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January 6, 2025

VIA ELECTRONIC CASE FILING

Executive Secretary
Michigan Public Service Commission
7109 W. Saginaw Highway
Lansing, Michigan 48917

Re: Case No. U-21806 – 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.

Dear Executive Secretary:

Enclosed for filing please find the **Association of Businesses Advocating Tariff Equity's Petition to Intervene** and **Proof of Service** in the above-referenced matter.

Sincerely,

CLARK HILL PLC

Stephen A.
Campbell

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Clark Hill PLC
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Stephen A. Campbell

SAC/lkd

cc: Parties of Record

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

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.)
_____)

Case No. U-21806

ALJ James M. Varchetti

**PETITION TO INTERVENE OF THE
ASSOCIATION OF BUSINESSES ADVOCATING TARIFF EQUITY**

The Association of Businesses Advocating Tariff Equity (“ABATE”), by and through its attorneys, Clark Hill PLC, hereby petitions the Michigan Public Service Commission (“Commission”) for leave to intervene in the captioned proceeding pursuant to Mich Admin Code, R 792.10410 (“Rule 410”) of the Commission’s Rules of Practice and Procedure. In support of this petition, ABATE states as follows:

1. ABATE is a voluntary association of large industrial companies that conduct business throughout the state of Michigan. The primary purpose of ABATE is to participate in state and federal regulatory proceedings to protect the interests of businesses in connection with energy and utility matters. To that end, ABATE consistently advocates for cost-of-service based energy rates, equitable terms of service, and increased access to a competitive energy market. ABATE is also interested in assuring that rates, surcharges, and conditions of service are adopted in conformance with the law and in a fair and reasonable manner.

2. Collectively, ABATE’s members employ nearly 100,000 Michiganders and spend approximately \$1.5 billion on energy and related services in Michigan each year. As the representative of such large users of electricity, natural gas, and transportation services, ABATE

is vitally interested in achieving increased economic efficiencies for the utilities that serve its members.

3. Present members of ABATE include: Cargill, Inc.; Charles River Laboratories; Cleveland-Cliffs Inc.; The Dow Chemical Company; Edw. C. Levy Co.; Enbridge Energy, Ervin Industries Inc.; Limited Partnership; General Motors LLC; Gerdau Macsteel INC; Graphic Packaging International, Inc.; Hemlock Semiconductor Operations LLC; J. Rettenmaier USA LP; Linde, Inc.; Marathon Petroleum Corporation; Martin Marietta Magnesia Specialties LLC; Metal Technologies, Inc.; Occidental Chemical Corporation; Pfizer-Kalamazoo; Stellantis; United States Gypsum Company; WestRock California, Inc.; and Zoetis LLC.

4. ABATE members are directly impacted by the issues raised in this proceeding and have a substantial interest therein because ABATE members are concerned about the proposals made in Consumers Energy Company (“Consumers” or “Company”)’s Application, including its request for additional revenue of approximately \$248 million annually based on a projected 12-month test year ending October 31, 2026.

5. Although Rule 410 speaks in terms of *leave to intervene*, the Commission has indicated that it considers the ability to intervene to be one of right when a petitioner can meet the two-prong test for standing.¹ This test requires a showing that the prospective intervenor will: (1) suffer an injury in fact as a result of the outcome of the case; and (2) the interests allegedly

¹ The United States Supreme Court established the two-prong test for standing in *Association of Data Processing Service Organizations, Inc v Camp*, 397 US 150; 90 S Ct 827; 25 L Ed 2d 184 (1970), applied to utility matters in *Drake v The Detroit Edison Co*, 453 F Supp 1123, 1127 (WD Mich, 1978), and adopted by the Commission in its November 10, 1988 Order in Case No. U-9138.

endangered fall within the zone of interests intended to be protected or regulated by the statute or constitutional guarantee in question.²

6. ABATE meets the two-prong test for standing because, as customers of the Company, ABATE members have a direct financial interest in the amount, rates, terms, programs, and conditions of service for the Company's customers. If authorized by the Commission, the proposals set forth in the Company's Application will have a direct and adverse impact on the rates that ABATE members pay. ABATE's interest in the adoption of reasonable and prudent utility rates falls within the zone of interests to be protected by the Commission's consideration of the issues in this proceeding.

7. In addition to meeting the conditions for intervention by right, ABATE meets the Commission's criteria for permissive intervention. As recognized in prior Commission orders, "the Commission's discretion to grant leave to intervene is broader than the two-prong test . . . Unlike a court of law, an administrative agency can allow intervention whenever the resulting delay will likely be outweighed by the benefit of the intervenor's participation."³ Permissive intervention has also been granted where a proceeding "raises novel questions and important issues of policy" and the intervenor will "bring a unique perspective" to the case.⁴

8. ABATE has regularly participated in electric and natural gas proceedings before the Commission and federal regulatory bodies for nearly three decades. As in prior cases, ABATE will provide the Commission with useful and unique information through the testimony of its

² *In re Consumers Energy for authority to implement a power supply cost recovery plan*, MPSC Case No. U-17317, March 6, 2014, Order, p 4 (emphasis added).

³ *In re Michigan Consolidated for authority to increase its rates*, MPSC Case No. U-10150, December 8, 1992, Order, p 5.

⁴ *In re Consumers Energy to fully comply with Public Act 295 of 2008*, MPSC Case No. U-17771, October 27, 2015, Order, p 6, citing *In re Mascotech Forming Technologies*, MPSC Case No. U-11057, June 5, 1996, Order, pp 2-3.

experts. ABATE will also scrutinize the reasonableness and prudence of the Company's proposals through necessary and appropriate means. These efforts will assist the Commission in making significant policy determinations in this case and will "bring helpful information to the Commission's attention that might not otherwise be available."⁵ As such, ABATE meets the test for permissive intervention.

9. ABATE will carefully examine the reasonableness and prudence of the Company's requests and proposals, including those indicated above.

10. ABATE will take the position that the Company's Application, including but not limited to the proposals described above, should be carefully scrutinized and any unjustified, unsubstantiated, imprudent, unreasonable, or unlawful deficiencies, costs, proposals, or mechanisms should be disallowed.

11. ABATE will seek an order in this proceeding approving rates, terms, programs, and conditions of service which are just, fair, reasonable, and lawful.

12. The interests of ABATE and its members are not adequately represented by the present parties and, therefore, it would be detrimental to the public interest to deny this Petition to Intervene.

13. ABATE reserves the right to take other positions and/or seek other relief based on a review of the various filings, the responses to discovery, or positions taken in briefs.

WHEREFORE, ABATE requests that the Commission grant ABATE's Petition to Intervene in and be treated as a full party hereto. ABATE further requests that the parties serve

⁵ *In the Matter, on the Commission's own motion*, MPSC Case No. U-18091, February 21, 2019, Order, p 9.

copies of all pleadings and correspondence in these proceedings to the offices of its counsel listed below and to its consultant(s):

James Dauphinais
jdauphinais@consultbai.com

Respectfully submitted,

CLARK HILL PLC

Stephen A.

By: **Campbell**

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Date: January 6, 2025

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Case No. U-21806

ALJ James M. Varchetti

PROOF OF SERVICE

STATE OF MICHIGAN)
) ss
COUNTY OF WAYNE)

Stephen A. Campbell, being first duly sworn, deposes and says that on January 6, 2025, he did cause to be served the *Association of Businesses Advocating Tariff Equity's Petition to Intervene*, as well as this *Proof of Service*, in the above docket, via electronic mail, to the persons identified on the attached service list.

Stephen A.
Campbell

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Stephen A. Campbell

SERVICE LIST
MPSC Case No. U-21806

<p>Administrative Law Judge Hon. James M. Varchetti Administrative Law Judge Michigan Public Service Commission 7109 W. Saginaw Hwy., 3rd Floor Lansing, Michigan 48917 Email: varchettij@michigan.gov</p>	<p>Counsel for MPSC Staff Anna B. Stirling Amit T. Singh Alena M. Clark Email: stirlinga1@michigan.gov singha9@michigan.gov clarka55@michigan.gov</p> <p>Lori Mayabb Email: mayabbl@michigan.gov</p>
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