

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the application of
CONSUMERS ENERGY COMPANY
to recover electric restructuring
implementation costs for the period
ended December 31, 2000.

Case No. U-12891

**MICHIGAN PUBLIC SERVICE COMMISSION STAFF'S
REPLIES TO EXCEPTIONS**

The Michigan Public Service Commission Staff ("Staff"), by its counsel, Patricia S. Barone, Assistant Attorney General, files the following Replies to the Exceptions filed by Consumers Energy Company ("Consumers") in this case.

Consumers takes exception to the Administrative Law Judge's finding that recovery of Consumers transition costs should be made conditional by the Commission. Consumers argues that ample record evidence exists to support a final determination of recovery, and that for the Commission to defer a final determination regarding recovery would amount to using impermissible hindsight and be unconstitutional.

However, Staff maintains that it is within the Commission's discretion to defer a final determination regarding recovery if the Commission finds that the evidence offered by Consumers is not complete enough to provide justification for a finding that the expenditures were reasonable and prudent.

In its prior order in Case Nos. U-11955 and U-11956, issued on October 24, 2000, the Commission noted that at the time of issuance of its order, very little open access load was being served, and therefore it was difficult for the Commission to judge the effectiveness of

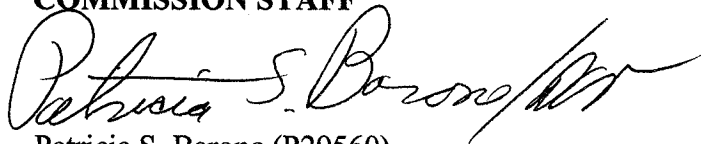
implementation programs for which Consumers and Edison were seeking recovery. Consumers argues in its exceptions that open access load is now being served and adequate information is available to the Commission to judge the reasonableness and prudence of Consumers projects to carry out open access. If the Commission agrees with this assertion, the Commission may choose to make a final determination. In any event, Staff finds nothing unlawful about the Commission again deciding to defer a final determination regarding recoverability until it has sufficient information to evaluate the decisions made by the utility at the time the utility made them.

Consumers has also argued that the ALJ erred by accepting Staff's position with regard to labor costs. Staff's brief addresses this issue at pages 1-2 and in Staff's reply brief at pages 2-3. Staff reiterates that Consumers' position actually supports double recovery of these costs since the company has basically not disputed that the portion of costs that Mr. Kusiak recommended be disallowed were incremental, i.e., above those costs already provided for in rates.

For the reasons stated in Staff's testimony, exhibit, and briefs, Staff respectfully requests that the Commission adopt its findings and recommendations.

Respectfully submitted,

**MICHIGAN PUBLIC SERVICE
COMMISSION STAFF**

A handwritten signature in dark ink, appearing to read "Patricia S. Barone", followed by a stylized flourish or initial.

Patricia S. Barone (P29560)
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Dated: February 20, 2002

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BOH Docket No. 2001-590

PROOF OF SERVICE

STATE OF MICHIGAN)
)
COUNTY OF INGHAM)

Linda Andreas, being first duly sworn, deposes and says that on **February 20, 2002**, she served a true copy of the **Michigan Public Service Commission Staff's Replies to Exceptions** electronically and upon the following parties by depositing the same in a United States postal depository enclosed in an envelope bearing postage fully prepaid, plainly addressed as follows:

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Linda Andreas

Subscribed and sworn to before me
this 20th day of February, 2002.



Pamela A. Walters, Notary Public
Ingham County, Michigan
My Commission Expires: 02/04/2003