

A CMS Energy Company

December 20, 2017

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RE: Case No. U-18491 – In the Matter of the Application of Consumers Energy Company to Reset Avoided Capacity Costs.

Dear Ms. Kale:

Included in this electronic file, in the above captioned case, is **Consumers Energy Company's Motion to Stay Capacity Purchase Obligation**. This is a paperless filing and is therefore being filed only in a PDF format.

Sincerely,



Digitally signed by
Robert W. Beach
Date: 2017.12.20
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Robert W. Beach

cc: Heather M. S. Durian, Esq., MPSC Staff

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter, on the Commission’s own motion,)	
establishing the method and avoided cost calculation)	
for CONSUMERS ENERGY COMPANY to fully)	Case No. U-18090
comply with the Public Utilities Regulatory Policy)	
Act of 1978, 16 USC 2601 <i>et seq.</i>)	
_____)	

In the matter of the application of)	
CONSUMERS ENERGY COMPANY)	
to Reset Avoided Capacity Costs)	Case No. U-18491
_____)	

**CONSUMERS ENERGY COMPANY’S
MOTION TO STAY CAPACITY PURCHASE OBLIGATION**

Pursuant to Rule 432 of the Michigan Public Service Commission’s (“MPSC” or the “Commission”) Rules of Practice and Procedure, Mich Admin Code R 792.10432, Consumers Energy Company (“Consumers Energy” or the “Company”) requests that the Commission grant a stay of the Company’s Public Utility Regulatory Policies Act (“PURPA”) capacity purchase obligation. In support of its Motion, Consumers Energy states as follows:

1. In Case No. U-18090, the Commission commenced the proceeding in a May 3, 2016 Order directing each Michigan-regulated public utility to provide “avoided cost calculations using: (1) the hybrid proxy plant method proposed in the PURPA report; (2) the transfer price method developed under 2008 PA 295; (3) another method, if any, that the company wishes to propose; and (4) and [sic] proposed standard rate tariffs, including applicable design capacity.” MPSC Case No. U-18089 *et seq.*, May 3, 2016 Order, pages 3-4. As directed by the MPSC, on June 17, 2016, Consumers Energy provided the required avoided cost calculations, as well as proposed Standard Offer Tariff.

2. On May 31, 2017, the Commission issued an Order in Consumers Energy's avoided cost proceeding. In the Commission's May 31, 2017 Order, the MPSC adopted the MPSC Staff's ("Staff") hybrid proxy unit methodology for the determination of the Company's avoided costs. MPSC Case No. U-18090, May 31, 2017 Order, page 17 ("May 31, 2017 Order"). Utilizing this methodology, capacity payments are made to Qualifying Facilities ("QFs") based on a Natural Gas Combustion Turbine ("NGCT") proxy unit. Additionally, QFs have the option to choose an energy payment based on actual or forecasted Locational Marginal Pricing ("LMP") or the variable cost of a Natural Gas Combined Cycle ("NGCC") proxy unit plus an Investment Cost Attributable to Energy ("ICE") adder. May 31, 2017 Order, pages 5-6.

Additionally, the Commission disagreed with the claim that "the utility's obligation to purchase capacity from QFs persists, even if no additional capacity need is forecasted." May 31, 2017 Order, page 19. Based on this, the Commission approved a mechanism for determining the Company's future capacity need and adjusting the Company's avoided capacity cost when capacity is not needed, indicating that "if no capacity is needed during the 10-year planning horizon, then Consumers shall make a filing so indicating, and the avoided cost for capacity shall be reset to the MISO PRA." *Id.*

Although the Commission approved Staff's avoided cost methodology, the Commission also found that there was "insufficient information in this record about the proper inputs to the models to arrive at an accurate determination." May 31, 2017 Order, page 19. Therefore, the Commission reopened a proceeding "for the limited purposes of receiving into evidence the appropriate inputs for capacity, capacity factor, heat rate, projected fuel cost, and capital costs plus the amount of the ICE adder, for Staff's hybrid proxy model." May 31, 2017 Order, pages 19-20. As part of the reopened proceeding, the Commission also permitted parties to

“present updated Standard Offer tariffs, which should include forecasted LMP energy rates for five, 10, 15, and 20 years and proxy plant variable rate forecasts for the same incremental periods.” May 31, 2017 Order, page 24.

3. On July 31, 2017, the Commission issued an Order which made determinations on numerous avoided cost inputs. These determinations included the appropriate NGCT unit inputs, the application of Zonal Resource Credits (“ZRCs”), and the heat rate and capacity factor inputs for a NGCC unit. See MPSC Case No. U-18090, July 31, 2017 Order (“July 31, 2017 Order”), pages 24-29. However, the Commission opened a second reopened proceeding for the limited purpose of further considering the appropriate forecasted natural gas prices, including transportation costs, on a real and nominal basis and to also further consider variable Operating and Maintenance costs, as part of the total energy payment, on a levelized basis and as a schedule. July 31, 2017 Order, pages 30-31. The Commission also requested the parties to file a final Standard Offer Tariff based on their proposals in the second reopened proceeding. July 31, 2017 Order, page 33.

4. On November 21, 2017, the Commission issued an Order approving avoided cost inputs and calculations for energy and capacity. In its Order, the Commission again discussed the method for the Company to reset its avoided cost capacity rate to the Midcontinent Independent System Operator, Inc. (“MISO”) Planning Resource Auction (“PRA”) price. In this Order, the Commission altered the method for resetting the avoided capacity rate indicating that “...if Consumers’ capacity requirements are met over the subsequent 10 years, the company may make a filing so demonstrating and, *after Commission approval*, the capacity rate will be reset to the MISO PRA.” MPSC Case No. U-18090, November 21, 2017 Opinion and Order, page 31 (“November 21, 2017 Order”). (Emphasis added.)

5. As opposed to making a filing, as discussed in the May 31, 2017 Order, the MPSC's November 21, 2017 Order requires approval of the Company's 10-year capacity planning forecast before the Company can offer QFs the MISO PRA price for unnecessary capacity. This newly articulated process has the unintended consequence of requiring the Company, and its customers, to purchase additional unneeded capacity while the Commission reviews the Company's capacity demonstration.

6. At this time, Consumers Energy has no capacity need over the 10-year planning horizon. As required by the Commission, in Case No. U-18491, the Company has filed a 10-year capacity position for review and requested that the Commission reset the Company's avoided capacity cost at the MISO PRA price for all new QF offers to sell capacity.

7. Although the Company does not have a capacity need, since May 31, 2017, the Company received 118 interconnection requests for 296 MW of solar generation. Case No. U-18090, Affidavit of Keith G. Troyer, page 4. After the Commission's November 21, 2017 Order, the Company began receiving numerous inquiries and offers from solar developers exploring the potential sale of solar generation. In total, the Company has been contacted by 80 QFs who are interested in discussing a PURPA based Power Purchase Agreement. Case No. U-18090, Affidavit of Keith G. Troyer, page 4. Under the avoided cost methodology approved by the Commission, this will lead to increased rates and costs to customers.

8. Contrary to the procedure discussed in its May 31, 2017 Order, the Commission's November 21, 2017 Order implies that the Company will be required to offer an annual capacity payment of \$140,505/ZRC-year until the Commission issues an Order approving the Company's 10-year capacity demonstration and resetting the capacity rate to the MISO PRA price. This will result in the Company purchasing significant amounts of capacity during a time when it already

has determined that there is no need over its 10-year planning horizon. Affidavit of Keith G. Troyer, pages 5-6.

9. PURPA requires electric utilities to purchase energy and capacity from QFs at the avoided costs to an electric utility. In implementing PURPA, state regulatory authorities have the primary role in calculating avoided costs and in overseeing the contractual relationship between QFs and utilities operating under the Federal Energy Regulatory Commission (“FERC”) regulations. *Indep. Energy Producers Ass’n v Ca. Pub Utilities. Comm*, 36 F3d 848, 856 (CA, 1994); see also *Idaho Wind Partners I, LLC*, 143 FERC ¶ 61,248 at 10 (2013). Under PURPA, electric utilities are only required to purchase energy and capacity from QFs when energy and capacity costs can be avoided by the electric utility by making such a purchase. *City of Ketchikan, Alaska*, 94 FERC ¶ 61,293, 62,062 (2001) (“[A]n avoided cost rate need not include capacity unless the QF purchase will permit the purchasing utility to avoid building or buying future capacity.”); see also *Connecticut Light & Power Co*, 70 FERC ¶ 61012, n 11 (1995) (“Thus, for example, capacity payments need be made only when capacity costs will be avoided.”).

10. On December 20, 2017, in Case No. U-18090, the Company filed a Rehearing Petition requesting the Commission to grant rehearing in light of the unintended consequences that will arise out of the Commission decision regarding the method to relieve the Company of its capacity purchase obligation. As the Company does not currently have a capacity need, as demonstrated in Case No. U-18491, the Company requests that the Commission stay its capacity purchase obligations while considering the Company’s Petition for Rehearing so that customers are not burdened by the expense of procuring unneeded capacity. Since the Commission has provided for Standard Offer contract terms up to 20 years in duration, any delay in QF

contracting caused by this stay will not outweigh the harm to the Company's customers if the Company is required to enter into long-term contracts purchasing unneeded capacity.

11. Absent approval of the Company's Motion, the Company's customers will bear significant unnecessary financial obligations. The Company believes that roughly 300 MW of solar projects in the interconnection queue are being developed to set up PURPA contracts for the next twenty years. The addition of approximately 300 MWs, during a time where Consumers Energy does not have a capacity need, will obligate customers to pay approximately \$26 million annually. This annual expense would burden the Company's customers with up to \$519 million of added expense over the next 20 years for a commodity that is unnecessary to serve their demand. Case No. U-18090, Affidavit of Keith G. Troyer, page 6.

12. Requiring the Company to obtain Commission approval of a 10-year capacity position will also have the potential to diminish the Integrated Resource Planning ("IRP") process. Public Act 341 of 2016 included several amendments and additions to existing law addressing electric reliability. Chief among those provisions was the addition of Section 6t, which, in part, requires electric utilities to file an "integrated resource plan that provides a 5-year, 10-year, and 15-year projection of the utility's load obligations and a plan to meet those obligations, to meet the utility's requirements to provide generation reliability, including meeting planning reserve margin and local clearing requirements determined by the commission or the appropriate independent system operator, and to meet all applicable state and federal reliability and environmental regulations over the ensuing term of the plan." MCL 460.6t(3). Based on a host of factors relevant to capacity planning, the Commission must determine whether the utility's IRP "represents the most reasonable and prudent means *of meeting the electric utility's*

energy and capacity needs.” MCL 460.6t(8). As the Commission has previously recognized, the IRP is a critical component to capacity planning. The Commission stated,

“In many jurisdictions around the country, regulated electric utilities use IRP to identify and evaluate options for meeting electricity needs over a specified time period. Modeling tools are used to help evaluate a combination of supply-side and demand-side resources under different scenarios and assumptions related to load growth, fuel prices, emissions, and other variables.

“As part of comprehensive energy policy reform, Act 341 establishes a new IRP framework for electric utilities whose rates are regulated by the Commission. The IRP provisions are an important component of the new energy law, which is expected to increase affordability for customers, improve the reliability of electricity, and help protect the environment.” MPSC Case No. U-18418, July 31, 2017 Opinion and Order, pages 1-2.


Under the proposed IRP Filing Requirements, the Company is scheduled to file its IRP by June 15, 2018. See MPSC Case No. U-18461, October 11, 2017 Order and Opportunity to Comment, Exhibit A “Integrated Resource Plan (IRP) Filing Requirements, October 11, 2017, Draft”, page 2. The IRP’s purpose is to review Consumers Energy’s capacity need. By requiring the Company to obtain a separate Commission order approving the Company’s capacity position over the next 10 years prior to resetting the Company’s capacity avoided cost rate to the MISO PRA price will make the entire IRP process irrelevant. This will be due to the approximate 300 MWs of unneeded capacity that could be added to the Company’s system.

Relief Requested

Therefore, Consumers Energy Company requests that the Michigan Public Service Commission grant its Motion to Stay the Company's capacity purchase obligation while the Commission is evaluating the Company's Rehearing Petition in Case No. U-18090 and reviewing its 10-year capacity demonstration in Case No. U-18491.

Respectfully submitted,

CONSUMERS ENERGY COMPANY

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Dated: December 20, 2017

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