



February 1, 2010

Senator Bruce Patterson, Chairman
Senate Energy Policy & Utilities Committee
505 Farnum Building
PO Box 30036
Lansing, MI 48909-7536

Representative Jeff Mayes, Chairman
Energy and Technology
S 1285 House Office Building
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Dear Chairman Patterson and Chairman Mayes:

As two business groups that supported Public Acts 286 and 295 of 2008, the Michigan Chamber of Commerce and the Michigan Manufacturers Association, we first want to indicate that one year since the enactment of the new laws, we continue to support the laws as they were written. However, we are writing this letter to express our concerns with how certain key areas of the laws have been implemented.

The new laws called for important policy changes to make Michigan more economically competitive, provide long-term reliability, and ensure a balanced energy approach. Unfortunately, just a couple of months after signing the new energy laws, the administration imposed additional regulatory burdens not authorized in these statutes. Executive Directive 2009-02 required the Department of Environmental Quality to conduct a needs analysis prior to issuing an air permit. This directive violated legislative agreements reached and served to delay the building of new generation in our state.

The Public Service Commission (Commission) has also taken several steps that we believe are not consistent with helping to make business energy rates more competitive. These new regulatory burdens only increase the cost of energy on Michigan job providers, making capital investments in Michigan less attractive when this state needs more jobs and investment most. Provided below is a list of specific concerns related to actions by the Commission:

- **Cost-of-Service Rates**

One of the important policy goals of PA 286 of 2008 was to help make electric rates for business customers more competitive. The Legislature approved important new language establishing a clear policy directive to implement cost-of-service rates to accomplish this goal.

Unfortunately, in the recent Consumers Energy case, the final outcome was less than satisfactory in the effort to make business rates more competitive. Consumers Energy self-implemented a rate that would have cut rates for secondary customers (primarily small business and commercial customers) by 3.3 percent, and would have cut primary customers (mostly large commercial and industrial) rates by 1.3 percent. Unfortunately, the Commission overturned the Consumers filing and actually approved an increase in rates for business—a .2 percent increase for secondary customers, and a 3.6 percent increase for primary customers.

Under Public Act 286, section 460.11 (1), the Legislature established prescriptive language as to how cost-of-service rates were to be implemented. The statute requires the Commission to use the 50-25-25 method of cost allocation. The statute specifically allows the Commission to modify this method to better ensure rates are equal to the cost of service, if this method does not result in a greater amount of production-related and transmission costs allocated to primary customers.

While the Commission has provided for five-year plans for both DTE and Consumers to complete the rebalancing of cost of service, we object to the allocation method being utilized, referred to as a “12 coincident peak” (12 CP). The House-passed version of HB 5524 contained a 12 CP component of the formula, while the Senate-passed version—which is the version that became law—did not include that provision. Yet, the Commission chose to use the 12 CP formula, which overstates the actual cost to serve business customers by shifting peak summer demand to commercial and industrial customers that typically do not vary their demand substantially during the summer months. The preferred method to achieve cost-of-service rates for commercial and industrial customers under the 50-25-25 method is the “multi-hour 4 coincident peak” (4 MHCP) method. In the recent Commission Order in the Consumers Energy rate case, in which Consumers filed the 4 MHCP method, the Commission acknowledged that using the 12 CP method shifts approximately \$20 million of costs onto business customers (see Order, pp 70-71). The Commission must re-examine its rejection of the 4 MHCP method going forward to ensure the greatest possible adherence to the Legislature’s intent, as expressed in Public Act 286, to more appropriately distribute costs to customers on a cost-of-service basis.

- **Self-Direct Option – Energy Efficiency**

Under the provision of Public Act 295, lawmakers established a policy that allows business customers that are implementing energy efficiency programs to utilize a self-direct option and be exempt from energy efficiency surcharges. Unfortunately, the Commission has released for distribution a set of draft rules for business customers that are so onerous it would make it near impossible for business customers to be able to utilize the self-direct option.

Specifically, the draft Commission rules do not provide sufficient certainty around the calculation of self-directed energy efficiency savings achievements, and could result in second guessing by both utility providers and the Commission. A business customer should not be expected to expend large

sums of capital without this needed certainty. Also, the rules have gone much farther than what was intended by the Legislature in Public Act 295 by requiring burdensome reporting and audit requirements.

- **Volumetric Surcharges on Business Customers - Energy Efficiency**

PA 295 requires industrial customers utilizing energy efficiency programs to pay a per-meter surcharge. Unfortunately, the Commission has decided that industrial customers utilizing “transportation only” natural gas service must be charged on a volumetric basis. This is resulting in large surcharges with little to no benefit for the industrial customer. We believe the Commission can remedy this problem by excluding “transportation only” customers from the definition of “natural gas customer.”

Conclusion

The Michigan Manufacturers Association and the Michigan Chamber of Commerce continue to support Public Act 286 and 295 of 2008. However, we are concerned with how important provisions of the law are being implemented.

We ask for your assistance to help provide oversight on these important issues and to ensure that the new laws are properly implemented. Michigan must reduce regulatory burdens to create jobs, attract investment, and build a sustainable recovery. We look forward to working with you in resolving these issues. If you have any questions, please feel free to contact us.

Sincerely,



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