STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the complaint of **INDIANA MICHIGAN POWER COMPANY, d/b/a AMERICAN ELECTRIC POWER,** against **MIDWEST ENERGY COOPERATIVE.**	)	Case No. U-14409
In the matter of the complaint of **INDIANA MICHIGAN POWER COMPANY, d/b/a AMERICAN ELECTRIC POWER,** against **MIDWEST ENERGY COOPERATIVE.**	)	Case No. U-14782
In the matter of the complaint of **MIDWEST ENERGY COOPERATIVE** against **INDIANA MICHIGAN POWER COMPANY, d/b/a AMERICAN ELECTRIC POWER.**	)	Case No. U-14784

At the June 27, 2006 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. J. Peter Lark, Chairman
Hon. Laura Chappelle, Commissioner
Hon. Monica Martinez, Commissioner

ORDER APPROVING SETTLEMENT AGREEMENT AND DISMISSING COMPLAINTS

On January 10, 2005, Indiana Michigan Power Company, d/b/a American Electric Power (I&M), filed a formal complaint against Midwest Energy Cooperative (Midwest), alleging that Midwest had violated the Commission's rule governing Services Supplied by Electric Utilities, 1999 AC, R 460.3411 (Rule 411), by extending service to the Red Arrow Dairy, LLC (Dairy) in

Van Buren County. On February 22, 2005, Midwest filed an answer in which it denied all material allegations.

A prehearing conference was held before Administrative Law Judge Mark D. Eyster (ALJ) on March 9, 2005. I&M, Midwest, and the Commission Staff (Staff) participated in the proceedings. An evidentiary hearing was held on September 13, 2005, and the parties filed briefs and reply briefs on October 7 and November 14, 2005, respectively.

On December 22, 2005, the ALJ issued his Proposal for Decision. The Staff and Midwest filed exceptions on January 19, 2006. On February 2, 2006, I&M, Midwest, and the Staff filed replies to exceptions. On June 14, 2006, the parties filed a settlement agreement resolving all issues in this case and addressing certain other matters.

According to the terms of the settlement agreement, attached as Exhibit A, the parties agree that I&M will waive its right to serve the Dairy and that Midwest will file with the Ingham Circuit Court motions to dismiss with prejudice the appeals filed in Case Nos. U-14193 and U-13764.[1]

On February 10, 2006, I&M filed a formal complaint and supporting documents alleging that Midwest violated Rule 411 by improperly providing electric service to buildings and facilities on the Chicago Trail Farms Subdivision in Ontwa Township, Cass County. Case No. U-14782. I&M claimed that Midwest did not have the right to provide electrical service to the property because the subdivision was a previous customer of I&M. On April 12, 2006, Midwest filed its answer in which it denied all material allegations. On May 16, 2006, a prehearing conference was held before Administrative Law Judge Sharon L. Feldman at which I&M, Midwest, and the Staff appeared. On June 19, 2006, the parties filed a stipulation to dismiss the case with prejudice.

[1]Ingham Circuit Court Docket Nos. 05-1326-AA and 05-113-AA.

Also on February 10, 2006, Midwest filed a complaint alleging that I&M had violated Rule 411(14) by constructing electric distribution facilities along Elkhart Road in Ontwa Township, Cass County that duplicated Midwest's existing electric distribution facilities. Case No. U-14784. On April 12, 2006, I&M filed an answer in which it denied that Rule 411(14) applied to the circumstances outlined in Midwest's complaint and claimed that its construction of electric facilities was consistent with the Commission's orders in Case No. U-14193. On April 26, 2006, a prehearing conference was held before Administrative Law Judge Mark D. Eyster at which Midwest, I&M, and the Staff appeared. On June 19, 2006, the parties filed a stipulation to dismiss the case with prejudice.

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 settlement agreement is reasonable and in the public interest and should be approved.

c. Pursuant to the parties' stipulation, Case Nos. U-14409, U-14782, and U-14784 should be dismissed with prejudice.

THEREFORE, IT IS ORDERED that:

A. The settlement agreement, attached as Exhibit A, is approved.

B. Midwest Energy Cooperative shall have the right to serve the Red Arrow Dairy, LLC.

C. Case Nos. U-14409, U-14782 and U-14784 are dismissed with prejudice.

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
Chairman

(S E A L)

/s/ Laura Chappelle
Commissioner

/s/ Monica Martinez
Commissioner

By its action of June 27, 2006.

/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

Chairman

Commissioner

Commissioner

By its action of June 27, 2006.

Its Executive Secretary

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter of the complaint of Indiana Michigan Power Company Against Midwest Energy Cooperative Regarding service in Hartford and Keeler Townships, Van Buren County.	)))))	Case No. U-14409

SETTLEMENT AGREEMENT

On January 10, 2005, Indiana Michigan Power Company (I&M) filed a complaint against Midwest Energy Cooperative (Midwest) regarding electric service to the Red Arrow Dairy (a/k/a Hartford Dairy Farm) in Hartford and Keeler Townships, Van Buren County. The complaint alleged that Midwest was in violation of the Rules adopted by the Commission in Case No. U-6400, dated December 7, 1982, specifically Rule 411 thereof, entitled "Extension of Electric Service in Areas Served by Two or More Utilities" (R 460.3411). Midwest filed its answer on January 22, 2005 denying that it violated Rule 411.

The case proceeded to hearing on September 13, 2005 and I&M, Midwest, and Michigan Public Service Commission Staff (Staff) filed initial and reply briefs on October 7, 2005 and November 14, 2005, respectively. A proposal for decision was issued on December 22, 2005, and exceptions and replies to exceptions were filed on January 19, 2006 and February 2, 2006, respectively.

Based on discussions, I&M, Midwest and Staff desire to settle this case. In view of the foregoing, and pursuant to Section 78 of the Administrative Procedures Act of 1969, as amended (1969 PA 306, §78; MCL 24.278), I&M, Midwest and Staff agree as follows:

DYKEMA GOSSETT A PROFESSIONAL LIMITED LIABILITY COMPANY 124 W. ALLEGAN STREET, SUITE 800 LANSING, MICHIGAN 48933

A. Contemporaneously with the signing of this Agreement, and consistent with Rule 411(12), I&M will submit a letter to the Commission waiving I&M's right to serve the customer issue in this case.

B. Midwest will purchase the 3-phase electric facilities installed by Red Arrow Dairy. Midwest will secure all appropriate easements.

C. Within two (2) days of this settlement agreement being approved by the Commission, Midwest will file with the Ingham Circuit Court a Voluntary Dismissal with prejudice of its appeals in Ingham Circuit Court Docket No. 05-1326-AA (Commission Case No. U-14193) and Ingham Circuit Court Docket No. 06-113-AA (Commission Case No. U-13764).

D. This case should be dismissed with prejudice and without fines, costs or attorneys fees to any party.

E. If the Commission does not accept this settlement agreement without modification, this settlement agreement shall be withdrawn and shall not constitute any part of the record in the proceeding or be used for any purpose whatsoever.

Dated: May 5, 2006

MIDWEST ELECTRIC COOPERATIVE
By Christine Mason Soneral (P58820)
DYKEMA GOSSETT PLLC
124 W. Allegan, Suite 800
Lansing, MI 48933
(517) 374-9184

Dated: May June 6, 20006

INDIANA MICHIGAN POWER COMPANY
By Richard J. Aaron (P35605)

DYKEMA GOSSETT A PROFESSIONAL LIMITED LIABILITY COMPANY 124 W. ALLEGAN STREET, SUITE 800 LANSING, MICHIGAN 48933

HONIGMAN MILLER SCHWARTZ AND COHN
LLP
222 N. Washington Square, Suite 400
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Dated: ~~May~~ June 12, 2006

COMMISSION STAFF
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DYKEMA GOSSETT·A PROFESSIONAL LIMITED LIABILITY COMPANY·124 W. ALLEGAN STREET, SUITE 800·LANSING, MICHIGAN 48933

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

STATE OF MICHIGAN)

Case No. U-14409

County of Ingham)

Patricia A. Fronta being duly sworn, deposes and says that on June 27th 2006, A.D. she served a copy of the attached Commission order by first class mail, postage prepaid, or by inter-departmental mail, to the persons as shown on the attached service list.

Patricia A. Fronta

Digitally signed by Patricia A. Fronta
DN: CN = Patricia A. Fronta, C = US, O = Case Management, OU = MPSC
Date: 2006.06.28 11:16:07 -04'00'

_____

Patricia Fronta

Subscribed and sworn to before me
this 27th day of June 2006

Sharron A. Allen

Digitally signed by Sharron A. Allen
DN: cn=Sharron A. Allen, c=US, o=MPSC, ou=Case Management, email=saallen@michigan.gov
Date: 2006.06.28 13:33:52 -04'00'

_____

Sharron A. Allen
Notary Public, Ingham County, MI
My Commission Expires August 16, 2011

SERVICE LIST FOR DOCKET # U – 14409 - CASE #
DATE OF PREPARATION: 02/02/2005

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