Consumers Energy

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June 29, 2001

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

Re: Case Nos. U-12780/U-12781

Dear Ms. Wideman:

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

Sincerely,

Jon R. Robinson

CC: Hon. James N. Rigas, ALJ
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 Application of Indiana Michigan Power Company, d/b/a American Electric Power, for certain approvals in Connection with 2000 PA 141, Section 10v.	)	Case No. U-12780
In the matter of the Application of International Transmission Company, Consumers Energy Company, and Great Lakes Energy Cooperative.	)	Case No. U-12781

BRIEF OF CONSUMERS ENERGY COMPANY

This proceeding arises out of Section 10v of 1939 PA 3 (added by 2000 PA 141), MCL 460.10v; MSA 22.13(10v) (hereinafter referred to as "Section 10v."). That section provides as follows:

> "Sec. 10v. (1) Electric utilities serving more than 100,000 retail customers in this state shall file, by January 1, 2001, a joint plan with the commission detailing measures to permanently expand, within 2 years of the effective date of this section, the available transmission capability by at least 2000 megawatts over the available transmission capability in place as of January 1, 2000.
>
> "(2) The joint plan shall detail all actions including additional facilities required, the proposed schedule for accomplishing the actions, the cost of the actions, and the proposed ratemaking treatment for the costs. The joint plan shall also identify all actions and facilities that are required of other transmission owners, including out-of-state entities, to accommodate the actions described in the joint plan.
>
> "(3) The commission may order modifications to the joint plan to make it consistent with this act. If the electric utilities are unable to agree upon a joint plan to meet the requirements of this act, the commission shall conduct a hearing to establish a joint plan. The

> commission shall authorize recovery from benefiting customers of all reasonable and prudent costs incurred by transmission owners for authorized actions taken and facilities installed to meet the requirements of this section that are not recovered through FERC transmission rates.
>
> "(4) If an electric utility or an affiliate that is the owner of the transmission assets is denied cost recovery of the reasonable and prudent costs expended to implement the joint plan, then the electric utility or affiliate shall have no further obligation to implement the joint plan. If an electric utility or its affiliate is subsequently granted cost recovery, then the obligation to implement the original joint plan is required. If cost recovery of the reasonable and prudent costs of implementing the joint plan is denied, an electric utility or its affiliate shall develop a new joint plan as provided under this section."

As explained in the testimony of Consumers Energy Company ("Consumers Energy") witness Tim Sparks, several utilities, including Consumers Energy, The Detroit Edison Company ("Detroit Edison") and American Electric Power ("AEP"), participated in a study,

> "to determine the transmission facilities that limit power imports into the Lower Peninsula of Michigan to less than 6,000 MW. This study has been referred to as the Michigan Import System Study Group, or 'MISS G study.' Mitigation plans to upgrade existing facilities and install new facilities were also developed as part of the joint transmission study." 3 TR 135.

The MISS G studies form the basis for the Joint Plan that has been submitted in this case.

On December 28, 2000, Consumers Energy, International Transmission Company ("ITC")[1], and Great Lakes Energy Cooperative ("Great Lakes") submitted an application with the Commission that requested the Commission to make certain findings with respect to the Joint Report that was attached to the application. The Joint Report identified the projects required to comply with Section 10v's mandate that transmission import capability into Michigan be increased by 2000 MW over that available on January 1, 2000. The Joint Report also identified

[1] ITC is the wholly owned subsidiary of DTE Energy to which the transmission assets formerly owned by Detroit Edison have been transferred.

the costs of those projects and the schedule for their completion. This application was docketed as Case No. U-12781. This Joint Report was admitted into the record as Exhibit A-5.[2] The projects identified in the Joint Report that are required for the Consumers Energy system, and the associated costs, are shown on page 16 of the report. The total investment by Consumers Energy is $36,865,000.[3]

Also on December 28, 2000, AEP submitted an application that had attached a plan that AEP represented would comply with Section 10v. This application was docketed as Case No. U-12780. The only difference of consequence between the two plans was that the AEP plan did not include a project on the AEP transmission system identified as a second transformer at the Dumont substation located in northern Indiana. This difference was the subject of much of the testimony that was filed in this case.

At the hearing held on June 6, 2001 in this consolidated matter, counsel for AEP stated that,

> "AEP will at this unilaterally stipulate to the joint report filed by the other utilities. And thus, we will not offer into the record in this proceeding either the plan filed by AEP or the testimony of Mr. Pasternack in support of that plan." 3 TR 39.

Consumers Energy understands this statement to be a commitment on the part of AEP to proceed with all of the projects on the AEP system identified in the Joint Report filed in this case, including the Dumont transformer project. Consumers Energy has made such a commitment with respect to the projects on its system. See 3 TR 139.

[2] Exhibit A-3 and Exhibit A-5 are the same Joint Report.

[3] Pursuant to FERC approval, the transmission assets of Consumers Energy have been transferred to a wholly owned subsidiary of Consumers Energy, Michigan Electric Transmission Company ("METC"). See FERC Order EC01-4-000 and ER-01-414-000 dated January 10, 2001.

Testimony offered by Consumers Energy (3 TR 131-140), Detroit Edison (3 TR 105-128), and the MPSC Staff (3 TR 178-195) supports the conclusion that the Joint Report (Exhibit A-5) sets forth a plan that complies with the requirements of Section 10v of 2000 PA 141. There is not any evidence in this case that would support a contrary conclusion. Thus, the Commission is respectfully requested to make the following findings: (1) the Joint Report is in compliance with the provisions of Section 10v; (2) once an individual utility (or its affiliate or successor) has completed the projects identified in the Joint Report for its system, that utility will be deemed to be in compliance with the provisions of Section 10v; (3) the projects identified in the Joint Report and the associated costs are reasonable and prudent.

The second principal issue to be addressed in this case concerns cost recovery for the various projects. The Joint Report says the following regarding cost recovery:

> "Each transmission owner shall independently evaluate the need and be responsible for making any regulatory filings necessary for recovery of expenditures related to this joint plan of transmission capability expansion. Such filings shall be made to the appropriate regulatory agency having jurisdiction over the facilities at issue.
>
> "It is intended that the transmission related costs of the transmission capability expansion plan shall be recovered through each respective Company's Open Access Transmission Tariffs (OATT) on file at the FERC. As specified in Section 10v of PA 141, each Transmission Owner expects that the Commission will ensure that the utilities remain whole for any prudent expenditures necessary which are made in response to Section 10v of PA 141 for which recovery is not allowed through the FERC OATT." Exhibit A-5, p. 14.

Mr. Benjamin Ruhl testified on behalf of Consumers Energy in connection with the cost recovery of the approximately $37 million transmission system investment being made by Consumers Energy to comply with Section 10v. He explained that none of these costs are reflected in Consumers Energy's current OATT rates, and thus, will not be recovered through those rates. 3 TR 162. Under these circumstances, recovery from retail customers is provided for under Section 10v. He further explained that this $37 million investment is comparable to other implementation costs for which PA 141 authorizes recovery. In recognition of the current retail rate freeze imposed by PA 141, Mr. Ruhl recommended that the Commission authorize the Company to establish a regulatory asset for the investment costs and that this asset, including carrying charges, be recovered at the end of the rate freeze period. 3 TR 154. The Commission is requested to find in its order that the cost recovery approach described by Mr. Ruhl is appropriate for Consumers Energy, and is adopted.

There are a number of other miscellaneous issues that were raised by other parties to this case. First, several witnesses recommended that electric utilities be required to post on the Open Access Same Time Information System ("OASIS") the Total Transfer Capability ("TTC"), Transmission Reliability Margin ("TRM"), Capacity Benefit Margin ("CBM") and Available Transfer Capability ("ATC"). Consumers Energy witness Mr. Sparks pointed out that the Company already posts all of this information on a monthly basis. 3 TR 143. Indeed, Mr. Sparks noted that Consumers Energy "has already posted higher import capability values on the AEP path [into Michigan] since some of the Consumers Energy import capability projects listed in the Joint Plan are already in-service." 3 TR 143.

Second, several witnesses recommended that the Commission order that the new transmission capacity made available as a result of the projects listed in the Joint Plan be made available only to, or as a first priority to alternative service providers licensed in Michigan. On rebuttal, Mr. Sparks pointed out that granting such a preference would be inconsistent with FERC policy as set forth in each Company's OATT that requires the sale of transmission capacity on a first-come, first-served basis. See 3 TR 144.

Consumers Energy respectfully requests that the Commission make the following findings and issue an order consistent with these findings:

1. Find that the Joint Report is in compliance with the provisions of Section 10v;

2. Find that, once an individual utility (or its affiliate or successor) has completed the projects identified in the Joint Report (Exhibit A-5) for its system, that utility will be deemed to be in compliance with the provisions of Section 10v of PA 141;

3. Find that the projects identified in the Joint Report and the associated costs are reasonable and prudent,

4. Order that the cost recovery approach described by Mr. Ruhl is appropriate for Consumers Energy, and is adopted.

Respectfully submitted,

CONSUMERS ENERGY COMPANY

Dated: June 29, 2001

By: ______________________

Jon R. Robinson
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STATE OF MICHIGAN

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In the matter of the Application of International Transmission Company, Consumers Energy Company, and Great Lakes Energy Cooperative.	Case No. U-12781

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 an electronic copy of the "**Brief of Consumers Energy Company**" upon the persons listed in the attached Service List at the e-mail addresses listed therein. She further states that a copy was also served on the same parties, at the mailing addresses listed therein, by depositing the same on June 29, 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 29th day of June, 2001.

Kelly Fisher

Kelly Fisher

Notary Public, Jackson County, Michigan

My Commission Expires: 01/18/02

MPSC Case Nos: U-12780/U-12781

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(As of March 9, 2001)

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