

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter, on the Commission's own motion,)	
to implement the customer information and)	Case No. U-12487
environmental notice requirement of 2000 PA 141.)	
_____)	

At the April 16, 2002 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. Laura Chappelle, Chairman
Hon. David A. Svanda, Commissioner
Hon. Robert B. Nelson, Commissioner

ORDER GRANTING REHEARING AND CLARIFICATION

On January 22, 2002, Energy Michigan, Inc., filed a petition pursuant to R 460.17403 (Rule 403) seeking rehearing and clarification of the December 20, 2001 order in this proceeding, which adopted standards for the form and content of all disclosures, explanations, or sales information disseminated by a person selling electric services to the general public, as required by Section 10r(1) of Public Act 141 of 2000 (Act 141). The same order also proposed a standardized format by which electric suppliers must disclose information about the environmental characteristics of their electricity products, as required by Section 10r(3) of Act 141.

Rule 403 of the Commission's Rules of Practice and Procedure, 1992 AACR, R460.17403, provides that a petition for rehearing may be based on claims of error, newly discovered evidence, facts or circumstances arising after the hearing, or unintended consequences resulting from compliance with the order. A petition for rehearing is not merely another opportunity for a party

to argue a position or to express disagreement with the Commission's decision. Unless a party can show the decision to be incorrect or improper because of errors, newly discovered evidence, or unintended consequences of the decision, the Commission will not grant a rehearing.

Notice of termination

Energy Michigan contends that the disclosure standards adopted by the Commission on December 20, 2001 should be revised to take into account statements made in orders issued on the same date in Cases Nos. U-12488 and U-12489 concerning the obligation of an alternative electric supplier (AES) to notify a customer before termination of service for non-payment of a bill.

Energy Michigan's comments involve Paragraph 2 of the "Disclosures" section of the disclosure standards, which provides:

If an alternative electric supplier does not intend to renew a contract or intends to invoke a termination provision in a contract, the alternative electric supplier shall provide the customer with notification of the nonrenewal or termination of the contract at least 15 days before commencement of the notification period required by the retail open access tariff approved by the Commission. If the contract does not have a provision regarding notification of its nonrenewal, the notice shall be in writing, addressed to the customer's billing address, and mailed first-class.

Exhibit A, p. 6 attached to the December 20, 2001 order in Case No. U-12487.

The Commission finds that the clarification requested by Energy Michigan should be granted. As may be seen from an examination of subparagraphs 1(h) and 1(l) of the "Disclosures" section, the Commission distinguished between the termination of service under a general contract provision and the termination of service due to the nonpayment of a delinquent account. Therefore, the Commission agrees that Paragraph 2 of the "Disclosures" section should be revised to read as follows:

If an alternative electric supplier does not intend to renew a contract or intends to invoke a termination provision in a contract **OTHER THAN A PROVISION FOR NONPAYMENT OF A DELINQUENT ACCOUNT**, the alternative electric

supplier shall provide the customer with notification of the nonrenewal or termination of the contract at least 15 days before commencement of the notification period required by the retail open access tariff approved by the Commission. If the contract does not have a provision regarding notification of its nonrenewal, the notice shall be in writing, addressed to the customer's billing address, and mailed first-class. NOTIFICATION TO A CUSTOMER REGARDING THE RETURN TO FULL SERVICE FOR NONPAYMENT OF A DELINQUENT ACCOUNT SHALL BE PROVIDED ON THE SAME TIMETABLE AND UNDER THE SAME CONDITIONS AS THE DISTRIBUTION UTILITY USES TO TERMINATE SERVICE FOR NONPAYMENT OF A DELINQUENT ACCOUNT.

Unit cost of energy

Energy Michigan states that Section 1(f) of the "Customer Bills" section of the disclosure standards should be revised to allow for the expression of price in more than one format.

Currently, Section 1(f) provides that bills rendered to customers by an AES shall disclose "[t]he unit cost of energy and demand per kWh and kW, respectively." According to Energy Michigan, AESs have at least three kinds of customers for billing purposes: larger customers taking energy on a two-part demand and energy rate, smaller customers taking energy on a kilowatt-hour (kWh) energy only rate, and customers needing unusual services, such as street lighting, which is customarily priced on a per lamp per month basis.

According to Energy Michigan, as drafted, Section 1(f) of the Customer Bills section could be construed as requiring bills for all three types of customers to use the same cost of energy per kWh and demand per kilowatt (kW), which could cause confusion for the energy only and street lamp customers.

Therefore, Energy Michigan requests that the Commission confirm that pricing information may be displayed on a kW of demand and kWh of energy for two part rate customers or on a price per kWh of energy for energy only customers. Further, Energy Michigan suggests that an AES

should be allowed to use a different and unusual format such as cost per lamp per month where such pricing is reasonable and customary.

The Commission finds that Energy Michigan requested clarification is reasonable and should be granted. Toward that end, the Commission has revised Section 1(f) of the Customer Bills section to read:

The unit cost of energy and demand per kWh and kW, respectively, FOR TWO-PART DEMAND AND ENERGY RATE CUSTOMERS, THE UNIT COST OF ENERGY PER KWH FOR ENERGY RATE ONLY CUSTOMERS, AND APPROPRIATE ALTERNATIVE PRICING FORMATS FOR SERVICES THAT ARE NOT BILLED ON A DEMAND AND ENERGY OR ENERGY ONLY BASIS.

However, this relaxation of this requirement shall not be implemented in such a way that it frustrates the original intent of the Commission, which was to have this information displayed in customer friendly, readily comparable terms.

Areas of service

Energy Michigan's final request concerns Paragraph 1(h) of the Marketing and Advertising section, which requires an AES to inform the Commission's Executive Secretary of the cities, villages, and townships where it intends to provide service to the general public and any changes to its service territory in a timely manner. Energy Michigan has not requested any change to the language of Paragraph 1(h). Rather, Energy Michigan is concerned that the Commission might make the information required to be disclosed pursuant to Paragraph 1(h) available to local units of government and that such governmental units could pass that information to customers experiencing an outage without warning the customers that they should first contact their local distribution company (LDC) to obtain restoration of service. Accordingly, Energy Michigan requests that the Commission not post the information regarding AES areas of service without

adding a warning that in case of service interruption, units of government advise their citizens to first contact the customer's LDC.

The primary purpose underlying the adoption of Paragraph 1(h) was explained in the December 20 order as the need to "facilitate the targeting of customer education messages under the CHOICE Advisory Council's education program to those areas of the state where new suppliers are actively seeking customers." December 20 order, p. 26. While the Commission may place such information on its website to assist customers to identify potential AESs, it has no plans to disseminate such information to municipalities throughout the state. Therefore, the Commission finds that Energy Michigan's concern about Paragraph 1(h) can be addressed through the inclusion of an appropriately located warning on its website that advises customers experiencing a service interruption to first contact the customer's LDC.

The Commission FINDS that:

- a. Jurisdiction is pursuant to 1991 PA 179, as amended, MCL 484.2101 et seq.; 1969 PA 306, as amended, MCL 24.201 et seq.; and the Commission's Rules of Practice and Procedure, as amended, 1992 AACS, R 460.17101 et seq.
- b. Energy Michigan's petition for rehearing and clarification should be granted.
- c. The disclosure standards adopted by the December 20, 2001 order in this proceeding should be revised.

THEREFORE, IT IS ORDERED that:

- A. The petition for rehearing and clarification filed by Energy Michigan, Inc., is granted.

B. The disclosure standards adopted by the December 20, 2001 order in this proceeding are revised in accordance with the findings set forth in this order. A copy of the revised standards is attached to this order as Exhibit A (Revised – April 16, 2002).

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/ Laura Chappelle
Chairman

(S E A L)

/s/ David A. Svanda
Commissioner

/s/ Robert B. Nelson
Commissioner

By its action of April 16, 2002.

/s/ Dorothy Wideman
Its Executive Secretary

MICHIGAN PUBLIC SERVICE COMMISSION

MINIMUM STANDARDS FOR DISCLOSURES, EXPLANATIONS, AND SALES INFORMATION FOR RETAIL ELECTRIC SERVICE

Effective: January 1, 2002

These standards are adopted pursuant to Section 10r(1) of 2000 PA 141, MCL 460.10r(1), and shall take effect on January 1, 2002. They are intended to govern the form and the content of all disclosures, explanations, and sales information disseminated by persons offering or selling any retail electric service within the state of Michigan.

General Provisions Applicable to All Suppliers

1. These minimum standards shall not relieve a person offering or selling retail electric service within the state of Michigan from complying with all applicable federal, state, and local laws and actions of administrative agencies.
2. An electric utility, alternative electric supplier, or other person selling, advertising, or marketing electric power to retail customers in the state of Michigan shall do all of the following:
 - b. Provide information to customers in an understandable format that enables customers to compare prices, services, and the terms and conditions of service on a uniform basis.
 - c. Comply with all unbundling requirements adopted by the Commission.

- c. Comply with all unbundling requirements adopted by the Commission.
 - d. Clearly delineate the services and conditions of service that it offers to retail customers having a load of less than 20 kilowatts. If a supplier does not offer distribution service, it shall indicate in response to an inquiry that information about distribution service is available from the customer's local distribution utility.
 - e. Clearly outline its general pricing policies upon request of a prospective customer and provide complete and accurate pricing information in customer contracts and on bills to facilitate customer understanding of the cost of electric service.
 - f. Prominently display its name and any other contact information deemed appropriate by the supplier on its marketing materials.
 - g. Promptly direct customers who mistakenly contact the wrong supplier of the name, address, and telephone number of the appropriate contact, if known.
 - h. Provide all information required to be disclosed under Section 10r(1) of Act 141 to the Commission in a format prescribed by the Commission's Executive Secretary. This provision does not require any supplier to submit copies of its advertisements or marketing materials to the Commission's Executive Secretary.
3. An electric utility, alternative electric supplier, or other person selling, advertising, or marketing electric power to retail customers in the state of Michigan shall not do any of the following:
- a. Engage in unfair, misleading, deceptive, or unconscionable acts, practices, or omissions related to, without limitation, the following activities:
 - i. Marketing, solicitation, sales, contracts, and billing for retail electric services.

- ii. Administration of contracts for retail electric services.
 - iii. The provision of retail electric services, including all interactions with customers.
- b. Communicate to a customer that the customer is obligated to switch his or her service to a new supplier.
- c. Switch a customer's service in a manner that is inconsistent with the anti-slamming provisions adopted in Case No. U-12640.
- d. Communicate to a customer or to the general public that the Commission has endorsed its products or that the Commission favors its products over the products of any other supplier.

Marketing and Advertising

1. An electric utility, alternative electric supplier, or other person selling, advertising, or marketing electric power to retail customers in the state of Michigan shall:
 - a. Use common and consistent terminology in customer communications, including all forms of marketing, billing, and disclosure statements.
 - b. Be guided by the terms as defined in the Commission's "Glossary of Terms" that appears on the Commission's website.
 - c. Provide customers with educational information as required pursuant to Section 10r(2) of 2000 PA 141 and all Commission orders implementing that provision.
 - d. Accurately portray pricing information or a description of its pricing mechanism when the supplier chooses to include such information in an advertisement or other marketing material.

- e. Indicate that a customer may obtain information in written form upon request in marketing materials describing generation service.
- f. Provide written documentation of the authenticity of an advertising claim related to the sale of electricity on demand to a customer or to the Commission Staff regarding any aspect of a product offering, including its fuel source or place of origin.
- g. Indicate in all direct solicitations of new customers whether or not the supplier is a representative of or otherwise affiliated with the customer's current electric generation or distribution supplier, and shall also indicate that any offers of savings made by the new supplier are not the responsibility of the customer's current supplier.
- h. Inform the Commission's Executive Secretary of the cities, villages, and townships where it intends to provide service to the general public and any changes to its service territory in a timely manner. If serving the entire service territory of an electric utility, it is sufficient for the notice to state that fact.

Disclosures

1. An alternative electric supplier shall provide all of the following information in writing to its customers. The information shall be provided to a new customer before commencing service. The information shall be provided to existing customers as soon as practical after the effective date of these standards:
 - a. The name, address, and account number of the customer.
 - b. The name and address of the alternative electric supplier.
 - c. The name and address of the supplier of distribution services.

- d. A clear delineation of the components of service provided by the alternative electric supplier.
- e. The price for each component of service offered, using standard terms.
- f. The demand charge, if any, required by the contract in dollars per kW and a clear description of the method for determining demand.
- g. A statement of the duration of the contract, including its commencement and termination dates.
- h. An explanation of the termination provisions.
- i. An explanation of the renewal provisions, if any.
- j. An itemization of and the amount of all recurring and nonrecurring charges, using standard terms.
- k. A statement of the alternative electric supplier's policy regarding customer security deposits.
- l. A statement of the alternative electric supplier's policy regarding termination of service for nonpayment of a bill.
- m. If applicable, a description of the right to rescind the contract pursuant to the retail open access tariffs approved by the Commission.
- n. A statement of all other terms and conditions of service.
- o. A clear explanation of sign-up bonuses, add-ons, limited time offers, and exclusions, if applicable.
- p. A clear explanation of penalties, fees, and exceptions, if applicable.

- q. A statement that, to report a service outage or a downed wire or other emergency situation, the customer should contact the local distribution utility.
2. If an alternative electric supplier does not intend to renew a contract or intends to invoke a termination provision in a contract other than a provision for nonpayment of a delinquent account, the alternative electric supplier shall provide the customer with notification of the nonrenewal or termination of the contract at least 15 days before commencement of the notification period required by the retail open access tariff approved by the Commission. If the contract does not have a provision regarding notification of its nonrenewal, the notice shall be in writing, addressed to the customer's billing address, and mailed first-class.

notification to a customer regarding the return to full service for nonpayment of a delinquent account shall be provided on the same timetable and under the same conditions as the distribution utility uses to terminate service for nonpayment of a delinquent account.

Customer Bills

1. The bills rendered to customers by an alternative electric supplier shall disclose all of the following information:
 - a. The total amount of the bill and the due date.
 - b. Components of the bill as ordered by the Commission.
 - c. Total consumption on a kWh basis.
 - d. Any demand component in kW.
 - e. The period covered by the bill.
 - f. The unit cost of energy and demand per kWh and kW, respectively, for two-part demand and energy rate customers, the unit cost of energy per kWh for energy rate only customers,

and appropriate alternative pricing formats for services that are not billed on a demand and energy or energy only basis.

- g. Whether the usage is actual or estimated.
- h. The telephone number of the alternative electric supplier in bold print, identified as such.
- i. The telephone number of the local distribution utility, identified as such.

Additional Minimum Standards Applicable to Alternative Electric Suppliers Serving Residential and Small Commercial Customers

1. An alternative electric supplier selling electric power under a retail access program shall fully comply with the following requirements when dealing with residential and small commercial customers:
 - a. All prices shall be stated on a cents-per-kWh or dollars-per-kWh basis. An alternative electric supplier may also use additional methodologies to express prices.
 - b. The written disclosure statement provided to a residential or a small commercial customer before commencement of service shall use common and consistent terminology and shall be guided by the terms as defined in the “Glossary of Terms” that appears on the Commission’s website.
 - c. The written disclosure statement provided to a residential customer shall list the cost of electricity at 500 kWh per month and 1,000 kWh per month, including all customer charges.
 - d. The written disclosure statement provided to a small commercial customer shall list the total cost of electricity at 1,000 kWh per month and 5,000 kWh per month, including all customer charges.

- e. A written disclosure statement provided to a residential or small commercial customer shall contain the most recently available data concerning the environmental characteristics of the supplier's electricity products displayed in the format required by Section 10r(3) of Act 141 and the Commission's orders in Case No. U-12487.
 - f. A written disclosure statement provided to a residential customer shall disclose the availability and details of the winter protection plan established by Section 10t of Act 141.
 - g. A written disclosure statement provided to a residential customer shall contain the following statements:
 - i. "Electric supply prices and charges for generation services are set by the electric supplier you have chosen."
 - ii. "The Michigan Public Service Commission regulates prices and charges for services related to the distribution of electric service as well as any transition, implementation, or securitization charges."
2. The requirements of Section 1 shall not apply to the aggregation of the small loads of a single customer that exceed 20 kilowatts.

Records and Retention

1. An alternative electric supplier shall establish and maintain records and data sufficient to verify its compliance with these standards and to facilitate investigations by the Commission or its Staff.
2. Unless otherwise prescribed by the Commission, all records required by these standards shall be retained by the alternative electric supplier for not less than two years.

3. Upon request by the Commission or its Staff, an alternative electric supplier shall provide to the Commission's Executive Secretary an exact copy of a record required to be retained by these standards within 5 business days of the request for its production.

Remedies and Penalties

Violations of these standards may be subject to the remedies and penalties specified in Section 10c(1) of Public Act 141 of 2000 or other applicable law.