

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the application of)
CONSUMERS ENERGY COMPANY for approval)
of the unbundling of its commercial and industrial)
rate schedules.)
_____)

Case No. U-12970

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 June 5, 2001, Consumers Energy Company (Consumers) filed an application to unbundle its commercial and industrial rate schedules, as required by Section 10b(2) of the Customer Choice and Electricity Reliability Act, MCL 460.10b(2).

After due notice, Administrative Law Judge George Schankler (ALJ) conducted a prehearing conference on August 24, 2001 and granted leave to intervene to Energy Michigan, the Association of Businesses Advocating Tariff Equity (ABATE), Exelon Energy Inc., Attorney General Jennifer M. Granholm, and the National Energy Marketers Association. The Commission Staff (Staff) also participated.

Consumers proposed to unbundle its rates on the basis of the cost of service study used in Case No. U-10685, Consumers' most recent electric base rate case.¹ The rate case used a projected 1996 test year. During discovery in this case, ABATE filed a motion to compel Consumers to prepare an updated cost of service study based on calendar year 2000.

At a hearing on October 4, 2001, the ALJ denied the motion to compel. He accepted Consumers' representation that it currently does not have the software and computer systems in place to prepare a new cost of service study. He also stated that the time, resources, and effort required to prepare a study are not justified by the need for the information ABATE sought and, in any event, Consumers was under no obligation to create a document of this complexity in response to discovery. Tr. 38-40. On October 18, 2001, ABATE filed an application for leave to appeal from the ALJ's ruling. On November 1, 2001, Consumers filed a response.

On November 27, 2001, the ALJ conducted a hearing on the merits of the application. Consumers and the Staff each presented testimony that was bound into the record without cross-examination. Consumers' evidence included three exhibits: Exhibit A-1, a cost of service summary based on the cost of service study used in Case No. U-10685; Exhibit A-2, which unbundles each of Consumers' existing commercial and industrial rates into their functional components of generation, transmission, distribution, customer costs, and a regulatory adjustment; and Exhibit A-3, which sets forth the unbundled rates in tariff sheets. The regulatory adjustment represents the difference between the costs allocated to a rate class and the costs recovered through the rates charged for that class. The unbundling in Exhibits A-2 and A-3 applies to each billing determinant used to assess charges for each rate or rate class. There are up to four billing

¹ The Commission approved Consumers' base rates in a partial final order issued on February 5, 1996 in Case No. U-10685. The Commission granted final approval of the rates and other issues in the consolidated cases in an order issued on November 14, 1996 in Cases Nos. U-10685, U-10754, and U-10787.

determinants used in Consumers' rates: customer charge (per customer), energy consumption (per kilowatt-hour), on-peak monthly billing demand (per kilowatt), and maximum annual demand (per kilowatt). The exhibits separate each charge, as applied to a billing determinant, into its constituent functions.²

Consumers and the Staff filed briefs, and Consumers and ABATE filed reply briefs. On January 15, 2002, the ALJ issued a Proposal for Decision (PFD) recommending approval of Consumers' unbundling proposal. The ALJ further recommended that the Commission adopt the Staff's two suggestions: that Consumers not use the unbundled rates in its customer bills during the rate freeze mandated by MCL 460.10d, and that Consumers file an application to unbundle its residential rates. ABATE filed exceptions to the PFD, and Consumers filed replies to exceptions.

In both its application for leave to appeal and its exceptions, ABATE argues that rates cannot be evaluated on the basis of stale, inaccurate data. Even if the rates were computed on the basis of a 1996 test year in Case No. U-10685, ABATE says, that is not a reason to ignore current costs. ABATE argues that a 1996 study does not have a meaningful relationship to the proportional contribution that each of the existing rates makes toward the recovery of Consumers' current costs. ABATE says that the purpose of unbundling is to send correct price signals to customers evaluating their competitive choices, but that an outdated study defeats this purpose.

Because a current cost of service study is essential, ABATE says, it would have been proper to compel Consumers to perform the study in discovery. ABATE doubts Consumers' assertions that the data cannot be readily compiled, that the study would be difficult and time-consuming, and that compelling it to do a study would be burdensome. ABATE disagrees with the implication that the Commission must approve Consumers' unbundling proposal because it is the only one on the

² In addition, Consumers reflects the base rate adjustment pursuant to MCL 460.10d and nuclear decommissioning surcharges as separate line items.

record. ABATE claims that it could have developed a competing proposal if Consumers had provided a current study. ABATE says that the Commission is not obligated to approve a flawed evidentiary presentation, but that it should reject Consumers' application as a matter of law and ratemaking policy.

Consumers argues that Section 10b(2) requires it to unbundle its "existing" rates into their existing components. Consumers says that the most accurate means of unbundling the rates is to refer to the cost of service study used to set them. Because its current costs, sales, and revenues may vary considerably from those used to set existing rates, on either a class-specific or total-company basis, Consumers says, unbundling on the basis of an updated study would be more inaccurate than the original study. Consumers argues that the provisions in the Michigan Court Rules relating to discovery do not require it to produce something that does not already exist.

The ALJ did not err in denying the motion to compel Consumers to perform a new cost of service study. The rates to be unbundled are Consumers' existing rates, as computed in Case No. U-10685 with a cost of service study based on a 1996 test year. Existing rates are subject to a statutory freeze and cannot be altered at the present, even if it were possible to show that Consumers' cost structure has changed significantly. It follows that the unbundling of existing rates should be consistent with the methodology used to set the rates. Even if a more recent cost of service study could provide some arguable insight into how Consumers' costs to serve each rate class (and to provide each constituent function required for the class's bundled service) compare with its revenues, using an updated study for an unbundling analysis would be meaningless in the absence of a mechanism to set rates that recover those costs. The price signals being sent for Consumers' services are its existing rates. It is not necessary to devise unbundled prices on some other basis.

While the Commission agrees with ABATE that it is not bound to approve an application simply because there are no other alternatives on the record, it finds that the record supports Consumers' unbundling proposal, that the proposal complies with Section 10b(2), and that it should be approved. Pursuant to Section 10b(2), the Commission also adopts the Staff's proposal to require Consumers to file an unbundling application for residential rates.

ABATE says that it is ambiguous whether Consumers intends to use the level of detail set forth in Exhibits A-2 and A-3 (by functional classification, as applied to each billing determinant) when rendering its customer bills. It requests clarification that the degree of breakdown demonstrated by Consumers be incorporated into the billing.

Consumers responds that it does not intend to identify the functional charges on its bills, except for generation. It predicts that altering its billing format to incorporate the degree of unbundling shown in Exhibit A-2 would cause customers to be confused, even though their rates are not changing. It notes that the Staff testimony recommends that charges in bills not be unbundled during the rate freeze and that the ALJ agreed. Consumers proposes that no unbundling should occur on the bills during the rate freeze, that only the generation component should be separated out after the freeze, and that it should file the unbundled rates approved in this case and make them available upon request to anyone that wants to review them.

The Commission agrees with ABATE that the functional components of each charge should appear on customer bills. The required changes in Consumers' billing format should be in place before the current rate freeze expires at year-end 2002. To give Consumers time to modify its billing systems, the Commission will defer the introduction of the unbundled billing format until the first billing cycle commencing on or after December 1, 2002. In the interim, the Commission will require Consumers, in the first billing cycle commencing after this order, to include a

percentage breakdown of the unbundled charges by their functional classification, as applicable to the customer's rate class, and to provide a notification that detailed unbundled rate information is available upon request. In addition, each future bill shall contain a notation that unbundled rate information is available upon request and indicate how an interested person can obtain this information.

The Commission FINDS that:

- a. Jurisdiction is pursuant to 1909 PA 106, as amended, MCL 460.551 et seq.; 1919 PA 419, as amended, MCL 460.51 et seq.; 1939 PA 3, as amended, MCL 460.1 et seq.; 1969 PA 306, as amended, MCL 24.201 et seq.; and the Commission's Rules of Practice and Procedure, as amended, 1992 AACS, R 460.17101 et seq.
- b. Consumers' application to unbundle commercial and industrial rate schedules should be approved.
- c. Consumers should file an unbundling application for residential rate schedules within 60 days.
- d. ABATE's application for leave to appeal should be denied.

THEREFORE, IT IS ORDERED that:

- A. The application of Consumers Energy Company to unbundle its commercial and industrial rate schedules is approved as set forth in Exhibit A-2.
- B. Consumers Energy Company shall file an unbundling application for its residential rate schedules within 60 days.
- C. Consumers Energy Company shall modify its billing format and provide unbundled rate information to interested persons as set forth in this order.

D. Within 30 days, Consumers Energy Company shall file tariffs that are consistent with Exhibit A-3.

E. The application of the Association of Businesses Advocating Tariff Equity for leave to appeal is denied.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26.

MICHIGAN PUBLIC SERVICE COMMISSION

/s/ Laura Chappelle
Chairman

(S E A L)

/s/ David A. Svanda
Commissioner

/s/ Robert B. Nelson
Commissioner

By its action of May 16, 2002.

/s/ Dorothy Wideman
Its Executive Secretary

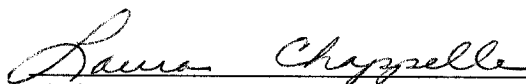
D. Within 30 days, Consumers Energy Company shall file tariffs that are consistent with Exhibit A-3.

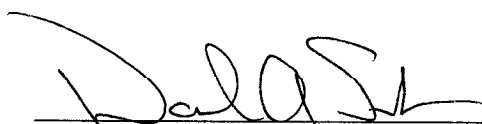
E. The application of the Association of Businesses Advocating Tariff Equity for leave to appeal is denied.

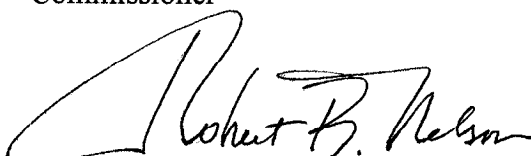
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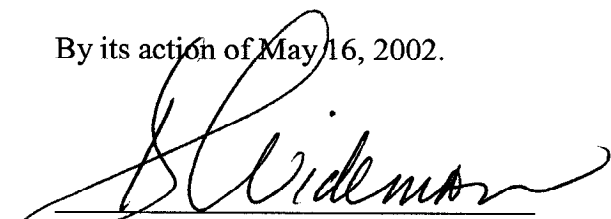
MICHIGAN PUBLIC SERVICE COMMISSION


Chairman


Commissioner


Commissioner

By its action of May 16, 2002.


Its Executive Secretary

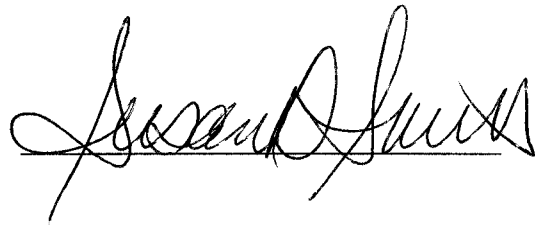
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STATE OF MICHIGAN)

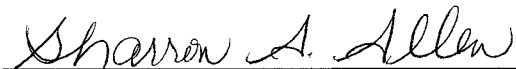
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County of Ingham)

Susan Smith, being duly sworn, deposes and says that on May 16, 2002, A.D. she served a copy of the attached commission order, mailing copies thereof by first class mail, postage prepaid, or by inter-departmental mail, to the persons as shown on the attached service list.

A handwritten signature in cursive script, appearing to read "Susan Smith", written over a horizontal line.

Subscribed and sworn to before me
this 16th day of May 2002

A handwritten signature in cursive script, appearing to read "Sharon A. Allen", written over a horizontal line.

Notary Public, in Ingham County, Michigan.
My Commission expires August 16, 2004

SERVICE LIST FOR DOCKET # U - 12970-
DATE OF PREPARATION: 05/15/2002

CASE #

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