

A CMS Energy Company

June 22, 2006

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

Re: Case No. U-14561

Dear Ms. Kunkle:

Included in this electronic file for filing are the “**Initial Brief Of Consumers Energy Company**” and a Proof of Service. This is a paperless case and is therefore being filed only in PDF format.

Sincerely,



Digitally signed by Rhonda M.
Morris
Date: 2006.06.22 08:51:48 -04'00'

Rhonda M. Morris

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

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter, on the Commission's own motion,	)	
to investigate the appropriateness of instituting	)	Case No. U-14561
a surcharge to assist in the funding of the	)	
Gas Technology Institute.	)	
_____	)	

INITIAL BRIEF OF CONSUMERS ENERGY COMPANY

I. INTRODUCTION

On June 30, 2005, the Michigan Public Service Commission ("MPSC" or "Commission") issued an Order Initiating Generic Proceeding and Notice of Hearing ("Order") to "investigate the appropriateness of instituting a surcharge to assist in the funding of the Gas Technology Institute." Through this Order, the Commission ordered all natural gas companies which are regulated by the MPSC to participate in this case. [Order p. 2.] The MPSC Staff, Gas Technology Institute ("GTI"), Consumers Energy Company ("Consumers Energy" or "Company"), Wisconsin Public Service Corporation, SEMCO Energy Gas Company, Northern States Power Company, d/b/a Xcel Energy, Michigan Consolidated Gas Company, Aquila, Inc., d/b/a Aquila Networks - MGU, the Association of Businesses Advocating Tariff Equity ("ABATE"), and the Attorney General Michael A. Cox ("AG") all filed appearances after the Order was issued. ABATE, GTI, and the Attorney General filed petitions for leave to intervene.

On August 29, 2005, at the prehearing conference held before Administrative Law Judge Mark Cummins, intervenor status was granted to the AG, ABATE and GTI. The ALJ and the Commission denied ABATE's motion to dismiss and to deny GTI intervenor status. The AG supported ABATE's position, while the Commission Staff supported GTI's position.

After all were granted intervenor status, the parties discussed the potential for settlement. The parties failed to reach a settlement regarding the funding of GTI and a hearing was held on June 1, 2006.

At the hearing, testimony of witnesses for GTI, AG, Consumers Energy, and the Commission Staff were bound into the record. Cross examination was held at this hearing. The record consists of a total of 185 pages and 2 exhibits.

II. DISCUSSION

GTI proposes that the Commission approve a surcharge on Michigan natural gas utilities to fund GTI. With that funding, GTI would conduct research that could potentially benefit all other states, even if the other states did not participate in funding GTI's efforts. The Company does not support this method of funding for GTI. Consumers Energy does not believe it is fair for Michigan ratepayers to accept the responsibility for funding programs that other states are not concurrently funding. [3 TR 130.]

In addition to funding its country-wide programs, GTI proposes that the utilities can recover the funding money in their rates once the Commission determines that the funding is reasonable. This sort of mechanism continues to place the burden of proof for reasonable use of research funds on the individual utilities. [3 TR 130.] Currently, Consumers Energy can fund a research project and request that the funding be included in rates. That allows the Company to determine whether it wants to voluntarily participate in the funding, and is much different from mandatory payments to a single company. If Consumers Energy decides to participate in a research program, it can do so today and it can choose which research company it wants to fund. GTI's proposal would essentially eliminate any discretion on the part of the Company and it would be unfair to subject it to any prudence review with respect to such mandatory payments.

The Company prefers a national surcharge for research funding that would be administered with industry partnership and oversight provided via AGA. [3 TR 130.]

Since Michigan ratepayers are currently faced with rising gas costs, a non-Michigan company should not be able to come to Michigan and demand that the customers pay more to fund outside research. Michigan utilities should be able to determine at their discretion which programs will benefit their customers and participate in those programs on their own. In reviewing the Settlement Agreement¹, signed by both GRI (GTI's predecessor) and Consumers Energy, FERC stated that the settlement agreement provided benefits which allowed GRI to continue receiving funding until it could reach the ultimate objective for which everyone was striving, which was voluntary funding. [83 FERC ¶ 61,331.] It should also be noted that the Settlement Agreement specifically stated "[t]he parties agree that the ultimate source of GRI funding will be voluntary contributions." [Settlement Agreement, FERC Docket Nos. RP97-391-002, RP97-149-004, and RM97-3-000 at 3.] GRI specifically agreed to voluntary funding at the federal level, therefore prohibiting it from seeking mandatory funding at the federal level. The prohibition of mandatory funding at the federal level is certainly not a justification to impose mandatory funding at the state level.

III. CONCLUSION

As determined by all the parties to the Settlement Agreement in 1998, funding for GTI should be voluntary; there should not be any mandatory funding for GTI. FERC approved the Settlement Agreement and agreed that funding should ultimately be voluntary. Consumers

¹ In FERC Docket Nos. RP97-391-002, RP97-149-004, and RM97-3-000 regarding funding of GRI, GTI's predecessor, various parties (including GRI) entered a Settlement Agreement requiring a federal surcharge through 2004 on gas transported over interstate pipelines. The Settlement Agreement established that after 2004 GRI would be funded through voluntary funding.

Energy therefore requests that the proposal by GTI be denied and that the funding continue as was agreed upon by the parties and approved by FERC.

Respectfully submitted,

CONSUMERS ENERGY COMPANY

Dated: June 22, 2006

By:



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Morris
Date: 2006.06.22 08:52:46 -04'00'

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STATE OF MICHIGAN

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Gas Technology Institute.)
_____)

PROOF OF SERVICE

STATE OF MICHIGAN)
) SS
COUNTY OF JACKSON)

Sammie B. Dalton, being first duly sworn, deposes and says that she is employed in the Legal Department of Consumers Energy Company; that on June 22, 2006 she served an electronic copy of the "**Initial Brief Of Consumers Energy Company**" upon the persons listed in Attachment 1 hereto, at the e-mail addresses listed therein.

Sammie B Dalton

Digitally signed by Sammie B. Dalton
Date: 2006.06.22 08:53:55 -04'00'

Sammie B. Dalton

Subscribed and sworn to before me this 22nd day of June, 2006.

Margaret Hillman

Digitally signed by Margaret Hillman
Date: 2006.06.22 08:54:46 -04'00'

Margaret Hillman, Notary Public
State of Michigan, County of Jackson
My Commission Expires: 06/14/10
Acting in the County of Jackson

ATTACHMENT 1 TO CASE NO. U-14561 – E-Mail Service List

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