Consumers Energy

A CMS Energy Company

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Susan L Rasmussen
Catherine M Reynolds
John C Shea
P Leni Staley
Charlotte A Walls
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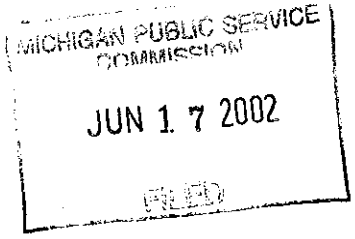
Michael G Wilson
Attorney

June 14, 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-12639

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 for the Claim of Appeal;
3. Michigan Court of Appeal Jurisdictional Checklist;
4. Orders issued by the Michigan Public Service Commission on December 20, 2001 and May 16, 2002 in Case No. U-12639;
5. Statement of Attorney Concerning Transcript;
6. Notice of Filing Claim of Appeal;
7. Michigan Public Service Commission Docket Table of Contents and Index for Case No. U-12639;
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,

Jon R. Robinson

CC: Ms. Dorothy Wideman, MPSC
Parties of Record to Case No. U-12639

STATE OF MICHGAN

IN THE COURT OF APPEALS

CONSUMERS ENERGY COMPANY,

Appellant,

Court of Appeals No_____

v

MPSC Case No. U-12639

MICHIGAN PUBLIC SERVICE COMMISSION,

Appellee.

_____/

MICHIGAN PUBLIC SERVICE COMMISSION
JUN 17 2002
FILED

David A. Mikelonis (P17709)
Jon R. Robinson (P27953)
Attorneys for Consumers Energy Company
212 West Michigan Avenue
Jackson, MI 49201
Telephone: (517) 788-0698

_____/

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 December 20, 2001, and the Order on Rehearing dated May 16, 2002, in Case No. U-12639 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: June 14, 2002

By: _____

David A. Mikelonis (P17709)
Jon R. Robinson (P27953)
Attorneys for Consumers Energy Company
212 West Michigan Avenue
Jackson, MI 49201
Telephone: (517) 788-0698

Approved, SCAO

Original – Court of Appeals
1st Copy – Trial Court/Tribunal

STATE OF MICHIGAN JUDICIAL CIRCUIT COUNTY	JURISDICTIONAL CHECKLIST FOR COURT OF APPEALS	**CASE NO.** MPSC Case No. U-12639 Trial Court/Tribunal: Michigan Public Service Commission Court of Appeals:

Plaintiff name	☒ Appellant	v	Defendant name	☒ Appellant
Consumers Energy Company			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)]
- ☐ 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.

June 14, 2002
Date filed

Jon R. Robinson
Preparer's name (type or print)

(517) 788-0698
Telephone No.

MICHIGAN PUBLIC SERVICE COMMISSION
JUN 17 2002
RECD

MICHIGAN PUBLIC SERVICE COMMISSION
JUN 17 2002
FILED

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter, on the Commission's own motion, to implement the provisions of Section 10a(10) of 2000 PA 141.	))))	Case No. U-12639

At the December 20, 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

I.

HISTORY OF PROCEEDINGS

On October 24, 2000, the Commission issued an order commencing this case to implement Section 10a(10) of 2000 PA 141 (Act 141), MCL 460.10a(10), which requires the Commission to determine the net stranded costs created by permitting customers to purchase generation services from alternative electric suppliers.

On November 27, 2000, a prehearing conference was held before Daniel E. Nickerson, Jr. (ALJ), who granted petitions for leave to intervene filed by Consumers Energy Company (Consumers), The Detroit Edison Company (Detroit Edison), the Association of Businesses Advocating Tariff Equity (ABATE), Energy Michigan, Attorney General Jennifer M. Granholm (Attorney General), the Midland Cogeneration Venture Limited Partnership (MCV), Indiana

MICHIGAN PUBLIC SERVICE COMMISSION
JUN 17 2002

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter, on the Commission's own motion, to implement the provisions of Section 10a(10) of 2000 PA 141.	))))	Case No. U-12639

At the May 16, 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 December 20, 2001, the Commission issued an order adopting a methodology for calculating net stranded costs, as required by MCL 460.10a(10). The Commission found that neither Consumers Energy Company (Consumers) nor The Detroit Edison Company (Detroit Edison) had stranded costs in 2000. The Commission therefore approved a transition charge of zero for the two companies, and continued the offset for the securitization and tax charges and the rate reduction equalization.

On January 18, 2002, Consumers filed a petition for rehearing. On January 22, 2002, Detroit Edison and Citizens for Power and Reliability (CPR) filed petitions for rehearing. Attorney General Jennifer M. Granholm (Attorney General) filed a response to each petition. Energy Michigan filed a joint response to the petitions. The Association of Businesses Advocating Tariff

STATE OF MICHIGAN

IN THE COURT OF APPEALS

CONSUMERS ENERGY COMPANY,
Plaintiff,

vs.

MICHIGAN PUBLIC SERVICE COMMISSION,
Defendant.
_____/

Docket No. _____

MPSC Case No. U-12639

David A Mikelonis (P17709)
Jon R. Robinson (P27953)
Attorneys for Consumers Energy Company
212 West Michigan Avenue
Jackson, MI 49201
Telephone: (517) 788-0698
_____/

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-12639 were previously transcribed by Dolman Technologies Group, Inc. (Volumes 1 and 2) and by Merrill and Associates, Inc. (Volumes 3 through 7), the court reporters, and seven transcript volumes were filed with the Michigan Public Service Commission by Dolman Technologies Group, Inc. and Merrill and Associates, Inc.

Respectfully submitted,

CONSUMERS ENERGY COMPANY

Dated: June 14, 2002

By: _____

David A Mikelonis (P17709)
Jon R. Robinson (P27953)
Attorneys for Consumers Energy Company
212 West Michigan Avenue
Jackson, MI 49201
Telephone: (517) 788-0698

STATE OF MICHIGAN

IN THE COURT OF APPEALS

MICHIGAN PUBLIC SERVICE COMMISSION
JUN 17 2002

CONSUMERS ENERGY COMPANY,

Plaintiff,

Docket No. _____

vs.

MPSC Case No. U-12639

MICHIGAN PUBLIC SERVICE COMMISSION,

Defendant.

_____/

David A Mikelonis (P17709)
Jon R. Robinson (P27953)
Attorneys for Consumers Energy Company
212 West Michigan Avenue
Jackson, MI 49201
Telephone: (517) 788-0698

_____/

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: June 14, 2002

By: _____

David A Mikelonis (P17709)
Jon R. Robinson (P27953)
Attorneys for Consumers Energy Company
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Jackson, MI 49201
Telephone: (517) 788-0698

ATTACHMENT 1 -- TO CASE NO. U-12639

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Assistant Attorney General
Public Service Division
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Michael S. Ashton, Esq.
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Counsel for Alpena Power Company

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Alpena, MI 49707

Counsel for Northern States Power Company-Wisconsin, Wisconsin Electric Power Company, Edison Sault Electric Company, Wisconsin Public Service Corporation, and Upper Peninsula Power Company

Harvey J. Messing, Esq.
Sherri A. Wellman, Esq.
Sue A. Geiersbach, Esq.
Loomis, Ewert, Parsley, Davis & Gotting, P.C.
232 S. Capitol Avenue, Suite 1000
Lansing, MI 48933-1525

STATE OF MICHIGAN

IN THE COURT OF APPEALS

CONSUMERS ENERGY COMPANY,

Plaintiff,

Docket No. _____

vs.

MPSC Case No. U-12639

MICHIGAN PUBLIC SERVICE COMMISSION,

Defendant.

_____/

David A Mikelonis (P17709)
Jon R. Robinson (P27953)
Attorneys for Consumers Energy Company
212 West Michigan Avenue
Jackson, MI 49201
Telephone: (517) 788-0698

_____/

AFFIDAVIT THAT
CLAIM OF APPEAL IS TIMELY

STATE OF MICHIGAN)
) SS
COUNTY OF JACKSON)

Jon R. Robinson, first being duly sworn, deposes and says:

1. I am one of the attorneys representing Appellant Consumers Energy Company in this appeal.

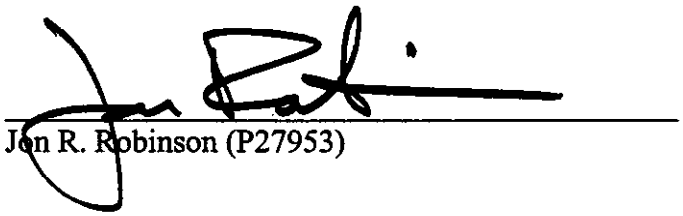
2. I make this affidavit on personal knowledge, information and belief.

3. On December 20, 2001, the Michigan Public Service Commission issued its Opinion and Order in Case No. U-12639. Pursuant to several petitions for rehearing, including a petition for rehearing filed January 18, 2002 by Consumers Energy, the Michigan

Public Service Commission issued an Order on Rehearing on May 16, 2002 in Case No. U-12639.

4. Consumers Energy Company is filing a Claim of Appeal of the above-referenced Orders with the Michigan Court of Appeals within the 30-day period provided by MCL 460.4, MSA 22.13(4), MCL 460.59, MSA 22.9 and MCL 462.26(1), MSA 22.45(1), which provide for a 30-day time period to file an appeal as of right in this Court.

5. It is the position of Consumers Energy Company that the above-referenced Orders purport to fix "rates, fares, charges, classifications, joint rate or rates, or . . . regulations, practices or services" and are therefore appealable as of right to this Court pursuant to MCL 460.4, MSA 22.13(4), MCL 460.59, MSA 22.9 and MCL 462.26(1), MSA 22.45(1), supra.



Jon R. Robinson (P27953)

Subscribed and sworn to before me this 14th day of June, 2002.

Sammie B. Dalton
Notary Public, Jackson County, Michigan
My Commission Expires: 01/04/04

STATE OF MICHIGAN

IN THE COURT OF APPEALS

CONSUMERS ENERGY COMPANY,

Plaintiff,

Docket No. _____

vs.

MPSC Case No. U-12639

MICHIGAN PUBLIC SERVICE COMMISSION,

Defendant.

_____/

PROOF OF SERVICE

STATE OF MICHIGAN)
) 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 a copy of the documents listed below:

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 December 20, 2001 and May 16, 2002 in Case No. U-12639;

5. Statement of Attorney Concerning Transcript;

6. Notice of Filing Claim of Appeal;

7. Michigan Public Service Commission Docket Table of Contents and Index for Case No. U-12639; and

8. Affidavit that Claim of Appeal is Timely.

ATTACHMENT 1 -- TO CASE NO. U-12639

Counsel for Energy Michigan

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Counsel for Citizens For Power & Reliability; Dow Corning Corporation and Hemlock Semiconductor Corporation; North American Natural Resources, Genesee Power Station, LP, Viking Energy of Lincoln, Inc., Viking Energy of McBain, Inc., Hillman Power Company, LLC, Grayling Generating Station Limited Partnership, Michigan Cogeneration Systems, Inc., Sumpter Energy Associates Limited Partnership, Granger Electric Company, Riverview Energy Systems, Cadillac Renewable Energy, LLC and Michigan Power Limited Partnership

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