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February 8, 2002

Ms. Dorothy Wideman
Executive Secretary
Michigan Public Service Commission
6545 Mercantile Way
Lansing, MI 48911

Dear Ms. Wideman:

Re: MPSC Case No. U-12639

I am enclosing for filing an original and 4 copies of the Attorney General's Answer to Petition for Clarification and Rehearing of Citizens for Power and Reliability. I am also enclosing a proof of service. In addition, a copy of this filing is being submitted electronically pursuant to the instructions in the Commission's notice of hearing

Sincerely,

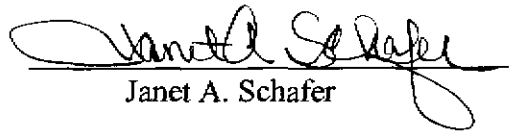
Donald E. Erickson

Donald E. Erickson
Assistant Attorney General

c All Parties
U-12639

PROOF OF SERVICE - U-12639

The undersigned certifies that a copy of the Attorney General's Answer to Petition for Clarification and Rehearing of Citizens for Power and Reliability was served upon the parties listed below by mailing the same to them at their respective addresses with first class postage fully prepaid thereon, or by State Interdepartmental mail as indicated, on the 8th day of February, 2002.



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STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter, on the Commission's own motion, to implement the provisions of Section 10a(10) of 2000 PA 141 / MPSC No. U-12639

Attorney General's Answer to
Petition for Clarification and Rehearing of Citizens for Power and Reliability

Pursuant to 1992 AACS, R 460.17403, Attorney General Jennifer M. Granholm (Attorney General) files the following answer to the petition for clarification and rehearing filed by Citizens for Power and Reliability (CPR). In answer to CPR, the Attorney General says:

1. The MPSC's standards for considering petitions for rehearing have been repeatedly stated in the following language:

> Rule 403 of the Commission's Rules of Practice and Procedure of 1992 AACS, R 460.17403, provides that an application for rehearing may be based on claims of error, newly discovered evidence, facts or circum- stances arising after the hearing, or unintended consequences resulting from compliance with the order. 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. Unless a party can show the decision to be incorrect or improper because or errors, newly discovered evidence, or unintended consequences of the decision, the Commission will not grant a rehearing.
>
> *In re Michigan Consolidated Gas Co,* MPSC Case No. U-10744 (Order Denying Rehearing dated February 5, 1996), and *In re Consumers Energy Co* MPSC Case No. U-11225-R (Order Denying Rehearing dated March 14, 2000).

2. Paragraphs 1 through 10 of CPR's petition request the MPSC to clarify that the intent of its December 20 Opinion and Order in this case is to maintain the status quo where all

securitization charges, securitization tax charges, transition charge, and offsets for all customers will net to zero during 2002, just as they netted to zero in 2001.

3. Perhaps the Attorney General misunderstands the result of the MPSC's orders in Case Nos. U-12478 and U-12505 in this regard, but the Attorney General understood that the result of the orders in those cases was that securitization charges and securitization tax charges netted to zero against the offsetting credits because stranded costs were already being recovered in statutorily frozen base rates or transition charges. Thus, in 2001, the offsetting credits effectively reduced base rates and transition charges on customers bills to avoid an increase in customer costs in violation of the rate freeze mandated by MCL 460.10d.

4. The point is that CECo's and DECo's so-called stranded (qualifying) costs are being recovered three ways: (a) via current base rates to sales customers, (b) via transition charges to open access customers, and (c) via securitization charges and securitization tax charges to all customers. CECo and DECo have already refinanced those costs and have received the proceeds from their securitization bonds. Since Act 142 and the orders in U-12478 and U-12505 ultimately mandate securitization charges and securitization tax charges as the final method for recovery of those costs and since CECo and DECo have received the proceeds from their securitization bonds, offsetting customer bill credits are needed to avoid a double recovery from customers pending a revision of base rates and transition charges after the rate freeze ends.

5. As a result, CPR's petition is partially incorrect in stating that the net of all securitization charges, securitization tax charges, transition charges, and offsetting bill credits was zero in 2001.

6. On the other hand, the Attorney General agrees with CPR that the net of the securitization charges, securitization tax charges, and offsetting credits for 2002 should be zero to avoid any double recovery of the stranded (qualifying) costs.

7. Paragraphs 11 through 15 argue that the MPSC should establish a deadline of June 30 to calculate the transition charge for the following year. This is not a clarification; it is a new issue. Whatever may be the merits of making such a decision for years after 2003, CPR's proposal for the Year 2003 is not practical because it would not allow sufficient time for notice and an opportunity for hearings on setting a rate that can result in increased costs for at least some customers.

Relief Requested

For the reasons stated above, Attorney General Jennifer M. Granholm requests the Michigan Public Service Commission to deny the second request for relief requested in the Petition for Clarification and Rehearing, which has been filed by Citizens for Power and Reliability. With regard to charges and offsetting credits, the Commission should focus on avoiding either a double recovery or an under recovery of related costs.

Respectfully submitted,

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February 8, 2002