



January 16, 2025

Ms. Lisa Felice
Michigan Public Service Commission
7109 W. Saginaw Hwy.
Lansing, MI 48909

Via E-File

RE: MPSC Case No. U-21806

Dear Ms. Felice:

Attached please find the enclosed documents for filing:

- Petition to Intervene Out of Time by Sierra Club;
- Appearance of Christopher M. Bzdok and Holly L. Hillyer on behalf of Sierra Club; and
- Proof of Service.

Thank you for your assistance in this matter. If you have any questions, please feel free to contact me.

Sincerely,

Christopher M. Bzdok
chris@tropospherelegal.com

CC: Parties to Case No. U-21806

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.

U-21806

**PETITION TO INTERVENE OUT OF TIME BY
SIERRA CLUB**

1. Sierra Club, a national, non-profit environmental organization, seeks to intervene in this case to represent the interests of its members in receiving reliable power that is generated and supplied in a cost-effective and environmentally sound manner.

2. Sierra Club has approximately 796,766 members, nationwide, dedicated to exploring, enjoying, and protecting the wild places of the earth; to practicing and promoting the responsible use of the earth's ecosystems and resources; to educating and enlisting humanity to protect and restore the quality of the natural and human environment; and to using all lawful means to carry out these objectives. Sierra Club has many years of experience working on energy and natural gas generation issues throughout the United States, including in Michigan.

3. Sierra Club has approximately 24,595 members in Michigan, including thousands who live, work, and pay gas bills in the Consumers Energy Company ("Consumers" or "the Company") gas service territory. These members are directly affected by the rates, policies, terms, and conditions governing Consumers' provision of natural gas to them. As a result, these members have a strong interest in having their natural gas bills be economical and stable over the long term; in not subsidizing unneeded capital investments; and in avoiding future stranded costs. Collectively and individually, these members also have a strong interest in avoiding economic

harm caused by unreasonable or imprudent utility practices.

4. The Commission recognizes two types of intervention.

a. First, intervention by right, which requires that the party will suffer an injury-in-fact as a result of the outcome of the case, and that the party is within the zone of interest protected by the statute. See for example, *Association of Data Processing Service Organizations, Inc v Camp*, 397 US 150; 90 S Ct 827; 250 L Ed 184 (1970).

b. Second, permissive intervention, where the Commission has the discretion to permit a party to intervene in the case where that party can provide useful information to the Commission or a unique perspective on the issues in the case. *In re Application of The Detroit Edison Co for Authority to Increase its Rates*, Case Nos. U-15768 and U-15751, January 11, 2010, Order, p. 7 (“In re Detroit Edison”).

5. Sierra Club meets both tests.

6. Sierra Club members who live and work within Consumers’ gas service territory will suffer an injury-in-fact if the result of this proceeding is a decision ensuring that the Company may substantially increase its gas rates. Sierra Club’s members may also be injured by imprudent utility practices that result in higher natural gas bills, greater fluctuations in natural gas prices, environmental harm, and safety concerns.

7. Sierra Club’s members are within the zone of interests protected by MCL 460.1, *et seq.* These statutes generally protect ratepayers and provide opportunities for advocacy by ratepayer groups to protect their interests in Commission proceedings. Sierra Club’s members are specifically within the zone of interests protected by MCL 460.6a, moreover, which governs requests to increase gas utility rates in Michigan, and which requires the Commission to provide interested parties like Sierra Club’s members with a hearing before rate maybe increased or changed.

8. Sierra Club has organizational standing because its members meet the zone-of-interests test. Commission rules and precedent provide that an association may be granted intervention to represent the interests of its members. See *In re Detroit Edison* at 8 (citing MPSC Rules of Practice and Procedure, Mich Admin Code R 460.17101(f), (g)(vii), and R 460.17201); see also *Drake v Detroit Edison*, 453 F Supp 1123, 1129 (WD Mich 1978) (noting that “a plaintiff may be granted standing when he asserts interests not of his own but of a third party that meet the zone of interests test.”). To establish standing to intervene in a Commission proceeding, an association can assert and represent the interests of its third-party members without specifically identifying each individual member whose interests are to be represented. *In re Detroit Edison* at 8.

9. Sierra Club meets both prongs of the *Data Processing* test because a significant number of its members are Consumers Energy gas customers, because this case directly implicates these members’ cost of natural gas, and because these members are well within the zone of interests protected by MCL 460.1 *et seq.* For these reasons, Sierra Club has been permitted to intervene by right in a number of Commission proceedings, including Consumers’ last gas rate case, Case No. U-21148; and DTE Gas Company’s last rate case, U-21291. Sierra Club now respectfully seeks to intervene by right in this proceeding.

10. Sierra Club meets the Commission’s test for permissive intervention because Sierra Club will provide useful information to the Commission and a unique perspective on the issues presented for its review in this proceeding.

11. Sierra Club will bring significant expertise to bear in this proceeding. This expertise encompasses a broad range of environmental and energy concerns that fully complement the myriad technical and policy issues parties will face in this proceeding. Sierra Club has jointly or individually intervened and/or provided testimony in various Commission proceedings, as well as

a multitude of similar proceedings in a number of other states, including Arkansas, Arizona, California, Colorado, Florida, Illinois, Iowa, Louisiana, Kentucky, Minnesota, Mississippi, Missouri, New York, New Jersey, Nevada, Ohio, Oklahoma, Oregon, South Carolina, Utah, Wisconsin, and Wyoming.

12. Sierra Club will also bring a unique perspective to the issues raised in this case because Sierra Club has worked for years in Michigan, on behalf of its members, to help develop and advance energy policies that benefit both ratepayers and the state's environment.

13. Sierra Club plans to evaluate the Company's application, testimony, and exhibits; to conduct and participate in discovery; and to take those positions that best serve the above-described interest of its members. Specifically, Sierra Club will take the general position that the Company's proposed rate increase cannot be approved unless it is just and reasonable.

14. Notwithstanding the above, Sierra Club may choose to alter, expand, or abandon some or all of these positions as the evidentiary record in this case is developed. In addition, the Sierra Club reserves the right to take additional positions in this case, or to advance additional issues, as they may arise.

15. This petition to intervene is filed after the period for intervention set in the notice of prehearing. Good cause exists under Rule 410 because Sierra Club needed additional time to make necessary internal arrangements for intervening due to Sierra Club being closed during the holidays.

16. Counsel for Sierra Club conferred with counsel for Consumers regarding this late intervention and they agreed that the Company would not object to Sierra Club's intervention on the following conditions: Sierra Club will coordinate with the Michigan Environmental Council (MEC); will not file any additional testimony or briefs on its own and instead will file jointly with MEC; and Sierra Club will accept the schedule agreed to by the parties and approved for this case.

Sierra Club stipulates and commits to abide by these conditions. Sierra Club's counsel also conferred with Staff counsel regarding these conditions and Staff agreed not to object to Sierra Club's participation subject to these conditions.

17. Based on the above conditions and otherwise, Sierra Club's intervention will not delay the proceeding or unduly prejudice any party, and therefore comports with those requirements of Rule 410.

18. No other party adequately represents the interests of Sierra Club and its members.

19. Sierra Club requests that all notices and pleadings be served on:

Christopher M. Bzdok
chris@tropospherelegal.com

Holly L. Hillyer
holly@tropospherelegal.com

Troposphere Legal, PLC
420 E. Front St.
Traverse City, MI 49686

and on:

Natasha Fowles, Legal Assistant
natasha@tropospherelegal.com

For the reasons just outlined, Sierra Club respectfully requests that the Commission grant this petition to intervene and treat it as a party to this proceeding.

Troposphere Legal, PLC
Counsel for SC

Date: January 16, 2025

By: _____

Christopher M. Bzdok (P53094)
Holly L. Hillyer (P85318)
420 E. Front St.
Traverse City, MI 49686
Phone: 231-709-4000

MICHIGAN DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
PUBLIC SERVICE COMMISSION

ENTRY OF APPEARANCE IN AN ADMINISTRATIVE HEARING

This form is issued as provided for by 1939 PA 3, as amended, and by 1933 PA 254, as amended. The filing of this form, or an acceptable alternative, is necessary to ensure subsequent service of any hearing notices, Commission orders, and related hearing documents.

General Instructions:

Type or print legibly in ink. For assistance or clarification, please contact the Public Service Commission at (517) 284-8090.

*Please Note: The Commission will provide **electronic** service of documents to all parties in this proceeding.*

THIS APPEARANCE TO BE ENTERED IN ASSOCIATION WITH THE ADMINISTRATIVE HEARING:

Case / Company Name: Consumers Energy Company Docket No. U-21806

Please enter my appearance in the above-entitled matter on behalf of:

1. (Name) Sierra Club
2. (Name)
3. (Name)
4. (Name)
5. (Name)
6. (Name)
7. (Name)

Name Holly L. Hillyer
Address 420 E. Front Street

City Traverse City State MI
Zip 49686 Phone (231) 709-4000
Email holly@tropospherelegal.com
Date 1/16/2025

<input type="checkbox"/> I am not an attorney
<input checked="" type="checkbox"/> I am an attorney whose:
Michigan Bar # is P- <u>85318</u>
_____ Bar # is: _____
(state)

Signature: _____

Save Form

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1. (Name) Sierra Club
2. (Name)
3. (Name)
4. (Name)
5. (Name)
6. (Name)
7. (Name)

Name Christopher M. Bzdok
Address 420 E. Front Street

City Traverse City State MI
Zip 49686 Phone (231) 709-4000
Email chris@tropospherelegal.com
Date 1/16/2025

<input type="checkbox"/> I am not an attorney
<input checked="" type="checkbox"/> I am an attorney whose:
Michigan Bar # is P- <u>53094</u>
<u></u> Bar # is: <u></u>
(state)

Signature: _____

Save Form

STATE OF MICHIGAN

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U-21806

PROOF OF SERVICE

On the date below, an electronic copy of **Petition to Intervene Out of Time by Sierra Club and Appearance of Christopher M. Bzdok and Holly L. Hillyer** was served on the following:

Name/Party	E-mail Address
Consumer Energy Company Anne M. Uitvlugt Bret A. Totoraitis Evan B. Keimach Gary A. Gensch Jr. Spencer A. Sattler Kelly Hall	mpsc.filings@cmsenergy.com anne.uitvlugt@cmsenergy.com bret.totoraitis@cmsenergy.com evan.keimach@cmsenergy.com gary.genschjr@cmsenergy.com spencer.sattler@cmsenergy.com kelly.hall@cmsenergy.com
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Michigan Attorney General Celeste R. Gill	gillcl@michigan.gov
Counsel for Association of Businesses Advocating Tariff Equity Stephen A. Campbell Michael J. Pattwell	scampbell@clarkhill.com mpattwell@clarkhill.com
Counsel for Energy Michigan, Inc. Laura A. Chappelle Justin K. Ooms Timothy J. Lundgren	lchappelle@potomaclaw.com jooms@potomaclaw.com tlundgren@potomaclaw.com

Counsel for The Ecology Center, Vote Solar, Environmental Law & Policy Center, and Union of Concerned Scientists, Inc. Daniel H.B. Abrams	dabrams@elpc.org
Counsel for Lansing Board of Water & Light and Michigan State University Nolan J. Moody Cole V. Lussier	nmoody@dickinsonwright.com clussier@dickinsonwright.com
Counsel for Retail Energy Supply Association Jennifer U. Heston	jheston@fraserlawfirm.com

The statements above are true to the best of my knowledge, information and belief.

TROPOSPHERE LEGAL, PLC
Counsel for SC

Date: January 16, 2025

By: _____
Natasha Fowles, Legal Assistant
420 E. Front St.
Traverse City, MI 49686
Phone: 231-709-4400
Email: natasha@tropospherelegal.com