

STATE OF MICHIGAN
DEPARTMENT OF ATTORNEY GENERAL



MIKE COX
ATTORNEY GENERAL

P.O. Box 30755
LANSING, MICHIGAN 48909

November 9, 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 Answer to Consumers Energy Company's Petition for Rehearing. 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=Michigan
Date: 2004.11.09 17:30:45 -0500
Reason: signed



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 Answer to Consumers Energy Company's Petition for Rehearing 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 9th day of November 2004.



Diane M. Pittman

Administrative Law Judge:

Mr. Daniel E. Nickerson, Jr. (P36294)
Michigan Public Service Commission
6545 Mercantile Way
P. O. 30221
Lansing, MI 48909 **[ID Mail]**

MPSC Staff:

Mr. Steven D. Hughey (P32230)
Assistant Attorney General
Public Service Division
6545 Mercantile Way, Suite 15
Lansing, MI 48911 **[I.D. Mail]**

Consumers Energy Company:

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

ABATE:

Mr. Robert A. W. Strong (P27724)
Clark Hill, P.L.C.
255 S. Old Woodward Ave., Third Floor
Birmingham, MI 48009

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 Answer to Consumers Energy's Petition for Rehearing

Attorney General Michael A. Cox files the following answers to the "Petition of Consumers Energy Company for Rehearing." In response to Consumers Energy Company's (CECo or the Company) petition, the Attorney General states as follows:

1. On October 19, 2004, CEC Co filed its petition for rehearing, and CEC Co's petition for rehearing notes that the October 14, 2004, order in this case increased CEC Co's depreciation rates to the level the Michigan Public Service Commission (MPSC or the Commission) previously approved in Case No. U-11509.

2. In its petition, CEC Co requests the Commission to approve continued use of depreciation rates that CEC Co voluntarily proposed in Case No. U-13730 as a part of CEC Co's request for approval of an interim rate increase that was smaller than the interim rate increase previously supported by CEC Co in U-13730.

3. CEC Co's proposal to voluntarily reduce its depreciation rates as a part of interim rate relief in U-13730 effectively reduced the Company's depreciation expense and partially offset CEC Co's voluntary reduction in its proposed interim rate increase.

4. In U-13730, CEC's "voluntary reduction" in depreciation rates was at least synchronized with a voluntary reduction in CEC's proposed increase in interim rates. In this case, CEC's proposal to reduce its depreciation rates is not synchronized with any proposed reduction in the final rates the MPSC adopted in U-13730.

5. CEC's petition for rehearing proposes to reduce CEC's depreciation expense with no corresponding reduction in its retail rates. This will in turn increase CEC's future depreciation rates and expense calculated on a remaining life basis.

6. If the MPSC approves CEC's rehearing petition, the Commission will effectively approve an increase in future depreciation rates and expense that will, in turn, increase retail rates all other things remaining equal.

7. The Attorney General notes that the MPSC's Staff and the Association of Businesses Advocating Tariff Equity (ABATE) have filed answers supporting CEC's petition for rehearing.

8. Neither the Staff's answer nor ABATE's answer provides any concrete reason for stating that the relief requested by CEC is reasonable. Perhaps, a reduction in depreciation rates simply sounds positive for ratepayers, but reality belies such a conclusion. Currently reducing depreciation rates decreases CEC's current expense without any corresponding change in retail rates. Therefore, CEC's income would increase. Currently reducing depreciation rates would also increase CEC's future expense and result in higher future retail rates.

9. The Attorney General does not agree with the Commission's decision to defer action in the case pending a generic review, but if the Commission is not going to determine what depreciation rates are substantively just and reasonable based upon the record in this case,

then the depreciation rate order the Commission issued in U-11590 remains prima facie valid and must be reinstated under MCL 462.25—as the October 14 order in this case did.

Relief Requested

For the reasons stated above, Attorney General Michael A. Cox requests the Michigan Public Service Commission to issue an order denying CEC's petition for rehearing.

Respectfully submitted,

Michael A. Cox
Attorney General

Donald E. Erickson

Digitally signed by Donald E. Erickson
DN: cn=Donald E. Erickson, o=Michigan
Date: 2004.11.09 17:26:11 -0500
Reason: SIGNED



Donald E. Erickson (P13212)
Assistant Attorney General

Special Litigation Division
Sixth Floor G. Mennen Williams Bldg.
525 W. Ottawa Street
P. O. Box 30755
Lansing, MI 48909

November 9, 2004