

STATE OF MICHIGAN  
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the application of  
CONSUMERS ENERGY COMPANY for  
authority to increase its rates for the  
distribution of natural gas and for other relief.

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MPSC No. U-21806  
(Paperless e-file)

**Attorney General's Notice of Intervention**

The Michigan Department of Attorney General's Special Litigation Division gives notice of the intervention of Attorney General Dana Nessel (Attorney General) as a party in this proceeding. In response to the application filed by Consumers Energy Company ("Consumers Energy" or "the Company) and the Notice of Hearing issued by the Michigan Public Service Commission (the "Commission"), the Attorney General states:

**I. Statement of Interest**

1. The Attorney General is the duly elected and qualified Attorney General of the State of Michigan and holds office by virtue of and pursuant to Const 1963, art 5, § 21, and by mandate of the qualified electorate of the State of Michigan.

2. The Attorney General intervenes and appears in this proceeding for and on behalf of the People of the State of Michigan and for and on behalf of the State of Michigan, its departments, commissions, and agencies, as customers and

ratepayers of the Company. Consumers Energy provides natural gas service to approximately 1.8 million customers, including the State of Michigan which is a substantial user of the Company's natural gas services. The interest of these customers is public in nature, being common among natural gas customers in Consumer Energy's service area.

3. Both statutory and common law of Michigan authorizes the Attorney General's intervention and appearance in this proceeding. MCL 14.28 provides, in part:

[T]he attorney general . . . may, when in [her] own judgment the interests of the state require it, intervene in and appear for the people of this state in any other court or tribunal, in any cause or matter, civil or criminal, in which the people of this state may be a party or interested.

The Attorney General has the right to intervene whenever the Attorney General, in her own discretion, deems it in the public interest to do so. *People v O'Hara*, 278 Mich 281; 270 NW 298 (1936); and *Gremore v People's Community Hosp Auth*, 8 Mich App 56; 153 NW2d 377 (1967). In her capacity as Michigan's chief law officer, the Attorney General has common law authority to represent public interests as she may deem necessary for the protection of public rights. *In re Certified Question (Wayne Co v Philip Morris, Inc)*, 465 Mich 537, 543-545; 638 NW2d 409 (2002); and *Withee v Lane & Libby Fisheries Co*, 120 Me 121, 123; 113 A 22, 23 (1921).

4. When the Attorney General deems it in the public interest to do so, she may intervene in any administrative proceeding at any stage of such a proceeding. *Attorney General v Liquor Control Comm*, 65 Mich App 88; 237 NW2d 196 (1975).

5. The Attorney General has determined that the interests of both the State and the People of the State of Michigan require her to intervene in this proceeding on their behalf. This proceeding will directly affect the State and the People of this State who are natural gas customers of Consumers Energy. The State and correspondingly the taxpayers of this State pay significant amounts for utility services for the state in the conduct of the People's affairs. In addition, the People of this State who are customers of Consumers Energy pay large sums for utility service for their homes and businesses. Any action taken in this proceeding will directly affect the economy of the State and the general well-being of the citizens and residents of the State.

## **II. Statement of Positions**

6. On December 16, 2024, Consumers Energy filed its application in this case together with supporting testimony and exhibits, and the Attorney General takes the position that Consumers Energy has the burden of proving all elements of its case by a preponderance of the evidence.

7. Consumers Energy requests the Commission to authorize an increase of approximately \$248 million in its rates above those previously approved in Case

No. U-21490, a return on equity of 10.25%, an overall rate of return of 6.22% after tax, and an equity ratio of 50.75%.

8. Consumers Energy is requesting a continuation of its Defined Benefit (“DB”) Pension/Other Post-Employment Benefit (“OPEB”) Volatility Mechanism.

9. The Company has sponsored two primary versions (I and II) of its cost-of-service-study (COSS). It has also prepared another COSS replacing the Average & Peak method with the Average and Excess method. The Company proposes approval of its Version II which it used to design rates for each customer class.

10. Consumers Energy also seeks approval of modification to its rules, and regulations related its natural gas services.

11. The Attorney General takes the position that the Commission should not approve Consumers Energy's requests without first developing an evidentiary record and conducting proceedings pursuant to Chapter IV of the Administrative Procedures Act [MCL 24.271 *et seq*], because the requests may not be just and reasonable.

12. The Attorney General takes the position that Consumers Energy has the burden of proving that all plant expenditures included in the Company’s proposed rate base are reasonable and prudent. In addition, the Attorney General takes the position that before the Commission can include capital expenditures in Consumers Energy's rate base and test year expenses, the Company has the burden of proving the reasonableness and prudence of any previously un-reviewed capital expenditures.

13. The Attorney General takes the position that Consumers Energy has the burden of proving that the Company's projected O&M expenditures are reasonable and prudent before the Commission can approve any proposed rate changes resulting from those projections.

14. The Attorney General takes the position that the Company has the burden of proving that its other proposals including, but not limited to its proposed ratemaking mechanism, any changes to its cost-of-service study, proposed rate design, tariffs, and return on equity are reasonable and prudent and supported by law and the record.

15. The Attorney General reserves the right to take additional and different positions based upon future discovery, the evidence, pleadings and briefing in this case.

### **III. Relief Requested**

The Attorney General requests the Michigan Public Service Commission to:

a. Enter this Notice of Intervention into the official record of the captioned case and treat the Attorney General as a party to these proceedings for all purposes;

b. Develop an evidentiary record and conduct proceedings pursuant to Chapter IV of the Administrative Procedures Act [MCL 24.271 *et seq.*];

c. Establish rates that are just and reasonable according to the whole record developed in this case; and

d. Grant any further and additional relief the Commission may decide is reasonable and lawful.

Respectfully submitted,

Dana Nessel  
Attorney General

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Dated: December 19, 2024

**PROOF OF SERVICE - U-21806**

The undersigned certifies that a copy of the *Attorney General's Intervention* was served upon the parties listed below by e-mailing the same to them at their respective e-mail addresses on the 19<sup>th</sup> day of December 2024.

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Celeste R. Gill

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