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January 22, 2002

Ms. Dorothy Wideman
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 captioned matter please find the original and four copies of Energy Michigan's Petition for Rehearing and Clarification. Also enclosed is the original Proof of Service indicatingservice on counsel.

Please date stamp one copy of the above entitled document for my records and return it in the self-addressed stamped envelope provided.

Thank you for your assistance in this matter.

Very truly yours,

VARNUM, RIDDERING, SCHMIDT & HOWLETTLLP

Eric J. Schneidewind

Eric J. Schneidewind

EJS/mrr

cc: ALJ
parties

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

ENERGY MICHIGAN, INC. PETITION FOR REHEARING AND CLARIFICATION

I. INTRODUCTION AND SUMMARY OF POSITION

A. Introduction

Energy Michigan, Inc. (Energy Michigan) by and through its attorneys, Varnum, Riddering, Schmidt & Howlett, LLP, respectfully requests that the Commission rehear and reconsider portions of its ruling in U-12488 dated December 20, 2001 (the Order) pursuant to R460.17403(1) of the Michigan Public Service Commission (Commission) Rules of Practice and Procedure (the Rules) as more fully explained below.

Energy Michigan commends the Commission for completion of the arduous process of reviewing the many rules, terms and conditions necessary to provide Retail Open Access service to the customers of Consumers Energy Company (Consumers Energy) and other electric utilities throughout the State pursuant to the mandates of 2000 PA 141. The scope and complexity of this effort including rulings necessary to establish the PA 141 framework for utilities other than Consumers Energy may be without parallel in the history of the Commission. The issues raised below largely involve questions of interpretation or potential unintended consequences rather than disagreement with the fundamental direction of the order. On the whole, Energy Michigan believes that the Commission has established a logical and practical framework for competition that can achieve true Electric Choice and a reliable system of utility and competitive suppliers.

B. Summary of Position

1. Waiver of Telemetry: Rule F2.2

A waiver of telemetry for Consumers Energy customers below 1,000 kW should be granted, as it has for Detroit Edison customers, to ensure that commencement of ROA service is accomplished within the 45 day period contemplated by the Commission.

2. Credit Requirements: Rule F3.2

The Commission should clarify that existing Consumers customers with demonstrated good payment history as bundled sales customers will not be required to establish good credit simply because they switch from sales service to ROA service. The waiver of credit requirements for 24 months of good pay history, if any, should include history as a retail bundled sales customer.

3. Eligibility for Standby Power: Rule F3.4B

A strict reading of Rule F3.4 could lead to the conclusion that only Retailers or ROA customers can contract for standby. However, since the Commission modified Rule F3.1F to allow Retailers to purchase transmission service from marketers, Consumers' Rule F3.4B should also allow marketers to purchase standby service.

4. Rate Equalization Credit for Residential Customers: Sheet ROA -R

The Commission ordered a continuation of rate equalization credits in its Order U-

12639. Since rate equalization would apply to Consumers' residential customers, continuation of the equalization credit should be specified in the applicable Consumers' ROA-R tariff sheet.

5. Enrollment Deadline

The Commission ordered that Consumers complete the enrollment process within 45 days. The Commission should clarify that the 45 day deadline means calendar days not business days.

II. DETAILED DISCUSSION OF POSITION

A. Waiver of Telemetry: Rule F2.2

1. Commission Ruling

Energy Michigan requested a waiver of the requirement to install telemetry for ROA customers using time of day meters for loads of less than 1,000 kW. Energy Michigan made this request as part of a set of proposals designed to speed the enrollment process. *Energy Michigan Brief, p. 9.* The Commission rejected this request and concluded that, "the [Energy Michigan] proposal creates additional issues for which Energy Michigan does not offer a solution, such as the scheduling of power deliveries by Retailers." *Order, p. 20*.

In Case U-12489 the Commission adopted the Energy Michigan proposal to waive telemetry for Detroit Edison ROA installations below 1,000 kW. *Order U-12489, December 20, 2001, p. 25 and 35*.

2. Unintended Consequence

The Commission evidently has adopted different standards for waiver of telemetry on the Consumers Energy and Detroit Edison systems. Yet Consumers Energy like Detroit Edison has been found by MPSC Staff reports to unreasonably delay enrollment. The Staff has identified delays in the installation of the telephone lines necessary for telemetry data as a chief reason for these enrollment problems[1].

3. Requested Action

Pursuant to Rule 460.17403(1), Energy Michigan requests that the Commission modify the telemetry requirements stated in the Consumers Energy ROA tariff and allow telemetry installations to be waived for ROA customers with less than 1,000 kW of demand. This outcome would provide consistent rules for Edison and Consumers and will speed up enrollment of ROA customers on the Consumers system.

B. Credit Requirements Rule F3.2

1. Commission Ruling

The Law Judge considered the Consumers Energy credit requirements in his PFD issued July 30, 2001 and adopted a combination of Consumers and MPSC Staff concepts as well as an Energy Michigan recommendation that credit requirements be waived after 24 months of good payment history. *PFD, p. 26-27*. No party objected and the recommendation of the ALJ was adopted.

The final tariff attached to the December 20, 2001 order in this matter provides that

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[1] MPSC Staff Report on Investigation of Consumers Retail Open Access Customer Enrollment and Supplier Support System and Process. June 2001.

the requirement to post two months of anticipated distribution related charges can be waived after 24 months of good payment history. *Rule F3.2, ¶ 3*.

2. The Need for Clarification Required

As drafted, the credit worthiness requirements apply to Retailers or eligible ROA customers with more than 1,000 kW of maximum demand who purchase distribution related services. This language could be construed to mean that a bundled sales customer with five years of good pay history desiring to commence ROA service would have to provide credit equal to two months of anticipated ROA distribution related charges until 24 months of good pay history as an ROA customer has been established. This result would conflict with the stated desire of the parties to provide an exemption from credit requirements for Retailers or customers with a good pay history.

3. Clarification Requested

Pursuant to Rule 460.17403(1), Energy Michigan requests the Commission to clarify that an eligible ROA customer with 24 months of good payment history as an ROA customer or a bundled sales customer need not establish good credit for ROA distribution charges pursuant to Rule F3.2.

C. Eligibility for Standby Service: Rule F3.4

1. Commission Ruling

Rule F3.4 of the Consumers tariff approved in the Order provides that standby service is available to a Retailer or ROA customer with a maximum demand greater than or equal to 1,000 kW who has an executed transmission service agreement. Rule F3.1F provides that Retailers may purchase transmission service from marketers who can aggregate the loads of multiple Retailers. Thus Rule F3.1F clearly contemplates that marketers may be the entities purchasing transmission service rather than Retailers.

2. Unintended Consequence

Under the existing language of Rule F3.4B, marketers who purchase transmission service and electricity for an aggregated group of Retailers may not be able to purchase standby service to backup their electric capacity.

3. Action Requested

Pursuant to Rule 460.17403(1) Energy Michigan requests the Commission to clarify that a marketer who has executed a transmission service agreement to serve one or more Retailers pursuant to Rule F3.1F be allowed, if desired, to purchase standby service for the load served.

D. Rate Equalization Credit: ROA Tariff Sheet ROA-R

1. Commission Ruling

In Case U-12639 the Commission ruled that Detroit Edison and Consumers Energy must continue to provide rate equalization credits to eligible ROA customers. *U-12639, December 20, 2001, p. 26, 28 and 33*.

2. Error in Consumers Tariffs

The proposed Consumers residential ROA Tariff Sheet F25.00 attached to the Order lists applicable surcharges including the adjustment to offset securitization bond and tax charges but does not include a rate equalization credit adjustment for Consumers' residential

ROA customers which would equal the 5% credit given to residential, bundled sales customers.

3. Action Requested

Pursuant to Rule 460.17403(1), Energy Michigan requests that the Commission order Consumers to revise the residential tariff Sheet ROA-R to incorporate a rate equalization credit for residential ROA customers which is equivalent to the credit granted to residential bundled sales customers.

E. ROA 45 Day Enrollment Deadline

1. Commission Order

The Commission ordered Consumers to complete all ROA enrollments within 45 days - a time frame which it stated "provides sufficient time to account for billing cycles and other requirements of the process". *Order, p. 28*.

2. Need for Clarification

While the Commission order does not specify calendar days, the PFD discussion of this issue covered an Energy Michigan proposal for a 15 day enrollment deadline standard with which Consumers felt it could agree except where small customers electing ROA service switch from one internal billing system to another billing system. In those instances, Consumers felt that it would have to accomplish the switch on the normal meter read date which could involve a delay of anywhere from one to 30 days. *PFD, p. 36*. Since billing cycles are expressed in calendar days, it is quite clear from the discussion in the PFD that all parties were referencing calendar days rather than business days when discussing enrollment deadlines. The difference between 45 business days (nine weeks) and 45 calendar days (six and one-half weeks) is more than one-half a month. Consumers should not be given, and does not need, more than two months to enroll open access customers!

3. Action Requested

Pursuant to Rule 460.17403(1), Energy Michigan requests the Commission to clarify that the 45 day enrollment deadline ordered on page 28 be interpreted to reference calendar days rather than business days.

III. CONCLUSION AND PRAYER FOR RELIEF

WHEREFORE, Energy Michigan respectfully requests that the Commission issue an order providing that:

1. That telemetry requirements for Consumers ROA customers below 1,000 kW should be waived.

2. The requirement for ROA customers to establish credit should not apply to a former bundled sales customer who has already established good credit.

3. Marketers providing transmission and power service to aggregated Retailers should be eligible to purchase standby service.

4. The Consumers ROA-R tariff sheet should be revised to specifically provide a rate equalization credit to ROA residential customers equal to the credit provided for residential bundled sales customers.

5. The 45 enrollment processing deadline should be interpreted as referencing calendar days and not business days.

Respectfully submitted,

VARNUM, RIDDERING, SCHMIDT & HOWLETTLLP
Attorneys for Energy Michigan

January 22, 2002 By Eric J. Schneidewind

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PROOF OF SERVICE

Eric J. Schneidewind, duly sworn, deposes and says that on this 22nd day of January, 2002 he served a copy of Energy Michigan's Petition for Rehearing and Clarification by e-mail and regular mail upon those individuals listed on the attached service list at their last known addresses.

Eric J. Schneidewind

Eric J. Schneidewind, Deponent

Subscribed and sworn to before me
this 22nd day of January, 2002.

Monica Robinson

Monica Robinson, Notary Public
Clinton County, Michigan
Acting in Ingham County, Michigan
My Commission Expires: September 21, 2005

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