient for fully realizing the potential of voluntary green power programs.

B. Biomass Energy Working Group

A few commenters, including ABATE, Mr. Anton, and Ms. Bergaila recommended increased MREP emphasis on biomass energy, and MIPPA offered to participate in a Michigan biomass energy working group. Staff agrees with that recommendation (MREP Report, p. 34), and intends to work with Michigan Biomass Energy Program office and all interested parties to establish such a working group.

VII. Bias Against Utilities

MEGA contended that "some, including the Staff" suggest that utilities are "standing in the way of progress based on irrational fears" (MEGA Comments p. 9). Detroit Edison stated, "the MREP and the collaborative process displayed a disturbing anti-utility bias. Mandates appear to be directed only toward electric utilities, but not Alternative Electric Suppliers" (DTE Comments, p. 3, fn. 1).

Staff would like to point out that the report does not contain a single statement that efforts should be directed only at the electric utilities. Concerns about the potential disparate impacts of renewable energy programs on utilities and alternative electric suppliers are addressed in Section 6.5.5 of the MREP Report.

Staff did not suggest or imply that utilities are standing in the way of progress in the renewable energy industry. Staff made no such contention during the MREP process or in the MREP Report. Instead, Staff has continued to search for recommendations that would prove beneficial to development of renewable energy in Michigan, not to retain the status quo. Staff has consistently encouraged discussion about how renewable energy can grow in Michigan, instead of dwelling on reasons why it cannot.

VIII. Continued Study versus Taking Action

Before concluding its Replies, Staff notes one other recommendation that garnered a great deal of consensus on the part of Michigan's utilities, as expressed in their comments on the MREP Report. That is the need for further studies and analysis before the Commission or state legislature takes any significant action in response to renewable energy policies.

For example, Consumers Energy suggested that the collaborative focus efforts on research of "various renewable technologies and their potential deployment in Michigan, cost-benefit analyses of various renewable options, and assessments of whether various initiatives would complement, conflict with, or duplicate existing federal and state policies" (Consumers Energy Comments, p. 7). Detroit Edison declared, "The State has a lot of work ahead of it to prepare for further integration of renewable energy into Michigan's energy supply portfolio. Much work needs to be done to assess the locations and quantity of Michigan's renewable energy resources" (Detroit Edison Comments, pp. 3-4). MEGA asserted, "there is a need for further analysis" and "advocacy of specific legislative or regulatory measures should await development of an adequate factual basis justifying the measure… ." And, MEGA called for "allowing the voluntary green tariff programs to proceed for a while with a study of the results" (MEGA Comments, pp. 7, 8, 11).

In a related comment, MEC recommended that the benefit/cost analysis proposed by Staff (in Section 7.6.3) should emphasize "an accurate reflection of external costs of burning fossil fuels…" (MEC Comments, p. 3).

Staff agrees that the identified research goals are important and will ultimately benefit development of new renewable energy projects, but Staff urges the Commission not to ignore research that is already available, which demonstrates that renewable energy can be economically and socially beneficial in Michigan. Further, such research activities require staffing and funding, both of which are scarce during these tough economic times. Staff does not want the ongoing need for additional studies to turn into an excuse for a lack of expanded action towards meeting Michigan Renewables Energy Program goals.

Respectfully submitted,

MICHIGAN PUBLIC SERVICE COMMISSION STAFF

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DATED: December 23, 2003

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter, on the Commission's
Own Motion, to establish the Michigan
Renewables Energy Program.

Case No. U-12915

PROOF OF SERVICE

STATE OF MICHIGAN)
) ss
COUNTY OF INGHAM)

Mishelle R. Pagels, being first duly sworn, deposes and says that on December 23, 2003, she served a copy of Reply Comments of the Michigan Public Service Commission Staff upon the following parties 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

Mishelle R. Pagels

Subscribed and sworn to before me
this 23rd day of December, 2003.

Linda Andreas

Linda S. Andreas, Notary Public
Ingham County, Michigan
My Commission Expires: 3/22/06