

STATE OF MICHIGAN  
DEPARTMENT OF ATTORNEY GENERAL



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JENNIFER MULHERN GRANHOLM  
ATTORNEY GENERAL

July 18, 2001

Ms. Dorothy Wideman  
Executive Secretary  
Michigan Public Service Commission  
6545 Mercantile Way  
Lansing, MI 48911

Dear Ms. Wideman:

**Re: MPSC Case No. U-12990**

I am enclosing for filing an original and 4 copies of the Attorney General's Response to Request for Declaratory Ruling. I am also enclosing a proof of service. In addition, a copy of this filing is being submitted electronically.

Sincerely,

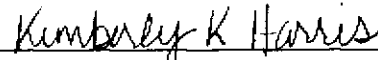
A handwritten signature in cursive script that reads "Donald E. Erickson".

Donald E. Erickson  
Assistant Attorney General

c All Parties  
sld/cases/U-12990

**PROOF OF SERVICE - U-12990**

The undersigned certifies that a copy of the Attorney General's Response to Request for Declaratory Ruling was served upon the parties listed below by mailing the same to them at their respective addresses with first class postage fully prepaid thereon, or by State Interdepartmental mail as indicated, on the 18th day of July, 2001

  
Kimberly K. Harris

**MPSC Staff:**

Mr. David M. Gadaletto  
Assistant Attorney General  
Public Service Division  
6545 Mercantile Way, Suite 15  
Lansing, MI 48911 [I.D. Mail]

**ABATE:**

Mr. Robert A. LeFevre  
Mr. Thomas E. Maier  
Clark Hill, P.L.C.  
2455 Woodlake Circle  
Okemos, MI 48864-5941

**Consumers Energy Company:**

Mr. Robert M. Neustifter  
Consumers Energy Co.  
212 West Michigan Avenue  
Jackson, MI 49201

**Residential Ratepayer Consortium:**

Mr. David L. Shaltz  
Shaltz & Royal, P.C.  
Suite C-1  
3303 W. Saginaw  
Lansing, MI 48917

STATE OF MICHIGAN  
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the Matter of a Request for a Declaratory Ruling  
Regarding the Regulation of the Rates, Service and  
Facilities of Michigan Gas Storage Company

MPSC No. U-12990

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**Attorney General's Response to**  
**Request for Declaratory Ruling**

Pursuant to MCL 24.263 and Rule 701 of the Michigan Public Service Commission's (MPSC or Commission) Rules of Practice and Procedure [1992 AACCS, R 460.17701], Attorney General Jennifer M. Granholm objects to processing the merits of the Request for Declaratory Ruling filed on behalf of Michigan Gas Storage Company (MGSCo) and Consumers Energy Company (CECo) and says:

1. The MPSC does not currently regulate the rates, service and facilities of MGSCo.
2. MGSCo and CECo have requested the MPSC to exercise jurisdiction over the rates, services, and facilities of MGSCo.
3. If the MPSC grants the request for a declaratory ruling, then MGSCo plans to request the Federal Energy Commission (FERC) to grant MGSCo an exemption from the provisions of the Natural Gas Act (NGA) after which CECo and MGSCo intend to "roll MGSCo into CECo.

4. The Attorney General contends that such actions will affect the rates, terms, and conditions of service received by customers from CECo and that such actions could result in an increase of costs to those customers.

5. Because a declaratory ruling would bind the MPSC and because the requested ruling would necessarily affect CECo's customers, the Attorney General asks the MPSC to require a contested case proceeding under Rule 701(2).

6. The Attorney General contends that the Request for Declaratory Ruling provides only general references to four public acts and does not provide specific references to all statutes to which the issues relate within the scope of Rule 701.

7. The Attorney General contends that the Request for Declaratory Ruling fails to describe the legal issues and an analysis of the issues presented as required by Rule 701(b) and (d).

8. CECo and MGSCo argue that MGSCo is eligible for an exemption from the Natural Gas Act and from FERC regulation. The Attorney General contends that this is a question of federal law, which does not fall within the scope of MCL 24.264.

9. Exhibit C attached to the Request for Declaratory Ruling is a proposed letter from the MPSC to the FERC certifying that the rates, service, and facilities of MGSCo are subject to the regulatory jurisdiction of the MPSC. This is not truly a declaratory ruling, and furthermore, it would not constitute a ruling as to the applicability of a statute to an actual state of facts within the meaning of MCL 24.264 and Rule 701. What statute or statutes apply to what facts?

10. The Attorney General contends that the subject matter of the Request for Declaratory Ruling should be addressed in the context of a contested case. That should be done in the context of Case No. U-13000 in which the parties can fully examine the effects of

exempting MGSCo from FERC regulation upon CECo's customers. In the alternative, the MPSC should initiate a contested case in a manner similar to the action it took on CECo's application in Case No. U-10029.

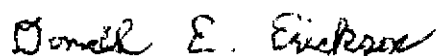
**Relief Requested**

For the reasons stated above, Attorney General Jennifer M. Granholm requests the Michigan Public Service Commission to address in Case No. U-13000 the issues raised by the Request for Declaratory Ruling. In the alternative, the Attorney General contends that the issues in this case should be resolved in a separate contested case and cannot be lawfully resolved in the form of a declaratory ruling.

Respectfully submitted,

JENNIFER M. GRANHOLM  
Attorney General

J. Peter Lark  
Assistant in Charge  
Special Litigation Division



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July 18, 2001