

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter, on the Commission’s own motion,	)	
of the election by the Board of Directors of	)	
<b>PRESQUE ISLE ELECTRIC &amp; GAS CO-OP</b>	)	Case No. U-17016
to become member-regulated in accordance with	)	
2008 PA 167, MCL 460.34.	)	
_____	)	

At the August 28, 2012 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. John D. Quackenbush, Chairman  
Hon. Orjiakor N. Isiogu, Commissioner  
Hon. Greg R. White, Commissioner

**DETERMINATION**

On June 25, 2012, the Board of Directors of Presque Isle Electric & Gas Co-op (Presque Isle) adopted a resolution to become member-regulated in accordance with 2008 PA 167, MCL 460.31 *et seq.*, the Electric Cooperative Member-Regulation Act (the Act). *See*, MCL 460.34. By letter dated June 26, 2012, Presque Isle informed the Commission of the resolution.

“Member-regulation” means that the Board of Directors of Presque Isle will be solely responsible for establishing, maintaining, and applying all rates, charges, accounting standards, billing practices, and terms and conditions of service. MCL 460.32(f). Section 6(2) of Act 167 provides that:

Notwithstanding the provisions of this act, the commission shall retain jurisdiction and control over all member regulated cooperatives for matters involving safety, interconnection, code of conduct . . . , customer choice including, but not limited to, the ability of customers to elect service from an

alternative electric supplier . . . , and the member-regulated cooperative's rates, terms, and conditions of service for customers electing service from an alternative electric supplier, service area, distribution performance standards, and quality of service, including interpretation of applicable commission rules and resolution of complaints and disputes, except any penalties pertaining to performance standards and quality of service shall be established by the cooperative's members.

MCL 460.36(2). However, Section 9 of Act 167 provides that the Commission shall retain jurisdiction over certificates of need, and enforcement of 1999 AC, R 460.3411, which deals with areas served and line extensions. MCL 460.39(1).

Presque Isle stated in a July 17, 2012 e-mail correspondence with the Commission Staff (Staff) that, based on the precedent established when Cherryland Electric Cooperative (Cherryland), Alger Delta Cooperative Electric Association (Alger Delta), HomeWorks Tri-County Electric Cooperative (HomeWorks), and Great Lakes Energy Cooperative (Great Lakes) transitioned to member-regulation in Case Nos. U-15983, U-16011, U-16185 and U-16944, respectively, Presque Isle's transition to member-regulation should be noncontroversial.

Specifically, Presque Isle stated all of the following:

- There is no ambiguity in this case as to whether the notification to the Commission was timely.
- Presque Isle will file documentation showing compliance with the notice and hearing requirements of Section 4(a)-(f) of Act 167, MCL 460.34(a)-(f).
- Presque Isle is willing to meet with the Commission Staff (Staff) to discuss issues related to the transition and to establish an orderly process for the transition to member-regulation.
- It does not appear that any Presque Isle member-consumers seek to intervene in this matter.
- All pending Commission electric dockets relating to Presque Isle ratemaking should be dismissed on or after September 23, 2012.

On July 13, 2012, the Commission issued an order to address the notification from Presque Isle. In so doing, the Commission directed Presque Isle to file documentation in this docket within seven days of the date of the order showing compliance with the notice and hearing requirements

of Section 4(a)-(f) of Act 167. MCL 460.34(a)-(f). The requested documentation was filed on July 18 and August 1, 2012.

In the July 13 order, the Commission also directed Presque Isle and the Staff to begin meetings with the Staff no later than July 27, 2012 to discuss issues related to the transition and to establish an orderly process for the transition of Presque Isle to member-regulation. The Staff was directed to report to the Commission by August 16, 2012 on the results of its discussions with Presque Isle.

On August 8, 2012, the Staff filed its report. In so doing, the Staff states that its meeting with Presque Isle took place on August 7, 2012. According to the Staff report, the participants agreed that the Cherryland, Alger Delta, HomeWorks, and Great Lakes cases should serve as guides to Presque Isle in its transition to member-regulation.

Based on its discussions and the cooperative's filings in this matter, the Staff indicates that the Staff and Presque Isle agree that the effective date for member-regulation by Presque Isle will be September 23, 2012. The Staff also reports that Presque Isle intends to adopt, as its own, the Commission's current billing practices, and that Presque Isle will be responsible for the enforcement of its billing practices and for all future revisions of them.

With regard to ratemaking, the Staff states that Presque Isle will have full authority over all aspects of ratemaking, including fees, charges, penalties, pole attachment rates, etc. According to the Staff, Presque Isle intends to continue to use the existing Commission-approved rates, charges, and so on, until new ones are approved by the cooperative. At such time that Presque Isle does amend its rates, a copy will be made available for public review at all of Presque Isle's offices and on its website. In addition, a copy will be provided to the Commission together with a copy of the cooperative's most recent audited financial statement.

On the issue of the Code of Conduct adopted by the Commission pursuant to MCL 460.10a(4), the Staff reports that the parties are in agreement that the Code of Conduct will continue to apply to Presque Isle.

With regard to safety issues, the Staff's report indicated that there was general agreement that the Commission's safety regulation will continue to apply to Presque Isle. However, the Staff also indicated that, "unlike the situation for gas utilities, where safety regulation is encompassed in a single document, electric safety regulation is contained in a variety of requirements." Report, pp. 3-4. Consequently, the Staff stated that it would be necessary for the Commission and the cooperative to address what encompasses safety regulation on a case-by-case basis in the future.

Finally, the Staff stated that there were no intervenors in this docket, nor are any expected. The Staff and Presque Isle have agreed to the submission of the report and no responses are anticipated.

### Discussion

The Commission is persuaded that Presque Isle has met all of the prerequisites for exercising authority over its rates, charges, accounting standards, billing practices, and terms and conditions of service as permitted by MCL 460.32(f). Section 4 of Act 167, MCL 460.34, specifies the procedures that the cooperative's Board of Directors must follow in order to trigger the cooperative's statutory right to act alone in certain specific rate-related activities. The Commission is persuaded that Presque Isle has complied with all of the notice requirements of Section 4 of Act 167. Accordingly, upon the commencement of member-regulation by Presque Isle, the Commission will cease asserting any authority over the cooperative's right to determine its rates, charges, accounting standards, billing practices, and terms and conditions of service.

After September 23, 2012, Presque Isle should seek dismissal of any currently pending cases over which the Commission will no longer have jurisdiction.

THEREFORE IT IS DETERMINED that:

A. Presque Isle Electric & Gas Co-op has complied with the requirements in the Commission's July 13, 2012 order to file documentation showing compliance with the requirements of MCL 460.34(a)-(f).

B. Presque Isle Electric & Gas Co-op has complied with the requirements of MCL 460.34(a)-(f).

C. Presque Isle Electric & Gas Co-op and the Commission Staff have complied with the requirements in the Commission's July 13, 2012 order to discuss issues regarding the orderly transition of the utility to member-regulation.

D. The Commission Staff has complied with the requirements in the Commission's July 13, 2012 order by filing its report to the Commission on the results of discussions with Presque Isle Electric & Gas Co-op on August 8, 2012.

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

MICHIGAN PUBLIC SERVICE COMMISSION

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John D. Quackenbush, Chairman

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Orjiakor N. Isiogu, Commissioner

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Greg R. White, Commissioner

By its action of August 28, 2012.

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Mary Jo Kunkle, Executive Secretary