

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter, on the Commission's own motion,)
to commence a rulemaking proceeding to amend)
its Rules of Practice and Procedure to adopt new)
provisions regarding the filing and processing of)
general rate cases by regulated electric and gas)
utilities.)
_____)

Case No. U-16158

At the December 16, 2009 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. Orjiakor N. Isiogu, Chairman
Hon. Monica Martinez, Commissioner
Hon. Steven A. Transeth, Commissioner

ORDER AND NOTICE OF HEARING

On October 6, 2008, Governor Jennifer M. Granholm signed into law 2008 PA 286 (Act 286),
an amendment to 1939 PA 3. Section 6a(2) of Act 286, MCL 460.6a(2), provides that:

The commission shall adopt rules and procedures for the filing, investigation, and
hearing of petitions or applications to increase or decrease utility rates and
charges as the commission finds necessary or appropriate to enable it to reach a
final decision with respect to petitions or applications within a period of 12
months from the filing of the complete petitions or applications.

The addition of a 12-month limitation for the processing of electric and natural gas rate cases,
coupled with the filing of eight general rate cases by regulated electric or gas utilities between
November 14, 2008 and July 2, 2009, has raised concerns with the Commission about the
necessity of ensuring adequate spacing between rate cases to avoid inordinately taxing the human
resources of the Commission Staff (Staff) and the intervenors. Toward that end, on August 18,

2009, the Commission filed a request for rulemakings (RFR) with the State Office of Administrative Hearings and Rules (SOAHR) that was assigned the SOAHR identification number 2009-046-LG. SOAHR approved the RFR for 2009-046-LG on August 19, 2009. Thereafter, on October 1, 2009, the Commission submitted a draft of three proposed administrative rules, attached to this order as Exhibit B, to address the Commission's concerns. On October 6, 2009, the proposed rules were approved informally by SOAHR. On November 11, 2009, the Commission received an edited version of the rules from the Legislative Service Bureau.

The proposed rules are designed to permit the Staff and intervenors in Commission cases involving the review of the regulated rates of gas and electric utilities to effectively process rate cases given the statutory time constraints and limited human resources. Proposed Rule 609, R 460.17609, sets forth procedures for an electric or gas utility whose rates are regulated by the Commission to provide the Commission with advance notice of the filing of a general rate case proceeding. Proposed Rule 611, R 460.17611, allows the Commission to, if necessary, assign dates for the filing of rate cases to ensure that there will be adequate time between rate cases. Proposed Rule 613, R 460.17613, establishes milestones for the processing of rate cases that will allow for the orderly processing of all rate case applications within the 12-month period required by MCL 460.6a(2).

To provide the public with an opportunity to comment on the proposed rule revisions, the Commission has scheduled a public hearing to be held at 9:00 a.m. on February 2, 2010, in the Commission offices at 6545 Mercantile Way in Lansing. Any person may attend the public hearing and may offer comments on the proposed revisions. The Commission encourages interested parties to become involved in the proceedings.

In addition, any person may submit written or electronic comments regarding the proposed rules. The comments must be filed with the Commission and must be received no later than 5:00 p.m. on February 23, 2010. Written comments should be sent to: Executive Secretary, Michigan Public Service Commission, P.O. Box 30221, Lansing, MI 48909. Electronic comments may be e-mailed to mpscdockets@michigan.gov. All comments should reference Case No. U-16158. All information submitted to the Commission in this matter will become public information available on the Commission's website and subject to disclosure.

THEREFORE, IT IS ORDERED that:

A. A public hearing regarding the promulgation of rules to amend the Commission's Rules of Practice and Procedure to adopt new provisions regarding the filing and processing of general rate cases by regulated electric and gas utilities shall be held at 9:00 a.m. on February 2, 2010, in the offices of the Commission, 6545 Mercantile Way, Lansing. A notice of hearing is attached to this order as Exhibit A. Copies of the proposed rulemakings are attached to this order as Exhibit B.

B. The public hearing will be legislative in nature and any person may present data, views, questions, and arguments regarding the issue. Statements may be limited in duration by the presiding officer in order to ensure that all interested parties have an opportunity to participate in the proceedings.

C. Any person may file written or electronic comments, suggestions, data, views, questions, argument, and modifications concerning the issue. To be considered, all comments must be received at the Commission no later than 5:00 p.m. on February 23, 2010, and should reference Case No. U-16158.

The Commission reserves jurisdiction and may issue further orders as necessary.

MICHIGAN PUBLIC SERVICE COMMISSION

Orjiakor N. Isiogu, Chairman

Monica Martinez, Commissioner

I abstain.

Steven A. Transeth, Commissioner

By its action of December 16, 2009.

Mary Jo Kunkle, Executive Secretary

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

NOTICE OF HEARING
REGARDING THE ADOPTION OF AMENDMENTS TO THE RULES OF
PRACTICE AND PROCEEDURE.
CASE NO. U-16158
SOAHR # 2009-046 LG

- The Michigan Public Service Commission is considering amending its Rules of Practice and Procedure to add provisions that will ensure its ability to process multiple rate cases within the 12-month timeframe required pursuant to MCL 460.6a(2). The Commission will hold a public hearing to solicit comments from anyone who wishes to comment on the proposed rules.
- The information below describes how a person may participate in this case.
- You may call or write the Michigan Public Service Commission, 6545 Mercantile Way, P.O. Box 30221, Lansing, Michigan 48909, 800.292.9555 for a free copy of the proposed rules. Any person may review the rules at the Commission offices, or on the Commission's E-Docket Website at michigan.gov/mpscedockets.
- The public hearing will be held:

DATE: February 2, 2010

TIME: 9:00 a.m.

LOCATION: Michigan Public Service Commission
6545 Mercantile Way, Suite 7
Lansing, Michigan

PARTICIPATION: Any interested person may attend and participate. The hearing site is accessible, including handicapped parking. Individuals attending the meeting are requested to refrain from using heavily scented personal care products, in order to enhance accessibility for everyone. People needing any accommodation to participate should contact the Commission's Executive Secretary at 517.241.6160 in advance to request mobility, visual, hearing or other assistance. DELEG is an equal opportunity employer/program.

These rules adopt provisions that will ensure the Commission's ability to process multiple rate cases within the 12-month timeframe required pursuant to MCL 460.6a(2).

The hearing will be for the purpose of providing an opportunity for all interested persons to present statements, views, data, questions, or arguments concerning the proposed rules. The public hearing will continue until all parties present have had a reasonable opportunity to present statements regarding the proposed rules. Persons presenting statements may be asked questions by the Commission and its Staff, as well as by the presiding officer. Statements may be limited in duration by the presiding officer in order to ensure that all interested parties have an opportunity to participate in the proceedings.

Written and electronic comments may be filed with the Commission and must be received no later than 5:00 p.m. on February 23, 2010. Written comments should be sent to the: Executive Secretary, Michigan Public Service Commission, P.O. Box 30221, Lansing, Michigan 48909. All documents filed in this case shall be submitted electronically through the Commission's E-Dockets Website at: michigan.gov/mpscedockets. Requirements and instructions for filing can be found in the User Manual on the E-Dockets help page. Documents may also be submitted, in Word or PDF format, as an attachment to an email sent to mpscedockets@michigan.gov. If you require assistance prior to e-filing, contact Commission staff at (517) 241-6170 or by e-mail at mpscedockets@michigan.gov. All comments should reference Case Nos. U-16158. All information submitted to the Commission in this manner will become public information available on the Commission's website and subject to disclosure.

Jurisdiction is pursuant to 1919 PA 419, MCL 460.55 *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.*

The Commission anticipates that it will take six months to conclude these rulemaking proceedings. These rules are proposed to become effective upon filing with the Secretary of State.

This notice of hearing also will be published in the January 15, 2010 Michigan Register under SOAHR (State Office of Administrative Hearings & Rules) # 2009-046 LG at www.michigan.gov/soahr.

DEPARTMENT OF ENERGY, LABOR, AND ECONOMIC GROWTH

PUBLIC SERVICE COMMISSION

PRACTICE AND PROCEDURE BEFORE THE COMMISSION

These rules were filed with the Secretary of State on

These rules become effective immediately upon filing with the Secretary of State unless adopted under sections 33, 44, or 45(a) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By authority conferred on the public service commission by section 7 of 1909 PA 106, section 5 of 1919 PA 419, section 6 of article 5 of 1933 PA 254, section 6a of 1939 PA 3, and section 33 of 1969 PA 306, MCL 460.557, 460.55, 479.6, 460.6a, and 24.233 of the Michigan Compiled Laws)

R 460.17609, R 460.17611, and R 460.17613 are added to the Michigan Administrative Code as follows:

PART 6. SPECIFIC PROCEEDINGS

R 460.17609 Electric and gas utility general rate cases; advance notice required.

Rule 609. (1) An electric or gas utility, whose rates are subject to regulation by the commission, shall give notice of its intent to file a general rate case proceeding not less than 30 calendar days before such filing to the commission's director of regulatory affairs, director of regulated energy, and executive secretary. The utility also shall file the notice electronically in the e-docket assigned to the matter by the staff of the commission's case management section.

(2) The utility shall send the notices required by subrule (1) of this rule by electronic mail and shall reference the appropriate case number assigned to the matter.

(3) The notice to the executive secretary shall be accompanied by a draft notice of hearing.

(4) The notice required pursuant to subrule (1) of this rule shall identify a single utility contact for receipt of a responsive message from the commission staff.

(5) The utility shall serve simultaneously copies of the notice required pursuant to subrule (1) of this rule on all parties to the utility's most recently concluded general rate case in the manner provided by the commission's rules of practice and procedure for service of pleadings in contested case proceedings: however the service of a copy of the notice on a party to a former rate case proceeding does not instill in the party a right to oppose, support, or otherwise comment on the notice.

(6) The notices submitted pursuant to subrule (1) of this rule and the draft notice of hearing submitted pursuant to subrule (3) of this rule are not required to contain any substantive information regarding the details of the utility's general rate case filing other than the desired filing date.

(7) This rule does not apply to a rural electric cooperative whose rates are determined through application of a times interest earned ratio ratemaking mechanism.

R 460.17611 Rate case processing; staggered filing dates.

Rule 611. (1) Upon receipt of a notice of intent to file a future general rate case from an electric or gas utility the director of regulatory affairs shall, in consultation with the director of the regulated energy division and the administrative law manager assigned to the commission by the director of the state office of administrative hearings and rules, determine whether the filing of the utility's next general rate case proceeding should be delayed beyond the proposed filing date to avoid docket congestion or disproportionate staff and intervenor workloads due to the existence of other currently pending or proposed general rate cases.

(2) In making the determination to delay a general rate case filing, the director of regulatory affairs shall consider all of the following information:

(a) The number of currently pending general rate cases already filed with the commission.

(b) The status of each of the pending general rate cases that could result in docket congestion or disproportionate workload issues for the commission staff or intervenors. The director shall attempt to avoid conflicts with established deadlines in pending and proposed general rate cases with regard to the following events:

(i) Filing deadlines for staff and intervenor testimony.

(ii) Cross-examination schedules.

(iii) Filing deadlines for initial post-hearing briefs.

(c) The number of other notices of intent to file future general rate cases currently pending with the commission.

(d) The order in which notices of intent to file future general rate cases were received by the commission.

(e) The schedule and availability of the presiding officer likely to be assigned to conduct the contested case proceeding in the general rate case under consideration.

(f) Work interruptions such as state holidays or furloughs imposed on commission employees and presiding officers.

(3) The executive secretary shall maintain a list, known as the filing queue, of all proposed general rate case filing dates proposed by utilities or determined by the director of regulatory affairs. The executive secretary shall do both of the following:

(i) Make the filing queue available to the public upon request.

(ii) Arrange for the posting of the filing queue on the commission's website.

(4) Not less than 21 calendar days before the proposed filing date contained in a notice under R 460.17609(1), the director of regulatory affairs shall inform the utility by e-mail whether the filing of its next general rate case will be delayed, and if delayed, a date certain for the filing. The date certain for the filing shall be not later than 21 calendar days from the latest filing date of a general rate case pending before the commission. A copy of the message shall be posted in the docket for this proceeding.

(5) The director of regulatory affairs shall not delay a utility's proposed filing date if the utility's proposed rate case filing date as identified in its notice of intent to file a future general rate case will occur at least 21 calendar days after the filing of the preceding general rate case of an electric or gas utility subject to this rule.

(6) A utility shall file its general rate case according to the date in the notice provided to it pursuant to subrule (4) of this rule.

(7) Any failure by a utility to comply with subrule (6) of this rule may result in the utility losing its place in the filing queue.

R 460.17613 Scheduling general rate case contested case proceedings; milestones.

Rule 613. (1) The executive secretary and the presiding officer shall endeavor to schedule the initial prehearing conference not later than 24 calendar days after the filing of an application for an electric or gas general rate case. Failure to comply with this rule shall not be a basis for any party to appeal to the commission.

(2) At the initial prehearing conference in a general rate case proceeding filed by an electric or gas utility, the presiding officer shall establish a schedule that will allow the commission to issue a final order within 12 months of the filing of a complete application. The schedule established by the presiding officer may be amended by the presiding officer or the commission as provided by law.

(3) In establishing a schedule under subrule (2) of this rule, the presiding officer shall attempt the following calendar day milestones:

(a) Direct testimony by the commission staff and intervenors filed within 133 calendar days following the initial prehearing conference.

(b) Rebuttal testimony filed within 14 calendar days after the filing of direct testimony by the commission staff and intervenors.

(c) Cross-examination beginning not later than 14 calendar days after the filing of rebuttal testimony and concluding not later than 28 calendar days after the filing of rebuttal testimony.

(d) Initial post-hearing briefs filed within 28 calendar days following the originally scheduled date for conclusion of cross-examination.

(e) Reply briefs filed within 21 calendar days after the filing of the initial post-hearing briefs.

(f) Proposal for decision issued approximately 47 calendar days after the filing of the reply briefs.

(g) Exceptions filed within 14 calendar days after the issuance of the proposal for decision.

(h) Replies to exceptions filed within 10 calendar days after the filing of exceptions.

(i) Commission's final order issued approximately 46 calendar days after the filing of the replies to exceptions.