

STATE OF MICHIGAN
DEPARTMENT OF ATTORNEY GENERAL



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July 19, 2004

Ms. Mary Jo Kunkle
Executive Secretary
Michigan Public Service Commission
6545 Mercantile Way
Lansing, MI 48911

Dear Ms. Kunkle:

Re: MPSC Case No. U-12999

I am attaching for filing the Attorney General's Exceptions to the Proposal for Decision. I am also attaching a proof of service. This filing is being submitted electronically pursuant to the instructions in the Commission's notice of hearing.

Sincerely,

Donald E. Erickson

Digitally signed by Donald E. Erickson
DN: cn=Donald E. Erickson, o=State of Michigan, ou=Department of Attorney General, email=derickson@legislature.mi.gov



Donald E. Erickson
Assistant Attorney General

c All Parties

PROOF OF SERVICE - U-12999

The undersigned certifies that a copy of the Attorney General's Exceptions to the Proposal for Decision was served upon the parties listed below by mailing the same to them at their respective addresses with first class postage fully prepaid thereon on the 19th day of July 2004.


Digitally signed by Cindy Jakus
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Cindy Jakus

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STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the Matter of the Application of
CONSUMERS ENERGY COMPANY for
Accounting and Ratemaking Approval of
Depreciation Rates for Gas Utility Plant

MPSC No. U-12999

Attorney General's Exceptions to the Proposal for Decision

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July 19, 2004

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I. Introduction

Consumers Energy Company (CECo or the Company), Attorney General Michael A. Cox (the Attorney General), the Association of Businesses Advocating Tariff Equity (ABATE), and the MPSC's Staff have filed initial briefs. The parties filed reply briefs, and on June 28, 2004, the Administrative Law Judge (ALJ) issued and served a Proposal for Decision (PFD) along with a Notice of Proposal for Decision. Exceptions were due on or before July 12, 2004, but the ALJ extended the deadline to July 19. The Attorney General files the following exceptions.

II. Exception No. 1: The MPSC should not approve the deferred accounting requested by CECo and recommended by pages 19-20 in the PFD.

On pages 113-114 in Volume 5 of the transcript, Mr. Simonsen requested the MPSC to authorize CECo to establish regulatory assets and regulatory liabilities related to timing differences related to the Statement of Position by the Accounting Standards Executive Committee of the American Institute of Certified Public Accountants on Accounting for Certain Costs and Activities Related to Property, Plant, and Equipment. Mr. Simonsen requests authorization in case the Financial Accounting Standards Board (FASB) approves the SOP.

Page 20 in the PFD concurs in CECo's argument that there is not valid reason not to grant the request.

There are two valid reasons. First, FASB is the regulatory body, not the AICPA, so the MPSC does not know if or what the FASB will decide. Second, the cited testimony presents no specific accounting entries.

MCL 24.285 requires the MPSC to include a concise and explicit statement of any facts underlying the findings of fact that it adopts. The evidence presented by CECo provides an

insufficient basis for granting vague and undefined authorization to set up regulatory assets and liabilities. Mere conclusional statements do not satisfy this requirement. *Consumers Power Co v PSC*, 78 Mich App 581, 585-586; 261 NW2d 10 (1977). It is unclear what deferred accounting would be authorized by the recommendation in the PFD, and it is unclear what ratemaking effects would result under SFAS-71. For these reasons, the Commission should make this decision in a future case after FASB acts and after CECO identifies the nature of the accounting entries it proposes.

III. Exception No. 2: The MPSC should synchronize revenue requirements in Case No. U-13730 with the depreciation decisions in this case.

Pages 20-21 in the PFD address the topic of “Synchronization with Revenue Requirements.” But the text of that recommendation recommends approval of the provisions set forth in Exhibit A-4, p 2.

Exhibit A-4 is Mr. Roff’s prefiled exhibit DSR-1R. The Attorney General’s review of page 2 does not reveal a discussion of synchronization on that page. That page addresses administration of depreciation. The Attorney General did not object to those provisions, but is uncertain how they affect synchronization.

IV. Relief Requested

For the reasons stated above, Attorney General Michael A. Cox requests the Michigan Public Service Commission to adopt the PFD—subject to the exceptions stated above.

Respectfully submitted,

Michael A. Cox
Attorney General

Paul F. Novak (P39524)
Assistant in Charge

Donald E. Erickson

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