Consumers Energy

A CMS Energy Company

General Offices:
212 West Michigan Avenue Tel: (517) 788-0550
Jackson, MI 49201 Fax: (517) 788-0768

*Washington Office:
1016 - 16th Street, NW, Tel: (202) 293-5795
Washington, DC 20036 Fax: (202) 293-5367

Writer's Direct Dial Number · (517) 788-0677

August 25, 1999

Ms. Dorothy Wideman
Executive Secretary
Michigan Public Service Commission
6545 Mercantile Way
P.O. Box 30221
Lansing, MI 48909

Re: In the Matter of Consumers Energy Company for Revision of its Gas Tariffs Relating to its Rule B11 Customer Attachment Program
Case No. U-12095

Dear Ms. Wideman:

Please find enclosed for filing in the above referenced matter an original and 4 copies of "**Application and Report of Consumers Energy Company.**" Thank you for your attention to this matter.

Sincerely,

Raymond E. McQuillan

cc: Michael Kidd, MPSC Staff
Gas Division Director
Mr. and Mrs. James Anderson

K:\LEGAL\LGL-S\12095\FL0899-1.82F

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the Matter of the Application of CONSUMERS ENERGY COMPANY for Revision of its Gas Tariffs Relating to its Rule B11 Customer Attachment Program	)))))	Case No. U-12095

APPLICATION AND REPORT OF CONSUMERS ENERGY COMPANY

Consumers Energy Company ("Consumers Energy" or the "Company") files this Application and Report describing efforts to be made by Consumers Energy to increase the likelihood that purchasers of residential real estate will be aware of the existence of gas main extension surcharges for which the purchaser may be responsible, and to approve revisions to its tariff B11 Customer Attachment Program ("CAP"). In support, Consumers Energy states as follows:

1. Consumers Energy Company is a public utility engaged in, among other things, the transportation, distribution and sale of natural gas to approximately 1.5 million customers in the lower peninsula of the State of Michigan. Consumers Energy's gas system is fully integrated and interconnected and is operated as a single system within which uniform rates for the sale and distribution of natural gas are charged.

2. Consumers Energy's retail natural gas sales business and its retail gas transportation business are subject to the jurisdiction of the Commission pursuant to various provisions of 1909 PA 300, as amended, MCLA 462.2 et seq; MSA 22.21 et seq; 1919 PA 419, as amended, MCLA 460.54 et seq; MSA 22.4 et seq; and 1939 PA 3, as amended, MCLA 460.1 et seq; MSA 22.13(1) et seq; 1969 PA 306, as amended, MCLA 24.201 et seq, MSA 3.560(101) et seq.

3. Consumers Energy renders natural gas service pursuant to rules, regulations and rates approved by the Commission. Standard rules, regulations and rates governing the sale of

natural gas service are set forth in Schedule "M.P.S.C. No. 1-Gas, Consumers Energy Company" ("M.P.S.C. No. 1-Gas"). The Customer Attachment Program (CAP), which provides for extensions of gas mains and/or service lines, is generally described in Tariff B11. Customers may elect to pay the required Customer Contribution for gas main extensions in a lump sum or a fixed monthly surcharge. Tariff B11 requires subsequent customers requesting gas service at the property address must pay the remaining fixed monthly surcharge. See, e.g., Order dated May 27, 1999 in Case No. U-11820. The provisions of Consumers Energy's CAP program are substantially the same as the provisions of the other major Michigan gas utilities regarding main extensions and customer contributions including surcharges.

4. In that Order dated May 27, 1999, the Commission directed Consumers Energy to file an Application addressing actions which will provide better notice to purchasers of real estate who become responsible for taking over CAP surcharges applicable to natural gas service to the purchased property.

5. Michigan statute currently provides for residential real estate sellers to disclose certain mandated information as part of their real estate transaction (SELLER'S DISCLOSURE STATEMENT) in order to afford purchasers certain basic information regarding the property being purchased and possible issues which could incur expense or liability for those purchasers. See the "Seller Disclosure Act," 1994 PA 92; MCL 565.951. Consumers Energy is working in conjunction with the Michigan Association of Realtors and the Michigan Legislature to amend the Seller Disclosure Statement to include an explicit disclosure to any outstanding unpaid CAP surcharge balances for gas main extensions. Disclosure by sellers to buyers at the time of negotiation of the real estate transaction is the best way for sellers and purchasers to identify the issue and to apportion the surcharge responsibility between the parties. It is hoped that legislation modifying the Seller

Disclosure Form will be enacted in 1999. The amendment of the SELLER'S DISCLOSURE STATEMENT by legislation will ensure that purchasers will be fully informed of CAP surcharge responsibilities.

6. The Customer Attachment Program allows for the extension of gas mains to areas in which customers would otherwise require some alternative to natural gas heating such as propane, solar or electric heating or wood heating. While the availability of natural gas service to residential homes enhances property values and reduces heating costs, the benefit conferred is not to the real estate itself but rather to the homeowners who use the gas service. If homes are sold, this benefit is enjoyed by the buyer of the property who continues to benefit from the cost advantage of using natural gas for heating purposes as opposed to other current alternatives. Therefore, it is not reasonable to require the first homeowner to bear the entire cost of the main extension surcharge even after the property is sold, since gas service is a benefit that extends over the life of the home to be enjoyed by the current homeowner. Likewise, since the benefit is from the gas service available to the homeowners, the information regarding surcharges is not public information that can legally be recorded with local Register of Deeds offices since the gas main extension is not an assessment against property title or a lien against property title in any fashion.

7. In an effort to better advise sellers of their role when negotiating a sale of their property about successorship CAP surcharge responsibility, Consumers Energy has modified the language contained on its Customer Attachment forms including (i) Agreement for Gas Service Line Area Expansion Program (Form 77); (ii) Agreement for Gas Main Extension Customer Attachment Program (Form 66) ; and (iii) Application for Natural Gas Service Agreement for Gas Main Extension, Customer Attachment Program (CAP) (Form 1245) , by adding substantially the following language in bold print in a conspicuous place near the customer's signature:

> **"You should tell anyone that buys this property from you about this monthly CAP surcharge since your buyer will be responsible for the remaining monthly surcharge payments unless you have already fully paid off the CAP surcharge balance."**

Therefore, future surcharge customers will be advised in the contractual documents which they execute for the gas main extension to discuss with prospective purchasers of the property the existence of any remaining CAP surcharge obligation.

8. Consumers Energy further proposes to address the audience of its current CAP surcharge customers who could sell their property with a surcharge balance remaining, by letter, bill insert, or periodic bill message that they have a current CAP surcharge balance and that in the event they sell the property, purchasers should be advised of the surcharge balance and the responsibility to pay the remaining surcharge payments.

9. In an additional effort to make buyers of real estate aware of their potential successorship surcharge responsibility, Consumers Energy will have its Customer Services Representatives discuss the existence of the CAP surcharge upon every occasion that a purchaser calls to request service changes for property which has a CAP surcharge balance remaining. The customer may already have completed the negotiation of the purchase agreement and perhaps even the sale of the property at that point. Nonetheless, Consumers Energy will advise them how to get additional information regarding the monthly main extension charge for the property or to request a calculation of a lump-sum pay off of the surcharge balance.

10. In the Order dated May 27, 1999, the Commission indicated that the Company may also propose other appropriate changes to the Customer Attachment Program tariffs. Consumers Energy proposes two tariff modifications. First, Consumers Energy proposes to modify the provisions in Tariff B11.C. **Payment of Customer Contribution**, to state:

> "*Billing of the Fixed Monthly Surcharge shall commence within six months following completion of construction of the main and initial service lines.*"

Attached is a new Sheet No. B-60.00. The proposed wording starts the surcharge when the extension and service lines are completed and ends them all at the same time which allows the Company to collect equally from all customers and to collect all the amount financed through the surcharge program.

Second, Consumers Energy proposes to modify the provisions in Tariff B11.E. **Excessive Service Line Fee**, which currently provides:

> "The service line limit is equal to the greater of 400 feet or 150% of the average length of all service lines within the project."

Consumers Energy proposes to delete that provision and substitute the following language:

> "*When the cost associated with an individual customer's service requirements are in excess of the allowance based on the Cost of Service Model, an Excessive Service Line Fee may be charged.* The Excessive Service Line Fee will equal the cost of service line footage in excess of the Service Line Limit."

Attached is a new Sheet No. B-61.00. The proposed language eliminates confusing wording and allows the Company to provide service in the most economical manner and reduces unrealistic prescribed conditions that may end up costing the customer more money.

11. Consumers Energy proposes to submit to the Michigan Public Service Commission Staff a description of the system average costs used in its discounted Cost of Service Model (Model) for calculation of the Customer Contribution or any Excessive Service Line Fee, prior to the effective date of those charges.

12. Approval of the modifications to the tariffs as requested herein will not increase the rates and charges for any current customer. Consumers Energy therefore respectfully requests

that the Commission approve the relief sought by this application without the time and expense of a public hearing.

WHEREFORE, Consumers Energy Company requests that the Michigan Public Service Commission:

(A) Approve the modifications to Tariff B11 as set forth in this Application;

(B) Determine that the relief requested herein should be granted without the time and expense of a public hearing;

(C) Grant such other and further relief as is lawful and appropriate.

Respectfully submitted,
CONSUMERS ENERGY COMPANY

Dated: August 25, 1999

By: Francis A Ernst Jr / REM

Francis A. Ernst, Jr
Director of Rates
Consumers Energy Company
212 West Michigan Avenue
Jackson, MI 49201
(517) 788-2573

Raymond E McQuillan

Raymond E. McQuillan (P-24100)
Attorney for Consumers Energy Company
212 West Michigan Avenue
Jackson, Michigan 49201
(517) 788-0677

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the Matter of the Application of CONSUMERS ENERGY COMPANY for Revision of its Gas Tariffs Relating to its Rule B11 Customer Attachment Program	)))))	Case No. U- 12095

VERIFICATION

Francis A. Ernst, Jr., being first duly sworn, deposes and says that he is the Director of Rates for Consumers Energy Company and that he has executed the foregoing Application and Report for and on behalf of Consumers Energy Company; that he has read the foregoing Application and Report and is familiar with the contents thereof; that the facts contained therein are true, to the best of his knowledge and belief; and that he is duly authorized to execute such Application and Report on behalf of Consumers Energy Company.

Francis A Ernst Jr /lgge

Francis A. Ernst, Jr.
Director of Rates

Subscribed and sworn to before me this 25th day of August 1999.

Gail M. Spees

Gail M. Spees
Notary Public, Jackson County, Michigan
My Commission Expires: 03/13/2001

GAIL M. SPEES
Notary Public, Jackson County, MI
My Commission Expires March 13, 2001

K:\LEGAL\LGL-S\12095\VE0899-1.82F

(Continued From Sheet No. B-60.00)

B11. CUSTOMER ATTACHMENT PROGRAM (Contd)

D. Connection Fee

The Connection Fee is equal to $200.00 per meter. The Connection Fee for a multiple metered installation on a single structure that is served from a single service line is equal to $100.00 per meter.

E. Excessive Service Line Fee

When the cost associated with an individual customer's service requirements are in excess of the allowance based on the Cost of Service Model, an Excessive Service Line Fee may be charged. The Excessive Service Line Fee will equal the cost of service line footage in excess of Service Line Limit.

F. Fixed Monthly Surcharge

A Fixed Monthly Surcharge (Surcharge) will be calculated for each Customer Attachment Project (Project). The Surcharge will recover the Revenue Deficiency anticipated from the proposed Project. The Surcharge is calculated such that the present value of the anticipated Surcharges collected from the Project will equal the net present value Revenue Deficiency. The Surcharge will be recoverable over a predetermined time period, not to exceed ten years. The Company will be responsible for determining the appropriate Surcharge time period. The Surcharge will be a fixed dollar amount for all customers within the Project and will expire on the same date for all customers within the Project, regardless of when the surcharge was initially assessed to the customer. The Surcharge will not be subject to adjustment, reconciliation or refund. A customer who attaches to a Project after the surcharge period has expired or a customer whose proposed attachment was beyond the scope of the original Project, will be treated as a separate Project.

G. Customer Attachment Project

A Project may consist of a single customer, requiring only the installation of a service line and meter, or may consist of numerous customers requiring the installation of mains, service lines and meters. A Project will generally be defined as a customer or group of customers that may be served from the contiguous expansion of new distribution facilities.

H. Revenue Deficiency

A discounted Cost of Service Model (Model) will be used to calculate the Net Present Value (NPV) Revenue Deficiency anticipated from a Project. The Model will use the expected incremental revenues and incremental costs associated with the Project for each year of a twenty year period. From this information an annual net revenue excess or deficiency will be calculated. The annual net revenue excess or deficiency will be discounted and summed to determine the NPV revenue deficiency of the Project. If the NPV revenue deficiency is negative, the discounted revenues exceed the discounted costs, then an NPV revenue deficiency of zero will be used.

(Continued on Sheet No. B-62.00)

(Continued From Sheet No. B-59.00)

B11. CUSTOMER ATTACHMENT PROGRAM

A. Purpose

The Company proposes to make extension of its gas mains and/or service lines from time to time, at its own cost, to serve applicants whose requirements will not disturb or impair the service to prior users or will not require an expenditure out of proportion to the revenue obtainable therefrom.

The Company reserves the right to delay or deny a request for service under this rule, if fulfilling such a request could, in the Company's opinion, create conditions potentially adverse to the Company or its customers. Such conditions may include, but are not limited to, safety issues, system operating requirements or capital constraints. The provisions under this Rule are in addition to the existing rules and tariffs for customer gas service.

B. Customer Contribution

A customer contribution shall be required equal to the Connection Fee plus any applicable Fixed Monthly Surcharge plus any Excessive Service Line Fee.

C. Payment of Customer Contribution

For all customers other than land developers and builders the Customer Contribution shall be paid as follows:

The Connection Fee and the Excessive Service Line Fee are payable in lump sum at the time the service agreement is executed by the customer. The Connection Fee is non-refundable. The Excessive Service Line Fee is refundable if the service line has not been installed. If the service line has been installed, the Excessive Service Line Fee is non-refundable.

The Fixed Monthly Surcharge shall be payable monthly throughout the surcharge period. *Billing of the Fixed Monthly Surcharge shall commence within six months following completion of construction of the main and initial service lines.* The customer may at any time elect to pay off the remaining Fixed Monthly Surcharge balance with a lump sum payment equal to the present value of the remaining monthly payments. If the present value of the Fixed Monthly Surcharge is less than $200.00, the Company may require the customer to make a lump sum payment. The Fixed Monthly Surcharge is assessed to the property served such that any subsequent customer requesting gas service at the property address, once notified by the Company of the amount and duration of such surcharge, shall be liable for the Fixed Monthly Surcharge. Such notification may be verbal, written or in the form of a bill which includes the Fixed Monthly Surcharge. Failure of sellers, agents, lessors or other non-company parties to notify a customer of the Fixed Monthly Surcharge shall not relieve the customer's obligation to pay the Fixed Monthly Surcharge. Failure by the customer to timely pay the Fixed Monthly Surcharge shall result in the discontinuation, termination or denial of natural gas service.

For land developers and builders, the customer contribution shall be required in a lump sum in advance of the facility expansion.

(Continued on Sheet No. B-61.00)