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December 2, 2003

Hand Delivered

Mr. Robert W. Kehres
Acting Executive Secretary
Michigan Public Service Commission
6545 Mercantile Way
P.O. Box 30221
Lansing, MI 48909

Re: Case No. U-12915 and Case No. U-13843

Dear Mr. Kehres:

Enclosed for filing in the above-referenced cases are two originals and four copies of the "**Consumers Energy Company's Comments on the Michigan Renewable Energy Program Annual Report to the Michigan Public Service Commission**." I have also enclosed an original Proof of Service. In addition, electronic copies of these documents are being filed with the Commission in portable document format (PDF).

Sincerely,

Signature Not Verified

Digitally signed by John C. Shea
Date: 2003.12.02 11:41:35 -05'00'

John C. Shea

CC: Hon. Barbara A. Stump, ALJ
Parties per Attachment 1 to Proof of Service

S T A T E O F M I C H I G A N

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter, on the Commission's own motion, to establish the Michigan Renewables Energy Program	)))	Case No. U-12915
In the matter of the application of Mackinaw Power, LLC, to amend and make permanent the Consumers Energy Company Green Power Pilot Program	))))))	Case No. U-13843

CONSUMERS ENERGY COMPANY'S COMMENTS ON THE MICHIGAN RENEWABLE ENERGY PROGRAM ANNUAL REPORT TO THE MICHIGAN PUBLIC SERVICE COMMISSION

I. INTRODUCTION

In its Order pursuant to Case No. U-12915, dated May 16, 2002, the Michigan Public Service Commission ("MPSC" or "Commission") ordered its Staff to convene a collaborative of stakeholders to address the many issues applicable to the Michigan Renewables Energy Program ("MREP"). In this same Order, the Commission also directed the Staff to draft annual reports updating the MPSC on the status of the MREP. On August 18, 2003, the Commission issued an Order in Case No. U-13843 directing the Staff to submit the first annual report by November 18, 2003.

On November 18, 2003, the Staff submitted a document entitled *Michigan Renewable Energy Program: Annual Report to the Michigan Public Service Commission* ("Staff Report"). In a Prehearing Conference for Case Nos. U-12915 and U-13843 held on September 15, 2003, Administrative Law Judge Barbara Stump directed interested parties to file comments on the Staff Report by December 2, 2003, and reply comments by

December 23, 2003. The comments of Consumers Energy Company ("Consumers" or "the Company") are provided below.

II. OVERVIEW OF CONSUMERS' COMMENTS

Consumers appreciates the opportunity to submit comments on the Staff Report. The Company has participated in the collaborative meetings led by the Staff since June 2002 and has reviewed several drafts of the Staff Report. Consequently, Consumers has provided input on many of the issues raised in the Staff Report.

The Company believes the Staff has fairly represented parties' positions on the many renewable issues addressed in the Staff Report. Moreover, the Staff has carefully identified the level of support given the various policy options. Rather than repeat the Company's comments and positions on each issue, Consumers will focus its comments on several key policy and procedural issues.

III. COST-BENEFIT ANALYSIS

The Staff Report periodically refers to the positive and negative impacts of various generation technologies, as well as the extent to which existing public-policy initiatives either encourage or discourage such technologies. On Page 44 the Staff Report stresses the need to evaluate comprehensively the statewide costs and benefits from various renewable generation options.

Consumers agrees that this step is vital. For example, some stakeholders believe that Michigan can promote economic development by encouraging Michigan-based renewable generation. Such claims must be evaluated carefully, as promoting economic development through higher energy costs is a suspect strategy. The State does not want to divert its labor and capital resources to uneconomic endeavors. Similarly, many environmental impacts are already accounted for and internalized through existing tax law and environmental regulations. Any additional renewable incentives must serve a unique purpose and not simply duplicate existing incentives.

These caveats illustrate that systematic cost-benefit analysis is crucial for developing sound renewable energy policies. It is important to remember that renewable energy is *not* a public-policy goal; renewable energy is only one of many potential vehicles for achieving true public-interest goals such as low-cost energy, environmental protection, fuel diversity, etc. No initiative can be deemed successful just because it leads to more renewable energy. It can only be successful is if it advances public-policy goals better than other options for providing the same energy. For example, fossil-fuel generation using the latest clean-coal technology may be a superior alternative for meeting future baseload needs. Any approach to resource selection that automatically disqualifies this option (as well as any other non-renewable option) could not credibly claim to yield the best result from a social-cost perspective.

IV. RENEWABLE PORTFOLIO STANDARDS

On Pages 49-54, the Staff discusses a Renewable Portfolio Standard (RPS). While an RPS is an important policy option, Consumers believes that the collaborative has devoted a disproportionate amount of its scarce resources to this issue. This emphasis on RPS has deflected valuable time and resources from the issues on which the MPSC clearly asked the collaborative to focus in the Order dated May 16, 2002. Specifically, the main charge of the collaborative was to explore educational initiatives and ways to offer effective voluntary programs. On Page 14 of its Order, the MPSC stated that it would be willing to consider only green tariffs that "avoid assigning costs to non-participating customers." On Page 10 the MPSC expressed its view of ACT 141 unequivocally: "[T]he Legislature did not intend to create a program that would require consumers to pay an additional surcharge to support it." These citations demonstrate that the Commission intended for the collaborative to focus on potential initiatives that do not require forced subsidies.

Moreover, any statewide RPS would be illegal under current state law. Any such initiative would require enabling legislation (such as HB 4970, which is discussed on Pages 53-54 of the Staff Report.)

Finally, an RPS would also be suspect from a policy perspective. Before requesting any RPS enabling legislation, the collaborative should have a much clearer idea as to why a statewide RPS would be in the public interest and how it could be developed to minimize financial harm to customers. At a minimum, the existing voluntary green tariff programs in Michigan should be given a chance to work and evaluated carefully before they are jettisoned or rendered moot by a mandatory RPS.

V. STAFF DRAFT PROPOSAL

Attached to the Staff Report is a Staff Draft Proposal. It is characterized as a framework for a generic green power program, but goes well beyond the traditional voluntary programs by requiring utilities to contract for a minimum amount of renewable capacity. Consumers' comments about an RPS apply to the Staff Draft Proposal as well and will not be repeated. But the "Introduction" section of the Staff Draft Proposal raises additional concerns. This section appears to be an attempt to convince policymakers to adopt a social-costing approach to resource selection that would justify competitive solicitations of large amounts of renewable generation. As noted previously, even if the social-costing approach suggested by the Staff were applied, the implications for renewable generation are by no means clear. The effects of renewable development on economic development would likely be negative, given the higher cost of renewable resources. Moreover, existing environmental regulations may already "over-price" the external environmental cost associated with fossil-fuel generation.

Again, the appropriate role of social-costing and the best way to implement such an approach are difficult issues that require careful analysis and thought. The Company's point is that there is insufficient basis to jump from a preference for social-costing (assuming that were the right approach) to the conclusion that the renewable solicitations endorsed by the Staff are appropriate.

VI. ROLE OF CASE NO. U-13843 IN RENEWABLE POLICY DEVELOPMENT

Page 39 of the Staff Report suggests that the financing needs of renewable developers will be explored in Case No. U-13843. On Page 57 the Staff Report suggests that the issues raised in the Staff Draft Proposal will be "resolved" in that same proceeding.

Various issues may well be "considered" in Case No. U-13843. But Consumers believes that proceeding cannot resolve any substantive policy issues. For example, the "Staff Draft Proposal" attached to the Staff Report appears to envision and require an RPS. Case No. U-13843 is a woefully inadequate forum for addressing statewide policy issues such as an RPS for at least three reasons. First, the MPSC would need to reach a major policy decision with little basis and no input from the vast majority of stakeholders. Second, the MPSC would need to impose the entire cost burden of RPS on one utility. Third, by ordering an RPS in the context of MPSC Case No. U-13843, the MPSC would be ignoring state law.

Consumers is concerned that important renewable policy issues that the collaborative is best positioned to address may be diverted to inappropriate forums. The result of this approach would be poor public policy and an inequitable distribution of the costs of promoting renewable energy.

VII. PROMOTING RENEWABLE RESOURCES THROUGH UTILITY RATES

On Page 33 the Staff suggests the formation of an MREP Collaborative subcommittee to investigate ways of modifying utility rate structures to recognize the system benefits of solar technologies. On page 36 the Staff recommends that the MPSC invite proposals in utility rate cases for promoting renewable generation technologies through alternative rate structures. On Page 58 the Staff expresses hope that that the MREP Collaborative can propose utility incentives and/or performance standards that would encourage renewable development.

Consumers notes that retail rate structures have traditionally been based on goals such as recovering costs equitably and sending economically efficient price signals. While rate structures may incidentally affect the viability of renewable resources, the Company does not believe that manipulating utility rates is an appropriate means of promoting renewable technologies or any other specific generating technology. The MPSC should be careful not to allow the "tail to wag the dog." To the extent that rate initiatives based on sound pricing goals also encourages renewable technologies, then the MREP Collaborative may want to investigate these initiatives. But the MREP Collaborative should not recommend changes to rate structures based solely (or even primarily) on their impact on renewable technologies.

Consumers offers the same caveat regarding Performance Based Regulation or service standards. The effects of such initiatives on renewable development should not be a primary driver of program assessment or design.

VIII. SUMMARY AND SUGGESTED FUTURE STEPS

Consumers greatly appreciates the opportunity to participate in the MREP Collaborative and comment on the Staff Report. The Company looks forward to further dialogue with stakeholders.

The Company suggests that the MREP Collaborative refocus its efforts on fundamental tasks that must be completed before major policy initiatives can be fairly evaluated. Specifically, the MREP Collaborative should concentrate on:

- educational initiatives,
- research on various renewable technologies and their potential deployment in Michigan,
- cost-benefit analyses of various renewable options,
- assessments of whether various initiatives would complement, conflict with or duplicate existing federal and state policies, and
- evaluations of *voluntary* green programs in Michigan and elsewhere to help identify the best such programs for Michigan.

To free up time for this critical work, the MREP Collaborative should devote less time to protracted discussions of an RPS or other potential initiatives that require forced subsidies. The Company believes this shift would accomplish two goals. First, it would reestablish consistency with the direction provided by the MPSC in its May 16, 2002, Order. Second, it would lay the proper groundwork for assessing more ambitious policy options.

Without this groundwork, the MREP Collaborative and MPSC may recommend policies that later turn out to be ill-founded and contrary to the public interest.

Dated: December 2, 2003

Respectfully submitted,

CONSUMERS ENERGY COMPANY

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter, on the Commission's own motion, to establish the Michigan Renewables Energy Program	)))	Case No. U-12915
In the matter of the application of Mackinaw Power, LLC, to amend and make permanent the Consumers Energy Company Green Power Pilot Program	))))))	Case No. U-13843

PROOF OF SERVICE

STATE OF MICHIGAN)
) SS
COUNTY OF JACKSON)

Carolyn S. Hinton, being first duly sworn, deposes and says that she is employed in the Legal Department of Consumers Energy Company; that on **December 2, 2003** she served an electronic copy of the "**Consumers Energy Company's Comments on the Michigan Renewable Energy Program Annual Report to the Michigan Public Service Commission**" upon the persons listed in Attachment 1 hereto, at the e-mail addresses listed therein. She further states that she also served a hard copy of the same document to the addresses listed in Attachment 1 by depositing the same in the United States mail in the City of Jackson, Michigan with first-class postage thereon fully paid.

Signature Not Verified

Carolyn S. Hinton

Digitally signed by Carolyn S. Hinton
Date: 2003.12.02 11:43:00 -05'00'

Carolyn S. Hinton

Subscribed and sworn to before me this 2nd day of December, 2003.

Signature Not Verified

Margaret Hillman

Digitally signed by Margaret Hillman
Date: 2003.12.02 11:43:50 -05'00'

Margaret Hillman
Notary Public, Jackson County, Michigan
My Commission Expires: 06/14/04

ATTACHMENT 1 -- TO CASE NO. U-13843

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