

April 23, 2024

Lisa Felice
Executive Secretary
Michigan Public Service Commission
7109 West Saginaw Highway
Post Office Box 30221
Lansing, MI 48909

Re: Case No. U-21502: In the matter, on the Commission's own motion, to require Consumers Energy Company to show cause why it should not be found in violation of the Consumer Standards and Billing Practices for Electric and Natural Gas Service, Mich Admin Code, R 460.101 *et seq.*, the Service Quality and Reliability Standards for Electric Distribution Systems, Mich Admin Code, R 460.701 *et seq.*, and the Technical Standards for Gas Service, Mich Admin Code, R 460.2301 *et seq.*

Dear Ms. Felice:

Enclosed for electronic filing in the above-captioned proceeding, please find a **Settlement Agreement** which is intended to resolve all outstanding issues in this proceeding. The Settlement Agreement has been executed by Consumers Energy Company, the Michigan Public Service Commission Staff, and the Attorney General.

This is a paperless filing and is therefore being filed only in PDF. I have enclosed a Proof of Service showing electronic service upon the parties.

Sincerely,

Bret A. Totoraitis
Phone: 517-788-0835
Email: bret.toraitis@cmsenergy.com

cc: 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 require **CONSUMERS ENERGY COMPANY** to)
show cause why it should not be found in violation)
of the Consumer Standards and Billing Practices for)
Electric and Natural Gas Service, Mich Admin)
Code, R 460.101 *et seq.*, the Service Quality)
and Reliability Standards for Electric Distribution)
Systems, Mich Admin Code, R 460.701 *et seq.*, and)
the Technical Standards for Gas Service,)
Mich Admin Code, R 460.2301 *et seq.*)
_____)

Case No. U-21502

SETTLEMENT AGREEMENT

Pursuant to MCL 24.278 and Rule 431 of the Michigan Administrative Hearing System’s Rules of Practice and Procedure before the Michigan Public Service Commission (“MPSC” or the “Commission”), Mich Admin Code R 792.10431, the undersigned parties agree as follows:

WHEREAS, on July 7, 2023, the Commission issued an Order in Case No. U-21458 opening an investigation into customer complaints regarding Consumers Energy Company’s (“Consumers Energy” or the “Company”) electric meter malfunctions, electric estimated billing practices, and delays in new electric and gas service issues. Consumers Energy submitted a report on those matters on August 4, 2023 detailing vendor issues contributing to numerous instances of consecutive meter estimates and delays in new service installation and discussing the Company’s subsequent efforts to remediate the issues. Commission Staff (“Staff”) filed a response and recommendations on September 29, 2023, which included Staff’s finding of possible violations of Mich Admin Code, R 460.113(5), R 460.114, R 460.702(v); and R 460.2371(7).

WHEREAS, on October 24, 2023, the Commission issued an Order (“October 24 Order”) in this matter which directed Consumers Energy to show cause why it should not be found in violation of the Commission’s Consumer Standards and Billing Practices for Electric and Natural

Gas Service (“Billing Rules”), Mich Admin Code, R 460.101 et seq., the Commission’s Service Quality and Reliability Standards for Electric Distribution Systems (“Service Quality Rules”), Mich Admin Code, R 460.701 et seq., and the Commission’s Technical Standards for Gas Service (“Gas Technical Standards”), Mich Admin Code, R 460.2301 et seq. as indicated in Staff’s September 29, 2023 response in Case No. U-21458.

WHEREAS, on November 14, 2023, the Company filed a Response to the Commission’s October 24 Order with supporting testimony and exhibits. The Company’s filing acknowledged that Consumers Energy was not satisfied with its own performance related to consecutive estimates, actual meter reads, and timeliness of new service installations and indicated that the Company would not contest Staff’s enforcement recommendations. Consumers Energy believes it is more important for the Company to focus on resolving the remaining issues on its system and making changes to ensure that these issues do not recur in the future.

WHEREAS, a prehearing conference was held in this proceeding on December 4, 2023 before Administrative Law Judge Christopher S. Saunders. The parties to the case are Consumers Energy, Staff, and Michigan Attorney General Dana Nessel (“Attorney General”).

NOW THEREFORE, for purposes of settlement of Case No. U-21502, the undersigned parties agree as follows:

1. The parties agree that Consumers Energy shall pay a penalty, as provided under MCL 460.55, in the total amount of \$1,000,000 in connection with the violations of the Commission’s Billing Rules, specifically R 460.113(5) and R 460.114, the Commission’s Service Quality Rules, specifically R 460.702(v) and R 460.724(b); and the Commission’s Gas Technical Standards, specifically R 460.2371(7). This payment shall be made within 90 days of issuance of a Commission Order approving this Settlement Agreement. Consumers Energy will not seek, and

the Commission should not approve, recovery of the penalty paid under this paragraph in rates paid by its natural gas or electric customers.

2. The parties agree that Consumers Energy shall disclose any known issues that may affect the Commission's determination of future requests by the Company for waivers of Commission rules. This includes the Company's commitment to be more holistic in the future when it encounters multiple significant issues with a single vendor that may point to a larger and more systemic problem.

3. The parties agree that Consumers Energy will not seek, and that the Commission should not approve, recovery of any estimation credits resulting from the facts and circumstances that gave rise to this proceeding in a pending or future rate case. Consumers Energy has not incurred costs related to higher costs of expediting equipment needed for electric and natural gas new service.

4. The parties agree that Consumers Energy will submit a report semi-annually for two years demonstrating the Company's performance relating to consecutive meter reading, new electric and gas service installations, and electric meter failures. Consumers Energy will submit the report required by this paragraph in the docket for Case No. U-21458. The report required by this paragraph will contain:

- a. The number of electric customers who were consecutively estimated for 3 to 6 months, 7 to 9 months, 10 to 12 months, and over 12 months. The report should also state the reasons for the estimation occurrences;
- b. The new electric and gas service installation factors for each month in the 6-month period. For any months where the monthly factor is below 90%, list the reasons and the steps the Company is taking to ensure that the annual result is consistent with the 90% metric; and

- c. The number of meter failures during the past 6 months and the reasons for the failures.

5. For new service installations at building construction sites, the parties agree that Consumers Energy will require a photo response from the builder and/or customer as the last step before sending out an installation crew to confirm that the site is in ready state to complete the site readiness process. This obligation will take effect 90 days after the Commission approves this settlement agreement.

6. The parties agree that, in addition to utilization of the positive response system, Consumers Energy will include a step in its staking process whereby the Company engages in proactive communication with the facility owner to ensure that a project is staked on time, to resolve any problems in advance, and ensure the site is ready once an installation crew arrives. This obligation will take effect 90 days after the Commission approves this settlement agreement.

7. The parties agree that the Commission should establish a regulatory liability account for Consumers Energy to record any monetary proceeds which are recovered from Itron Inc. (“Itron”), for Consumers Energy’s claims arising under the facts and circumstances associated with the Commission’s show-cause proceeding in this docket. Specifically, those claims are defined as any claims that Consumers Energy may have for breach of contract related to Itron Inc.’s (i) failure to supply sufficient 4G meters to replace obsolete 3G meters prior to January 1, 2023 and (ii) failure to perform manual meter reading services as required by Itron’s contract with Consumers Energy after January 1, 2023 through the date of the Commission’s show-cause order in this case (“Claims”). The parties agree that Consumers Energy will record any future monetary proceeds from the Claims, if any, to the regulatory liability account established by the Commission under this paragraph. The parties further agree that, after the Claims have been resolved, if the total of (i) the monetary proceeds plus (ii) the amount of any credits toward future meter purchases

received from Itron in satisfaction of the Claims are less than \$3 million, the Company will increase the regulatory liability to equal \$3 million minus any credits received toward future meter purchases with funding provided by shareholders. In the event Consumers Energy obtains monetary proceeds or credits toward future meter purchases from Itron for the Claims and/or the Company's pursuit of the Claims reaches final conclusion, the Company will file a notice in this docket within 10 business days after receipt of such proceeds and/or the final conclusion of the Company's pursuit of the Claims. Such notice will include a statement of the balance of the regulatory liability. In Consumers Energy's next electric rate case following the notice described in this paragraph, Consumers Energy will propose a method for providing the full benefit of the regulatory liability account to customers until the balance of the regulatory liability account has been exhausted. The method of refund proposed by Consumers Energy shall be either a direct bill credit to customers or an offset to base rates in the full amount of the regulatory liability. The method of refund shall not be accomplished by undertaking incremental spending on programs not included in rates.

8. This settlement is entered into for the sole and express purpose of reaching a compromise among the parties. All offers of settlement and discussions relating to this settlement are, and shall be considered, privileged under Michigan Rule of Evidence 408. If the Commission approves this Settlement Agreement without modification, neither the parties to this Settlement Agreement nor the Commission shall make any reference to, or use, this Settlement Agreement or the order approving it, as a reason, authority, rationale, or example for taking any action or position or making any subsequent decision in any other case or proceeding; provided, however, such references may be made to enforce or implement the provisions of this Settlement Agreement and the order approving it.

9. This Settlement Agreement is based on the facts and circumstances of this case and is intended for the final disposition of Case No. U-21502. So long as the Commission approves this Settlement Agreement without any modification, the parties agree not to appeal, challenge, or otherwise contest the Commission order approving this Settlement Agreement. The parties further agree that, if approved by the Commission without any modifications, this Settlement Agreement is a full and final resolution of all issues arising under the facts and circumstances of this case. The parties shall not seek any additional relief based on the facts and circumstances that gave rise to this case in any other proceedings. Except as otherwise set forth herein, the parties agree and understand that this Settlement Agreement does not limit any party's right to take new and/or different positions on similar issues in other administrative proceedings or appeals related thereto.

10. This Settlement Agreement constitutes the entire agreement of the parties and is not severable. Each provision of the Settlement Agreement is dependent upon all other provisions of this Settlement Agreement. Failure to comply with any provision of this Settlement Agreement constitutes failure to comply with the entire Settlement Agreement. If the Commission rejects or modifies this Settlement Agreement or any provision of the Settlement Agreement, this Settlement Agreement shall be deemed to be withdrawn, shall not constitute any part of the record in this proceeding or be used for any other purpose, and shall be without prejudice to the pre-negotiation positions of the parties.


11. The parties agree that approval of this Settlement Agreement by the Commission would be reasonable and in the public interest.

12. The parties agree to waive Section 81 of the Administrative Procedures Act of 1969 (MCL 24.281), as it applies to the issues resolved in this Settlement Agreement, if the Commission approves this Settlement Agreement without modification.


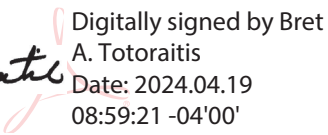
13. This Settlement Agreement may be executed in multiple counterparts.

WHEREFORE, the undersigned parties respectfully request the Michigan Public Service Commission to approve this Settlement Agreement on an expeditious basis and to make it effective in accordance with its terms by final order.

MICHIGAN PUBLIC SERVICE COMMISSION STAFF



By:  _____ Dated: April 19, 2024
Daniel E. Sonneveldt (P58222)
Assistant Attorney General
Attorney for the Michigan Public Service Commission Staff
Public Service Division
7109 West Saginaw Highway
Lansing, MI 48917

CONSUMERS ENERGY COMPANY

By:  _____ Dated: April 19, 2024

Digitally signed by Bret
A. Totoraitis
Date: 2024.04.19
08:59:21 -04'00'

Bret A. Totoraitis (P72654)
Attorney for Consumers Energy Company
One Energy Plaza
Jackson, MI 49201

MICHIGAN ATTORNEY GENERAL DANA NESSEL

By:  _____ Dated: April 23, 2024

Digitally signed by Celeste R. Gill
Date: 2024.04.23 13:36:15 -04'00'

Celeste R. Gill (P52484)
Assistant Attorney General
Special Litigation Division
6th Floor Williams Building
525 West Ottawa Street
Post Office Box 30755
Lansing, MI 48909

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter, on the Commission’s own motion,)
to require **CONSUMERS ENERGY COMPANY** to)
show cause why it should not be found in violation)
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_____)

Case No. U-21502

PROOF OF SERVICE

STATE OF MICHIGAN)
) SS
COUNTY OF JACKSON)

Crystal L. Chacon, being first duly sworn, deposes and says that she is employed in the Legal Department of Consumers Energy Company; that on April 23, 2024, she served an electronic copy of the **Settlement Agreement** upon the persons listed in Attachment 1 hereto, at the e-mail addresses listed therein.

Crystal L. Chacon

Crystal L. Chacon

Subscribed and sworn to before me this 23rd day of April 2024.

Melissa K. Harris

Melissa K. Harris, Notary Public
State of Michigan, County of Jackson
My Commission Expires: 06/11/2027
Acting in the County of Hillsdale

ATTACHMENT 1 TO CASE NO. U-21502

Party	Mailing Address	Email Address
Administrative Law Judge		
Hon. Christopher S. Saunders	7109 West Saginaw Highway Post Office Box 30221 Lansing, MI 48909	saundersc4@michigan.gov
Counsel for Consumers Energy Company		
Bret A. Totoraitis, Esq. Spencer A. Sattler, Esq.	One Energy Plaza Jackson, MI 49201	bret.totoraitis@cmsenergy.com spencer.sattler@cmsenergy.com mpsc.filings@cmsenergy.com
Counsel for the Michigan Public Service Commission Staff		
*Daniel E. Sonneveldt, Esq. *Alena Clark, Esq.	7109 West Saginaw Highway Post Office Box 30221 Lansing, MI 48909	sonneveldtd@michigan.gov clarka55@michigan.gov
Counsel for Attorney General Dana Nessel		
Celeste R. Gill, Esq.	ENRA Division 525 West Ottawa Street 6th Floor Williams Building Post Office Box 30755 Lansing, MI 48909	gillc1@michigan.gov AG-ENRA-Spec-Lit@michigan.gov