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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: In the Matter of the Rates, Terms, and Conditions for Retail Customers of Consumers Energy Company to Choose an Alternate Electric Supplier
MPSC Case No. U-12488

Dear Ms. Wideman:

Enclosed for filing, please find an original and four copies of the Replies to Exceptions of The Association of Businesses Advocating Tariff Equity in the above-captioned proceeding. Proof of Service upon the parties of record is also enclosed.

Very truly yours,

CLARK HILL P.L.C.

Thomas E. Maier

Thomas E. Maier

TEM/kag

Enclosures

cc: Parties of Record

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STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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

REPLIES TO EXCEPTIONS OF THE ASSOCIATION OF BUSINESSES ADVOCATING TARIFF EQUITY

Association of Businesses Advocating Tariff Equity

By its Attorneys
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Telephone: (517) 381-9193

Dated: August 24, 2001

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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

REPLIES TO EXCEPTIONS OF THE ASSOCIATION OF BUSINESSES ADVOCATING TARIFF EQUITY

The Association of Businesses Advocating Tariff Equity ("ABATE"), by and through its attorneys, Clark Hill PLC, submits these Replies to Exceptions to the Proposal for Decision ("PFD") filed by the presiding Administrative Law Judge ("ALJ") in these proceedings on July 30, 2001.

I. Reply to Consumers Energy Company ("Consumers")

12.[1] Return to Service

Beginning at page 3 of Consumers' Exceptions, Consumers excepts to the ALJ's recommendations regarding the return to full service provisions of the Retail Open Access ("ROA") tariffs. ABATE also excepted to the ALJ's recommendation. (*See*, ABATE's Exceptions, ¶2). However, in its Exceptions, Consumers misstates ABATE's position, stating that ABATE proposed adoption of The Detroit Edison Company's ("Edison") return to service provision. (*See*, Consumers' Exceptions, p 7). Consumers' Exceptions also restate Consumers' position and its desire for a nine-month notice requirement, ending with a "compromise position" providing for three to six months'

[1]The headings in these Replies to Exceptions use the same numbering system used by the ALJ in the PFD and adopted by Consumers and Energy Michigan in their Exceptions.

notice, depending upon the time of year a customer is returning. (Consumers' Exceptions, pp 3-11).

ABATE agrees with the PFD in rejecting Consumers' proposed nine-month period. For the reasons set forth in ABATE's Initial Brief, which will not be repeated here, this nine-month period is unacceptable. (*See*, ABATE's Initial Brief, pp 4-7).

Contrary to Consumers' statement in its Exceptions, ABATE proposed that a **modified** version of Edison's proposal in U-12489 be adopted. 2 TR 134-136. In its Exceptions, Consumers stated that the alternative proposed by ABATE "appears, on the surface, to be viable." (Consumers' Exceptions, p 8). However, Consumers contends that the lack of notice requirement makes this proposal impractical. *Id.*

Consumers' nine-month notice requirement is purportedly based upon two purposes: (i) providing Consumers with sufficient time to secure adequate resources to serve the returning customer's load, and (ii) encouraging customers electing to take service from alternative electric suppliers to select reliable suppliers that will provide cost-effective service over periods of one year or more. (2 TR 53; *see also*, Consumers' Exceptions, p 4). However, it is clear that this nine-month requirement would thwart any possibility that the ROA Program envisioned by PA 141 would result in any real competition, one of the Act's major purposes. Simply put, Consumers continues to argue both sides of the point, indicating that it must assure that it will be reimbursed for all costs necessary to assure that Consumers is able to serve all customers in Consumers' territory in Michigan, while contending that it needs nine months to ramp up should any individual customer return from ROA. Moreover, Consumers' suggestion that this nine-month notice would "encourage customers electing to take service from alternative electric suppliers to select reliable suppliers that will provide cost-effective service over periods of one year or more" is easily seen for what it is: a scare tactic to be used against customers thinking about "defecting" from Consumers' fold.

The Michigan Public Service Commission ("Commission") cannot allow Consumers to halt any real chance at ROA in its tracks by adopting a nine-month notice requirement. Consumers' "compromise position," requiring three to six months' notice is no better. Rather, ABATE's proposal to adopt a modified version of Edison's proposal should be implemented. As with numerous ROA issues, ABATE contends (as the Commission has previously indicated) that uniform standards should be adopted. Having return to service requirements vary enormously between Consumers and Edison will only lead to customer confusion and further inhibit any possibility of competition in Michigan's electric market.

17. Termination of Service

Consumers excepts to the ALJ's recommendations regarding termination of service as they are related to the Return to Full Service issue addressed above. ABATE replies to Consumers by adopting its reply set forth above concerning the Return to Full Service issue. ABATE contends that a modified version of the Edison proposal should be adopted.

33. Implementation 120 Days After Approval

In its Exceptions, Consumers excepts to the ALJ's recommendation that the Commission deny Consumers' request that it be provided with a 120-day period to implement the tariff changes that result from this proceeding. It is interesting to note that with some of the matters addressed by ABATE, namely, ABATE's contention that Rate DA program should be continued through January 1, 2002, Consumers has contended and continues to contend that it does not need 120 days to implement this change. Only where it will benefit Consumers does Consumers suggest that it might need 120 days to implement tariff changes. Consumers is requesting that the Commission allow

Consumers to pick and choose when to implement tariff changes resulting from this proceeding. Consumers will clearly implement those changes based on a timetable that benefits Consumers, not its ratepayers. To the extent that the Commission permits Consumers 120 days to implement tariff changes resulting from this proceeding, ABATE requests that all tariff changes be implemented simultaneously at the end of said period in fairness to Consumers' ratepayers.

II. Reply to Energy Michigan

9. ROA Standby Rate

Energy Michigan excepted to the PFD's adoption of Consumers' proposed ROA standby tariff priced at market cost plus ten percent (10%), as modified by Staff. ABATE agrees with the exceptions of Energy Michigan.

ABATE suggested in its Initial Brief that the Commission determine the market price for electric generation service utilizing appropriate market indices adjusted as appropriate to reflect market prices in the relative market, as required under Act 141. (ABATE's Initial Brief, p 7). As with return to service, ABATE contended that the Commission should establish a uniform methodology and not allow each utility to define its own methodology. (*Id. See also*, 2 TR 137).

ABATE agrees with Energy Michigan that the ten percent (10%) markup added by Consumers, plus the use of a "greater of" formula, thus assuring Consumers additional profit on each transaction, should not be adopted by the Commission. Rather, the Commission should adopt a uniform methodology taking into account the purposes of ACT 141 to encourage participation in the ROA Program and to develop competition within Michigan's electric market.

12. Return to Service

Energy Michigan excepted to the PFD's findings with regard to the return to service provisions of the tariff. (*See*, Energy Michigan's Exceptions, pp 8-9). ABATE also excepted to the PFD in this regard. (ABATE's Exceptions, ¶2). ABATE's position with regard to return to service is set forth above in its reply to Consumers, and will not be repeated here.

17. Termination of Service

Energy Michigan excepted to the PFD's findings with regard to termination of service. (Energy Michigan's Exceptions, pp 10-11). ABATE's position with regard to termination of service is set forth above in its reply to Consumers and will not be repeated here.

RELIEF

ABATE requests that the Commission reject the Exceptions to the PFD filed by Consumers and, to the extent inconsistent with the positions of ABATE set forth above, the Exceptions filed by Energy Michigan. ABATE also requests that the Commission adopt the recommendations made by ABATE in its Initial Brief, its Reply Brief, its Exceptions and these Replies to Exceptions.

Respectfully submitted,

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Date: August 24, 2001

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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

PROOF OF SERVICE

STATE OF MICHIGAN	)
	) SS:
COUNTY OF INGHAM	)

Donna Gutoskey, being duly sworn, deposes and says that she is an employee of Clark Hill PLC, and that on August 24, 2001, copies of the Replies to Exceptions of the Association of Businesses Advocating Tariff Equity were served upon:

See attached service list

Except as otherwise noted on the attached list, service was accomplished by depositing same in a regular mail depository, enclosed in envelopes bearing postage fully prepaid and addressed properly and via electronic mail.

Donna Gutoskey

Donna Gutoskey

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

Kristi A. Grieve

Kristi A. Grieve, Notary Public
Ingham County, Michigan
My Commission Expires: November 12, 2004

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U-12488

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