

# Court of Appeals, State of Michigan

## ORDER

In re App of Wisconsin Electric Power Co to Increase Rates

William C. Whitbeck  
Presiding Judge

Docket No. 313605

Patrick M. Meter

LC No. 00-016830

Michael J. Kelly  
Judges

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The Court orders that appellee Michigan Public Service Commission's motion captioned as a motion to dismiss is recognized as actually constituting a motion to strike Verso Quinnesec, LLC's (Verso) appellee's brief filed on April 26, 2013 and the motion is GRANTED to the extent of striking that brief as an appellee's brief. It is not sensible to treat the motion as an actual motion to dismiss an "appeal" by Verso where Verso has not filed an appeal or cross appeal, but it is manifest that the import of the motion is that Verso's brief on appeal should be stricken. Because Verso does not actually position itself as an appellee in its brief but rather, in addition to supporting appellants' position, improperly seeks further affirmative relief for itself despite not having filed a cross appeal, *In re Herbach Estate*, 230 Mich App 276, 284; 583 NW2d 541 (1998), Verso's brief is stricken as an appellee's brief.

However, Verso's motion to file an amicus curiae brief is GRANTED to the extent that its brief improperly filed as an appellee's brief shall be treated as an amicus curiae brief to the extent it presents arguments regarding the proper disposition of appellants' appeal. However, arguments in Verso's brief shall be disregarded to the extent that they seek relief for Verso itself.

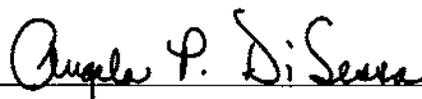
Consistent with this order the Clerk's Office is directed to change Verso's designation in this Court's docket entries for this appeal from an appellee to an amicus curiae. We note that, as an amicus curiae, Verso is not entitled to participate in oral argument. MCR 7.212(H)(2).



A true copy entered and certified by Angela P. DiSessa, Acting Chief Clerk, on

JUN 20 2013

Date

  
Acting Chief Clerk