

Court of Appeals, State of Michigan

ORDER

In re Application of Wisconsin Electric Power Co to Increase Rates

Docket No. 301111

LC No. 00-015981

Donald S. Owens
Presiding Judge

Peter D. O'Connell

Amy Ronayne Krause
Judges

The Court orders that the motion to dismiss this appeal in part is DENIED because this appeal is not moot as to the issue involving appellee Michigan Public Service Commission's (MPSC) refusal to consider the merits of the relevant lease costs issue based on appellants' failure to raise that issue at an earlier point and appellants' entry into settlement agreements. The MPSC's position that its subsequent decision as to the merits of the lease costs issue in MPSC No. U-16830 renders the relevant issue in this appeal moot fails to consider that, as we take judicial notice of, motions for rehearing are pending in U-16830 and that the MPSC's decision as to the merits of the lease costs issue in that subsequent case could be subject to appellate review in this Court. See MCL 462.26(1). Thus, the relevant issue in this appeal is not moot because, if this Court ultimately agrees with appellants on that issue, it can grant meaningful relief by reversing the relevant holding of the MPSC and remanding to the MPSC for further appropriate proceedings to address the merits of the lease costs issue in which the ultimate resolution of subsequent proceedings as to U-16830 may be dispositive. See, e.g., *McCracken v Detroit*, 291 Mich App 522, 531; 806 NW2d 337 (2011) (issue is moot "if an event has occurred that renders it impossible for the court to grant relief").



A true copy entered and certified by Larry S. Royster, Chief Clerk, on

SEP 18 2012

Date


Chief Clerk