STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the Commission's own motion to establish the MICHIGAN RENEWABLES ENERGY PROGRAM. ______________________________________	)))))	Case No. U-12915

REPLY COMMENTS OF THE MICHIGAN INDEPENDENT POWER PRODUCERS ASSOCIATION

The Michigan Independent Power Producers Association ("MIPPA") again wishes to thank the Commission for the opportunity to file the following reply comments for the Commission Staff's report regarding the Michigan Renewable Energy Program, posted on December 2, 2003.

Reply to Consumers Energy

Consumers Energy Comments Summary

Consumers Energy recognizes the need to evaluate the statewide costs and benefits from renewable generation options. Consumers Energy notes that "many environmental impacts are already accounted for and internalized through existing tax law and environmental regulations" (Section 3, Paragraph 2). Additional renewable incentives should not seek to affect these issues and costs already addressed. If the collaborative is to choose a social-cost perspective, other non-renewable options should not be disqualified.

According to Consumers Energy, the collaborative has spent too much time looking at the possibility of Renewable Portfolio Standards (RPS). Voluntary programs should be the focus of the discussion as the Legislature and Commission intended. Consumers Energy puts forward that "any statewide RPS would be illegal under current state law," and would require enabling legislation Section 4, Paragraph 2). Long-term results from existing green tariff programs should be evaluated before the programs are replaced by a mandated RPS.

Consumers Energy notes that the effects of renewable development on economic development would likely be negative due to the higher cost of renewable resources (Section 5, Paragraph 1). "Existing environmental regulations may already 'overprice' the external environmental cost associated with fossil-fuel generation." "The company's point is that there is insufficient basis to jump from a preference for social-costing (assuming that were the right approach) to the conclusion that the renewable solicitations endorsed by the staff are appropriate" (Section 5, Paragraph 2). The social-costing approach does not necessarily justify large solicitations of large amounts of renewable generation.

Consumers Energy believes that Case No. U-13843 cannot resolve any substantive policy issues (Section 6, Paragraph 2). The case is an inadequate forum for resolving a policy issue such as an RPS. If an RPS is adopted as a result of this case, the entire cost burden of RPS will fall on one utility.

Utility rates are also not the appropriate tool for promoting renewable technologies, or any other specific generating technology. "The effects of Performance based Regulation or service standards on renewable development should not be a primary driver of program assessment or design" (Section 7, Paragraph 3).

As a suggested future step, Consumers sees the need to refocus efforts on fundamental tasks before major policy initiatives (Section 8, Paragraph 2). The specific tasks to concentrate on include: educational incentives, research on various renewable technologies and their potential deployment in Michigan, cost benefit analyses of various renewable options, assessments of whether various initiatives would complement, conflict with or duplicate existing federal and state policies, and evaluations of voluntary programs in Michigan and elsewhere. Consumers Energy sees a need to devote less time to RPS or other initiatives with forced subsidies (Section 8, Paragraph 3).

MIPPA Replies

MIPPA agrees with Consumers Energy that any additional renewable incentives should seek to affect issues and costs not already addressed through existing tax law and environmental regulations. However, to date little has been done through any channel to place renewable generation on an equal competitive basis with fossil fuel based generation. Most of these issues and costs are not already addressed however. This despite the fact that there are many benefits of Renewable Energy and costs associated with fossil-fuel generation that are not included in current laws and regulations. An example of such a cost may be public health costs associated with fossil-fuel generation. A social-cost perspective may show renewable energy to be less expensive than other non-renewable options.

MIPPA also agrees that MREP should focus its attention on establishing a voluntary program. RPS legislation faces many hurdles and is uncertain in Michigan's, or the United States', future. MIPPA asserts that utilities must have a mechanism to recover costs not recovered from voluntary customer participation if there is going to be a realistic opportunity for MREP to work.

Asserting that renewable development would likely have a negative effect on economic development is premature. The development of renewable energy can provide for more long-term stability in Michigan's energy economy, which is important for economic development.

MIPPA agrees that the proceedings of Case U-13483 are inadequate for establishing an RPS program or any other broad renewable energy program for Consumers Energy. Nevertheless, MIPPA regards the outcome of the case as important to MREP. MIPPA desires that feasible, legitimate renewable energy facilities be awarded contractual opportunities that can be used as the basis for financing facilities on a long term basis. If Case U-13483 results in the development of such a contract, it should be considered for use as a template for others utilities in the program. Also, the Commission should take into account any capacity awarded in Case U-13483, and insure that all parties have a fair and equal opportunity to be awarded similar agreements.

The specific tasks Consumers suggests the MREP focus on (Section 8, Paragraph 3) will go a long way in educating the collaborative and other interested parties on the status of renewable energy in Michigan and elsewhere. However, these tasks will do nothing for clearly establishing the direction of the Michigan Renewables Energy Program, nor will they cause new generation to be developed in this state. It is necessary for the Commission to choose a course of action to fulfill the ultimate intent of the Legislature in PA 141. That is to cause renewable energy to play a larger role in meeting the state's energy needs.

Reply to Association of Business Advocating Tariff Equity

ABATE Comments Summary

The Association of Business Advocating Tariff Equity (ABATE) does not support any mandated renewable energy program. "ABATE supports renewable programs which are voluntary and supported only by participants and is opposed to any type of mandatory program, regardless of its scope, shape or size" (Paragraph 2). ABATE also notes that biomass, particularly landfill gas, should have been covered in more depth.

MIPPA Replies

MIPPA supports renewable programs that are voluntary and supported by participants as recommended by ABATE, except on this issue of unrecovered costs, for which utilities must be provided a cost-recovery method. MIPPA would also like to see biomass covered more in depth and applauds the use of landfill gas by ABATE member to meet requirements for electricity and boiler fuel at facilities in Michigan. MIPPA only wants to bring similar opportunities to the rest of the State's consumers who do not have the ability of a major industry to arrange for the construction of a dedicated facility to serve their needs.

Reply to Michigan Environmental Council

MEC Comments Summary

The Michigan Environmental Council (MEC) asserts the explanation of cost could be more plainly and comprehensively stated early in the report (Issues of Cost, Paragraph 1). "Michigan should establish reasonable mechanisms to level the market playing field for public utilities, in-state IOUs and non-Michigan providers" (Issues of Cost, Paragraph 2). These mechanisms can be introduced by legislation or in regular rate cases before the Commission. The MEC also supports a close link between energy efficiency initiatives and efforts to promote renewable energy (Inclusion of Energy Efficiency, Paragraph 1).

The MEC sees voluntary green pricing programs as "an intermediate step in the final state policy that requires a minimum amount of renewable capacity (e.g., RPS) and/or sufficient public financing of renewable and efficiency programs" (Green Pricing, Paragraph 1). The MEC asserts that the market is unfairly biased towards energy created from nuclear and coal resources. The MREP report is too focused on voluntary, customer-supported green pricing programs. According to the MEC "if the impacts associated with harmful pollutants (especially healthcare costs) are internalized into the price of traditional generating technologies, it would probably more than offset the incremental costs associated with purchasing new renewable energy supplies" (Green Pricing, Paragraph 2).

The MEC proposes changes to definitions in the report. Waste-to-energy facilities should be excluded because they legitimize waste streams and promote generation of more garbage and trash (Definitions, Paragraph 1). Waste materials used in these facilities may contain heavy metals and other toxins harmful to human health when volatized. Photovoltaic power supply options should be included; they are left out of HB 4970 (Definitions, Paragraph 2). The MEC does not support state policy promoting new hydropower projects due to environmental impacts and limited hydro resources (Definitions, Paragraph 3).

The MEC seeks recognition with incentives the benefit from market leaders who support interconnected ratepayers (Net Metering, Paragraph1). Small, interconnected systems up to 10kW ought to receive a direct credit. The MEC also asked the question: how much are the new interconnect charges?

The MEC strongly supports state and federal RPS (RPS, Paragraph 1). The standard should be designed with modest initial requirements, "then be reviewed periodically for adjustment to more stringent standards" (RPS, Paragraph 1). The MEC does not support a limited number of private customers paying for the public benefits enjoyed by all citizens.

MIPPA Replies

Existing Waste-to-Energy facilities need to continue to have a role in Michigan's generating supply, and need to continue to be regulated to protect the environment. MIPPA feels it is important to include such facilities in the definition of renewable energy because they use fuel that is, in fact, renewable and they reduce the need for landfills. While MIPPA strongly supports hydroelectric generation, it believes new hydroelectric capacity is likely to only come from the optimization of exiting sites, rather than the development of brand new facilities in the near term. Michigan currently has regulatory entities in place to monitor the development of hydroelectric facilities and their environmental impacts, so MIPPA sees no reason to exclude such facilities from the MREP.

MIPPA does not oppose a program including Net Metering. Nor is it against an RPS per se. MIPPA just does not believe it is practical for this Commission to attempt to implement an MREP that depends on RPS without legislative action. Passage of RPS legislation by the state is uncertain. MIPPA recommends MREP concentrate on voluntary options. MIPPA does not view net metering as a far-reaching solution for MREP at this time. It should be recognized as a good solution for certain small scale technologies. At present, these technologies are unlikely to be installed in large numbers, even with net metering. That does not mean they should not be encouraged. MIPPA sees little to lose with at least attempting to encourage such technologies on a limited scale.

Reply to Michigan Electric Cooperative Association

MECA Comments Summary

The Michigan Electric Cooperative Association (MECA) sees a need for MREP to focus on informing customers of the availability and value of using renewable energy generation and the potential of reduced pollution (Section 2, Paragraph 2). MECA cautions

MREP from advocating for any one perspective, especially in policy recommendations for Net Metering and RPS.

MECA supports net metering legislation that accomplishes the following:

- Is applicable to smaller units (10kW and below) that use renewable fuels
- Total net metering load should not exceed .1% of the utilities peak load
- Generators limited to a size not to exceed customers load, must be on customer premises
- Customer to pay any costs incurred by the utility for reconfiguration of the utility's distribution system to allow for interconnection
- Carry forward of generation credit should be limited to "month-to-month," and based on dollar value, not kWh
- Rates recover all fixed and unavoidable costs, yet give the appropriate credit to customers for any kWh delivered to the utility system. MPSC has the ability to approve cost based rates and tariff requirements that are different for net metering customers.

(Section 3, Paragraph 1)

MECA is opposed to any mandatory RPS. "The only sustainable renewable energy programs are those that are market based and supported by customers that demand renewable energy sources" (Section3, Paragraph 2). MECA would consider voluntary targets for renewable energy supply, and possible incentives to meet targets. MECA proposes giving credit for any existing renewable energy sources.

MIPPA Replies

The Commission, through MREP or some other vehicle, must establish renewable energy policy, or the program will have no direction. While MIPPA does not oppose net metering, as stated previously, it does not represent a solution that will meet the objectives of the Michigan Renewables Energy Program. MIPPA also supports voluntary targets for renewable energy supply as proposed by MECA, and supports incentives to meet targets based on the policy established. Further, MIPPA strongly supports the inclusion of existing renewable energy sources in any program.

Reply to Detroit Edison

Detroit Edison Comments Summary

Detroit Edison asserts that “no new program should be initiated without providing for and implementing an explicit and specific source of external funding (ie. Not utility shareholders)” (Section 2, Paragraph 2). Inequities between utilities and AES’s should be avoided by placing costs equally on full-service and electric choice customers. “There must be careful evaluation of where funds for renewable energy production will best be spent to enhance the State’s economy” (Section 2, Paragraph 3). Rushing into renewable energy projects requiring high-priced, long-term energy supply contracts would not be beneficial to Michigan’s economy or the State’s electric customers (Section 2, Paragraph 4). Detroit Edison sees the purpose of MREP is to “examine and analyze the most promising forms of renewable energy and provide a balanced analysis of the costs and benefits to interested persons” (Section 2, Paragraph 4).

Detroit Edison states that “Act 141 does not establish Commission authority to issue renewable energy mandates to electric utilities” (Section 10, Paragraph 10). More focus should be spent on education. An RPS or mandated bidding program is unlawful and premature (Section 2, Paragraph 11). Detroit Edison would like MREP to focus their efforts with the statutory authority given to it, providing for examination of (1) the availability of renewable energy, (2) the value of using renewable energy, and (3) the potential for renewable energy to reduce pollution. MCL 460.10r(6)" (Section 3, Paragraph 1). Detroit Edison supports renewable energy sources and rates that are market-based and voluntary for both electric utilities and retail electric customers" (Section 3, Paragraph 2).

MIPPA Replies

MIPPA strongly agrees that any renewable energy program must have a source of steady funding. As noted previously, MIPPA supports voluntary programs supported by participants as advocated by Detroit Edison, but with a utility cost-recovery method so long as regulatory out clauses are included in contracts. MIPPA asserts a State renewable energy program should apply to both electric choice and regulated utility customers as well as the costs associated with it. There are several ways to structure a program with AES involvement, see Section 1: AES Participation of MIPPA's MREP Comments filing.

Long-term energy contracts are necessary for future facilities to get financing for development. Contracts should be awarded to Michigan Renewable Energy Program applicants efficiently, based on qualitative factors such as ability to proceed with financing and construction, along with price. The MREP should take all reasonable measures to insure that the finite supply of renewable resources available in Michigan is utilized to the maximum extent feasible, as soon as practical.

While education is an important and appropriate program goal of MREP, it cannot be the only goal. The MREP must develop a course of action to carry out the directive of PA 141. Education alone will not satisfy the intent of the legislation. An RPS may be premature for Michigan, but there is still room for appropriate policy goals which may be achieved in other ways besides a mandated RPS. The Commission must direct the utilities and AES's to carry out these policy goals and hold them responsible for implementation of the policies established. MIPPA asserts there is not reason to conclude that the Legislature intended the MREP to be just an educational program and that the Commission has ample means to make it much more within the authority it currently has to approve costs for inclusion in rates.

Reply to Attorney General

Attorney General Comments Summary

The Attorney General's comments include the observation of the absence of any "recommendations" from a collaborative group of participants (Comments, Paragraph 1). The Attorney General contends that "allowing customers, if necessary, to voluntarily pay a premium to purchase some or all of their power from renewable sources" is an "essential ingredient for a just and reasonable green pricing program" (Section A, Paragraph 1).

The Attorney General notes the reports four potential sources of revenue for green power programs and makes the following comments: (1) Avoided utility production or purchases power costs as a source of revenue "implies that green power will cost less than the cost of alternative energy" and "voluntary participation will be attractive to customers and will work." (2) Green price premiums paid by customers as a source of revenue implies that some customers will pay more voluntarily. (3) Emissions credits as a source of revenue "depends upon whether a source of capacity and energy qualifies for emissions credits under the terms and conditions of independent laws." (4) System benefits as a source of revenue "implies that some customers will receive economic benefits that would be greater than any increased costs of electricity from green sources. If a customer will receive net benefits as a result of receiving green power, then that should make a voluntary plan viable (Section A, Paragraph 2).

The Attorney General states that recovering costs under a nonbypassable surcharge or PSCR mechanism is not consistent with 1982 PA 304 because "such dollars would either not fall within the definition of power supply costs or would not be reasonable and prudent because alternative sources of electricity would be less expensive" (Section A, Paragraph 3). All financial encouragement or promotions, besides the low-income and energy efficiency fund described by MCL 460.10d(6) in 2000 PA 141, should be left up to the legislature (Section A, Paragraph 4). The Attorney General asserts that even if net charges to customers are small, they should not be forced to pay. "Alternative suppliers or utilities should take the risk and reap the rewards" (Section A, Paragraph 5).

MIPPA Replies

MIPPA concurs with the Attorney General on the absence of any consensus on recommendations from the collaborative as a whole. This lack of consensus is creating a stalemate on how the Commission should proceed with the mandate given to it by the Legislature. Regardless of this lack of consensus, MIPPA believes the Commission must act to establish a general direction for the MREP.

Green power does not currently cost less on the market than fossil fuel or nuclear generation. The implication that voluntary participation in a renewable energy program must be attractive to customers based on cost alone is not an accurate representation. Other attributes of green power may attract customers, such as state environmental benefits. Many programs in the U.S. have shown that some customers will pay more voluntarily, but most of these programs are supported by effective marketing and better information for customers. While it is true that a customer may receive net benefits as a result of receiving green power, this may not always make a voluntary plan viable. MIPPA asserts it is not unreasonable to cause every energy consumer to help support renewable energy at least to the extent they receive the social benefits associated with a program by helping to guarantee recovery for the program. Such environmental and health benefits can often be public goods, for which there are often no incentives for the individual consumer to take on part of the costs. The Commission needs to fill this void.

Reply to Michigan Electric and Gas Association

MEGA Comments Summary

Michigan Electric and Gas Association's (MEGA's) comments assert that "MREP should initially function as an educational tool and facilitate information exchange among interested parties, including the utilities and project developers" (Section 1, Paragraph 4). Resource potential should be examined using realistic projections. Long-run viability should be key in awarding technologies subsidies. MEGA asserts the MREP report is "not sufficient to serve as the blueprint for state RE policy, because of many unresolved issues and differences of opinion among various stakeholders and interested parties" (Section 1, Paragraph 5). MEGA contends MREP should continue with its mission of developing a factual record and education. Major RE policy initiatives should be left for future determination in proper forums (Section 1, Paragraph 5).

MEGA states that the MREP report "does not show that there is a practical identification of either RE availability or its value. Proposals for net metering, a renewable portfolio standard (RPS) or the Staff bidding framework all presume large amounts of RE are available at reasonable cost, and that the existing voluntary programs, some of which are just getting started, are ineffective. Such proposals would also signal an end to market driven voluntary efforts, increasing government direction and RE industry support beyond present levels" (Section 2, Paragraph 2). MEGA contends there has not been enough analysis of the ability of RE to produce environmental, economic and resource diversity benefits. "MREP was not intended to come up with a solution in the first year, it should continue to function and assess the situation" (Section 2, Paragraph 2).

MEGA supports development of the MREP website, but not to be used as a marketing tool for RE developers (Section 2, Paragraph 4). MEGA believes false expectations may arise from general education by overstating the benefits or potential of RE, and render it not useful (Section 2, Paragraph 5). MEGA state that the Commission's order shows a clear preference for education and voluntary, market driven development of RE in Michigan (Section 2, Paragraph 6).

MEGA asserts the next step for MREP "is to determine an achievable potential in Michigan for each type of RE source" (Section 3, Paragraph 2). MEGA states that there is no capacity deficiency in the state to justify large new additions of renewable capacity. Instead, MREP should be looking to encourage development of some incremental facilities. MREP should allow the current green tariff programs to continue and then study the results (Section 3, Paragraph 3). MEGA supports a cost-benefit analysis before policy is set and funding initiatives are put in place (Section 3, Paragraph 4).

MEGA calls for using guidance from federal policies in MREP's consideration of policy measures (Section 4, Paragraph 2). "MEGA does not believe the facts clearly support new government incentives and subsidies for any specific RE technology" (Section 5, Paragraph 1). MEGA sites Table 5 of the MREP report and states that right now coal and gas have the advantage, and will continue to have a cost advantage in the future. MEGA asserts that promotion of particular RE technologies requires justification in consideration of other developments such as efficiency and environmental improvements (Section 5, Paragraph 2).

As Program Refinements, MEGA suggests developing in advance of a meeting a clear goal and agenda for the collaborative. Federal policy should be included in the discussions. "Advocacy of specific legislative or regulatory measure should await development of an adequate factual basis justifying the measure, beyond general assertions of positive benefits" (Section 6, Paragraph 1). Coordination with university-sponsored studies on RE option is suggested.

MEGA offers the following general comments on the report:

- Lowest cost and best available technology are factor that must retain their significance in determining generation resource additions.
- MEGA does not support net metering, the RPS and the Staff generic framework for mandatory purchases.
- Some of the data in Part 5, Michigan RE Statistics of the MREP report is partial and should be updated.
- Cost tables should include comparisons to existing coal gas and nuclear generation options.
- When discussing siting issues, the report should not classify all opposition as "NIMBY."
- If new mandates are adopted they should apply to all service providers, whether regulated by the MSPC or not.
- The statement that current rate structures do little to encourage RE systems is contrary to the recent tariff programs described in the report.

- The assertions that RE projects are non-financeable should be a subject for continued, objective review.
- There is no immediate need for consensus on utility green pricing program design. (Section 7)

MEGA's comments include an assessment of why an RPS or mandated program my not be viable for Michigan. The assessment attempts to address why the consequences of RE policy decisions can be expensive over time, and that new initiatives require advance critical assessment.

MEGA objects to using determinations from Case No. U-13843 outside the parties and tariff provision directly involved (Section 9, Paragraph 4). MEGA opposes the requirement of utilities to solicit RE bids as premature and unjustified (Section 9, Paragraph 5). MEGA asserts that adoption of the Staff proposal would result in the development of wind facilities and near exclusion of other RE technologies. "Assigning a preference to in-state facilities may be unlawful under the commerce clause. Transmission costs and limitations may limit the practicality of RE resources to local providers." MEGA agrees that cost recovery should be allowed under a mandated program or reasonable utility purchase. A development of an emissions credits system will require extensive analysis and should be taken up in the legislative and regulatory forums (Section 9, Paragraph 5). In MEGA's conclusion, it supports a voluntary market based RE program continuing.

MIPPA Replies

As stated previously in other replies, it is necessary that the Commission take action beyond MREP's functions as an educational tool or a facilitator of information exchange. MIPPA agrees that MREP is not sufficient to serve as the blueprint for state RE policy, but only because the report is incomplete in this function. The Commission needs to establish a specific direction for this program, regardless of the lack of consensus in the collaborative.

MIPPA contends that there is renewable energy available for development right now. MIPPA believes that unutilized renewable energy resources could support 300 to 600 megawatts of additional renewable electric generation facilities. Existing voluntary programs have yielded few results to the end of establishing a viable MREP.

MIPPA believes that there is justification for renewable energy technologies in consideration of other developments such as efficiency and environmental improvements. As efficiency and environmental improvements advance, they will invariably become more and more expensive. Or, by applying the economic Law of Diminishing Returns, as more money is invested in such technologies, the marginal increases in efficiency and environmental improvements will decrease. In which case, there will be a point where the cost of such improvements will be more than the cost of renewable technologies, if we have not already reached that point.

Coordination with university-sponsored studies on renewable energy could provide much useful information for MREP. Studying new renewable technologies or applying new methods to existing technologies could go a long way to improve the efficiency of renewable energy.

MIPPA's replies on RPS, Net Metering and AES involvement apply to MEGA's comments as well. The statement that current rate structures do little to encourage <u>viable and effective</u> RE systems is not contrary to the recent tariff programs described in the report. These programs have demonstrated little effectiveness in establishing a viable and effective MREP.

The assertions that RE projects are non-financeable are currently being objectively reviewed in Case No. U-13843. As stated in previous replies, MIPPA believes Case No. U-13843 may provide for a template in developing viable renewable energy contracts. There are ways to encourage in-state facilities without mandating a preference. The MREP should be constructed to provide for the development of the most efficient, including social efficiency, renewable energy technologies. The development of wind facilities should be encouraged as necessary and will only preempt the development of other technologies in cases where it is the most efficient option.

MIPPA agrees that transmission costs and limitations may limit the practicality of RE resources. MIPPA believes the utilization of Renewable Energy Certificates to effect utility or AES transactions is an important step for MREP. MIPPA has also urged the Commission to form an MREP committee to address transmission barriers with MISO.

Respectfully submitted,

Michigan Independent Power Producers Association

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