

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-14547**
(e-file)

**MICHIGAN PUBLIC SERVICE COMMISSION STAFF'S
REPLY BRIEF**

**MICHIGAN PUBLIC SERVICE COMMISSION
STAFF**

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INTRODUCTION

Pursuant to the schedule set at the prehearing conference, Initial Briefs were filed by the Applicant, Consumers Energy Company (Consumers), the Michigan Public Service Commission Staff (Staff), and the following intervenors: the Attorney General, the Association of Businesses Advocating Tariff Equity (ABATE), Energy Michigan (EM), and National Energy Marketers Association (NEMA) on April 24, 2006. Reply briefs are scheduled to be filed on May 15, 2006, and pursuant to that schedule Staff files this Reply Brief.

Staff reiterates that it continues to support the case presented in its Initial Brief and in this brief responds to specific arguments raised by the Applicant and the Intervenors in their Initial Briefs.

STAFF'S REPLIES

Test Year

All parties presenting evidence on a revenue deficiency in this case have utilized a 2004 historical test year, adjusted for known and measurable changes to a 2006 projected test year. However, it should be noted that Consumers has made extensive use of budgeted 2006 O&M expenses, as Staff pointed out in its initial brief at page 6.

Rate Base

Staff proposed rate base in this case is \$2,250,633,000, as shown on Exhibit S-3, Schedule B-1. Consumers has agreed with Staff's rate base amount, with the exception of the unamortized MGP amount. As a result of this minor difference, Consumers is proposing that rate base be set at \$2,251,247,000, a difference of \$614,000. Staff discusses this disagreement below, as well as the AG's contention that MGP plant should not be recovered in rates. The AG disagrees with the inclusion of construction work in progress (CWIP) in the rate base. Also

discussed below is the AG's disagreement with Staff's gas in underground storage projection, contained in the working capital of \$975,832,000.

A. Unamortized MGP Plant.

Staff responds to unamortized MGP Plant issues later in this brief.

B. Construction Work in Progress (CWIP).

1. Response to Consumers.

Consumers adopted Staff's calculation of net plant.

2. Response to AG.

The Attorney General's calculation of net plant is similar to Staff's except for the issue of Construction Work In Progress. The AG argued that CWIP should not be included, and that it is double counted. CWIP is not double counted. Staff has addressed this issue in its Initial Brief on pages 7-8.

C. Gas in Underground Storage.

The Commission should reject the Attorney General's recommendation for the cost of storage gas in working capital because Staff only updated the information in Consumers original case by replacing the forecasted volumes with booked volumes and recalculating the costs of forecasted months with more current market information. The Attorney General accepted Consumers original storage calculation. Since Staff's calculation used the same accepted method to update the original storage exhibit, Staff's calculation is reasonable.

The Attorney General's claim that Staff priced working capital solely at higher NYMEX prices is incorrect.¹ Staff did not price gas in storage for working capital solely at NYMEX prices. Only one component of storage, summer injections, was re-priced using more current NYMEX information because the purchases were yet to be made. Gas withdrawals made during

¹ AG Initial Brief, page 9.

the months of November 2005 through March 2006 is withdrawn at the average cost of gas in storage, which does not change over the winter. The average cost of gas withdrawn is derived from booked prices and volumes already in storage, not from NYMEX prices. The cost of gas in storage is primarily determined by the volume of gas that was in storage from the previous injection season. Staff's update does not begin to impact the cost of gas in storage until injections are made in April of 2006.

During the initial summer injection months beginning in April 2006, the re-priced injections for each month are drastically outweighed by the volume and price of gas in storage from the previous winter. This is demonstrated on Staff's Exhibit S-3, Schedule B-3-1, page 2. The \$/Mcf for Combined Storage for the months of December 2005 through December 2006 increases slightly during each month. If storage gas were priced solely based on NYMEX prices, then the average cost for storage gas would simply be the average NYMEX futures price for each month. This is not the case. To illustrate, the Combined \$/Mcf in storage for the first injection month of April 2006 is \$7.339/Mcf as shown on Exhibit S-3, Schedule B-3-1, page 2, line 33. The corresponding NYMEX five-day average price is \$9.052/Mcf as shown on Exhibit S-3, Schedule B-3-1a, page 1, line 4 and is \$1.713 greater than the average NYMEX price for the same month. Similarly, the average price of the last injection month of October 2006 is \$8.680/Mcf, and the NYMEX average is \$9.438, yielding a difference of \$0.758. The reason for the decrease in the difference in October 2006 is due to the price of injections having more of an impact on the average cost of gas in storage closer to the end of the injection season. Because this result is gradual during the injection season, Staff's use of current NYMEX prices is only one component of the 13-month average cost of gas used in working capital, and is not the determining factor. Since storage is primarily determined by the prices and volume of gas

already in storage, the AG is incorrect to state that Staff priced gas in storage, and ultimately working capital, solely at NYMEX prices.

The other component that determines the cost of gas in storage is the volume of gas in storage. Staff only replaced forecasted volumes with booked volumes when recalculating the 13-month cost of gas in storage. The AG's criticism of the Staff's storage volume is flawed because his comparison was inaccurate.² Staff's volume of gas in storage is commensurate with Consumer's previous two rate cases, differing by only 2.7% ((131,616 MMcf – 128,169 MMcf)/128,169 MMcf). See Staff's Initial Brief, pages 14 and 15. Staff's 13-month average volume of 131,616 MMcf only varies by 0.9% and 1.4% from the 13-month 2004 and 2005 volumes.³ The increase is not 13% as described by the AG. Therefore, Staff maintains that the cost and volume of gas in storage are reasonable and prudent and should be included in the working capital.

Capital Structure/Rate of Return

A. Consumers Energy's proposed capital structure adjustments to Staff's recommended capital structure are inappropriate or subject to dispute.

On page 4 of Consumer Energy's brief, the Company agrees to accept Staff's proposed capital structure outlined in Exhibit S-5, Schedule D-1 with three distinct adjustments: 1) Staff's proposed equity balance be increased by \$200 million based on the Company's January and March 2006 equity infusions; 2) Staff's proposed long-term debt and equity balances be adjusted to reflect the exclusion of securitization effects; and 3) Staff's deferred income tax balance be reduced by \$131 million to account for federal tax regulation changes. Staff does not agree with these adjustments. Staff laid out its rationale for not accepting the adjustments in its initial brief on pages 32-33.

² Staff's Initial Brief, page 15.

³ Staff's Initial Brief, pages 14-15.

1. If the Commission accepts Consumers \$200 million equity infusion, then the Commission should revise the equity range recommended by Staff.

Consumers attempts to justify the inclusion of the additional \$200 million equity infusion on pages 5 thru 10 of its brief, arguing that the \$200 million has already been inputted into the Company's equity balance and is therefore known and measurable. Staff explained that the Company provided no indication or guidance in its direct testimony that it was to receive additional equity infusions from its parent company CMS Energy in the 2006 test year. Additionally, only right before Staff was to file its direct testimony and after Staff filed its testimony and made its return on equity and overall rate of return recommendation known, did Consumers alert all parties to its additional equity infusions that it wanted recognized in its 2006 capital structure. Staff made very clear in its direct testimony and initial brief on page 32 that it recommended its cost of equity range of 10.90% - 11.40% to compensate for the Company's lower equity profile due to its MCV impairment and other risk factors. As Staff stated in its initial brief on pages 32 and 34, if the Commission agrees to accept Consumers additional \$200 million equity infusion, it should strongly consider revising Staff's cost of equity range, from the mid-point of 11.15% of the 10.90%-11.40% range to the lower end of the range of 10.90%-11.00%, to arrive at a more appropriate return on common equity recommendation.

2. Exclude the effects of securitization.

On pages 10 thru 12 of Consumers brief, the Company attempts to justify excluding the effects of securitization from its proposed 2006 capital structure, stating that in Case No. U-13000, the Commission adopted a capital structure as if securitization never occurred. Staff disagrees.⁴ Consumers stated on page 11 of its brief that the Commission's order rejected

⁴ In the matter of the application of Consumers Energy Company for authority to increase its rates for the distribution of natural gas and other relief Case No. U-13000, Opinion and Order dated November 7, 2002.

ABATE's position that the Company's recommended capital structure should reflect the effects of the securitization bonds. The Commission's order stated no such thing. In direct contradiction to Consumers' claim, the Commission's order expressly rejected the position of a third-party intervener (Mr. DeWard) who insisted that the issuance of securitization bonds have no effect on the capital structure in Consumers' gas rate case, exactly what the Company desires in this case.⁵ Thus, the Commission's Order in Case No. U-13000 articulated and summarily rejected the notion of excluding the effects of securitization in the ratemaking capital structure and instead adopted a consolidated capital structure adjusted for known and measurable debt and equity changes for the test year in question. Hence, Consumers request to modify Staff's proposed long-term debt and common equity balances based on securitization effects should be rejected by the Commission, the same as it was rejected in Case No. U-13000.

3. Commission should reject the Company's tax adjustment request.

On page 12 of Consumers brief, the Company proposes an adjustment (reduction) to Staff's proposed deferred tax balance in the amount of \$131.25 million for tax adjustments based on the "Simplified Service Cost" method. Staff disagrees with the proposed tax adjustment and argued its position in its initial brief on page 33. Staff indicated that potential deferred tax adjustments associated with the "Simplified Service Cost" method have not yet occurred, were unresolved and subject to dispute. Staff believes ratepayers should not be asked to bear responsibility for disputable, one-time tax events that could materially affect the Company's ratemaking capital structure and overall rate of return. The Commission should reject the Company's tax adjustment request and adopt Staff's proposed deferred tax balance as shown on Exhibit S-5, Schedule D-1.

⁵ Case No. U-13000 Opinion and Order dated November 7, 2002, pages 23-24.

4. The Commission should reject the Company's request to alter Staff's debt, equity and deferred tax balances and adopts Staff's capital structure and return on equity recommendation.

On pages 15 thru 29 of its brief, Consumers discusses the Company's risks factors and how they should relate to an upward adjustment of the 11.15% return on common equity Staff has recommended in this rate case. Consumers has requested a 12.00% return on equity in this case, but stated on page 28 of its brief that if the Commission decides not to grant a return as high as 12.00%, then at a minimum the return should be 11.40%, which is the upper end of Staff's recommended range. Staff disagrees with the Company's contention. Staff reiterates that its recommended 11.15% cost of equity, based on Staff's permanent capital structure determination as highlighted in Exhibit S-5, Schedule D-1, is a fair and reasonable cost of equity for the Company, which takes into account the Company's reduced common equity balance risk and its current business and financial risk. Staff reiterates that its cost of equity range of 10.90% - 11.40% also takes into account the Company's reduced equity balance and other risk factors that were outlined in Staff's direct testimony and brief. Staff also reiterates that if the common equity revisions that Consumers is requesting are adopted by the Commission, then Staff's cost of equity range should be modified by the Commission to a more appropriate return on equity range in this rate case.

On pages 18-19 of Consumers' brief, the Company discusses its risk factors as they relate to its reduced equity profile, Michigan's current economy and interest rate factors that should translate into a common equity return greater than 11.15%. Staff pointed out in its initial brief that its cost of equity range directly took into account the Company's lower equity profile and fairly compensated them for the reduced balance. That argument should have no bearing in the Commission's decision. Staff also indicated that it is aware of Michigan's current weak economy, but also stated that Consumers Energy has the luxury of a captive customer base,

which translates into guaranteed revenues for the Company. Staff recognizes all states go through economic ups and downs at one point in time and sees no benefit in unnecessarily burdening ratepayers with a high rate of return for Consumers because of Michigan's weak economy at this point in time. Additionally, Staff pointed out that even with short-term borrowing rates increasing back to more normal levels, Staff's 11.15% return on equity recommendation offers investors a very fair and reasonable rate of return that's on par or better than other investments of comparable risk.

Consumers' stated on pages 21 thru 24 of its brief that Consumers has higher risk as measured by its senior secured debt ratings and corporate ratings that should translate to a higher return on equity above that of 11.15%. Staff disagrees. The Company makes it a point to stress that Staff has apparently overstated the impact of CMS Energy's poor financial legacy, high debt balance and below investment grade credit rating on Consumers Energy's credit rating. The Company stated that its senior secured debt is rated at the lowest investment grade rating of BBB-/Baa3 by Standard & Poor's (S&P) and Moody's. The Company also stated that since assets of Consumers Energy secure its senior secured debt, its borderline investment rating cannot be attributable to CMS Energy. Staff disagrees with this position. As noted in Staff's direct testimony and on page 23 of its initial brief, S&P declared "the utility's (Consumers) business profile is buoyed by efficient coal-burning plants, **a well positioned gas distribution operation**, and **significant regulated cash flow**" (emphasis added). S&P also stated that Michigan's regulatory environment was satisfactory and that high gas prices that occurred in 2005 should subside in 2006 reducing Consumers' working capital needs. In general, S&P made positive comments regarding Consumer Energy's business and financial outlook. Thus, it stands to reason that for any utility company with a well positioned gas distribution operation, significant - predictable regulated cash flow and limited near-term debt maturities such as

Consumers has, then a borderline investment grade rating could not or would not be attributable to its utility operations as Consumers would have you believe. S&P basically inferred that Consumers' utility operations, on a stand alone basis, would be a well positioned, cash generating operation whose credit rating, if not influenced by other factors, would be well above borderline investment grade territory. It stands to reason that Consumers' borderline investment grade rating can not be attributable to its utility operations alone and must be influenced by its parent company's legacy of poor investments and below investment grade credit rating. Thus, the Commission should dismiss Consumers' argument that a rate of return higher than 11.15% should be recommended based on the Company's senior secured debt borderline investment grade credit rating.

On pages 24 thru 27 of Consumers' brief the Company attempts to further justify its return on equity recommendation higher than Staff's 11.15% by outlining certain risk matters pertaining to the Company's current limited ability to issue debt, the Company's S&P business profile score, the Company's negative cash flow, and the Company's inability to earn its authorized return on a ratemaking basis. Staff addressed each of these issues in its initial brief (pgs. 22- 33). Consumers' limited ability to issue debt is a temporary event due to its MCV impairment, which was outlined in the Company's and Staff's direct testimonies. Moreover, the Company utilizes off balance sheet financing through its accounts receivables sales financing program, in lieu of outside debt instruments, that enables it to purchase natural gas and other items, which reduces the company's risk.

Staff countered the Company's S&P business profile argument as a subjective opinion and judgment of outside observers and not indicative of the Company's operational facts as laid out in Staff's initial brief on pages 23 and 24. Consumers' states its S&P business profile score

is a risk factor but doesn't quantify or provide evidence those investors rely on the business profile score in their investment decisions.

Consumers' also argues that its cash flow has been negative and is expected to be negative in the 2006 test year. Staff pointed out that the Company has an above average payout ratio of 80% to its parent company that directly contributes to the Company's negative cash flow. Staff opined on page 31 of its initial brief that if the Company were to establish a more balanced dividend policy then its negative cash flow concerns could be dissipated somewhat as well as the risk associated with the negative cash flow.

Staff robustly countered the Company's argument in brief (pg. 29) that it was more risky because it wasn't earning its authorized rate of return on a ratemaking basis. The Commission should dismiss this argument wholesale because it inputs a rate of return methodology that's not relevant to this proceeding and counters the Company's own financial results, as outlined in Company witness Bearman's Exhibit A-1. Staff pointed out the Company's inconsistency regarding this matter in brief and this particular argument for a higher return on equity should be dismissed completely by the Commission.

Staff also addressed the rate of return arguments put forth by the Attorney General's rate of return witness Charles King in its initial brief on page 34. Staff argued that the AG's return on equity recommendation was outside the range of reasonableness and might not provide the Company a fair enough return to help it maintain credit, attract capital, and ensure investor confidence. In essence, the AG's witness used a double leverage approach to establish his capital structure and rate of return recommendation. The double leverage approach entails the use of a parent company, as well as its subsidiary's, debt resources to finance the assets of the subsidiary. The argument is that the parent company inputs its lower cost debt as equity into its subsidiary and thus could earn a higher rate of return, with regards to rate case matters, than what

the parent actually paid for the debt. Staff has not thoroughly examined this double leverage approach in this rate case and does not have an opinion on the methodology at this time. Staff has concluded that Consumers' return on equity range, based on the Company's capital structure outlined in Staff's Exhibit S-5, Schedule D-1, should be 10.90% - 11.40%. Staff also concludes that its recommended cost of equity of 11.15%, which is the midpoint of Staff's rate of return range, is fair and reasonable cost of equity for Consumers gas division in this rate case. Staff has effectively countered all of the Company's arguments as to why the Company believes the return on equity should be larger than 11.15%.

The Commission should reject the Company's request for a cost of equity above 11.15% and an overall cost of capital of 7.19%, as indicated on page 32 of the Company's brief. The Commission should reject the Company's request to alter Staff's debt, equity and deferred tax balances and adopt Staff's capital structure and return on equity recommendation of 11.15% and overall cost of capital of 6.64%, as shown on Exhibit S-5, Schedule D-1.

Throughput

At pages 32-36 of its Brief, Consumers summarizes the rebuttal testimony of its witness Mr. Ronn Rasmussen, wherein he proposed a reduction of throughput volumes to an annual amount of 312,368 MMcf. Unfortunately, Consumers completely ignores Staff's surrebuttal testimony on this issue, presumably saving its comments for its reply brief and preventing Staff from answering any complaints Consumers may have about Staff's surrebuttal testimony. Staff was particularly interested to see if Consumers' brief would respond to Staff's conclusion that Consumers' throughput adjustments could not be implemented due to a failure by Consumers to provide the necessary billing determinants.⁶ Since Staff has provided record evidence refuting Consumers' rebuttal testimony, and Consumers has failed to respond to Staff's refutation in its

⁶ Staff's Initial Brief, page 51.

initial brief, any discussion of this issue by Consumers in its reply brief would be highly prejudicial to Staff's position, and should be ignored by the ALJ. Given that Consumers' proposed adjustments are unusable due to the lack of billing determinants (8 Tr 1421), the ALJ should use the throughput volumes supported by Consumers' and Staff's direct cases. Staff has discussed these issues on pages 51-53 of its initial brief in this case.

Adjusted Net Operating Income

In this reply brief, Staff has revised its adjusted net operating income for certain changes in Michigan Single Business taxes and Federal income taxes as explained below. Staff's new adjusted net operating income is \$103,823,000; the calculation of this amount is shown on page 3 of Attachment A to this reply brief.

A. Sales and Transportation Revenues, GCR Cost: Attachment A, page 3, lines 5 and 6.

At page 37 of its brief, Consumers claims that it is accepting Staff's operating revenue amount of \$664,227,000. This is a very strange claim, since it follows immediately after Consumers argument in brief that throughput has to be substantially reduced due to the effects of conservation, and reductions in throughput should result in reductions in operating revenue. In fact, Consumers' operating revenue cannot be the same as Staff's operating revenue, since Consumers is claiming that revenues will decline by \$14,065,000 due to the effects of claimed "conservation". Thus, it should be noted that Consumers' new pro forma operating revenue is actually \$650,162,000⁷, which consists of sales and transportation revenue of \$575,469,000⁸ and

⁷ Although it is possible to determine Consumers' new rebuttal position with regard to pro forma operating revenue in terms of dollars, Consumers has failed to provide the billing determinants for its new revenue calculation, making the calculation of customer rates for Consumers' new position impossible (8 Tr 1421).

⁸ Appendix C to Consumers' brief shows sales revenue of \$545,019,000 and transportation revenue of \$44,515,000, for a total of \$589,534,000. Reducing this total for Consumers' two revenue adjustments on lines 8 and 9 of Appendix A to Consumers' brief (\$8,424,000 and \$5,641,000) yields the new revenue amount of \$575,469,000.

other gas revenue of \$74,693,000.

B. Miscellaneous Revenue: Attachment A, page 3, line 7.

In the interest of minimizing dispute, the Company accepted Staff's adjustments to the Company's miscellaneous revenues, as evidenced by the discussion in its initial brief at page 37.

C. WPS Buy/Sell Revenues, Forfeited Discounts, Company Use and Loss Gas: Attachment A, page 3, lines 8-10.

Consumers accepted Staff's adjustments on lines 8-10 of Exhibit S-4, Schedule C-1.

D. Other O&M Expense: Attachment A, page 3, line 11.

1. Injuries and Damages Expense.

Page 41 of Staff's Initial Brief, explains that due to the volatility of injuries and damages expense a five year average was used to calculate injuries and damages projected expense level as presented by Staff. Injuries and damages expense encompasses three items; gas damages, worker's compensation, and legal costs. Staff used a five-year average of each of these components to calculate projected injuries and damages expense. In its Initial Brief, pages 45-46, Consumers rejected Staff's method of calculating injuries and damages expense.

The main differences between Consumers' proposed method of calculating injuries and damages and the Staff's are that Consumers' applied inflation to the five year average of gas damages, inflated historical worker's compensation at 10% per year, and inflated historical legal costs. Staff maintains that it is inappropriate to apply inflation to the expenses included in injuries and damages and it is also inappropriate to use historical levels of worker's compensation and legal costs as a starting point when calculating projected injuries and damages expense.

Consumers did not deny that injuries and damages expense is volatile in nature. Therefore, Staff's use of a five-year average for each component should be adopted. By definition an expense account that is volatile would be likely to shift quickly and unpredictably.

That being said it easy to see why it is inappropriate to inflate injuries and damages expense or to use historical levels as a starting point for inclusion in rates. Injuries and damages expense fluctuates from year to year with no predictable increases due to inflation. Using a five-year average of injuries and damages without inflation is the best estimate available of what level of injuries and damages expense could be experienced in the projected test year. There is no way of knowing what events may occur in the projected year that will cause injuries and damages expenses to occur. Likewise, it is impossible to know and unlikely that the historical levels of injuries and damages expense will be reflective of what will happen in the projected test year. Staff continues to support the use of a five-year average of all injuries and damages expense components without the application of inflation, resulting in a \$2,468,000 decrease to historical injuries and damages expense. However, if the Commission should adopt the proposal to allow the application of inflation, Staff would still recommend the five year average of each injuries and damages component be used resulting in a \$2,255,000 reduction to historical injuries and damages expense as opposed to Consumer's \$1,692,000 proposed reduction to historical expense.

2. Employee Incentive Compensation Plan

Consumers withdrew its request for EICP expense related to executives in its Brief on pages 38 through 45. However, contrary to Staff's case they are still requesting recovery of the entire expense amount related to non-officer EICP expense, utilizing the following arguments:

1. The evidence presented in the case does not support Staff's argument that incentive compensation tied to financial goals could overemphasize those financial goals at the expense of customer service, and could actually create an incentive to reduce the quality of customer service, system reliability, and safety.

2. EICP payments are part of overall compensation and overall compensation is based on market averages. Paying competitive wages is necessary to attract and retain qualified employees, who will in turn perform quality work benefiting the customer.

3. Industry surveys show that the EICP results in decreased operating expenses.

4. Legal standard offers that unless evidence shows compensation expense to be excessive, unwarranted, or made in bad faith, those expenses should be reflected in rates.

Staff continues to support the exclusion of non-officer EICP expense from rates and will show that each of Consumers arguments, as listed above, should be dismissed based either on evidence contained within the record or the simple lack there of.

Consumers' first argument suggests that a portion of Staff testimony should not be considered because it is not supported by evidence. Consumers addresses Staff testimony by stating in brief:

He contended that incentive compensation tied to such financial performance goals could overemphasize those financial goals at the expense of customer service, and could actually create an incentive to reduce the quality of customer service system reliability and safety below otherwise realizable levels. However, the evidence in this case does not support a conclusion that this has occurred with regard to gas operations. Consumers' Initial Brief page 38.

However, Consumers has taken Staff's testimony out of context. When taken in whole Staff's testimony reads,

Clearly, the financial welfare of Consumers' employees is already closely tied to the financial health of Consumers, with or without bonuses that are based on the earnings and cash flow of Consumers. The job stability of Consumers' employees, as well as future pay increases, promotions, and retirement benefits, are tied to Consumers' financial health. There is no similar financial incentive for employees to improve customer value, safety, and system reliability. Staff is concerned that bonuses tied to financial performance could actually overemphasize financial goals at the expense of customer service, and other goals, and provide incentives to reduce the quality of customer service, system reliability, and safety below otherwise achievable levels. 8 Tr 1416.

Consumers argues that this testimony is not supported by evidence, however, when taken as a whole this testimony is providing an alternative possible effect on customers as a result of Consumers' EICP. Consumers presented an argument that customers benefit from the EICP without providing adequate evidence. Staff has simply rebutted Consumers' assertion by explaining that not only is there no proof that customers benefit from the EICP but there is a possibility that customers could actually suffer because of the EICP.

Consumers' second argument centers on the assumption that EICP benefits the customer by giving Consumers a tool to attract and retain quality employees. Consumers goes on to explain that incentive compensation is only a part of total compensation and that total compensation is based on market averages. However, Consumers' argument is not persuasive. First, in order to fully commit to the merits of this argument it would be necessary to have proof that an employee's choice of career was based solely on pay and that employee's prefer to have a portion of their pay as incentive pay. Consumers did not provided this proof. Secondly, having total compensation consistent with market averages is really irrelevant in this case. Market competitive compensation does not negate the fact that EICP payments are tied to the financial performance of the Company. The EICP payment's tie to financial goals creates an obvious benefit to shareholders and it has yet to be determined what benefit the customer receives from this program, if any.

Consumers' third argument suggests that industry surveys show that the EICP results in decreased operating expenses. Staff addressed this issue in part in its initial brief on pages 45-46 by explaining that some of these industry surveys were misleading. Excluding the fact that this information is misleading, Staff feels that it is not significant. Consumers presented these industry surveys showing that their operating expenses are at reasonable levels compared with other utility companies. However, they have yet to define exactly how the EICP contributes to

these results. It is unreasonable to entertain the idea that reductions in operating expenses are due only to the EICP. In addition, Consumers has failed to show the direct impact the EICP has on operating expenses.

Lastly, Consumers provided a number of legal standards with the suggestion that compensation expense should not be excluded from rates unless it is proven to be excessive, unwarranted, or made in bad faith. As a whole, the legal standards address the fact that utilities must be afforded the right to earn a fair rate of return and that the Commission does not have the authority to manage the company. The standards also offer that operating expenses must be allowed in rates unless they are proven to be imprudent. Staff appreciates that the Commission does not have the right to manage the utility. However, the facts in this case are different from those addressed within these legal standards. The Commission does not have the authority to manage the utility but it does have the authority to set rates. In this case the inclusion of EICP expenses in the ratemaking process would be unfair to customers. It is apparent that the EICP benefits shareholders and therefore the expense should be borne by them. In conclusion, the legal standards as presented in Consumers' initial brief are not relevant to this case.

Staff maintains that all expenses related to EICP payments should be excluded from rates. The Commission's Order in Case No. U-14347 disallowed EICP because the incentive plans mostly benefit shareholders⁹:

If Consumers wishes to have an incentive plan that rewards its employees for achieving financial goals that chiefly benefit shareholders, it may do so. However, the shareholders that benefit from the plan should also pay the costs of the plan.

There is evidence that the EICP benefits shareholders. Therefore, given this Commission directive, the shareholders should also be held responsible for the costs. Staff continues to

⁹ Consumers Case No. U-14347 Opinion and Order, December 22, 2005, page 35.

support the \$3,926,000 reduction to historical O&M expense to remove non-officer EICP expense.

3. Union Contract Impacts.

Page 47 of Consumers' initial brief takes issue with Staff's decision not to incorporate a proposal to include the impacts of expected pay increases as a result of a ratified union contract. Consumers also asserts that Staff adopted the Company proposed adjustment for pension expense related to a union contract so to be consistent the pay increase should also be reflected in this case. However, there is a big difference between the pension expense and the pay increase related to ratified union contracts. First, the increased pension expense was included in Staff's case because leaving out these pension expenses would result in the exclusion of pension expense in rates for these union employees. The union specified pay increases on the other hand should not be included in this case. Staff has given an allowance in rates for pay increases by applying inflation to all O&M expense. Although the pay increases may be slightly higher than the inflation rates utilized by Staff, it should be assumed that some O&M expenses will increase at a rate higher than inflation and some will grow at a rate lower than inflation. Staff included an adequate level of expense for the expected union employee pay increase. Consumers' proposal to include an additional \$1,126,000 in rates for union employee pay increases should be rejected.

E. Attachment A, page 3, lines 12-13: Discounts on Accounts Receivable Sold, LIEEF.

1. Response to Consumers.

Consumers accepted Staff's adjustments on lines 12-13 of Exhibit S-4, Schedule C-1.

2. Response to Attorney General: Discounts on Accounts Receivables Sold.

At pages 15-17 of his reply brief, the AG discusses his proposed adjustment to increase short-term debt levels in the capital structure, and Staff's alternative proposal to recognize

additional short-term debt in the form of accounts receivable financing. The AG is concerned about two issues. First, the AG defends his position from a perceived charge of a double-count, once in the form of discounts treated as operating expense, and again in return on investment (AG brief, page 16). Second, the AG argues that Staff has double-counted in the determination of the revenue requirement in its case, by including gas inventory in rate base without an offset, and by also including the discount expense from the sale of accounts receivable, used to finance gas inventory. The AG states there are two solutions to the alleged Staff double-count: either eliminate the discount expense from the operating expense allowed in the revenue requirement, or reduce the rate base by the amount of gas inventory that is funded by the sale of accounts receivable.¹⁰

To clarify Staff's position on the AG's first issue, Staff does not believe that the AG's position on increasing short-term debt in the capital structure for gas inventory financing is a double-count, and Staff does not oppose the AG's treatment of gas inventory financing in his revenue deficiency calculation, even though the AG's position, compared to Staff's position, is perhaps less beneficial to ratepayers.

However, with regard to the AG's second issue, Staff asserts that the AG's adjustments to Staff's case are not necessary. The evidence in this proceeding shows that the AG's claim of a double count is unfounded. As Staff explained, the increase in O&M expense for the discount expense from the expected additional sale of accounts receivable is directly accompanied with an offsetting reduction in working capital. The net effect of reducing working capital, coupled with the additional discount expense, is a reduction in revenue requirements of \$5.6 million.¹¹ (8 Tr 1400) Elimination of the discount expense, as proposed by the AG, would increase Staff's

¹⁰ AG Brief, page 16.

¹¹ Staff Brief, pages 46-47.

revenue requirements by \$5.6 million, because Staff's rate base reduction for accounts receivable financing would have to be reversed. This obviously would be detrimental to ratepayers.

The AG then asserts that as long as gas inventory is included in rate base, the capital that finances that inventory must be incorporated into the capital structure used to compute the return on rate base. Again, this would be to the detriment of Consumers' ratepayers. As Staff explained, Consumers sells its customer accounts receivable to outside parties at a discount when this is the most economical alternative.¹² The discount expense from this source of financing has consistently been accounted for by Consumers as an O&M expense item. Incorporation of this source of financing into the capital structure is not appropriate from an accounting or ratemaking perspective. Further, simple arithmetic shows that the effect of doing so increases the revenue requirement. Staff explained that if Consumers did not sell their receivables, these accounts receivable would have been included in rate base (8 Tr 1345). Therefore, if the total company receivable funding of \$347,422,209¹³ is incorporated into the capital structure, rate base will be increased by \$139,524,759. The net effect of these changes increases the Company's revenue requirements. Staff's adjustments for the sale of accounts receivable are reasonable and to the benefit of the Company's ratepayers.

F. Manufactured Gas Plant (MGP) Amortization: Attachment A, page 3, line 14.

1. Response to Consumers.

Consumers took the position that MGP expenses should be allowed recovery for expenses through December 2005. Staff reviewed Consumers' MPG expenses through November of 2005, and cannot attest to the December expenses. Because of this, only the

¹² Staff Brief, pages 46 – 47.

¹³ WP-JFB-11: Total Company = \$347,422,209 (Electric = 188,676,081; Gas = 158,746,128).

amount through November of 2005 should be used for the unamortized expense, and for the MGP amortization.

2. Response to the AG.

The AG took the position that MGP site cleanup expenses should not be recovered from utility customers. However, the examples cited by the AG as government mandated payments by a corporation that should not be passed on to customers are punitive in nature.¹⁴ Because the MGP sites were not in violation of environmental laws during operation, but the current owners, and/or past operators of the site are still legally required to clean up the sites, the cleanup costs are not punitive in nature. Thus, it is just and reasonable to pass the costs on to the customers using the review and amortization process currently in place.

G. MGP Expense, Depreciation, Property Taxes: Attachment A, page 3, lines 15-18.

Consumers accepted Staff's adjustments on lines 15-18 of Exhibit S-4, Schedule C-1.

H. MSBT: Attachment A, page 3, line 19.

Appendix C, page two, of the Company's brief develops the projected Michigan Single Business Tax (MSBT) expense beginning with its original filing position of \$3,608,000. Included in this amount is an adjustment to reduce the projected MSBT expense by \$282,000. In the interest of minimizing disputes, Staff accepts the Company's \$282,000 reduction in MSBT expense. Attachment A to Staff's reply brief includes the effect of this change on Staff's revenue deficiency calculation.

¹⁴ In re the Commission staff Audit of Election Expenses, MPSC Case Nos. U-7395 and U-7397, 1985 Mich PSC LEXUS 606:66 PUR 4th 515 (Opinion & Order dated April 9, 1985), In re Arizona Public Service Co, 91 PUR 4th 399 (1988) and In re Boston Gas Co, 96 PUR 538 (1988).

I. Federal Income Taxes: Attachment A, page 3, line 20.

Appendix C, page two, of the Company's brief develops the projected Federal Income Tax (FIT) expense beginning with its original filing position of \$12,735,000. Included in this amount are two adjustments that, in total, reduce FIT expense by \$416,000. These adjustments include a \$1,050,000 reduction in FIT expense related to the replacement of an insurance carrier and a \$634,000 increase in FIT expense related to the tax timing differences caused by differences in depreciation rates. Staff accepted both of these adjustments in its original filing and Staff maintains its position in regard to these items.

In its original filing, Staff supported a \$47,000 reduction in FIT expense to reflect the change in the amount of non-deductible meals and entertainment expenses reported in the Company's 2004 tax return. The difference in the non-deductible expense arose when Staff was provided with a more current reconciliation of the Company's book net income with its taxable net income. Staff maintains its position in support of a \$47,000 reduction to FIT expense.

In its original filing, Staff supported a \$505,000 reduction to FIT related to the Company's failure to account for a decrease in Deferred Federal Income Tax associated with contributions in aid of construction. Upon further review, Staff concludes that this reduction in FIT would be completely offset by an increase in current income tax expense in the same amount. Therefore, Staff no longer supports a \$505,000 reduction to FIT expense.

In summary, Staff supports an additional \$47,000 reduction to the FIT expense relative to the Company's original filing amount of \$12,735,000. Attachment A to Staff's reply brief includes the effect of this change on Staff's revenue deficiency calculation.

J. Pro Forma Income Tax Savings: Attachment A, page 3, line 21.

Staff and Consumers agree on the calculation of Pro Forma Income Tax Savings, although due to differences in rate base, the actual amount of this adjustment is slightly different.

This amount should be revised if there are changes in the debt cost or rate base amounts used by Staff.

K. Interest Synchronization: Attachment A, page 3, line 22.

Staff and Consumers agree on the calculation of Interest Synchronization, although due to differences in rate base, the actual amount of this adjustment is slightly different. This amount should be revised if there are changes in the JDITC debt cost or rate base amounts used by Staff.

L. 401(k) Savings Plan Match: Attachment A, page 3, line 24.

This adjustment was made by Staff in its surrebuttal filing, and was required to recognize Consumers' 401(k) savings plan matching expenses in 2006. There is no disagreement between Staff and Consumers with regard to this adjustment.

Other Revenue Requirements Issues

A. Consumers' "Revenue Deficiency" Adjustments: Appendix A, lines 8-10.

Consumers has increased its revenue deficiency by over \$21 million for three items, shown on Appendix A to Consumers' initial brief, lines 8-10. The first two adjustments are the result of Consumers' proposed throughput reductions, which Staff has previously discussed in the "Throughput" section of this reply brief, and in pages 51-53 of Staff's initial brief.

The third adjustment is for "new business capital expenditures", and is discussed by Consumers on page 50 of its initial brief. As Staff pointed out in surrebuttal testimony and in Staff's initial brief at page 55, Consumers' proposed adjustment is illogical and would result in a double counting of the supposed sales volume decrease for which Consumers is seeking recovery in this case. Again, Consumers has failed to respond in its initial brief to Staff's position on the record. Any attempt by Consumers to address this issue in its reply brief would be highly prejudicial to Staff's position, and should be ignored by the ALJ.

Other Issues

A. Gas Storage Regulatory Asset, Pension Contribution Regulatory Asset.

In its filing in this case, Consumers requested deferral and recovery in rates for these two items. Consumers has withdrawn its request in its initial brief.

B. Pension Equalization Mechanism, OPEB Equalization Mechanism.

As discussed at page 61 of Staff's initial brief, Staff supports Consumers' request to implement a Pension Equalization Mechanism, and an OPEB Equalization Mechanism in this case.

C. Low Income Energy Efficiency Fund.

Staff continues to maintain its position on this point. Staff notes that the Attorney General has argued that the only legal support for the Low Income Energy Efficiency Fund (LIEEF) is found in MCL 460.10d(7). Staff, however, disagrees with the Attorney General's assessment and notes that under the Commission's general ratemaking authority (1939 PA 3), the Commission has the authority to authorize the LIEEF. In authorizing the LIEEF, the Commission has determined that it is an appropriate means to reduce bad debt and uncollectible accounts; through greater efficiency puts downward pressure on wholesale and thus retail rates; and achieve higher use of alternative and renewable energy sources.¹⁵

In addition, Consumers responds in its initial brief to the Commission's desire to address the needs of the low-income population in Michigan by contributing \$15,000,000 to the LIEEF. Staff witness Robert Tuttle outlined Staff's position regarding the importance of the LIEEF, the need for the Commission to continue to "direct LIEEF funds to the best, most effective programs," and the need to collect from all Consumers Energy Company customers, including electric choice customers (8 Tr 1473-1481).

¹⁵ Case No. U-13129 Opinion and Order dated November 20, 2001, pages 3-4.

Finally, Staff indicated in its testimony that the appropriate level of funding from Consumers is 2% of total commercial and industrial revenues, or approximately \$17.4 million. This would be the same 2% of commercial and industrial revenues

In the U-13808 Order the Commission indicated that the LIEEF would be continued independent of the requirements of MCL 460.10d(7). In addressing arguments raised by the various parties, the Commission stated¹⁶:

The Commission finds that the LIEEF funding and program adopted in the interim order should be reaffirmed in this final order. Contrary to the arguments advanced by the Staff, the Commission has already determined that there are no longer any excess securitization savings to fund the LIEEF pursuant to MCL 460.10d(7). For that reason, the Commission found that any funding of the LIEEF must be incorporated into the utility's cost of service.

The Commission accepted Detroit Edison's proposed conditions under which it would continue to fund the LIEEF in the interim order. However, in this order, the Commission rejects Detroit Edison's further assertion that the funds should only be used for low-income customers located in Detroit Edison's service territory. Under the LIEEF program established by the Legislature, funds were available for use throughout the state. The Commission finds that this policy should be continued.

Further, the Commission finds that the funds should be administered by the Commission, as has been the practice with the statutory LIEEF. The Commission further concludes that the existence and funding of the LIEEF should continue at the present level unless the issue is revisited in an appropriate case.

Staff encourages the Commission to continue the LIEEF program and consider Staff's policy concerns about LIEEF priorities.

D. The Commission should disregard NEM's suggested tariff changes.

After reviewing NEM's Initial Brief, Staff believes that NEM has provided the Commission with recommendations, tariff language changes, and direct testimony that was not filed as part of the record in this proceeding. NEM's brief is not supported by the record

¹⁶ Case No. U-13808 dated November 23, 2004, page 116.

testimony and contains new recommendations, leaving all parties in this proceeding without an opportunity to cross-examine or rebut NEM's positions.

First, on pages 10 and 11 of its Initial Brief, NEM introduces "minor wording changes to Section H of Consumers' Gas Choice program tariff." The Commission should completely disregard these proposed revisions. NEM did not present these suggested modifications in its direct testimony, and NEM's witness, Mr. White, never offered these suggestions on cross-examination.

Second, NEM calls for a reevaluation of the program because of a perceived impact that a competitive disadvantage is realized in the annual reconciliation process. NEM further asserts that the anti-competitive nature of the current reconciliation process is one of the main factors negatively affecting the offers Michigan suppliers are able to make. However, NEM has failed to identify the impact on the GCR customer. Staff believes that there is no evidence on the record that shows that there is a competitive disadvantage that suppliers realize. The major impact on the price offers that suppliers are able to make in the program is not a result of the current reconciliation process but of the price of natural gas. With natural gas prices rising, customers are more likely to switch back to the bundled utility. There is less headroom when the price of natural gas is high, and yet the suppliers maintain that the main factor negatively affecting the offers that suppliers make is the current reconciliation process. This is simply not the case, and it is Staff's belief that if natural gas prices were retreating in the past year, the suppliers would not be asking for a change in the current reconciliation process now.

NEM requests that the Commission initiate a collaborative process to address the proposed annual aggregated reconciliation of pools. The Commission has already conducted a collaborative that incorporated this issue in MPSC case number U-12550.

Staff provided a Report and Recommendation regarding case number U-12550, the Gas Choice Collaborative, on September 22, 2000. Interested parties were given until October 6, 2000 to file comments regarding the Staff Report. Comments were received from Consumers, MichCon, Semco, the Attorney General, Wisconsin Public Service Corporation (WPS Corp), Michigan Gas Utilities (MGU), Dominion Resources, Inc., Energy America, PowerSpring, Inc., Eastcoast Gas, Inc., The Heat and Warmth Fund (THAW), the Michigan Alliance for Fair Competition (MAFC), Unicom Energy/Exelon Energy, and ANR Pipeline Company. In addition, joint comments were received from the Michigan League for Human Services (MLHS), the Michigan Community Action Agency Association, the Salvation Army, THAW and the Michigan Environmental Council (MEC).

The Commission issued an order adopting Staff's Recommendation with modifications on October 13, 2000. This order adopted Staff's Recommendation with some modifications, none of which involved any changes to the current process of annual pool-by-pool reconciliation.

Staff's Recommendation described the collaborative process as follows. With regard to features affecting LDCs and marketers, a consensus was reached to work from Consumers Energy's pilot program regarding the operational features involving marketers. If any part of Consumers Energy's program was not addressed or if specific issues were not raised or discussed, it was assumed that Consumers Energy's pilot program features would be used in the permanent program. Staff noted that most marketers expressed a preference for Consumers Energy's pilot program over Michigan Consolidated Gas Company's, (MichCon's) pilot program. Staff stated that Consumers' pilot program was used as the starting point to reach a consensus on uniform terms and conditions.¹⁷

¹⁷ MPSC Case No. U-12550, September 22, 2000, Staff Report and Recommendation, page 20.

Staff observed that a consensus was reached in the collaborative to continue the buy/sell feature of Consumers Energy's pilot, and most marketers expressed a preference for this buy/sell approach. Staff also noted that there was a general consensus on the provisions regarding the marketer's gas delivery schedule. This general consensus was that the 1/365th plus or minus 10% of the customers estimated annual load provision in Consumers Energy's pilot program, appears to have worked well and was supported by most marketers. In the collaborative MichCon agreed with this concept, but stated that it may not utilize the same daily flow requirements, which may add to marketer flexibility. Excess gas delivered at the end of the year is purchased by the LDC and becomes part of the cost of gas sold in subsequent GCR periods. Gas delivery shortfalls are covered by the LDC, and the difference in price between the LDC's cost of purchased gas and the supplier's price is recovered through the supply equalization charge. MichCon also stated that a large erratic load may call for a different daily requirement of estimated load, and should be looked at on a case-by-case basis.¹⁸

There was a consensus reached in the collaborative to continue the way Consumers Energy pilot program features are used in the permanent program.¹⁹

¹⁸ MPSC Case No. U-12550, September 22, 2000, Staff Report and Recommendation, pages 21, 24.

¹⁹ MPSC Case No. U-12550, September 22, 2000, Staff Report and Recommendation, pages 20-21.

Conclusion

For the reasons set forth in its Initial Brief and this Reply Brief, Staff respectfully requests that the Commission adopt its proposals in this case. Staff believes the record demonstrates a revenue deficiency of \$ 71,383,000 and Consumers' rates should be increased accordingly. Staff also recommends, for reasons given in its two briefs, that an authorized rate of return on common equity of 11.15% be adopted.

Respectfully submitted,

**MICHIGAN PUBLIC SERVICE COMMISSION
STAFF**

By its counsel:

A handwritten signature in black ink that reads "Kristin M. Smith". The signature is written in a cursive, flowing style.

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Dated: May 15, 2006

Attachment A

Page 1 of 3

Consumers Energy Company
Revenue Deficiency
U-14547 Staff Reply Brief
(000)

Line	Description	CE Brief (a)	Adjustments (b)	Staff Reply Brief (c)	Source
1	Rate Base	\$2,251,247	-\$614	\$2,250,633	Attachment A, page 2
2	Rate of Return	7.19%	-0.55%	6.64%	Exh. S-4, Sch. D-1
3	Income Required	\$161,834	-\$12,475	\$149,340	
4	Adjusted Net Operating Income	\$100,091	\$3,732	\$103,823	Attachment A, page 3
5	Income Deficiency	\$61,743	-\$16,207	\$45,517	
6	Revenue Multiplier	1.5683	0.0000	1.5683	
7	Revenue Deficiency	\$96,829	-\$25,416	\$71,383	
8	"Weather Normalized 2006"	\$8,424	-\$8,424	\$0	
9	"Gas Deliveries Normalization"	\$5,641	-\$5,641	\$0	
10	"New Business Capital Expenditures"	\$7,272	-\$7,272	\$0	
11	Total Revenue Deficiency	\$118,166	-\$46,783	\$71,383	

Attachment A

Page 2 of 3

Consumers Energy Company
Rate Base - Average Net Plant
For the Year Ended 12/31/06
(000)

Line	Description	CE Rate Base 2006 Test Year (a)	Adjustments per Sch. B-2 (b)	Staff Rate Base 2005 Test Year (c)
	Utility Plant			
1	Plant-in-Service	\$3,141,226	\$0	\$3,141,226
2	Construction Work In Progress	\$33,968	0	\$33,968
3	Total Utility Plant	<u>\$3,175,194</u>	<u>\$0</u>	<u>\$3,175,194</u>
4	Less: Depreciation Reserve	\$1,919,639	0	\$1,919,639
5	Less: Retained from Contractors	\$730	0	\$730
6	Less: Customer Advances for Const.	109	0	\$109
7	Net Utility Plant	<u>\$1,254,716</u>	<u>\$0</u>	<u>\$1,254,716</u>
8	Unamortized MGP Expense	\$20,699	-614	\$20,085
9	Working Capital	\$975,832	0	\$975,832
10	Rate Base	<u><u>\$2,251,247</u></u>	<u><u>-\$614</u></u>	<u><u>\$2,250,633</u></u>

Consumers Energy Company
Adjusted Net Operating Income
For the Year Ended 12/31/90
(000)

Revenues																													
Line	Description	Sales	Transport	Misc	Total	Cost of Gas Sold	Co Use L.A.F.	O&M	Deprec	Property Taxes	Other Taxes	MSBT	IT	AFLDC	Adjusted NOI														
	(a)	(b)	(c)		(d)	(e)		(f)	(g)	(i)	(j)	(k)	(l)	(m)	(n)														
1	Historical Test Year	\$	1,981,773	\$	41,246	\$	70,361	\$	2,093,380	\$	1,460,037	\$	17,740	\$	272,603	\$	112,356	\$	35,950	\$	12,504	\$	5,111	\$	39,935	\$	(146)	\$	137,290
2	Historical Operating Income																												
3	Shift Adjustments:																												
4	Sales and GCR Cost		(1,430,367)				(1,460,037)																						
5	Transportation			(3,118)																									
6	Miscellaneous Revenue			(482)																									
7	WPS Buy-Sell Revenue			1,020																									
8	Fortified Discounts			3,794																									
9	Company Use & Lost Gas																												
10	Other O&M																												
11	Discounts on Accounts Rec. Sold																												
12	LIEEP																												
13	MGP Amortization																												
14	MGP Expense Non-incremental																												
15	Depreciation																												
16	Property Taxes																												
17	Other Taxes																												
18	MSBT																												
19	Federal Income Taxes																												
20	Pro Forma Income Tax Savings																												
21	Interest Synchronization																												
22																													
23																													
24	401(k) Savings Plan Match																												
25																													
26																													
27	Adj. 2006 Operating Income	\$	551,406	\$	38,128	\$	74,693	\$	664,227	\$	-	\$	24,816	\$	340,290	\$	120,297	\$	37,900	\$	14,645	\$	3,918	\$	18,684	\$	(146)	\$	103,823

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

CONSUMERS ENERGY COMPANY

for authority to increase its rates for the
distribution of natural gas and for other relief.

Case No. **U-14547**
(E-file)

PROOF OF SERVICE

STATE OF MICHIGAN)
) ss
COUNTY OF INGHAM)

Pamela A. Walters, being first duly sworn, deposes and says that on May 15, 2006, she served a true copy of the Reply Brief of the Michigan Public Service Commission Staff upon the following parties by depositing the same in a United States postal depository enclosed in an envelope bearing postage fully prepaid, plainly addressed as follows:

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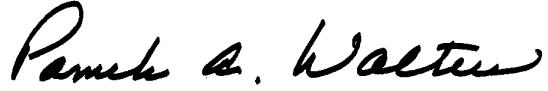
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Pamela A. Walters

Subscribed and sworn to before me
this 15th day of May, 2006.



Carol Ann Dane, Notary Public
State of Michigan, County of Eaton
Acting in the County of Ingham
My Commission Expires: 07/23/2011