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LEGAL DEPARTMENT

DAVID A MIKELONIS
Senior Vice President
And General Counsel

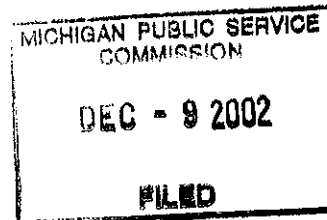
James E Brunner
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Arunas T Udrys
Assistant General
Counsel

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Francis X Berkemeier
H Richard Chambers
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Catherine M Reynolds
John C Shea
P Leni Staley
Charlotte A Walls
Kimberly C Wilson
Michael G Wilson
Attorney

December 6, 2002

Hand Delivered

Ms. Sandra Schultz Mengel, Chief Clerk
Michigan Court of Appeals
Michigan Hall of Justice
925 W. Ottawa Street, 2nd Floor
P.O. Box 30022
Lansing, MI 48909-7522



Re: **Consumers Energy Company v Michigan Public Service Commission**
Court of Appeals No. _____
Michigan Public Service Commission Case No. U-12891

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;
3. Michigan Court of Appeal Jurisdictional Checklist;
4. Order issued by the Michigan Public Service Commission on November 7, 2002 in Case No. U-12891;
5. Statement of Attorney Concerning Transcript;
6. Notice of Filing Claim of Appeal;
7. Michigan Public Service Commission Docket Table of Contents on Electronic Case Filings Posting for Case No. U-12891;
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.

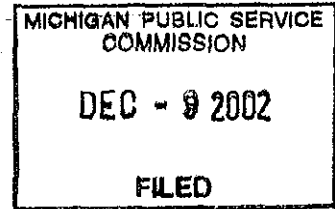
Sincerely,



H. Richard Chambers

cc: Ms. Dorothy Wideman, MPSC
Parties of Record to Case No. U-12891

STATE OF MICHIGAN
IN THE COURT OF APPEALS



CONSUMERS ENERGY COMPANY,

Appellant,

Court of Appeals No. _____

v

MPSC Case No. U-12891

MICHIGAN PUBLIC SERVICE COMMISSION,

Appellee.

_____/

Jon R. Robinson (P27953)
H. Richard Chambers (P34139)
Attorneys for Consumers Energy Company
212 West Michigan Avenue
Jackson, MI 49201
Telephone: (517) 788-1482

_____ /

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 November 7, 2002 in Case No. U-12891 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: December 6, 2002

By: H. Richard Chambers
Jon R. Robinson (P27953)
H. Richard Chambers (P34139)
Attorneys for Consumers Energy Company
212 West Michigan Avenue
Jackson, MI 49201
Telephone: (517) 788-1482

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-12891 Trial Court/Tribunal: Michigan Public Service Commission Court of Appeals:
--	--	--

Plaintiff name ☒ Appellant
Consumers Energy Company

v

Defendant name ☐ Appellant
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.)

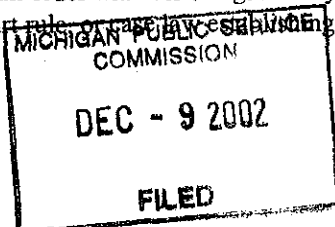
- ☒ 1. The claim of appeal, with original signature and correct lower court number. [MCR 7.204(B)(1)]
- ☒ 2. A filing fee of \$250.00 [MCR 7.204(B)(2)] (Where multiple lower court or tribunal numbers are involved, Court policy will dictate whether a multiple fee is required. Appellants will be advised 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)] and is on file with the Michigan Public Service Commission.
 - ☐ 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

December 6, 2002
Date filed



H. Richard Chambers
Preparer's name (type or print)

(517) 788-1482
Telephone No.

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)
12-month period ended December 31, 2000.)

Case No. U-12891

At the November 7, 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 March 30, 2001, Consumers Energy Company (Consumers) filed an application for authorization to recover \$25,149,000 of electric restructuring implementation costs incurred in calendar year 2000,¹ plus post-2000 carrying costs.²

At a prehearing conference on June 18, 2001, Administrative Law Judge James N. Rigas (ALJ) granted leave to intervene to the Association of Businesses Advocating Tariff Equity (ABATE) and Attorney General Jennifer M. Granholm (Attorney General). The Commission Staff (Staff) also participated. On October 29, 2001, the ALJ conducted an evidentiary hearing, at which Consumers

¹ The proposed implementation costs for 2000 include \$150,000 actually incurred in 1999. Those costs are related to Consumers' restructuring of its dispatch coordination with The Detroit Edison Company upon the discontinuation of their power pool arrangement, the Michigan Electric Coordinated Systems.

² The proposed implementation costs for 2000 include carrying costs accrued up to the end of 2000.

STATE OF MICHIGAN
IN THE COURT OF APPEALS

CONSUMERS ENERGY COMPANY,
Appellant,

Court of Appeals No. _____

v

MPSC Case No. U-12891

MICHIGAN PUBLIC SERVICE COMMISSION,
Appellee.

Jon R. Robinson (P27953)
H. Richard Chambers (P34139)
Attorneys for Consumers Energy Company
212 West Michigan Avenue
Jackson, MI 49201
Telephone: (517) 788-1482

**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-12891 were previously transcribed by Merrill and Associates, Inc., the court reporter, and filed with the Michigan Public Service Commission by Merrill and Associations, Inc.

Respectfully submitted,

CONSUMERS ENERGY COMPANY

Dated: December 6, 2002

By: H. Richard Chambers
Jon R. Robinson (P27953)
H. Richard Chambers (P34139)
Attorneys for Consumers Energy Company
212 West Michigan Avenue
Jackson, MI 49201
Telephone: (517) 788-1482

STATE OF MICHIGAN
IN THE COURT OF APPEALS

CONSUMERS ENERGY COMPANY,

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Court of Appeals No. _____

v

MPSC Case No. U-12891

MICHIGAN PUBLIC SERVICE COMMISSION,

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_____/

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H. Richard Chambers (P34139)
Attorneys for Consumers Energy Company
212 West Michigan Avenue
Jackson, MI 49201
Telephone: (517) 788-1482

_____ /

**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: December 6, 2002

By: H. Richard Chambers
Jon R. Robinson (P27953)
H. Richard Chambers (P34139)
Attorneys for Consumers Energy Company
212 West Michigan Avenue
Jackson, MI 49201
Telephone: (517) 788-1482

ATTACHMENT 1 -- to Case No. U-12891

Administrative Law Judge

Honorable James N. Rigas
6545 Mercantile Way, Suite 14
P.O. Box 30221
Lansing, MI 48909-8195
Facsimile: 517-335-6696
E-Mail: jnrigas@michigan.gov

Michigan Public Service Commission

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

**Counsel for the Michigan Public
Service Commission Staff**

Patricia S. Barone, Esq.
Assistant Attorney General
Public Service Division
6545 Mercantile Way, Suite 15
Lansing, MI 48911
E-Mail: baronep@michigan.gov

**Counsel for the Attorney General,
Jennifer M. Granholm**

Donald E. Erickson, Esq.
Assistant Attorney General
6th Floor, G. Mennen Williams Bldg.
525 W. Ottawa Street
P. O. Box 30212
Lansing, MI 48909
E-Mail: ericksond@ag.state.mi.us

**Counsel for the Association of Businesses
Advocating Tariff Equity ("ABATE")**

Thomas E. Maier, Esq.
Robert A.W. Strong, Esq.
Robert A. LeFevre, Esq.
Clark Hill PLC
2455 Woodlake Circle
Okemos, MI 48864-5941
E-Mail: tmaier@clarkhill.com
rstrong@clarkhill.com
rlefevre@clarkhill.com



Electronic Case Filings

Michigan Public Service Commission
Department of Commerce & Industry Services

--- Choose One ---

search New

View Case

- ☐ Entire Site
☒ Case 12891 Onl

Case U-12891: In the matter of the application of Consumers Energy Company to recover electric restructuring implementation costs for the period ended December 31, 2000.

Industry: Electric

Company(s): Consumers Energy Company

Open Date: 3/30/2001

Order Dates: 6/26/2001 11/7/2002

**How to View
PDF Files**

Click on the Document # to view the PDF file. A document # ending with an N, is not available in electronic form. Contact the MPSC for a paper copy.

Document No.	File Date	Filed by	On Behalf of	Type	Description
0034	11/7/2002			Order	
0033	2/21/2002	Tomak		Memorandum	Transmittal to RAD for draft order
0032	2/20/2002	Erickson	Attorney General of Michigan	Reply to Exceptions	
0031	2/20/2002	Barone	Staff	Reply to Exceptions	
0030	2/15/2002	Rigas	Michigan Public Service Commission	Scheduling Memo	
0029	2/5/2002	Chambers	Consumers Energy Company	Exceptions	
0028	2/5/2002	Barone	Staff	Letter	No exceptions
0027	1/22/2002	Rigas	ALJ	PFD	
0026	12/10/2001	Chambers	Consumers Energy Company	Reply Brief	
0025	12/10/2001	Barone	Staff	Reply Brief	
0024	12/10/2001	Erickson	Attorney General of Michigan	Reply Brief	
0023	11/20/2001	Barone	Staff	Brief	
0022	11/20/2001	Chambers	Consumers Energy Company	Brief	

STATE OF MICHIGAN

IN THE COURT OF APPEALS

CONSUMERS ENERGY COMPANY,

Appellant,

Court of Appeals No. _____

v

MPSC Case No. U-12891

MICHIGAN PUBLIC SERVICE COMMISSION,

Appellee.

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Jon R. Robinson (P27953)
H. Richard Chambers (P34139)
Attorneys for Consumers Energy Company
212 West Michigan Avenue
Jackson, MI 49201
Telephone: (517) 788-1482

_____/

**AFFIDAVIT THAT
CLAIM OF APPEAL IS TIMELY**

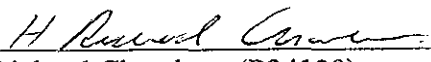
STATE OF MICHIGAN)
) SS.
COUNTY OF JACKSON)

H. Richard Chambers, first being duly sworn, deposes and says:

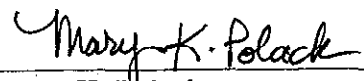
1. I am one of the attorneys representing Appellant Consumers Energy Company in this appeal.
2. I make this affidavit on personal knowledge, information and belief.
3. On November 7, 2002, the Michigan Public Service Commission issued its Opinion and Order in Case No. U-12891.
4. Consumers Energy Company is filing a Claim of Appeal of the above-referenced Opinion and Orders with the Michigan Court of Appeals within the 30-day period

provided by MCL 460.4; MCL 460.59; and MCL 462.26(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 Opinion and Order purports to fix "rates, fares, charges, classifications, joint rate or rates, or . . . regulations, practices or services" and is therefore appealable as of right to this Court pursuant to MCL 460.4; MCL 460.59; and MCL 462.26(1).


H. Richard Chambers (P34139)

Sworn to before me and subscribed in my presence this 6th day of December 2002.


Mary K. Polack
Notary Public, Jackson County, Michigan
My commission expires: September 9, 2006

STATE OF MICHIGAN
IN THE COURT OF APPEALS

CONSUMERS ENERGY COMPANY,

Appellant,

Court of Appeals No. _____

v

MPSC Case No. U-12891

MICHIGAN PUBLIC SERVICE COMMISSION,

Appellee.

_____/

Jon R. Robinson (P27953)
H. Richard Chambers (P34139)
Attorneys for Consumers Energy Company
212 West Michigan Avenue
Jackson, MI 49201
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_____/

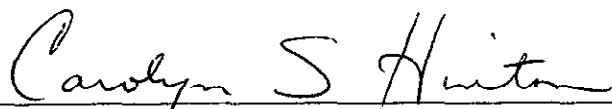
PROOF OF SERVICE

STATE OF MICHIGAN)
) SS.
JACKSON, MICHIGAN)

Carolyn S. Hinton, 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 upon the persons listed in Attachment 1 hereto at the addresses listed therein by depositing the same on **December 6, 2002** in the United States Mail in the City of Jackson, Michigan with first-class postage thereon fully paid.

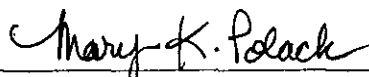
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7. Michigan Public Service Commission Docket Table of Contents on the Electronic Case Filings Posting for Case No. U-12891, and
8. Affidavit that Claim of Appeal is Timely.



Carolyn S. Hinton

Subscribed and sworn to before me this 6th day of December, 2002.



Mary K. Polack

Notary Public, Jackson County, Michigan

My Commission Expires: September 9, 2006

ATTACHMENT 1 -- to Case No. U-12891

Administrative Law Judge

Honorable James N. Rigas
6545 Mercantile Way, Suite 14
P.O. Box 30221
Lansing, MI 48909-8195
Facsimile: 517-335-6696
E-Mail: jnrigas@michigan.gov

Michigan Public Service Commission

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

**Counsel for the Michigan Public
Service Commission Staff**

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Public Service Division
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Lansing, MI 48911
E-Mail: baronep@michigan.gov

**Counsel for the Attorney General,
Jennifer M. Granholm**

Donald E. Erickson, Esq.
Assistant Attorney General
6th Floor, G. Mennen Williams Bldg.
525 W. Ottawa Street
P. O. Box 30212
Lansing, MI 48909
E-Mail: ericksond@ag.state.mi.us

**Counsel for the Association of Businesses
Advocating Tariff Equity ("ABATE")**

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Robert A.W. Strong, Esq.
Robert A. LeFevre, Esq.
Clark Hill PLC
2455 Woodlake Circle
Okemos, MI 48864-5941
E-Mail: tmaier@clarkhill.com
rstrong@clarkhill.com
rlefevre@clarkhill.com