

A CMS Energy Company

July 10, 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 **“Reply 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: 2006.07.10 09:40:05 -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.	)	
_____	)	

REPLY BRIEF OF CONSUMERS ENERGY COMPANY

I. INTRODUCTION

Briefs were filed in this case on June 22, 2006 by the Michigan Public Service Commission ("MPSC" or "Commission") 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 Gas Utilities Corporation (collectively referred to as the "Natural Gas Companies"), Michigan Consolidated Gas Company ("Mich Con"), the Association of Businesses Advocating Tariff Equity ("ABATE"), and the Attorney General Michael A. Cox ("AG").

Although it appears from the briefs that at least one of the parties' positions has changed since the filing of testimony and the hearing, Consumers Energy holds the same position and sets forth the same arguments it presented in its initial brief. As stated in Consumers Energy's initial brief and as agreed upon by the majority of parties in this matter, Consumers Energy requests that GTI's original proposal for a mandatory surcharge or state-wide funding be denied and that GTI funding continue as was agreed upon by the parties and approved by FERC in 1998, namely that voluntary funding be done by each utility and at each utility's

discretion. This Reply Brief is filed in accordance with the schedule established by Administrative Law Judge Mark Cummins.

II. DISCUSSION

A. Reply To Gas Technology Institute

In its Petition to Intervene, GTI stated “that the Commission should adopt either a volumetric surcharge or a per-meter charge for all Michigan gas utilities to fund the services of GTI.” [Petition at 3.] In its initial brief, GTI takes the position that Michigan gas utilities and their ratepayers should support GTI because its research is beneficial to both. [GTI brief at 2.] GTI continues that the funding should come from the utilities on a voluntary basis and the utilities can request that their GTI funding amounts be recovered in general rate proceedings. [Id at 5.] GTI accepts the Staff’s recommendation of capping the recovery at 1.74 cents per Mcf. [Id at 6.] According to GTI, once the utilities meet the criteria outlined by GTI, there will be a rebuttable presumption that the expenses will be recovered through rates. [Id.] Any opposing party would then have the burden of proving that the utilities did not act reasonably in funding GTI activities. [Id.]

Although this position seems different from the position GTI offered in its petition, testimony, and at the hearings, it still places a burden on the utilities that is not currently in place and that should not be placed on Michigan utilities, especially while other states may not be equally funding GTI. First of all, this approach implies that the only research funding that will be approved in rates will be that provided to GTI. Currently, the Michigan utilities have the ability to participate in research funding, record it in a Miscellaneous General Expense account, and request that it be recovered through rates. As it exists today, the system works in a way very

similar to the proposal in GTI's brief but there is no pre-determined limitation on the research company or programs that the utilities can fund.

In addition to limiting the research company that can be funded, GTI's position also limits the amount that can be recovered through rates. [GTI brief at 7.] Currently, Michigan utilities can fund research projects and try to collect those costs through rates. When doing so, the MPSC reviews the funding and determines if it is reasonable, or what portion may be reasonable. With the limit that GTI supports, the amount of funding that Consumers Energy or any other Michigan utility will be able to recover would be limited. This limitation will either limit the amount the utility can fund or it will discourage the utility from funding such programs.

B. Reply To Michigan Public Service Commission Staff

The MPSC Staff argues that a voluntary funding system should be supported by the Commission and that the recovery of this funding could be requested through revenue requirements in a general rate case. [Staff's brief at 6.] Staff recommends that the utilities would still have the burden of proving to the Commission in general rate proceedings that the voluntary funding was reasonable, similar to the burden of proving that other revenue requirements are reasonable. [*Id* at 6-7.] As stated previously, that is how the current system works; the only difference in the current process and the Staff's recommendation is that Consumers Energy and all the other Michigan gas utilities are currently able to use their discretion and fund any research company – funding is not limited to GTI. Therefore, Consumers Energy agrees that if a Michigan utility wants to contribute to any research company, not just GTI, it should be able to contribute on a voluntary basis and it should be able to collect those contributions through a general rate case, as proposed by Staff. [3 TR 172.] Consumers Energy therefore requests that the Commission continue to allow the utilities to operate and fund

research programs as they currently do or choose not to do and deny any special or specific support for GTI. Accordingly, the utilities could continue to individually and voluntarily determine what research company and how much it wants to fund and try to recover that funding through rates.

C. Reply To Michigan Consolidated Gas

Mich Con takes the position that GTI funding should automatically be included in the utilities' rates without any Commission review of the reasonableness of the funding. Mich Con would like a guarantee that GTI funding would be recoverable. [Mich Con's brief at 5.] Consumers Energy agrees that knowing prior to their research funding that recovery is guaranteed would be beneficial to the utilities. In fact, if GTI funding is made mandatory, Consumers Energy believes it is only fair to the utilities that the funds be recoverable without a review for reasonableness by the Commission. As stated in the Company's initial brief, it is not fair to the utilities to require a surcharge and then place the burden on the utilities to prove their funding was reasonable. [Company's brief at 2.]

D. Reply To The Attorney General

Consumers Energy agrees with the position taken by the AG. Consumers Energy and the other Michigan gas utilities should have the option of choosing which independent research company they want to fund, especially if the utilities will have to demonstrate to the Commission the reasonableness of their spending. As stated in Consumers Energy's initial brief, Consumers Energy does not support any type of mandatory surcharge to fund GTI and agrees with the AG that the Commission does not have the statutory authority to require a mandatory surcharge.

E. Reply To Natural Gas Companies

Consumers Energy agrees with the position presented by the Natural Gas Companies.

F. Reply To Association of Businesses Advocating Tariff Equity

Consumers Energy agrees with these positions taken by ABATE.

III. CONCLUSION

As stated in Consumers Energy's initial brief and as agreed upon by the majority of parties in this matter, Consumers Energy requests that the proposal by GTI be denied and that the funding continue as was agreed upon by the parties and approved by FERC, namely that voluntary funding be done by each utility and at each utility's discretion. If the utility chooses to voluntarily fund GTI or any other research company, the utility can then proceed to the Commission and seek recovery of the voluntary funding in its rates through a general rate case.

Respectfully submitted,

CONSUMERS ENERGY COMPANY

Dated: July 10, 2006

By:



Digitally signed by Rhonda M. Morris
Date: 2006.07.10 09:41:10 -04'00'

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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 July 10, 2006 she served an electronic copy of the "**Reply Brief Of Consumers Energy Company**" upon the persons listed in Attachment 1 hereto, at the e-mail addresses listed therein.



Digitally signed by Sammie B. Dalton
Date: 2006.07.10 09:42:08 -04'00'

Sammie B. Dalton

Subscribed and sworn to before me this 10th day of July, 2006.



Digitally signed by Mary K. Polack
Date: 2006.07.10 09:43:14 -04'00'

Mary K. Polack, Notary Public
State of Michigan, County of Jackson
My Commission Expires: 09/09/06
Acting in the County of Jackson

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

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