

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

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

At the May 18, 2004 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. J. Peter Lark, Chair
Hon. Robert B. Nelson, Commissioner
Hon. Laura Chappelle, Commissioner

OPINION AND ORDER

In its August 18, 2003 order in this docket, the Commission directed the Commission Staff (Staff) to file its 2003 Michigan Renewables Energy Program (MREP) report by November 18, 2003 and directed Administrative Law Judge Barbara A. Stump (ALJ) to set a procedure for further consideration of the Staff report.

At a prehearing conference on September 15, 2003, the ALJ set December 2 and December 23, 2003, respectively, as deadlines for filing comments and reply comments to the Staff's 2003 MREP report.

Comments were submitted by Consumers Energy Company (Consumers), The Detroit Edison Company (Detroit Edison), the Michigan Electric Cooperative Association (MECA), the Michigan Electric and Gas Association (MEGA), Mackinaw Power, L.L.C., Midland Energy L.L.C., the Michigan Independent Power Producers Association (MIPPA), Attorney General Michael A. Cox

(Attorney General), and the Association of Businesses Advocating Tariff Equity (ABATE), all of whom are parties in Case No. U-12915. In addition, comments were received from State Representative Chris Kolb, David Gard from the Michigan Environmental Council, Mark Clevey from the Small Business Association of Michigan, Charles Morris from Michigan Interfaith Power & Light, Carl Anton, Evelyn Bergaila, Thomas Knoll, Steve Leuty, Joel Nigg, Susan Parks, Tony Donley, and Joan Kalso. Reply comments were filed by Detroit Edison, Waste Management of Michigan, Inc., David Fideler of the Concord Grove Educational Center of West Michigan (Concord Grove), MIPPA, NextEnergy, Jim Leidel of Oakland University, and John Wakeman of S.U.R. Energy Systems, LC, and the Staff.

Legal Framework

MCL 460.10r(6) provides:

The commission shall establish the Michigan renewables energy program. The program shall be designed to inform customers in this state of the availability and value of using renewable energy generation and the potential of reduced pollution. The program shall also be designed to promote the use of existing renewable energy sources and encourage the development of new facilities.

MCL 460.10g(1)(f) provides:

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

Program Design and Implementation

1. Coordination

In its report, the Staff recommends that it should continue and expand its coordination with other organizations. The Staff recommends that all interested parties be invited and encouraged to participate in the MREP collaborative, which functions as an open forum for information exchange. The Staff notes that those persons subscribing to the MREP email distribution list at

<http://www.michigan.gov/mrep> will be notified of meetings and can share information with the group. Additionally, the Staff recommends that subcommittees should be established to explore solar energy, biomass energy, net-metering, pilot programs for deaveraged distribution credits, and financing mechanisms.

The commenters agree that dialog should continue, although Detroit Edison claims that only interveners in the case should be allowed to comment. The Commission finds that the collaborative should continue with all interested parties regardless of intervener status, and that the subcommittees, as recommended by the Staff, should be established. The Commission is particularly appreciative of the private citizens who took time to comment on the MREP report. Additionally, the Commission directs the Staff to continue to coordinate efforts with other non-profit groups, state and federal agencies, including the Michigan Department of Labor and Economic Growth Energy Office, the Michigan Economic Development Corporation, the United States Department of Energy, and other renewable energy resource organizations.

2. Education

The Staff recommends that the Commission support additional education and public awareness efforts. Specifically, the Staff recommends that the Commission consider: (1) altering its disclosure requirements so that each customer group receives a report that reflects the energy sources used to serve them; (2) additional education and public awareness regarding wind energy siting, solar education, biomass energy, and hydroelectric power; and (3) expanding the MREP web site.

The Commission agrees with the Staff that the utilities' annual disclosure requirements should accurately reflect that green power customers are paying additional costs for renewable and

environmentally-friendly energy and that utilities should not represent in future reports that they are providing these services to all rate classes.

Further, the Commission agrees that education efforts regarding wind, solar, biomass, and hydroelectric energy should be emphasized in the 2004 MREP year. The collaborative should work cooperatively with Michigan colleges and universities willing to add renewable energy to the core curriculum. The collaborative should also continue to work cooperatively with the Michigan Wind Working Group and other interested states, as suggested by the Staff, to develop a briefing paper on offshore wind energy development for the Great Lakes. The solar subcommittee shall explore issues related to solar access rights or easements and how utility rates can be altered so that solar technologies can be appropriately rewarded when they provide system benefits. The biomass subcommittee should work with the Michigan Biomass Energy Program office and the Commission appreciates MIPPA's willingness serve on this subcommittee.

Finally, the Commission directs the Staff to keep the Commission apprised of progress on the MREP energy atlas project and on expansion of the MREP website. MEGA believes the website should remain objective and not devote its resources to serving private persons in their business affairs. The Commission agrees with MEGA's concerns that MREP website postings should be presented in an informational, neutral format, which is fair, accurate, and reasonable for use by all Michigan ratepayers.

3. Tariffs and Rates

The Staff recommends that the Commission invite proposals in all future rate cases, for changes in current rate structures to promote renewable energy technologies, although Consumers notes that retail rate structures have traditionally been based on recovering costs and sending economically efficient price signals. The Commission finds that MCL 460.10b requires it to

establish rates, terms, and conditions of service that promote new generation, transmission, and distribution technologies.

4. Net Metering

When a customer produces electric energy in excess of its needs, it may provide power back to the serving utility. Net metering accounts for deliveries from the customer to the utility by “running the meter backwards,” thereby reducing the amount of electricity usage for which the customer will be billed. Currently, net metering is not available to most Michigan customers, although customers of utilities in 38 states and the District of Columbia may take advantage of it.¹

MECA supports net metering (with certain guidelines). Mr. Knoll feels net metering is premature. Concord Grove submitted a petition with 140 signatures supporting net metering legislation. Representative Chris Kolb, who is working on a net metering bill, urges the Commission to be proactive in supporting net metering.

In addition to establishing a net metering subcommittee, the Commission finds that the Staff should work cooperatively with members of the subcommittee to develop a net metering program for the Commission’s consideration in its next MREP report. Accordingly, the Commission directs the Staff to include in its evaluation of net metering a proposal for statewide implementation of net metering in Michigan. If consensus cannot be reached on a statewide net metering proposal on the part of MREP collaborative members, the Commission directs Staff to put forth a proposal of its design. The proposal should at a minimum allow net metering for all residential and small commercial customers, for systems powered by renewable energy.

¹As noted in the Staff’s Annual Report on MREP (p. 40), in the DOE directory Michigan is not listed as a state that allows net metering, though the Commission has already approved net metering for the customers of Wisconsin and Minnesota utilities that also serve parts of Michigan’s Upper Peninsula.

5. Cost/Benefit Analysis

The Staff recommends that a cost/benefit analysis of the development of Michigan's various renewable energy resources be undertaken, and that an extensive evaluation of renewable energy technologies, products, and markets be conducted through Michigan colleges and universities. This analysis, the Staff says, should include evaluation of technologies that produce high-value, low-cost energy in forms other than electricity for various applications including fuels for heating and transportation. MEGA and MIPPA support a cost/benefit analysis, whereas Mr. Anton and Detroit Edison question socio-economic comparisons. Consumers agrees that a comprehensive statewide cost/benefit analysis for various forms of renewable resources is vital.

The Commission finds that a cost/benefit analysis would be beneficial and directs the Staff to work cooperatively with those Michigan colleges and universities that would be willing to add renewable energy education to the core curriculum or undertake such research. The Commission is particularly pleased with the recent dedication of the Michigan Alternative and Renewable Energy Center by Grand Valley State University, which is funded in part by a grant from the Commission.

6. State Use of Renewable Energy

The Staff says that State government should take a leading role in promoting growth in renewable energy use, by purchasing more renewable energy to serve its own facilities and operations. The Commission agrees that the State of Michigan, whenever appropriate, should use green power for state facilities and directs the Staff to work with the Department of Management and Budget to encourage efficiency and renewable energy resource use, which could produce cost savings to the state in the long run.

7. Financing Mechanisms

The Staff recommends that the Commission explore and implement innovative financing mechanisms to reduce costs. The Commission agrees with Consumers that the cost of new renewable energy sources should not be borne by one utility. The Commission directs the establishment of a collaborative subcommittee to work with interested parties to prepare implementation proposals for appropriate approaches to creative financing for renewable energy.

8. Emissions Credits

The Staff proposes that the collaborative continue to support a program for renewable energy emissions credits, in coordination with Michigan air quality regulators. The Commission agrees that the collaborative should continue to encourage the Michigan Department of Environmental Quality to work cooperatively with the United States Environmental Protection Agency to amend emission credit guidelines so that utilities can be rewarded for developing green power tariffs.

9. Portfolio Standards

The Staff recommends that an important first step, prior to further consideration of a renewable energy resource portfolio standard, is for the state's renewable energy resource potential to be better understood. The Staff proposes to work with the MREP collaborative members and others to obtain good estimates of the potential for cost-effective development of Michigan's renewable energy resources. The commenters generally agree that renewable portfolio standards (RPS) should be voluntary. Consumers believes the collaborative has spent a disproportionate amount of its scarce resources on RPS and that a statewide RPS would be illegal under current state law. MECA opposes any mandatory RPS and believes RPS standards could interfere with all-require-

ments contracts that member cooperatives have with their wholesale power suppliers. Detroit Edison says that Act 141 does not establish Commission authority to issue renewable energy mandates to electric utilities.

The Staff recommends ecological tax reform and encourages the Commission to open dialogue to search for solutions. The Commission remains committed to any potential for expanding the renewable energy market in Michigan and encourages the Legislature to explore ecological tax reform and directs that copies of the 2003 MREP report be made available to all state lawmakers. Additionally, the Commission directs collaborative members to explore options for utility incentives and performance standards so that a consensus proposal can be developed.

10. Generic Green Power Program

Renewable energy represents less than 3% of the total electric generation in Michigan, most of it coming from relatively large hydroelectric and biomass facilities. The hydroelectric plants at the Sault Locks operated by the U. S. Army Corps of Engineers and Edison Sault Electric Company (Edison Sault) are over 50 and 100 years old, respectively. Although hydroelectric power is a small part of the total state electric generation, for Edison Sault it provides enough energy to serve 35-40% of the utility's annual power needs. Additionally, green tariff programs are currently in place at Consumers, Lansing Board of Water and Light (BWL), Traverse City Light and Power (TCLP), Upper Peninsula Power Company (UPPCo), We Energies, and Wisconsin Public Service Corporation.²

In 2001, the Commission approved an experimental Green Power Program for Consumers, which authorized it to contract with eligible renewable generators to supply energy to customers

²Detroit Edison's SolarCurrents® program, which allowed customers to purchase power generated through a solar photovoltaic service, was discontinued effective December 31, 2003.

willing to pay a premium for cleaner energy. Mackinaw Power, L.L.C., provides the energy for the program from two wind turbines located near Mackinaw City.

The BWL launched a renewable energy program in July 2001, called GreenWise Electric Power®, available to customers willing to pay a premium for this service. The GreenWise portfolio includes one megawatt of electricity produced from two small hydroelectric plants owned by Tower Kleber in Cheboygan County and from landfill gas provided by Granger Electric in Lansing.

TCLP installed a utility scale wind turbine in 1996, which produces about 800,000 kilowatt-hours (kWh) of electricity a year. With the federal production incentive of 1.5 cents per kWh and the customer premium of 1.58 cents per kWh, this makes the cost of electricity from the wind turbine practically the same as other power purchased by the utility on a wholesale basis.

We Energies has focused its renewable energy efforts in Wisconsin where it services about 1% of the customer base. Very few Michigan customers are currently participating; less than 0.1% of Michigan customers. Under We Energies' Energy for Tomorrow Program, customers pay a premium for green power.

Wisconsin Public Service Corporation (WPS) began a renewable energy program called NatureWise in Michigan in July 2003, where ratepayers pay a premium for the service. The energy comes from power generated by wind turbines located in eastern Wisconsin, power purchased from a farmer who generates electricity from onsite manure via an anaerobic digester, and power from landfill gas facilities. UPPCo's customers can participate in the NatureWise program through purchases UPPCo makes from its parent company, WPS. Due to the recent Michigan implementation, there are not many customers currently participating in the NatureWise program.

Significant new renewable energy facilities have not been developed in Michigan primarily due to the cost differential between those facilities and more conventional fossil fuel facilities. Lack of need for new capacity of any type is also a consideration. Therefore, the Staff proposes a framework for a generic green pricing program to encourage renewable energy production and use in the State of Michigan. The Staff urges the Commission to require all Michigan regulated utilities to solicit bids for renewable energy proposals by Fall 2004, and at regular intervals thereafter, for (a) the purchase of specific renewable energy resources from individual project developers or suppliers; or (b) agreements with third-party suppliers who would provide for the turnkey operation of a utility or co-branded green power program. The Staff believes that utilities should work quickly to sign contracts and that the contracts should be for a fixed rate (with a possible modest allowance for annual price escalations) and reasonably long in duration, such as for 10 to 20 years. Finally, the Staff recommends that new renewable energy contracts can be funded through a nonbypassable surcharge or the power supply cost recovery process if sufficient revenues are not generated through the sale of green power to customers under voluntary price premium tariffs or through the utilities' sale of emissions credits.

Collaborative participants generally believe that competitive market forces should be used, as much as possible, to determine which renewable energy resources are developed in Michigan. MIPPA agrees that now is the time for the State of Michigan to implement a meaningful renewable energy policy, but MIPPA has concerns about using competitive bidding to select projects for development. Consumers cautions against a social-costing approach to resource selection, which it believes could likely have a negative effect on economic development. Detroit Edison believes that experimentation with renewable energy resources and rates should be market-based and voluntary. Similarly, the Attorney General contends that the essential ingredient for a just and

reasonable green pricing program is allowing customers to voluntarily pay a premium to purchase power from renewable sources. The Staff believes that by issuing a request for proposals and scoring proposals on a competitive basis, utilities ought to be able to obtain the maximum quantities of renewable energy at the lowest available prices. The Commission, in keeping with the findings in Case No. U-13843,³ hereby orders all remaining regulated utilities with more than 250,000 customers in Michigan to issue requests for proposals for renewable energy programs, in accordance with the Staff's recommendations by August 16, 2004. Thereafter, the Commission will consider requiring smaller investor-owned utilities, many whom have renewable energy programs already, to do so.

The commenters generally agree that the Staff's 2003 MREP report accurately reflects the divergent opinions of the participants in the collaborative process. The Commission commends the Staff on its preparation of a fair, well-balanced report and approves the Staff's 2003 annual MREP report. The Commission further directs the Staff to file its 2004 MREP report no later than November 30, 2004, wherein the progress of the directives in this order are to be discussed.

The Commission FINDS that:

- a. Jurisdiction is pursuant to 1909 PA 106, as amended, MCL 460.551 et seq.; 1919 PA 419, as amended, MCL 460.51 et seq.; 1939 PA 3, as amended, MCL 460.1 et seq.; 1969 PA 306, as amended, MCL 24.201 et seq.; and the Commission's Rules of Practice and Procedure, as amended, 1999 AC, R 460.17101 et seq.
- b. The Staff's proposed 2003 annual MREP report should be approved.

³In an order issued today in Case No. U-13843, the Commission determined that Consumers should file an application by June 20, 2004 to implement a renewable resource funding mechanism.

c. The Staff should file its 2004 annual MREP report by November 30, 2004, wherein the directives outlined in this order are to be addressed.

d. Regulated utilities with more than 250,000 customers in Michigan should issue requests for proposals for renewable energy resources or for agreements with the third-party suppliers who provide green power turnkey operations. Consumers would be exempt from this requirement because it will be implementing a renewable resources funding mechanism.

THEREFORE, IT IS ORDERED that the Commission Staff's Michigan Renewables Energy Program 2003 report is approved and the Commission Staff is directed to file its Michigan Renewables Energy Program 2004 report by November 30, 2004. It is further ordered that regulated utilities with more than 250,000 customers in Michigan other than Consumers Energy Company shall issue requests for proposals no later than August 16, 2004.

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.

MICHIGAN PUBLIC SERVICE COMMISSION

/s/ J. Peter Lark
Chair

(S E A L)

/s/ Robert B. Nelson
Commissioner

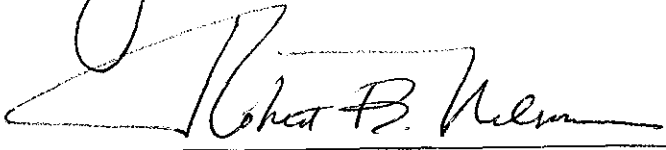
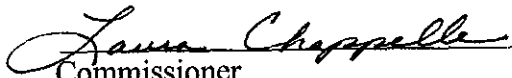
/s/ Laura Chappelle
Commissioner

By its action of May 18, 2004.

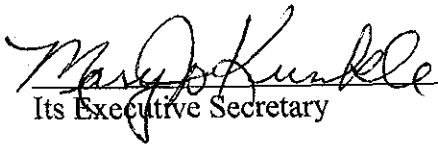
/s/ Mary Jo Kunkle
Its Executive Secretary

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.

MICHIGAN PUBLIC SERVICE COMMISSION


Chair
Commissioner
Commissioner

By its action of May 18, 2004.


Its Executive Secretary

P R O O F O F S E R V I C E

STATE OF MICHIGAN)

Case No. U-12915

County of Ingham)

Patricia A. Fronta being duly sworn, deposes and says that on May 18th 2004, A.D. she served a copy of the attached Commission orders by first class mail, postage prepaid, or by inter-departmental mail, to the persons as shown on the attached service list.

Patricia Fronta

Subscribed and sworn to before me
this 18th day of May 2004

Notary Public, Eaton County, Michigan
Acting in Ingham County
My Commission expires November 22, 2004

P R O O F O F S E R V I C E

STATE OF MICHIGAN)

Case No. U-12915

County of Ingham)

Patricia A. Fronta being duly sworn, deposes and says that on May 20th 2004, A.D. she served a copy of the attached Commission orders by first class mail, postage prepaid, or by inter-departmental mail, to the persons as shown on the attached service list.

Patricia Fronta

Subscribed and sworn to before me
this 20th day of May 2004

Notary Public, Eaton County, Michigan
Acting in Ingham County
My Commission expires November 22, 2004

SERVICE LIST
CASE NO. U-12915

Mr. Brad Parrent
700 N. Gates Rd.
Sandusky, MI 48471

Mr. Robert C. Evans
4121 Okemos Rd., Ste. 23
Okemos, MI 48864

Mr. Donald E. Erickson
Assistant Attorney General
Special Litigation Division
525 W. Ottawa, 6th Floor
G. Mennen Williams Bldg.
Lansing, MI 48933
ID MAIL

Mr. Steven D. Hughey
Assistant Attorney General
6545 Mercantile Way, 2nd Floor
Lansing, MI 48910
ID MAIL

Mr. Robert A. Strong
Clark Hill PLC
255 S. Woodward Ave., Ste. 301
Birmingham, MI 48009

Mr. John C. Shea
Consumers Energy Company
One Energy Plaza
Jackson, MI 49201-2276

Ms. Christine Mason Soneral
Dykema Gossett PLLC
124 W. Allegan St., Ste. 800
Lansing, MI 48933-1742

Mr. Alden Hathaway
Environmental Resources Trust
1612 K St.
Washington, DC 20006

Mr. Michael S. Ashton
Fraser, Trebilcock, Davis & Foster PC
124 W. Allegan, Ste. 1000
Lansing, MI 48933-1742

Mr. James D. Florip
Gillard, Bauer, Mazrum, Florip,
Smigelski and Gulden
109 E. Chisholm St.
Alpena, MI 49707-2817

Mr. Richard J. Aaron
Honigman, Miller, Schwartz and Cohn
222 N. Washington Square, Ste. 400
Lansing, MI 48933-1800

Ms. Sherri Wellman
Loomis, Ewert, Parsley, Davis
& Gotting, P.C.
232 S. Capitol Ave., Ste. 1000
Lansing, MI 48933

Mr. James A. Ault
Loomis, Ewert, Parsley, Davis
& Gotting, P.C.
232 S. Capitol Ave., Ste. 1000
Lansing, MI 48933

Mr. Byron P. Gallagher, Jr.
Lynch, Gallagher, Lynch
& Martineau
2510 Kerry St., Ste. 210
Lansing, MI 48912

Mr. Glen Walstra
Mich. Assoc. of Non-Public Schools
410 S. Capitol
Lansing, MI 48933

Mr. Richard F. VanderVeen III
Miller, Johnson, Snell & Commiskey
250 Monroe Ave., NW, Ste. 800
P.O. Box 306
Grand Rapids, MI 49501-0306

Ms. Barbara A. Stump
PSC ALJ Division
6545 Mercantile Way
Lansing, MI 48911
ID MAIL

Mr. Jon P. Christinidis
The Detroit Edison Company
2000 Second Ave., 688 WCB
Detroit, MI 48226

Mr. Eric J. Schneidewind
Varnum, Riddering, Schmidt & Howlett
The Victor Center
201 N. Washington Square, Ste. 810
Lansing, MI 48933

**SUBSCRIPTION LIST
ALL ELECTRIC ORDERS**

Database Services
Lexis Nexis
P.O. Box 933
Dayton, OH 45401

Mr. Michael Peters
Michigan Electric Cooperative
2859 W. Jolly Rd.
Okemos, MI 48864

Mr. Phillip Cross
Public Utilities Reports, Inc.
8229 Boone Blvd., Ste. 401
Vienna, VA 22182

Ms. Monica Martinez
Senate Democratic Staff
Romney Building
Lansing, MI

ID MAIL

Mr. John Pestle
Varnum, Riddering, Schmidt & Howlett
Bridgewater Place
P.O. Box 352
Grand Rapids, MI 49501-0352

ALTERNATIVE ELECTRIC COMPANIES

**AEP Ohio Commercial & Industrial Retail Co.
LLC, d/b/a AEP Retail Energy**
110 W. Michigan Ave., Ste. 1000A
Lansing, MI 48933

CMS MS&T Michigan LLC
One Jackson Square, Suite 1060
Jackson, MI 49201-2277

CMS Marketing, Services and Trading Co.
One Jackson Square, Suite 1060
Jackson, MI 49201-2277

Constellation NewEnergy, Inc.
22201 Greater Mack Avenue
St. Clair Shores, MI 48080

Cook Inlet Power, LP
200 East Big Beaver, Suite 168
Troy, MI 48083
ATTN: Hugh McCaffery

Dynegy Energy Services, Inc.
c/o Michigan Power Limited Partnership
5795 West 6th Street
Ludington, MI 49431

Dillon Energy Services, Inc.
21312 Mack Avenue
Grosse Pointe Woods, MI 48236

Dorman Energy, LLC
41000 Woodward Avenue, Suite 395E
Bloomfield Hills, MI 48304

Energy International Power Marketing Corp
d/b/a PowerOne Corporation
6850 Haggerty
Canton, MI 48187
ATTN: Rami Fawaz

ElectricAMERICA
15901 Red Hill Avenue, Suite 100
Tustin, CA 92780

EMC Gas and Electric Company
21312 Mack Avenue
Grosse Pointe Woods, MI 48236

Duke Energy North America
ATTN: Barbara Johnson
2600 425 1st Street S.W.
Calgary Alberta T2 3L8 Canada

Exelon Energy Company
Charles Foreman
2315 Enterprise Drive
Westchester, IL 60154

FirstEnergy Solutions
395 Ghent Road
Akron, OH 44333

Metro Energy, LLC
c/o Detroit Metropolitan Airport
Building Number 821
Detroit, MI 48242
ATTN: Linda S. Ackerman

Mirant America Retail Energy Marketing, LP
1155 Perimeter Center West
Atlanta, GA 30338

North American Energy, LLC
4121 Okemos Road, Suite 17
Okemos, MI 48864
ATTN: Robert C. Evans

Nicor Energy, LLC
1001 Warrenville Road, Suite 550
Lisle, IL 60532-4306

Nordic Electric, LLC
2010 Hogback Road, Suite 4
Ann Arbor, MI 48105

Premier Energy Marketing L.L.C.
900 Victors Way
Ann Arbor, MI 48108
ATTN: Bruce Schlansker/George Deljevic

Quest Energy, LLC
173 Parkland Plaza, Suite B
Ann Arbor, MI 48103
ATTN: Mark Stiers

WPS Energy Services, Inc.
12935 S. West Bay Shore Dr., Ste. 400
Traverse City, MI 49684-5485

Strategic Energy, L.L.C.
First Center Building
26911 Northwestern Hwy, Suite 300
Southfield, MI 48034

Wolverine Power Marketing Cooperative, Inc.
10125 West Watergate Road
P.O. Box 100
Cadillac, MI 49601

MR. DAN ROBERTS, MANAGER
ALGER DELTA COOPERATIVE
ELECTRIC ASSOCIATION
426 NORTH 9th STREET
GLADSTONE, MI 49837

MR. DONALD WOZNIAK, MANAGER
CLOVERLAND ELECTRIC COOPERATIVE
HIGHWAY M-28, P.O. BOX 97
DAFTER, MI 49724

MR. ANTHONY EARLEY, JR., PRESIDENT
& CHIEF OPERATING OFFICER
THE DETROIT EDISON COMPANY
2000 SECOND AVENUE
DETROIT, MI 48226

MR. GREG CLARK, GOV. AFFAIRS MGR.
AMERICAN ELECTRIC POWER COMPANY
110 W. MICHIGAN AVE., STE. 1000-A
LANSING, MI 48933-1603

MR. MICHAEL L. SWENSON, PRESIDENT/CEO
NORTHERN STATES POWER CO-WISCONSIN
1414 WEST HAMILTON AVENUE
P. O. BOX 8
EAU CLAIRE, WI 54702-0008

MR. THOMAS HAARALA, MANAGER
THE ONTONAGON COUNTY REA ASSOC.
500 J.K. PAUL STREET, P.O. BOX 97
ONTONAGON, MI 49953

SCOTT BRAEGER, GENERAL
MANAGER & CEO
TRI-COUNTY ELECTRIC CO-OP
7973 E. GRAND RIVER AVE.; P.O. BOX 379
PORTLAND, MI 48875

JIM CYRULEWSKI, MANAGER
MICHIGAN ELECTRIC POWER COORD. CTR
1901 S. WAGNER ROAD
ANN ARBOR, MI 48103

MS. ANN K. BURTON, PRESIDENT
ALPENA POWER COMPANY
310 NORTH 2ND AVENUE
ALPENA, MI 49707

MR. DAVID W. JOOS, PRESIDENT & CHIEF
EXEC, OFFICER, ELECTRIC
CONSUMERS ENERGY COMPANY
212 W. MICHIGAN AVENUE
JACKSON, MI 49201-2277

MR. DONALD SAWRUK, PRESIDENT
EDISON SAULT ELECTRIC COMPANY
725 E. PORTAGE AVENUE
SAULT STE. MARIE, MI 49783

PAUL J. BROWER, STATE PRESIDENT-MICH.
AMERICAN ELECTRIC POWER COMPANY
110 WEST MICHIGAN - SUITE 1000-A
LANSING, MI 48933-1603

MR. STEVEN L. BOEKMAN,
PRESIDENT & CEO
GREAT LAKES ENERGY COOPERATIVE
1323 BOYNE AVE.; P. O. BOX 70
BOYNE CITY, MI 49712-0070

MR. BRIAN BURNS, PRESIDENT & CEO
PRESQUE ISLE ELECTRIC & GAS
COOPERATIVE, INC.
19831 M-68 HIGHWAY; P.O. BOX 308
ONAWAY, MI 49765

MR. MICHAEL KRAUSE, GEN. MANAGER
THUMB ELECTRIC CO-OP
2231 MAIN ST., P.O. BOX 157
UBLY, MI 48475-0157

C. J. MELCHORS, MANAGER
BAYFIELD ELECTRIC COOPERATIVE, INC.
P. O. BOX 68
IRON RIVER, WI 54847

MR. DICK ABDOO, CHAIRMAN & CEO
WISCONSIN ELECTRIC POWER COMPANY
231 WEST MICHIGAN
P.O. BOX 2046
MILWAUKEE, WI 53201

MR. DONALD PAHL INTERIM GEN. MGR.
CHERRYLAND ELECTRIC COOPERATIVE
5930 US-31 SOUTH, P.O. BOX 298
GRAWN, MI 49637

MR. ROBERT HANCE, PRESIDENT & CEO
MIDWEST ENERGY COOPERATIVE
901 EAST STATE STREET; P.O. BOX 127
CASSOPOLIS, MI 49031

MR. GARY ERICKSON, PRESIDENT & CEO
UPPER PENINSULA POWER COMPANY
600 LAKESHORE DRIVE; P.O. BOX 130
HOUGHTON, MI 49931-0130

MR. LARRY L. WEYERS, CHAIRMAN & CEO
WISCONSIN PUBLIC SERVICE CORP.
700 NORTH ADAMS; P.O. BOX 19001
GREEN BAY, WI 54307-9001

THOMAS W. STEVENSON, PRESIDENT & CEO
WOLVERINE POWER SUPPLY
10125 W WATERGATE RD., P.O. BOX 229
CADILLAC, MI 49601-0229

MR. EDWARD MARTIN, PRESIDENT & CEO
WABASH VALLEY POWER ASSOCIATION
722 NORTH HIGH SCHOOL ROAD
INDIANAPOLIS, IN 46214

**Municipal Electric Utilities –
Unregulated by the MPSC
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City of Charlevoix

Edward Whitley, Superintendent
210 State Street, P.O. Box 550
Charlevoix, MI 49720-1345

Coldwater Board of Public Utilities

Dwight Woodman, Director
1 Grand Street
Coldwater, MI 49036

Daggett Electric Department

Keith Sorenson, Village President
Daggett, MI 49821-9999

City of Eaton Rapids

William LeFevere, City Manager
City Hall/200 S. Main
Eaton Rapids, MI 48827-1256

Grand Haven Board of Light & Power

Phil T. Trumpfheller, General Mgr.
1700 Eaton Drive
Grand Haven, MI 49417-2872

Hillsdale Board of Public Utilities

Rick Rose, Director
45 Monroe Street
Hillsdale, MI 49242-1236

Lansing Board of Water and Light

Joseph Pandy, Jr., General Manager
1232 Haco Drive, P.O. Box 13007
Lansing, MI 48901-3077

City of Marshall

Tom Tarkiewicz, Director
323 W. Michigan Avenue
Marshall, MI 49068-1547

Village of Baraga

Thomas Chatel, Village Manager
100 Hemlock Street, P.O. Box 290
Baraga, MI 49908-0290

Chelsea Electric and Water Department

Jack Myers, Village Manager
305 South Main Street, #100
Chelsea, MI 48118-1085

Croswell Light & Power Dept.

John Williams, Manager
120 E. Sanborn Ave., P.O. Box 197
Croswell, MI 48422-1224

Detroit Public Lighting Department

Mark Petty, Director
9449 Grinnell Avenue
Detroit, MI 48213

Escanaba Electric Department

Robert Headden, Superintendent
1711 Sheridan Road
Escanaba, MI 49829-1800

Harbor Springs Municipal Utility

Dennis Ory, Supervisor
204 E. Fairview St.
Harbor Springs, MI 49740

Holland Board of Public Works

Tim Morawski, General Manager
625 Hastings Avenue
Holland, MI 49423-5427

Lowell Light and Power

Tom Richards, Manager
127 N. Broadway St., P.O. Box 229
Lowell, MI 49331-0229

Michigan South Central Power Agency

Jack P. Bierl, General Manager
P.O. Box 62, 720 Herring Road
Litchfield, MI 49252-0062

Newberry Water & Light Board

Keith Nantell, Superintendent
307 E. McMillan Ave., P.O. Box 493
Newberry, MI 49868-1550

Bay City Electric Light & Power

Eric C. Dean, Director
900 S. Water Street
Bay City, MI 48708-7098

Clinton Board of Public Works

Kevin Cornish, Village Manager
119 E. Michigan Avenue
Clinton, MI 49236

City of Crystal Falls

Charles C. Nordeman, City Manager
401 Superior Avenue
Crystal Falls, MI 49920-1424

Dowagiac Department of Public Services

Donald Hallowell, Director
241 S. Front Street, P.O. Box 430
Dowagiac, MI 49047-0430

City of Gladstone

Thomas E. White, Superintendent
1100 Delta Ave., P.O. Box 32
Gladstone, MI 49837-0032

Hart Hydro Electric

Robert Dodds, Superintendent
407 State Street
Hart, MI 49420-1228

Village of L'Anse

Roy Kemppainen, Village Manager
101 N. Main St., P.O. Box 166
L'Anse, MI 49946-1101

Marquette Board of Light and Power

David E. Hickey, Director
2200 Wright Street
Marquette, MI 49855

Negaunee Electric Department

Tom Manninen, City Manager
100 Silver Street, P.O. Box 70
Negaunee, MI 49866-1434

Niles Utilities Department

James Lehmkuhl, Utility Manager
322 E. Main St., P.O. Box 217
Niles, MI 49120-0217

**Municipal Electric Utilities –
Unregulated by the MPSC
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City of Petoskey

George Korthauer, City Manager
101 East Lake Street
Petoskey, MI 49770-2311

Sebewaing Light & Water Dept.

Jeffrey P. Schock, Superintendent
110 West Main
Sebewaing, MI 48759

Sturgis Municipal Electric Plant

City Manager
130 N. Nottawa
Sturgis, MI 49091

Wakefield Electric Light Dept.

Derald L. Whitley, City Manager
311 Sunday Lake Street
Wakefield, MI 49968

Norway Electric Department

Mark Isackson, City Manager
915 Brown Street, P.O. Box 99
Norway, MI 49870-1243

Portland Light and Power Board

Howard Penrod, City Manager
259 Kent Street
Portland, MI 48875-1458

South Haven Board of Public Works

Alan G. Vanderberg, City Manager
539 Phoenix Street
South Haven, MI 49090-1499

Traverse City Light & Power Dept.

Jeffrey Feldt, Executive Director
400 Boardman Avenue
Traverse City, MI 49684

Wyandotte Municipal Service Com.

Thomas M. Daly, General Manager
3005 Biddle Avenue
Wyandotte, MI 48192

Paw Paw Department of Public Services

John Ruiter, Director
111 E. Michigan Ave., P.O. Box 179
Paw Paw, MI 49079-0179

City of St. Louis

Dennis Collison, City Manager
108 W. Saginaw
St. Louis, MI 48880

Stephenson Utilities Department

Ken Marklein, Supervisor
W. 628 Samuel Street
Stephenson, MI 49887

Union City Electric Department

James E. Spencer, Superintendent
208 N. Broadway
Union City, MI 49094

Zeeland Board of Public Works

David Walters, Manager
350 E. Washington Avenue
Zeeland, MI 49464