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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 Consumers Energy Company. 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
sld/cases/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 Consumers Energy Company 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

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Attorney General's Answer to
Petition for Clarification and Rehearing of Consumers Energy Company

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 Consumers Energy Company (CECo or the Company). In answer to CECo, 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.
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> *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. Paragraph 2 of CECo's petition says that the Commission's December 20, 2001, Opinion and Order in this case left open the correct manner of implementing the Staff's stranded cost methodology and requests the Commission to confirm CECo's understanding that the Staff's calculations in this case require some corrections.

3. Paragraphs 3, 4 (A)-(D), 5, and 6 of CECo's petition go on to describe the specifics of what CECo believes must be corrected in the Staff's methodology.

4. Paragraph 7 of CECo's petition says that, if CECo's understandings are inaccurate in some material respect, then CECo seeks rehearing and restates its objections to the Staff methodology as set forth in CECo's Brief, Reply Brief, Exceptions, and Replies to Exceptions -- incorporating those documents by reference.

5. The gist of CECo's petition is misleading. CECo is not seeking clarification of what the December 20 Opinion and Order says. CECo is truly seeking another opportunity to argue its positions or express disagreement with the substance of the decisions in the Opinion and Order.

6. Paragraph 3 in CECo's petition requests the Commission to restate what was said on page 14 of the Opinion and Order in words proposed by CECo for the Company's own comfort. However, CECo fails to explain what is erroneous or what unintended consequences might flow from what page 14 already says. Therefore, neither clarification nor rehearing is justified with regard to this issue.

7. Paragraphs 4 (A) through (D) in CECo's petition identify several specific regarding costs and revenues and explain CECo's "understanding" of what the MPSC intended with regard to those specifics. When considered, the specifics described in Paragraphs 4 (A)-(D) of CECo's petition were implicitly within the scope of the discussion on pages 14-20 of the

December 20 Opinion and Order. Therefore, the Commission should leave those matters for development by the utilities as described on page 20. In the absence of supporting evidence, cross examination, and briefing in the future proceedings as described on page 14 of the Opinion and Order, any decision on the matters now presented by CECo's petition would violate MCL 24.271 and MCL 24.272.

8. Likewise, the revenues question presented in Paragraph 5 of CECo's petition should be left to the future proceedings after an appropriate record and pleadings have been presented.

9. The reliability and reserve margin issues raised in Paragraph 6 of CECo's petition is outside of the record in this case and should also be addressed after an appropriate record and pleadings are presented in future proceedings.

10. Paragraph 7 in CECo's position also attempt to box the MPSC in by stating that CECo will, in future cases, proceed assuming that the understandings stated in CECo's petition are correct. No rule of law entitles CECo to bind the Commission by making such a statement, and the MPSC should reject that contention.

Relief Requested

For the reasons stated above, Attorney General Jennifer M. Granholm requests the Michigan Public Service Commission to deny the Petition for Clarification and Rehearing, which has been filed by Consumers Energy Company.

Respectfully submitted,

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February 8, 2002