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December 27, 2002

Ms. Dorothy Wideman
Executive Secretary
Michigan Public Service Commission
6545 Mercantile Way
P.O. Box 30221
Lansing, MI 48909

Re: Case No. U-13000

Dear Ms. Wideman:

Enclosed for filing in the above-referenced matter are an original and four copies of the **"Answer of Consumers Energy Company's in Opposition to Attorney General's Petition for Rehearing."** An original Proof of Service is also enclosed. In addition, this document is being filed electronically with the Commission in the portable document format (PDF).

Sincerely,



Raymond E. McQuillan

cc: Hon Daniel E. Nickerson, Jr., ALJ
Parties per Attachment 1 to
Proof of Service

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the application of)
CONSUMERS ENERGY COMPANY)
for authority to increase its rates for)
the distribution of natural gas and)
for other relief)
_____)

Case No. U-13000

ANSWER OF CONSUMERS ENERGY COMPANY
IN OPPOSITION TO ATTORNEY GENERAL'S PETITION FOR REHEARING

Consumers Energy Company ("Consumers Energy" or the "Company") files the following answer in opposition to the Attorney General's Petition for Rehearing dated December 9, 2002. In her Petition, the Attorney General seeks rehearing of the Commission's November 7, 2002 Order regarding Consumers Energy's working capital requirements associated with reclassification of gas stored underground resulting from the order issued in MPSC Case No. U-12679. The Petition for Rehearing does not state a valid basis to grant rehearing. The Petition merely repeats the same arguments already considered and should be denied.

I. THE ATTORNEY GENERAL FAILS TO ESTABLISH ANY VALID BASIS FOR REHEARING

The Commission has stated on numerous occasions that an application for rehearing is not merely another opportunity for a party to argue a position or to express disagreement with the Commission's decision. Yet that is precisely what the Attorney General does in her Petition. She does not show that the Commission's decision is incorrect or improper because of errors, newly discovered evidence, or unintended consequences of the decision. She merely reargues prior positions, expresses disagreement, and essentially claims that the Order

must be in error since it rejects her conclusions. There is no allegation of newly discovered evidence or unintended consequences of the decision.

The Attorney General presented her opinions regarding reclassification of storage gas during the hearings. The Attorney General included in her briefs these same arguments on reclassification of gas stored underground. The Commission did not find her arguments persuasive. A difference of view between the Attorney General and the Commission does not mean that the Commission has committed error or that rehearing is appropriate. The Attorney General fails to allege or establish a valid basis for rehearing. When the revenues produced by existing rates are less than a reasonable or just amount, a public utility has both a constitutional and statutory right to rate relief. Consumers Power Company v Public Service Commission, 415 Mich 134, 145; 327 NW2d 875 (1982).

**II. THE ATTORNEY GENERAL HAS NOT IDENTIFIED ANY
VALID BASIS FOR REHEARING AN ISSUE TWICE ADDRESSED
BY COMMISSION ORDERS**

The Attorney General claims that the Commission has committed error in rejecting Mr. William Peloquin's opinions on the base gas reclassification. There is no claim that the Commission did not understand such arguments, merely that it did not adopt the Attorney General's conclusions. The Commission discussed the base gas adjustment issue at length in its December 20, 2001 Interim Order, pp 13-17. With regard to the base gas adjustment, the Commission stated, among other things:

“The Commission finds that the effects of the base gas adjustment approved by the Commission's October 24, 2000 order in Case No. U-12679 should be recognized for purposes of determining interim relief....

“These adjustments have been applied consistently to all of Consumers' gas transactions. ...[T]here is no reason to question the effect of the adjustment on the level of Consumers' working

capital and its cost of gas. The increase in Consumers' working capital requirement attributable to the recoverable base gas adjustment is significant and readily determinable." Interim Order, Case No. U-13000 at p 15.

The Commission properly exercised its discretion to recognize the effects of the base gas reclassification on working capital. The Commission did not adopt the Attorney General's arguments on this issue.

The Commission has discretion to define what issues and factors in a given case are relevant. ABATE v Public Service Commission, 430 Mich 33, 43; 420 NW2d 81 (1988). The Commission considered the Attorney General's arguments and did not find them persuasive. This does not constitute legal error. No basis for rehearing is presented by merely repeating previously rejected arguments.

The Attorney General does not dispute that the amount of investment exists, or that it is properly recorded on the Company's books, or that it is the result of proper accounting practices specifically authorized by the Commission, or that there is anything unreasonable or imprudent about this investment. Rather, the Attorney General has simply constructed an unlawful proposal that is based upon the notion that the accounting reclassification of base gas to working gas that was authorized by the Commission in the October 24, 2000 Order in Case No. U-12679 resulted in both the Company and its customers receiving a "benefit", and that there should therefore be a "sharing" of these working capital costs. The Commission correctly rejected that proposal as unlawful, unreasonable and illogical.

The Commission's order of November 7, 2002 cited the Attorney General's testimony on this issue and noted that the PFD had rejected the Attorney General's arguments. See, order at pages 15-17. The Commission noted the substantial benefits already realized by the ratepayers. It concluded that the Attorney General's adjustment was not warranted. The

Commission specifically rejected the Attorney General's arguments that it was "unfair to ratepayers" to accept the PFD's recommendations.

"The Commission finds that the working capital amount proposed by Staff, agreed to by Consumers and approved by the ALJ should be adopted. In so doing, the Commission concludes that the disallowance proposed by the Attorney General and supported by Mr. DeWard is not warranted. It is undisputed that the base gas adjustment reduced Consumers' plant in service balance, increased its working capital requirement balance, and reduced Consumers' GCR cost of gas. The Commission remains convinced that the based gas adjustment should be fully recognized for ratemaking purposes due to the substantial benefits already realized by Consumers' ratepayers." Order, Case No. U-13000 at page 17.

The Commission could not have been clearer that it already considered, but correctly rejected, the Attorney General's position on this issue.

III. CONCLUSION

The Attorney General has not set forth any grounds justifying granting of rehearing of the Commission's Order. Her Petition for Rehearing should be denied.

Respectfully submitted,

CONSUMERS ENERGY COMPANY

Dated: December 27, 2002

By:


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STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

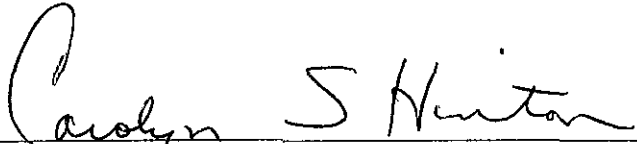
In the matter of the application of)
CONSUMERS ENERGY COMPANY)
for authority to increase its rates for)
the distribution of natural gas and)
for other relief)
_____)

Case No. U-13000

PROOF OF SERVICE

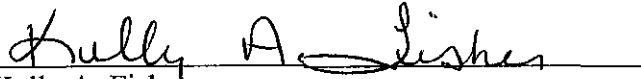
STATE OF MICHIGAN)
) SS
COUNTY OF JACKSON)

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 27, 2002 she served an electronic copy of the **"Answer of Consumers Energy Company's in Opposition to Attorney General's Petition for Rehearing"** upon the persons listed in Attachment 1 hereto, at the e-mail addresses listed therein. She further states that she served a hard copy of the same document to the addresses listed in Attachment 1, by depositing the same on December 27, 2002, in the United States mail in the City of Jackson, Michigan with first-class postage thereon fully paid.



Carolyn S. Hinton

Subscribed and sworn to before me this 27th day of December, 2002.



Kelly A. Fisher
Notary Public, Jackson County, Michigan
My Commission Expires: 01/18/06

ATTACHMENT 1 -- TO CASE NO. U-13000

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