

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**
(e-file/paperless)

**THE MICHIGAN PUBLIC SERVICE COMMISSION STAFF'S
REPLIES TO EXCEPTIONS**

The Michigan Public Service Commission Staff, by its counsel, Patricia S. Barone, Assistant Attorney General, files the following Replies to the Exceptions of the Michigan Environmental Council and the Public Interests Research Group in Michigan ("MEC/PIRGIM"). Staff continues to maintain its positions as set forth in its testimony and briefs and failure to respond to any particular assertion should not be construed as acquiescence to that assertion.

MEC/PIRGIM take exception to the Administrative Law Judge's ("ALJ") decision to strike the testimony of its witnesses and deny its Motion for a Declaratory Ruling. MEC/PIRGIM claim that the ALJ erroneously failed to find that Consumers Energy Company's ("Consumers") plan and forecast was deficient because it failed to incorporate any resource planning or energy efficiency and conservation programs. As Staff has indicated by filing a motion to strike this testimony, Staff agrees with the ALJ that MEC/PIRGIM's testimony on conservation measures was not relevant to this PSCR proceeding. The Commission's most recent pronouncements on the relevance of conservation measures in gas or power cost recovery proceedings indicates that the Commission does not believe that the utilities' efforts to provide conservation services to its customers is relevant in Act 304 cases. Consequently, on that basis, Staff moved to strike MEC/PIRGIM's testimony on this subject, and the ALJ properly struck this

testimony. Similarly, the ALJ was correct in not addressing the sufficiency or insufficiency of the utility's conservation efforts since the Commission has ruled that the subject does not fall within the ambit of an Act 304 proceeding.

Staff also agrees with the ALJ that MEC/PIRGIM's Motion for a Declaratory Ruling should have been denied. As Staff argued, and the ALJ agreed, under the Administrative Procedures Act and the Commission's Rules of Practice and Procedure, requests for a declaratory ruling are addressed to the Commission which may refer the matter to a contested case proceeding, may issue a declaratory ruling, or may decline to issue a declaratory ruling.¹ But, it is the Commission, not the ALJ, that has the authority to do these things.

In conclusion, Staff urges the Commission to adopt its findings and recommendations.

Respectfully submitted,

**MICHIGAN PUBLIC SERVICE COMMISSION
STAFF**



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Dated: June 19, 2006

¹ MCL 24.263; R 460.17701.

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PROOF OF SERVICE

STATE OF MICHIGAN)
) ss
COUNTY OF INGHAM)

Linda Andreas, being first duly sworn, deposes and says that on **June 19, 2006**, she served a true copy of the **The Michigan Public Service Commission Staff's Replies to Exceptions** upon the following parties via e-mail and 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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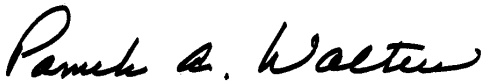
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Linda Andreas

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



Pamela A. Walters, Notary Public
State of Michigan, County of Ionia
Acting in the County of Ingham
My Commission Expires: 02/04/2007