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August 24, 2001

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

Re: Case No. U-12488

Dear Ms. Wideman:

Enclosed for filing in the above-referenced matter are an original and four copies of "**Consumers Energy Company's Replies to Exceptions**". This document was filed electronically as part of the Commission's Electronic Filings Program. I have also enclosed a Proof of Service.

Sincerely,

Jon R. Robinson

CC: Parties per Attachment 1
to Proof of Service

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STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the rates, terms, and Conditions for retail customers of CONSUMERS ENERGY COMPANY to choose an alternative electric supplier	)))))	Case No. U-12488

<u>CONSUMERS ENERGY COMPANY'S</u>
<u>REPLIES TO EXCEPTIONS</u>

Exceptions in this case were filed on August 13, 2001 by Consumers Energy Company ("Consumers Energy" or "Company"), Association of Businesses Advocating Tariff Equity ("ABATE"), Energy Michigan, and the Michigan Public Service Commission Staff ("Staff"). In accordance with the schedule established by the Administrative Law Judge, Consumers Energy files these replies to the exceptions of ABATE, Energy Michigan and the Staff. The Company has addressed the various issues by referring to the numbered paragraphs used by the ALJ in the Proposal for Decision. Where appropriate, Consumers Energy has simply referred the Commission to the Company's initial Brief or Reply Brief, so as to avoid unnecessary duplication.

<u>Reply to MPSC Staff</u>

<u>PFD Paragraph 11.</u> Tariff language had been proposed by Staff which would require Consumers Energy to physically shut-off service to ROA customers at the request of the Alternative Electric Supplier ("AES"). The ALJ found that such a requirement would place Consumers Energy in the position of resolving pricing/billing disputes between customers and their AES, and therefore rejected the proposed language. In their exceptions, the Staff states its agreement with the ALJ that Consumers Energy should not be placed in such a position, but states that the Commission should "review this issue and reconsider how the retailer's ability to discontinue service to customers is to transpire."

Since the Staff did not make a specific proposal in its exceptions, it is difficult to respond. In its initial brief in this case (pp. 14-15), the Company pointed out that Section 10t(4) of 2000 PA 141 ("PA 141") states that "[a]n electric utility is not required to shut off service to an eligible customer for nonpayment to an alternative electric supplier." As used in this section of PA 141, an "eligible customer" is either a qualifying low income customer or a senior citizen customer. Thus, at least with respect to such customers, PA 141 reflects a legislative determination that the distribution utility should not be required to shut off service at the behest of an AES. In addition, putting the distribution utility in the position of enforcing payments owed to an AES/Retailer by an ROA customer is simply bad policy. Consumers Energy should not be forced to pick sides in pricing/billing disputes between an ROA customer and its AES. The ALJ was persuaded that such a policy should not be adopted.

With respect to Staff's concern, Consumers Energy believes that the Commission must determine whether to place AES/Retailer's under service termination requirements similar to those applicable to a distribution utility. The Company believes that this is actually the point raised by the Staff; i.e., before an AES/Retailer can terminate service to a customer, should it be required to follow procedures comparable to those that must be followed by Consumers Energy? See Consumers Standards and Billing Practices (Residential Customers), R 460.2151 through R 460.2174, and Commercial and Industrial Standards and Billing Practices (Nonresidential Customers), R 460.3901 through R 460.3908. Or does the Commission believe that this should simply be a matter of negotiation and contract between the AES/Retailer and the ROA customer?

Whatever the resolution, Consumers Energy emphasizes that it should not be placed in the position of enforcing pricing/billing disputes between an AES and its customers.

PFD Paragraph 13. The ALJ recommended rejection of each of the various dispute resolution procedures that have been proposed in this case. The positions in this case are as follows: (i) Consumers Energy proposed a dispute resolution procedure in its direct case. See Exhibit A-1, Sheet No. F-10.20, Section F11. (ii) The Staff proposed modifications to this procedure. See Exhibit S-15, Sheet No. F-16.00, Section F3.6. (iii) Consumers Energy indicated it could support the Staff's reformulation of this procedure, with some minor modifications. See Consumers Energy initial brief, pp. 24-25. (iv) Exelon took the position, which was ultimately adopted by the PFD, that a dispute resolution procedure was not necessary since customers and AES/Retailer's already have the ability to bring disputes to the Commission for resolution.

Consumers Energy did not except to the ALJ's recommendation on this issue. The Company can accept, however, either its initially proposed dispute resolution rule, or the version proposed by the Staff (with the indicated modifications).

PFD Paragraph 19. Consumers Energy had proposed that charges for manual meter reads should cover only the Company's actual costs, and that this should be re-determined on an annual basis. The Staff had proposed a $12 charge, which the ALJ properly found was not supported in the record. In its exceptions, the Staff requests that Consumers Energy be directed to file an application to establish the appropriate charge. The Company respectfully submits that a separate application and proceeding to establish this charge is simply not warranted.

Consumers Energy currently charges $45 in instances where the customer's time-of-use meter cannot be electronically accessed, and a visit is required to make a manual reading. This is only an issue for customers with time-of-use meters, and is only an issue for those customers if something interferes with the Company's ability to obtain electronic access to the meter data. The Company believes that this limited issue should be addressed in the same manner as are meter relocations for full service customers. Rule B14.3 provides that "[t]he Company shall charge the customer for relocating the meter, <u>based upon the Company's current costs</u>." Emphasis added. Thus, the charge is based upon actual costs, as those costs may vary over time. This avoids having other customers subsidize costs incurred for a single customer. This is an appropriate means of addressing this limited issue. See also Consumers Energy initial brief, pp. 28.

<u>PFD Paragraph 31.</u> The ALJ correctly determined that the mandatory enrollment deadlines proposed by Energy Michigan should be rejected. In its exceptions, the Staff notes that, in a different case (U-12770), the Commission recently proposed distribution performance standards that would require electric utilities to complete new service installations within 15 business days. The Staff states its belief that "a similar requirement for the ROA program would be appropriate."

Consumers Energy does not know what "similar requirement" is being proposed by the Staff, and the ambiguity of the proposal is sufficient reason for its rejection. The Staff made no mandatory enrollment deadline proposal in this case, and reliance upon a <u>proposed</u> standard for a <u>different activity</u> made in a <u>different case</u> does not constitute substantial evidence. Consumers Energy also notes that the Staff comment appears inconsistent with various aspects of the "MPSC Staff Report on Investigation of Consumers Energy Company Retail Open Access Program Customer Enrollment and Supplier Support Systems and Processes," which was issued by the Staff after the record closed in this case. In that report, the Staff states that for the ongoing permanent ROA program commencing January 1, 2002, the enrollment process "ought to be completed in 45 days or less, in all but the most unusual circumstances." Staff Report p. i. The report further notes that, while problems existed early in the Consumers Energy ROA program, the Company "made many process improvements, and its performance "has been improving as Consumers made adjustments." Id.

Consumers Energy strongly urges the Commission to resist the temptation to establish an arbitrary enrollment deadline in this case. The modest participation of customers thus far in the ROA programs is not the fault of enrollment procedures. Those procedures have been and will continue to be improved. In many instances, the timing of enrollment is dependent upon matters beyond the control of the distribution utility; e.g., telephone line installation, inaccurate information from the AES/Retailer. Any deadline adopted at this point would be arbitrary, premature and unnecessary.

Reply to ABATE

PFD Paragraph 2. The PFD adopted Consumers Energy's position that the Rate DA program be closed, and Rate DA customers transferred to the permanent ROA program at the beginning of the first month after the issuance of an order in this case. ABATE takes exception to this recommendation, arguing that the transfer should not occur before January 1, 2002. Consumers Energy believes that the ALJ's recommendation is reasonable and consistent with prior Commission orders related to this matter. See Consumers Energy initial brief, pp. 3-4.

PFD Paragraph 12. The ALJ adopted the Staff "Return to Full Service" proposal, which would allow ROA customers to return to Consumers Energy full service upon only 30 days notice. For the reasons expressed in Consumers Energy's Exceptions, pp. 3-11, this recommendation of the ALJ should be rejected. ABATE agrees that this recommendation should be rejected, although ABATE promotes a different solution than does Consumers Energy. The point that should be emphasized here, however, is that even ABATE, whose members are likely to be some of the biggest participants in the ROA program, agrees that allowing customers to return to full service tariff rates upon only 30 days notice is an unwise policy.

PFD Paragraph 9. Without going into any detail, ABATE states that the ALJ's recommendation concerning ROA standby rates should be rejected. Consumers Energy believes that the ALJ's recommendation is appropriate, and indeed, recommends approval of the only proposal that could lawfully be adopted given the state of this record. See Consumers Energy initial Brief, pp. 10-12; Consumers Energy Reply Brief, pp. 19-20, 25-26.

PFD Paragraph 34. ABATE takes exception to the ALJ's rejection of the proposal of ABATE witness Mr. Dauphinais concerning the settling of ROA time-of-use meter customers energy imbalances at the distribution level in a manner that would result in all such customer's imbalances being netted together in the determination of imbalance charges. This issue was addressed in some detail in Consumers Energy's initial Brief at pages 45-48. In summary, the ALJ's recommendation should be adopted by the Commission because:

(i) The FERC has claimed jurisdiction over this balancing service, and has established rates, terms and conditions for that service,

(ii) ABATE's witness acknowledged that a pending case at the FERC will likely resulting a lowering of Michigan Electric Transmission Company's balancing charges,

(iii) ABATE's witness acknowledged that, perhaps as early as late 2002, a real-time balancing market will be developed, which will eliminate the need for his proposal,

(iv) Consumers Energy presented evidence showing that retail customers are capable of managing their loads, and thereby avoiding balancing charges, 2 TR 81,

(v) The ABATE proposal is extremely complex, and would require expensive computer program changes and the incurrence of significant administrative costs, 2 TR 82,

(vi) The ABATE proposal could result in Consumers Energy having to absorb very large swings in customer load, and thus would impose substantial costs on other customers, 2 TR 83,

(vii) The change being proposed by ABATE would be beneficial to only a very few customers (less than 50 out of 1.6 million), 2 TR 83-84.

For these reasons, ABATE's exception should be rejected.

Reply to Energy Michigan

This reply responds to Energy Michigan's exceptions in the order they appear in Section II of Energy Michigan's Brief.

PFD Paragraph 6. The ALJ recommended rejection of a Staff proposal to delete language that made it clear that AES/Retailers were responsible for payment of transition charges prior to January 1, 2002. Energy Michigan takes exception, arguing that the Commission already ruled on this matter in Case No. U-12505, the securitization case for Consumers Energy. A review of the cited portion of the October 24, 2000 Order in U-12505 clearly indicates that the Commission ruled that securitization and related tax charges would be applicable to ROA customers, rather than AES/Retailers, even if the securitization bonds were issued and the charges applied prior to January 1, 2002. In no way can that order be interpreted as also being a ruling with respect to transition charges. Indeed, this is the first time that Energy Michigan, or any party, has made this argument. Energy Michigan's proposal would require a retroactive change to the ROA tariffs that is unlawful and inappropriate.

The bidding process established by the Commission for ROA capacity, and the tariff sheets that implement that process have always contemplated that AES/Retailers would make bids to acquire the right to serve ROA capacity during the initial transition period (i.e., pre-January 1, 2002), and that those bid amounts would be applied toward stranded costs. The issue that was raised by the Staff in this case was whether the bids associated with unused ROA capacity should be returned to customers or applied toward the recovery of stranded costs. This argument was never previously made with respect to used ROA capacity.[1]

In the interest of being conciliatory, Consumers Energy accepted the ALJ recommendation that the bid amounts (without interest) associated with unused capacity should be returned by March 31, 2002 even though the Company had previously opposed that proposal. See Consumers Energy Brief, pp. 6-7. Energy Michigan now seeks to modify the ALJ's recommendation by (i) applying it to bid amounts associated with used ROA capacity and also (ii) to add interest to the amounts to be refunded. These modifications are unjustified, having no support at all in this record.

PFD Paragraph 8. The ALJ recommended adoption of language proposed by Staff, and agreed to by Consumers Energy, that provides customers with a 10 day period to cancel enrollments. Energy Michigan objects, and states that the cancellation right should only apply if the customer can demonstrate that it was "slammed." Consumers Energy does not know how Energy Michigan expects such a determination would be made, but the Company objects if it would be placed in the position of having to make that determination. The language proposed by the Staff and adopted by the ALJ provides a simple and objective standard. If the customer requests that the enrollment be cancelled within 10 days of Consumers Energy receiving the reenrollment from the AES/Retailer, then the enrollment is cancelled. Changing this standard to one where a determination must be made within 10 days of whether a customer has been

[1] The Staff's position was always clear that they were only addressing bid deposits associated with unused ROA capacity. See Exhibit S-15, Sheet No. F-22.00.

slammed or not will be impossible to administer. Consumers Energy requests that, if the Commission wishes to modify this tariff provision in the manner proposed by Energy Michigan, that some independent third party be given the responsibility to determine whether the customer has been slammed. Consumers Energy should not have, and does not want, that responsibility.

PFD Paragraph 9. Consumers Energy proposed several changes to the ROA standby rate. The Staff generally accepted these changes, although they proposed some modifications that Consumers Energy accepted. The ALJ recommended adoption of the Staff-modified language. Energy Michigan objects, repeating arguments that were rejected by the ALJ. This issue was fully discussed in the briefs filed in this case. See Consumers Energy initial Brief, pp. 10-12; Consumers Energy Reply Brief, pp. 19-20, 25-26. In summary, the Energy Michigan proposal that standby service should be based upon incremental costs "for the amount of service used not the highest single MWh used" would require the calculation of incremental costs on a MWh by MWh basis, and each hourly schedule of each AES/Retailer would have to be prioritized so the generation costs could be determined. This would be an extreme administrative burden, if it could be done at all. In addition, the complaint that the pricing mechanism adopted by the ALJ (incremental cost plus 10%) is inconsistent with PA 141 is invalid. The testimony of Mr. Ronk on this subject clearly supports the conclusion that this pricing mechanism is "based upon market indices commonly relied upon in the electric generation industry, adjusted as appropriate to reflect retail market prices in the relevant market." MCL 460.10b(5); MSA 22.13(10b)(5). See testimony of David Ronk, 2 TR 57, 64.

PFD Paragraph 10. In his PFD, the ALJ recommended adoption of tariff provisions that would specify the terms under which the optional billing service would be provided by Consumers Energy. Energy Michigan takes exception to this recommendation, arguing that it would provide an advantage to Consumers Energy over competitors. Although Consumers Energy accepted the ALJ's recommendation, the Company can also accept a result that leaves the terms and condition of the optional billing service offered by Consumers Energy for negotiation. This is apparently what Energy Michigan would prefer.

PFD Paragraph 11. Energy Michigan objects to the ALJ's recommendation that Consumers Energy should not be required to physically shut-off service to an ROA customer at the request of the AES/Retailer. This issue was addressed in some detail above in response to the Staff, and that discussion will not be repeated here. Consumers Energy emphasizes that it should not be placed in the position of serving as the enforcer of pricing/billing disputes between an AES/Retailer and its customer. Those must be resolved between those parties, and Consumers Energy should not be forced to take the side of the AES/Retailer in those disputes.

PFD Paragraph 12. The ALJ adopted a Staff proposal that would allow ROA customers to return to Consumers Energy full service upon 30 days notice. As explained by Consumers Energy in its Exceptions, this is an unreasonable resolution of this issue. See Consumers Energy Exceptions, pp. 3-11. Incredibly, Energy Michigan excepts to the ALJ's recommendation, and argues that ROA customers should be able to return to full service upon even less notice. First, Energy Michigan claims that an AES/Retailer should be able to return any customer to Consumers Energy upon "little or no notice." Energy Michigan's position is that an AES/Retailer should always be able to pass its bad credit risk customers back to Consumers Energy whenever the AES/Retailer feels like it. Under the Energy Michigan view of competition, an AES/Retailer never really has to take any business risks at all, since the distribution utility is always there, on a moment's notice, to back it up. Under this view, the customer also never takes any risks that would normally be associated with the selection of an unreliable supplier, since the distribution utility is always immediately available to supply service. This is simply an unreasonable view of how a competitive market should work. Even under the less-than-full competitive model that Michigan is currently operating under, the Energy Michigan approach of assigning all risks (customer credit risks, market price risk, power availability risk, etc) to the distribution utility and its remaining full service customers is wrong, and the Commission should not accept such a skewed view of competition.

Second, Energy Michigan attempts to rewrite its testimony in this case, and claims that its witness stated that the Staff proposal would be appropriate under normal conditions, but that there must first be an increase of 2000 MW of transmission capability. In fact, the actual statement of its witness was that "[t]he return to service provisions proposed by Consumers Energy are fair in a market in which competition truly exists. . . ." 2 TR 107. Emphasis added. The Energy Michigan witness further stated that he proposed that "Consumers Energy's Return to Service provision only apply once there is an increase of 2000 MW in the annual firm transmission capacity into the Detroit Edison/Consumers Energy transmission grid which can be procured by non-utility Power Marketers participating in ROA." Id. Emphasis added. Energy Michigan should not be allowed to ignore its own filed position. The Commission should therefore find, in conjunction with the record made in Cases No. U 12780/ U-12781, that once Consumers Energy has completed the projects necessary to meet the PA 141 requirement to increase transmission import capability by 2000 MW, Energy Michigan's position that the Consumers Energy return to service provision is appropriate should be adopted.

PFD Paragraph 16. A current provision of the ROA tariffs provides for an allocation of responsibility for third-party costs in the event a customer or AES/Retailer fail to meet their obligations under the ROA program. The Staff proposed deletion of this provision, and the ALJ properly rejected that proposal. Energy Michigan takes exception. This was fully discussed at pages 26-27 of the Company's initial Brief.

PFD Paragraph 17. The ALJ adopted Staff-proposed language that essentially gives the Company, the AES/Retailer and the customer the ability to terminate ROA service upon 30 days notice. Energy Michigan proposes further modifying these provisions. For the reasons stated by Consumers Energy with respect to the Return to Full Service issue, 30 days notice is simply insufficient with respect to the notice required for ROA customers to return to Consumers Energy full service. It has never been clear what the Staff was attempting to do with these provisions. The Staff offered no evidence whatsoever in support of them, and offered no explanation of how they relate to other service termination tariff provisions (e.g., billing practice rules). These provisions should be rejected.

PFD Paragraph 19. This ALJ ruling concerned the fee for manual meter reads. Energy Michigan accepts the ALJ recommendation, but states that "telemetry" (i.e., phone lines to allow meters to be electronically accessed) should not be required for customers less than 1000 kW. This issue is discussed below in connection with PFD Paragraph 31.

PFD Paragraph 29/PFD Paragraph 30. Energy Michigan continues its quest to obtain preferential, discriminatory transmission services for AES/Retailers under the FERC-regulated OATT. The two issues raised by Energy Michigan in these exceptions are closely related. The first issue concerns Energy Michigan's claim that Consumers Energy requires that a Retailer/Alternative Electric Supplier (AES) contract for both transmission and distribution service in order to participate in the ROA program. Energy Michigan alleges that this impairs a Retailer's ability to achieve the most efficient use of transmission service. Energy Michigan would prefer that the ROA program be designed so that an entity called a "marketer" would purchase transmission capacity that would be sold to the Retailer, along with generation service. The Retailer would then resell that generation and transmission service to retail customers. This, according to Energy Michigan, would allow transactions to be structured so that the marketer could combine the loads of multiple Retailers to achieve a higher load factor, and therefore achieve more efficient use of transmission service. See Energy Michigan Brief, pages 4-5.

There are a number of errors/problems with Energy Michigan's argument on this issue. First, it is inaccurate, or at least misleading, to claim that, under Consumers Energy's ROA program, Retailers are required to contract for both transmission and distribution services. The only distribution-related cost that Retailers are required to pay is the transition charge, and even that obligation ceases at December 31, 2001. Retail customers purchase all necessary ROA distribution services directly from Consumers Energy.

Second, it is inaccurate to claim that the design of Consumers Energy's ROA program makes it more difficult to achieve the efficient use of transmission service. Consumers Energy's program allows for, and encourages the use of aggregation so that groups of customers can be assembled to achieve higher load factors. This permits exactly the result that Energy Michigan claims it desires--the purchase and use of transmission capacity to serve a high load factor customer load. The only difference is that Energy Michigan's approach would accomplish the aggregation at the "marketer" (or transmission customer) level, while the Company's program accomplishes the aggregation at the retail customer/AES level.

Third, there is no discrimination occurring in this respect between Consumers Energy and other AES/Retailers. Indeed, Consumers Energy is exactly like an AES/Retailer for purposes of understanding this issue. Consumers Energy must purchase transmission service from the transmission service provider, just like its program requires AES/Retailers to do.

Consumers Energy aggregates its full service retail load in exactly the same way that its program allows AES/Retailers to do.

For these reasons, no changes should be required to Consumers Energy's program with respect to the obligation that Retailers purchase transmission service.

Energy Michigan also demands that AES/Retailers be allowed to purchase a transmission service not provided for under the FERC-regulated OATT. This new service demanded by Energy Michigan would allow Retailers to use OATT point-to-point transmission service for aggregated multiple retail customer loads. Energy Michigan attempts to portray this issue as one of discrimination, but its argument really is that the OATT does not offer a transmission service option that is acceptable to Energy Michigan.

Some background information is necessary to address this issue. As explained in Consumers Energy's initial brief, the OATT offers two basic types of transmission service: network service and point-to-point service. Point-to-point service requires a customer to designate a specific point of delivery on the system for each transaction. Network service, on the other hand, allows a transmission customer to have multiple points of receipt and multiple points of delivery. Network service is the type of service that Energy Michigan claims it wants. It is not satisfied with that option, however, because network service as defined by the FERC requires the customer to have a firm contract for energy and capacity, and a firm transmission path arranged for delivery of the power to Michigan. These requirements apply to network service because it offers several advantages to prospective customers, including the ability to aggregate points-of-delivery, and, with respect to secondary service (i.e., service used when there has been a change in the initially stated point-of-receipt or point-of-delivery), has a higher priority relative to point-to-point service.

It must be emphasized that there is no discrimination presently occurring with respect to this issue. Consumers Energy purchases transmission service necessary to service its full service retail customers pursuant to the same OATT that applies to Retailers in the ROA program. It purchases network service, and not some form of the "aggregated point-to-point" service that Energy Michigan wishes were available. Indeed, it would be discriminatory to construct the type of service that Energy Michigan advocates solely for Retailers. See David Ronk rebuttal testimony at 2 TR 62, and Karen Feahr rebuttal testimony at 2 TR 85.

Second, Energy Michigan's complaint that network service is not a viable option because it was "impossible" to obtain firm transmission service into Michigan during the summer of 2001 is quite clearly incorrect. Consumers Energy offered 100 MW of its AEP transmission capacity for the summer of 2001 to Retailers at cost, and received no takers. See footnote on page 21 of Consumers Energy's initial brief. In addition, rebuttal evidence offered by David Ronk indicates that approximately 500 MW of AEP transmission capacity for the summer of 2001 has been reserved by parties other than Consumers Energy and Detroit Edison. 2 TR 63. These facts show that it is clearly not "impossible" to obtain this capacity. It does require the Retailer to make the effort and make the same commitments that other transmission customers have been willing to make.

Third, the qualifications for network service are not as difficult to meet as Energy Michigan suggests. As Company rebuttal witness Karen Feahr testified:

> "In order for Network Integration Transmission Service (NITS) customers to receive firm transmission service, they must procure firm electric suppliers and firm transmission service. <u>However, it does not have to be done on an annual basis. It can be accomplished on a monthly, weekly, or even a daily basis by submitting a designated network resource form that is posted on the OASIS for all transmission service customers to observe.</u>" 2 TR 85. Emphasis added.

Thus, there is considerable flexibility available in meeting the requirements for network service. The energy and transmission capacity can even be "firmed up" on a day ahead basis.

Fourth, as shown above, the type of transmission service that Energy Michigan says it desires is really network service. As also shown above, network service is available. What is not available under the OATT is the "aggregated point-to-point" service that Energy Michigan says should be available. It would be inconsistent with the OATT to offer such a service; it would also be discriminatory to offer such a service to Retailers without offering it to all prospective transmission customers. Perhaps more practically, the OATT is a FERC-regulated tariff, and contains the services that the FERC directed should be offered. If Energy Michigan is dissatisfied with those offerings, the proper forum to address that dissatisfaction is the FERC.

There are additional misstatements/misrepresentations made in Energy Michigan's exceptions. At page 14 of its exceptions, Energy Michigan makes a very complicated argument that appears to be saying that, when an AES/Retailer serves a group of load profile customers, it is permitted to do so using OATT point-to-point service. This is discriminatory, according to Energy Michigan, because this amounts to the type of "aggregated point-to-point service" that Energy Michigan would like to have available for non-load profile customers. There is no evidence in the record to support this argument. If there had been evidence introduced, Consumers Energy could have easily rebutted it, because all profiled load is served pursuant to OATT <u>network</u> service. Thus, the discrimination that Energy Michigan is apparently alleging simply does not exist.

At page 15 of its exceptions, Energy Michigan argues that, when scheduling power into Consumers Energy's system, the Company supplies each AES/Retailer a single "sink," and that when scheduling a point-to-point transaction, the AES/Retailer schedules deliveries to the sink point. Thus, Energy Michigan argues that this is effectively the aggregation of retail customer load, and thus must be permissible under the OATT, notwithstanding Consumers Energy's arguments. In fact, Energy Michigan is again misinformed. Each AES/Retailer is not supplied a single sink. There is a sink for <u>each point-to-point customer</u>. For a network service transaction, on the other hand, a single sink is identified, because network service can be aggregated.

At pages 15-16 of its exceptions, Energy Michigan makes the argument that, with respect to service provided to Consumers Energy full service customers, transmission service is effectively aggregated at the distribution level. Apparently the allegation Energy Michigan is making is that Consumers Energy is provided better transmission service than is available to AES/Retailers. As noted above, however, Consumers Energy purchases the transmission service necessary to service its full service retail customers pursuant to the same OATT that applies to Retailers in the ROA program. It purchases network service, and not some form of the "aggregated point-to-point" service that Energy Michigan wishes were available. All AES/ Retailers may do the same.

At pages 16-17 of its exceptions, Energy Michigan argues that Detroit Edison is supplying the type of aggregated point-to-point transmission service that it desires Consumers Energy to provide, and that FERC does not have jurisdiction over this issue. The issue that Energy Michigan has raised clearly concerns the type of service available under the OATT transmission tariff. The OATT is a FERC-jurisdictional tariff. Consumers Energy believes that the type of service Energy Michigan desires is not permissible under the METC OATT. If

Energy Michigan wishes to challenge that determination, it should pursue the matter at the FERC.

Finally, at page 17 of its exceptions, Energy Michigan claims that Consumers Energy administered the Rate DA program in a manner that allowed the type of transmission service that it desires. Again, there is no evidence to support this argument. In fact, all Rate DA customers but one utilized network transmission service. The one exception that used point-to-point service had a single point of delivery. Thus, the Rate DA program was administered in exactly the same manner that Consumers Energy is administering the ROA program.

For all of the above reasons, the Energy Michigan positions on aggregated point-to-point service and on AES/Retailers being responsible for purchasing transmission service should be rejected.

PFD Paragraph 31. Energy Michigan argues that the ALJ should have agreed with Energy Michigan's proposal that Consumers Energy should be required to enroll customers within 15 days, and that telemetry requirements (i.e., installation of telephone lines to allow electronic access to meter data) should be waived for customers under 1000 kW. The first issue was addressed in Consumers Energy's initial brief, pp. 40-41, and reply brief, pp. 13-14. In addition, Energy Michigan now makes several new arguments in its exceptions. In response, it is inaccurate to suggest that Energy Michigan presented evidence demonstrating problems in Consumers Energy's enrollment procedures. Although Energy Michigan proposed that a 15 day deadline be adopted, they presented no evidence even alleging that the Company's enrollment procedures were inadequate. The reliance upon the "MPSC Staff Report on Investigation of Consumers Energy Company Retail Open Access Program Customer Enrollment and Supplier Support Systems and Processes" is also misplaced. As noted earlier in this Reply, the Staff states in its report that for the ongoing permanent ROA program commencing January 1, 2002, the enrollment process "ought to be completed in 45 days or less, in all but the most unusual circumstances." Staff Report p. i. The report further notes that, while problems existed early in the Consumers Energy ROA program, the Company "made many process improvements, and its performance "has been improving as Consumers made adjustments." Id. While Energy Michigan engaged in some selective quoting from this Staff Report, reading the entire report would clarify that Consumers Energy does not have a "serious problem" completing enrollments in a timely manner. It is also clear that the minor participation in ROA that has been experienced thus far has nothing to do with enrollment procedures, but is the result of market conditions that are beyond the control of any individual distribution utility, AES or customer.

The waiver of telemetry should also be rejected. Doing so would require either the load profiling of all customers under 1000 kW, or the manual meter reading of all such customers. The first alternative would result in the significant impairment of the ability to match loads and power deliveries. See Consumers Energy Reply Brief at pages 20-22 which discussed an Exelon proposal to increase the number of load profiled customers. The Energy Michigan proposal would be even worse than what Exelon proposed, and was rejected by the ALJ.

The second alternative (manual meter reads) is simply not feasible. The OATT requires that bills be prepared on a calendar month basis. Thus, to do what Energy Michigan is proposing would require that all affected meters be read on the same day. To do so for all customers under 1000 kW who are subject to this proposal would be administratively burdensome, and potentially extremely costly. Installing the necessary telephone line is clearly a less expensive means of allowing customer participation in ROA.

PFD Paragraph 32. This issue concerns Energy Michigan's proposals to change the load profile provisions of the ROA tariffs. The ALJ properly rejected these proposals. See Consumers Energy Reply Brief, pp. 14-15.

Respectfully submitted,

CONSUMERS ENERGY COMPANY

Dated: August 24, 2001

By: ______________________

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PROOF OF SERVICE

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) SS
COUNTY OF JACKSON)

Sammie B. Dalton, being first duly sworn, deposes and says that she is employed in the Legal Department of Consumers Energy Company; that she served an electronic copy of **"Consumers Energy Company's Replies to Exceptions"** upon the persons listed in Attachment 1 hereto, at the e-mail addresses listed therein. She further states that she served a copy of the same document upon the persons listed on Attachment 1, by first-class mail, at the addresses listed therein by depositing the same on August 24, 2001, in the United States mail in the City of Jackson, Michigan with first-class postage thereon fully paid.

Sammie B Dalton

Subscribed and sworn to before me this 24th day of August, 2001.

Holly J. Allen

Holly J. Allen
Notary Public, Jackson County, Michigan
My Commission Expires: 05/01/06

ps0801-2-83e

ATTACHMENT 1 -- TO CASE NO. U-12488

Administrative Law Judge

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