

A CMS Energy Company

June 19, 2006

Ms. Mary Jo Kunkle
Executive Secretary
Michigan Public Service Commission
6545 Mercantile Way
P.O. Box 30221
Lansing, MI 48909

**Re: Case No. U-14701 - Application of Consumers Energy Company for
Approval of a Power Supply Cost Recovery Plan and for
Authorization of Monthly Power Supply Cost Recovery Factors for
Calendar Year 2006**

Dear Ms. Kunkle:

Included in this electronic filing is the "Replies to Exceptions of Consumers Energy Company" together with a proof of service. This is a paperless case and is therefore being filed only in PDF format.

Sincerely,



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by John C. Shea
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John C. Shea

CC: Hon. Mark E. Cummins, ALJ
Parties Per Attachment 1
to Proof of Service

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STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the Matter of the Application)
of Consumers Energy Company)
for approval of a power supply cost)
recovery plan and authorization of a)
power supply cost recovery factor)
for the calendar year 2006)

Case No. U-14701

**REPLIES TO EXCEPTIONS OF
CONSUMERS ENERGY COMPANY**

I. Reply to Attorney General's Exceptions

The Attorney General excepts to several of the recommendations of the May 25, 2006 Proposal for Decision (“PFD”) issued by the presiding Administrative Law Judge (“ALJ”) in this proceeding. Consumers Energy Company (“Consumers Energy” or the “Company”) responds to those exceptions as follows.

First, the Attorney General criticizes the ALJ’s approval of the Company’s request to include financial transmission rights (“FTRs”) in its 2006 PSCR plan and factor. PFD at 22. The Attorney General asserts that, by recommending inclusion of FTRs in the Company’s 2006 PSCR plan, the ALJ “apparently believes that the burden was on the Attorney General to prove their [*i.e.*, the FTRs’] unreasonableness or imprudence,” Attorney General’s Exceptions at 3, thus improperly shifting the burden of persuasion as to the reasonableness of these costs from Consumers Energy to the Attorney General. *Id.* The Attorney General’s argument, however, completely ignores the reliance placed on prior Commission orders by the PFD:

“[T]he Commission’s repeated rulings in favor of recovering transmission-related expenses through the PSCR process¹² apply equally to these FTRs. The ALJ therefore recommends that the Commission authorize Consumers to account for FTRs in a

manner that ensures that their final, settled value is included as part of the utility's 2006 PSCR costs.

¹² See, the Commission's September 16, 2002 order in Case No. U-12725, March 12, 2003 order in Case No. U-13107, July 23, 2003 order in Case No. U-13688, November 23, 2004 order in Case No. U-13808, February 28, 2005 order in Case No. U-13917, and June 30, 2005 order in Case No. U-14274.

In MPSC Case No. U-14274, *supra*, the Company's 2005 PSCR Plan case, Company witness Ronk provided extensive testimony concerning FTRs. See, MPSC Case No. U-13274, 3 TR 398-400, in which Mr. Ronk explained at length the nature of FTRs, 3 TR 398-399, and the allocation of FTRs to Consumers Energy by MISO. 3 TR 399. Mr. Ronk clearly indicated that "Consumers plans to include both the additional costs of congestion and the corresponding costs and revenues from FTRs in the Company's PSCR costs." MPSC Case No. U-14274, 3 TR 400. The Commission, in its June 30, 2005 order in that case, approved the Company's PSCR plan in its entirety. Based on the fact that FTRs have already been approved in the Company's 2005 PSCR Plan, the Attorney General is simply incorrect to assert that Consumers Energy has "failed to sustain its burden of showing that moving the FTRs [sic] costs into the PSCR proceeding is reasonable." Attorney General's Exceptions at 3. Thus, the Attorney General's arguments should be rejected.

Further, in this proceeding, as in the Company's 2005 PSCR plan case, MPSC Case No. U-14274, *supra*, Company witness Ronk once again explained the nature of FTRs, 5 TR 303-304. Thus, the record in this proceeding contains a sufficient factual basis for the Commission to conclude here, as it did in its June 30, 2005 order in MPSC Case No. U-14274, that FTRs are an appropriate, transmission-related expense suitable for recovery.

The Attorney General concludes his argument by asserting that the Commission lacks statutory authority under Act 304, MCL 460.6j, to approve FTRs for inclusion in the

Company's 2006 PSCR plan. Attorney General's Exceptions at 4. However, as the ALJ notes in footnote 12 of the PFD, quoted above, the Commission has consistently determined that Act 304 authorizes the Commission to include transmission-related costs in the PSCR process.

The Attorney General also asserts that the costs of the Company's Karn 3 & 4 generating units and combustion turbine peaking facilities should not be included in the 2005 PSCR reconciled costs, but rather that these facilities should be "retired." Attorney General's Exceptions at 5. There is, however, no factual basis for this argument. The Attorney General's witness expressed the fact that he is "dubious whether Consumers is fully compensated for these units," 5 TR 357, but nowhere expressed any opinion that these units should be retired. In contrast, the Company provided uncontested evidence that the costs of Karn 3 & 4 and the combustion turbine peaking facilities, when dispatched by MISO, are fully compensated by MISO:

"Q. Please explain lines 40 and 58 [of Exhibit A-11 (RJP-1) (for 2006) and Exhibit A-12 (RJP-2)(for 2006-2010)].

"A. Lines 40 and 58 represent a sale to the MISO market from our oil and gas units. This is an estimate of the sale associated with the MISO RAC (Reliability Assessment Commitment) process. MISO must ensure that sufficient resources are available and online to meet the forecasted MISO load for each hour of the next operating day. We have estimated the amount of increased generation at the oil and gas units that MISO uses for this purpose on line 40 and have represented it as a sale. We have assumed that we will be reimbursed in full for this use of our units and therefore this increased generation is fully offset by the revenue shown on line 58 and therefore does not affect the PSCR factor." 5 TR 286 [testimony of Company witness Polena].

The Attorney General did not submit any evidence contradicting this testimony. Nor is there any evidence supporting the Attorney General's contention that these facilities

should be retired. Since the costs associated with the output of these facilities, when dispatched by MISO, are fully compensated by MISO, in a manner that “does not affect the PSCR factor,” 5 TR 286, *supra*, the Attorney General’s argument has no evidentiary basis and should be rejected. *See also*, 5 TR 313-316 (Rebuttal Testimony of Company witness Ronk).

Lastly, the Attorney General asserts that the Company has not made a sufficient effort at showing that its purchases of nuclear fuel were reasonable and prudent. This contention, however, completely overlooks the testimony of Company witness Hughes, 5 TR 246-257, who explained that nuclear fuel purchases are made under contracts with the fabricator, 5 TR 256, and who explained at length the steps taken to minimize the costs of nuclear fuel. *Id.* These steps include the negotiation of a fabrication contract which reduced costs by one third, the renegotiation of an enrichment contract with a ceiling price 15 percent below today’s market price, with similar discounts extending out into the future and negotiations for procurement of uranium that will result in a price approximately 33% below the current spot market price. 5 TR 256. In the face of this evidentiary presentation, it is simply untrue to assert that the Company has failed to meet its burden of demonstrating the reasonableness and prudence of its actions in procuring nuclear fuel. This is so especially in light of the fact that the Attorney General has not provided a single piece of evidence, either through the testimony of his witness or through any sort of documentary evidence, that the costs of nuclear fuel presented into the record by Consumers Energy’s witness are in any way unreasonable. The Attorney General’s argument concerning the Company’s nuclear fuel purchases for 2006 should therefore be rejected.

The Attorney General also included a list of issues that are presently on appeal but are presented for the purpose of preserving these issues. Consumers Energy has already

responded to these issues in previous PSCR proceedings and in the appeal of various Commission orders by the Attorney General and other parties, and therefore will not respond again to these issues here.

II. Reply to MEC/PIRGIM Exceptions

In its exceptions, MEC/PIRGIM merely reproduces its assertions concerning certain issues and rulings by the ALJ that have previously been made in this proceeding. Consumers Energy therefore incorporates by reference as though fully set forth herein (1) its March 10, 2006 Motion to Strike testimony of witnesses for MEC/PIRGIM, (2) its April 18, 2006 Response to MEC/PIRGIM's application for leave to appeal and (3) page 6 of its April 28, 2006 reply brief addressing MEC/PIRGIM.

III. Reply to MPSC Staff

Consumers Energy has no reply to Staff's Exceptions.

IV. Conclusion and Relief Requested

For all the reasons stated herein and in Consumers Energy's presentation in this proceeding, Consumers Energy respectfully requests this Honorable Commission to grant the relief requested in Consumers Energy's application in this proceeding.

Respectfully submitted,

CONSUMERS ENERGY COMPANY

Dated: June 19, 2006

By:  
Signature Not
Verified

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STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the application of)
Consumers Energy Company for)
approval of a power supply cost and)
for authorization of monthly power)
supply cost recovery factors for)
calendar year 2006)
_____)

Case No. U-14701

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 June 19, 2006 she served an electronic copy of the "Replies to Exceptions of Consumers Energy Company" to the parties listed in Attachment 1 hereto, at the e-mail addresses listed therein. A hard copy was also sent to The Honorable Mark E. Cummins, Administrative Law Judge, 6545 Mercantile Way, Suite 14, P O Box 30221, Lansing, MI 48909.



Carolyn S. Hinton

Digitally signed by
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Carolyn S. Hinton

Subscribed and sworn to before me this 19th day of June, 2006.



Sammie B. Dalton

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Sammie B. Dalton, Notary Public
State of Michigan, County of Jackson
My Commission Expires: 01/04/08
Acting in the County of Jackson

Attachment 1 to Case No. U-14701

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