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Kimberly C. Wilson
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Attorney

August 22, 2002

Hand Delivered



Ms. Sandra Schultz Mengel, Chief Clerk
Michigan Court of Appeals
109 West Michigan Avenue
P O Box 30022
Lansing, MI 48909

**Re: Consumers Energy Company v Michigan Public Service Commission
Court of Appeals No. _____
Michigan Public Service Commission Case No. U-12358**

Dear Ms. Mengel:

Enclosed please find, on behalf of Consumers Energy Company, the following documents:

1. Claim of Appeal;
2. A check in the amount of \$250.00 covering the filing fee;
3. Michigan Court of Appeal Jurisdictional Checklist;
4. Orders issued by the Michigan Public Service Commission on July 11, 2001 and July 23, 2002 in Case No. U-12358;
5. Statement of Attorney Concerning Transcript;
6. Notice of Filing Claim of Appeal;
7. Michigan Public Service Commission Docket Table of Contents and Electronic Case Filings Posting for Case No. U-12358;
8. Affidavit that Claim of Appeal is Timely; and

9. A Proof of Service.

Please date stamp the extra copy of this Claim of Appeal and return the same with our courier.
Thank you for your assistance.

Sincerely,



H. Richard Chambers

cc: Ms. Dorothy Wideman, MPSC
Parties of Record to Case No. U-12358

STATE OF MICHIGAN
IN THE COURT OF APPEALS

CONSUMERS ENERGY COMPANY,

Appellant,

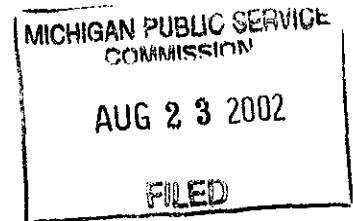
Court of Appeals No. _____

v

MPSC Case No. U-12358

MICHIGAN PUBLIC SERVICE COMMISSION,

Appellee.



Jon R. Robinson (P27953)
H. Richard Chambers (P34139)
Attorneys for Consumers Energy Company
212 West Michigan Avenue
Jackson, MI 49201
Telephone: (517) 788-1482

CLAIM OF APPEAL

Consumers Energy Company, pursuant to 1909 PA 300, Section 26, as amended, MCL 462.26; MSA 22.45; and MCR 7.204, claims an appeal from the Opinion and Order dated July 11, 2001, and the Order on Rehearing dated July 23, 2002, in Case No. U-12358 issued by the Michigan Public Service Commission by Chairman Laura Chappelle and Commissioners David A. Svanda and Robert B. Nelson.

Respectfully submitted,

CONSUMERS ENERGY COMPANY

Dated: August 22, 2002

By: H. Richard Chambers
Jon R. Robinson (P27953)
H. Richard Chambers (P34139)
Attorneys for Consumers Energy Company
212 West Michigan Avenue
Jackson, MI 49201
Telephone: (517) 788-1482

STATE OF MICHIGAN
JUDICIAL CIRCUIT
COUNTYJURISDICTIONAL CHECKLIST
FOR COURT OF APPEALSCASE NO.: MPSC Case No. U-12358
Trial Court/Tribunal:
Michigan Public Service Commission
Court of Appeals:Plaintiff name ☒ Appellant
Consumers Energy Company

v

Defendant name ☐ Appellant
Michigan Public Service Commission

INSTRUCTIONS: This checklist must be completed and filed with your claim of appeal.

Required Documents (All items 1. through 6. must be filed. Check each box to confirm each document and appropriate filing fee(s) are being filed.)

- ☒ 1. The claim of appeal, with original signature and correct lower court number. [MCR 7.204(B)(1)]
- ☒ 2. A filing fee of \$250.00 [MCR 7.204(B)(2)] (Where multiple lower court or tribunal numbers are involved, Court policy will dictate whether a multiple fee is required. Appellants will be advised of any insufficiency in the filing fee.)
- ☒ 3. A copy of the order you are appealing (the order deciding the merits and not an order denying rehearing or reconsideration). [MCR 7.204(C)(1)]
- ☒ 4. Evidence that the necessary transcript has been ordered (check only one box from a. through e. below). [MCR 7.204(C)(2)]
- ☒ a. The complete transcript has been ordered. [MCR 7.210(B)(1)(a)] and is on file with the Michigan Public Service Commission.
- ☐ b. This appeal is from a probate court proceeding which does not require a complete transcript. [MCR 7.210(B)(1)(b)]
- ☐ c. A motion has been filed in the lower court or tribunal for submission of the appeal on less than the complete transcript. [MCR 7.210(B)(1)(c)]
- ☐ d. The parties have stipulated to submission of the appeal on less than the complete transcript. [MCR 7.210(B)(1)(d)]
- ☐ e. The parties have stipulated to a statement of fact. [MCR 7.210(B)(1)(e)]
- ☒ 5. Proof of service demonstrating that all parties have been served. Even if a party is not an appellee, they must be served. [MCR 7.204(C)(3)]
- ☒ 6. Docket or calendar entries from the lower court or tribunal. [MCR 7.204(C)(5)]

Finality of Order Being Appealed (Check the box that demonstrates your claim of appeal is by right. If none apply, you do not have an appeal by right.)

- ☐ The claim of appeal is from a final order which, alone or with other orders already entered, disposes of all claims as to all parties.
- ☐ The claim of appeal is from a post judgment order which by law is designated as a final order. The statute, court rule, or case law establishing appeal by right as to this order is: (citation to MCR 7.203 alone is insufficient)
-
- ☒ The claim of appeal is from an order which is designated by statute, court rule or case law as an order appealable by right to the Court of Appeals. The statute, court rule, or case law establishing appeal by right as to this order is: MCL 462.26; MSA 22.45

August 22, 2002
Date filedH. Richard Chambers
Preparer's name (type or print)(517) 788-1482
Telephone No.



STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter of the application of)	
CONSUMERS ENERGY COMPANY to recover)	
implementation costs for the 12-month period)	Case No. U-12358
ended December 31, 1999.)	
_____)	

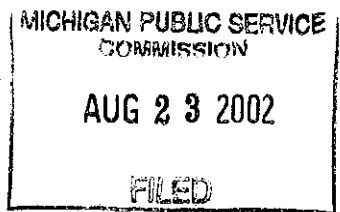
At the July 11, 2001 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. Laura Chappelle, Chairman
Hon. David A. Svanda, Commissioner
Hon. Robert B. Nelson, Commissioner

OPINION AND ORDER

On March 31, 2000, Consumers Energy Company (Consumers) filed an application seeking authorization to recover from its ratepayers \$30,152,000 in expenditures made during the 12-month period ended December 31, 1999 to implement a retail open access program in accordance with previous orders of the Commission in Cases Nos. U-11290 et al. Subsequently, Energy Michigan, Attorney General Jennifer M. Granholm (Attorney General), and the Association of Businesses Advocating Tariff Equity (ABATE) filed petitions to intervene. The Commission Staff (Staff) also participated in the proceedings.

Pursuant to due notice, a prehearing conference was conducted on July 6, 2000 by Administrative Law Judge James N. Rigas (ALJ). At the prehearing conference, the petitions to intervene filed by Energy Michigan, the Attorney General, and ABATE were granted without objection and



STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the application of)
CONSUMERS ENERGY COMPANY to recover)
implementation costs for the 12-month period)
ended December 31, 1999.)
_____)

Case No. U-12358

At the July 23, 2002 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. Laura Chappelle, Chairman
Hon. David A. Svanda, Commissioner
Hon. Robert B. Nelson, Commissioner

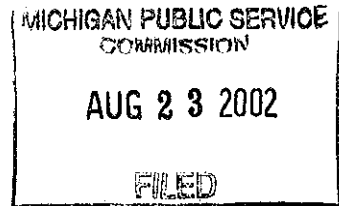
OPINION AND ORDER

On August 8, 2001, Consumers Energy Company (Consumers) filed a petition seeking rehearing of the Commission's July 11, 2001 order (the July 11 order) that approved Consumers' deferred recovery of \$25,156,000 for expenditures made during the 12-month period ended December 31, 1999 to implement a retail open access program in accordance with previous orders of the Commission in Cases Nos. U-11290 et al.

On August 31, 2001, the Association of Businesses Advocating Tariff Equity (ABATE) filed a response to Consumers' petition.

Rule 403 of the Commission's Rules of Practice and Procedure, 1992 AACSR, R460.17403, provides that a petition for rehearing may be based on claims of error, newly discovered evidence, facts or circumstances arising after the hearing, or unintended consequences resulting from compliance with the order. A petition for rehearing is not merely another opportunity for a party

STATE OF MICHIGAN
IN THE COURT OF APPEALS



CONSUMERS ENERGY COMPANY,
Appellant,

Court of Appeals No. _____

v

MPSC Case No. U-12358

MICHIGAN PUBLIC SERVICE COMMISSION,
Appellee.

Jon R. Robinson (P27953)
H. Richard Chambers (P34139)
Attorneys for Consumers Energy Company
212 West Michigan Avenue
Jackson, MI 49201
Telephone: (517) 788-1482

**STATEMENT OF ATTORNEY
CONCERNING TRANSCRIPT**

Pursuant to MCR 7.204(C)(2), Appellant Consumers Energy Company states that proceedings before the Michigan Public Service Commission in Case No. U-12358 were previously transcribed by Merrill and Associates, Inc., the court reporter, and filed with the Michigan Public Service Commission by Merrill and Associations, Inc.

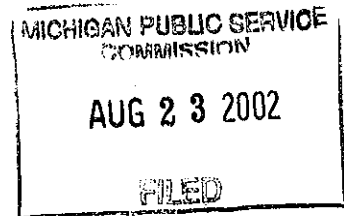
Respectfully submitted,

CONSUMERS ENERGY COMPANY

Dated: August 22, 2002

By: H. Richard Chambers
Jon R. Robinson (P27953)
H. Richard Chambers (P34139)
Attorneys for Consumers Energy Company
212 West Michigan Avenue
Jackson, MI 49201
Telephone: (517) 788-1482

STATE OF MICHIGAN
IN THE COURT OF APPEALS



CONSUMERS ENERGY COMPANY,

Appellant,

Court of Appeals No. _____

v

MPSC Case No. U-12358

MICHIGAN PUBLIC SERVICE COMMISSION,

Appellee.

_____/

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H. Richard Chambers (P34139)
Attorneys for Consumers Energy Company
212 West Michigan Avenue
Jackson, MI 49201
Telephone: (517) 788-1482

_____/

**NOTICE OF FILING
OF CLAIM OF APPEAL**

TO: All Persons Listed on the Attached Service List

PLEASE TAKE NOTICE that the attached Claim of Appeal has been filed in the
Michigan Court of Appeals and the applicable filing fee paid on this date.

Respectfully submitted,

CONSUMERS ENERGY COMPANY

Dated: August 22, 2002

By: H. Richard Chambers
Jon R. Robinson (P27953)
H. Richard Chambers (P34139)
Attorneys for Consumers Energy Company
212 West Michigan Avenue
Jackson, MI 49201
Telephone: (517) 788-1482

?25111;15H12;15Hx12;68Hx13;15Hx

WORKING - PLEASE STAND BY!

DOCKET TABLE OF CONTENTS AND INDEX

DOCKET/TRACKING# U - 12358- CASE #

DATE: 07/31/2001

PRIMARY COMPANY: CONSUMERS ENERGY COMPANY

FILED ON DOC# FILED BY

ON BEHALF OF

CLASSIFICATION

DESCRIPTION

DESCRIPTION CONTINUED

SUBGROUP ACTION

DOCUMENT LOCATION

03/31/2000 1 CHAMBERS
CONSUMERS ENERGY COMPANY
APPLICATION

REF.# FILED / / WALLET# 0.00

03/31/2000 2 CHAMBERS
CONSUMERS ENERGY COMPANY
TESTIMONY - PREPARED/EXHIBITS-PROPOSED
Gilzow-1; Waits-1; Yehl-1

REF.# FILED / / WALLET# 0.00

05/10/2000 3 WEBBER
SCHEDULING MEMO

REF.# FILED / / WALLET# 0.00

05/22/2000 4 WIDEMAN
NOTICE OF HEARING

REF.# FILED / / WALLET# 0.00

06/05/2000 5 HUGHEY
STAFF
APPEARANCE

REF.# FILED / / WALLET# 0.00

06/09/2000 6 SCHNEIDEWIND
ENERGY MICHIGAN
INTERVENTION

REF.# FILED / / WALLET# 0.00

06/12/2000 7 STRONG
ABATE
INTERVENTION

REF.# FILED / / WALLET# 0.00

Electronic Case Filings

Michigan Public Service Commission
Department of Commerce & Industry Services

--- Choose One ---

search [New](#)

View Case

- ☐ Entire Site
☒ Case 12358 Onl

Case U-12358: In the matter of the application of Consumers Energy Company to recover Retail Access Program implementation costs for the period ended December 31, 1999.

Industry: Electric

Company(s): Consumers Energy Company

Open Date: 3/31/2000

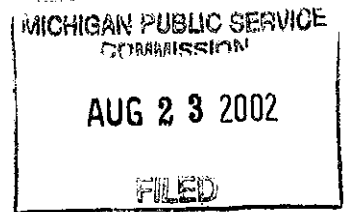
Order Dates: 7/11/2001 7/23/2002

**How to View
PDF Files**

Click on the Document # to view the PDF file. A document # ending with an N, is not available in electronic form. Contact the MPSC for a paper copy.

Document No.	File Date	Filed by	On Behalf of	Type	Description
0064	7/23/2002			Order	Denies petition for rehearing
0063	8/31/2001	Maier	The Association of Businesses Advocating Tariff Equity	Response	To Petition for Rehearing
0062	8/10/2001	Chambers	Consumers Energy Company	Petition	For Rehearing
0061	7/11/2001		Commission	Order	Closes Proceeding
0060	5/1/2001	Tomak		Memorandum	Transmittal to RAD for draft order
0059	4/30/2001	Chambers	Consumers Energy Company	Reply to Exceptions	
0058	4/18/2001	Maier	ABATE	Exceptions	
0057	4/18/2001	Hughey	Staff	Exceptions	
0056	4/18/2001	Chambers	Consumers Energy Company	Letter	No exceptionsd
0055	4/4/2001	Rigas	Bureau of Hearings	PFD	
0054	2/14/2001	Maier	ABATE	Proof of Service	For reply brief
0053	2/14/2001	Maier	ABATE	Reply Brief	
0052	2/14/2001	Maier	ABATE	Letter	For reply brief

STATE OF MICHIGAN
IN THE COURT OF APPEALS



CONSUMERS ENERGY COMPANY,

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MPSC Case No. U-12358

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_____/

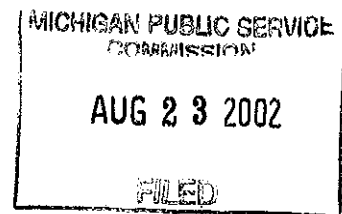
**AFFIDAVIT THAT
CLAIM OF APPEAL IS TIMELY**

STATE OF MICHIGAN)
) SS.
COUNTY OF JACKSON)

H. Richard Chambers, first being duly sworn, deposes and says:

1. I am one of the attorneys representing Appellant Consumers Energy Company in this appeal.
2. I make this affidavit on personal knowledge, information and belief.
3. On July 11, 2001, the Michigan Public Service Commission issued its Opinion and Order in Case No. U-12358. Pursuant to a Petition for Rehearing filed August 10, 2001 by Consumers Energy Company, the Michigan Public Service Commission issued an Order on Rehearing on July 23, 2002 in Case No. U-12358.

STATE OF MICHIGAN
IN THE COURT OF APPEALS



CONSUMERS ENERGY COMPANY,

Appellant,

Court of Appeals No. _____

v

MPSC Case No. U-12358

MICHIGAN PUBLIC SERVICE COMMISSION,

Appellee.

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Jon R. Robinson (P27953)
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Attorneys for Consumers Energy Company
212 West Michigan Avenue
Jackson, MI 49201
Telephone: (517) 788-1482

_____/

PROOF OF SERVICE

STATE OF MICHIGAN)
) SS.
JACKSON, MICHIGAN)

Carolyn Hinton, being first duly sworn, deposes and says that she is employed in the Legal Department of Consumers Energy Company; that she served a copy of the documents listed below upon the persons listed in Attachment 1 hereto at the addresses listed therein by depositing the same on **August 22, 2002** in the United States Mail in the City of Jackson, Michigan with first-class postage thereon fully paid.

1. Claim of Appeal;
2. A check in the amount of \$250.00 covering the filing fee;
3. Michigan Court of Appeal Jurisdictional Checklist;
4. Order issued by the Michigan Public Service Commission on July 11, 2001 and July 23, 2002 in Case No. U-12358;
5. Statement of Attorney Concerning Transcript;
6. Notice of Filing Claim of Appeal;