

STATE OF MICHIGAN
DEPARTMENT OF ATTORNEY GENERAL



WILLIAM J. RICHARDS
Deputy Attorney General

P.O. Box 302 18
LANSING, MICHIGAN 48909

JENNIFER MULHERN GRANHOLM
ATTORNEY GENERAL

June 29, 2000

Ms. Dorothy Wideman
Executive Secretary
Michigan Public Service Commission
6545 Mercantile Way
Lansing, MI 48911

Dear Ms. Wideman:

Re: **MPSC Case No. U-12358**

I am enclosing for filing an original and 4 copies of the Notice of Intervention by Attorney General Jennifer M. Granholm. I am also enclosing a proof of service. In addition, a copy of this filing is being submitted electronically pursuant to the instructions in the Commission's notice of hearing

Sincerely,

A handwritten signature in cursive script that reads "Donald E. Erickson".

Donald E. Erickson
Assistant Attorney General

c All Parties
sld/cases/U-12358

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the application of
CONSUMERS ENERGY COMPANY to
recover implementation costs for the period Case No. U-12358
ended December 31, 1999

_____/

Notice of Intervention
by Attorney General Jennifer M. Granholm

Now comes Attorney General Jennifer M. Granholm and gives notice of her intervention as a party and of her appearance in this proceeding. In response to the application filed by Consumers Energy Company (CECo or the Company) and the notice of hearing issued by the Michigan Public Service Commission (MPSC or Commission), the Attorney General says:

I. Statement of Interest

1. She is the duly elected and qualified Attorney General of the State of Michigan and holds such office by virtue of and pursuant to Const 1963, art 5, § 21, and by mandate of the qualified electorate of the State of Michigan, and she is head of the Department of Attorney General created by the Executive Organization Act, 1965 PA 380, ch 3; MCL 16.150; MSA 3.29(5), and The State of Michigan is a body politic established under the Constitution of the United States and admitted into the Union by act of Congress under date of January 26, 1837.

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 CECo. CECo has approximately 1.6 million ratepayers. The interest of these ratepayers is a public one, being common among virtually all electric ratepayers in CECo's service area. The State of Michigan is a substantial user of and ratepayer for CECo's electricity services.

3. The Attorney General's intervention and appearance in this proceeding are authorized by both the statutory and common law of Michigan. MCL 14.28; MSA 3.181 provides in pertinent part:

"... the 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 in any administrative proceeding when 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 Hospital Authority*, 8 Mich App 56; 153 NW2d 377 (1967).

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

4. The Attorney General, in her judgment, 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 a large number of the People of this State who are customers of CECo. The State and correspondingly the taxpayers of this State pay significant amounts for utility service for the State in the conduct of the People's affairs. In addition, the People of this State who are customers of CECo also pay large sums for utility service for their homes and businesses. Any action taken in this proceeding will directly

affect both the economy of the state and the general well-being of all of the citizens and residents of this State.

II. Statement of Positions

5. The Attorney General takes the position that CECo has the burden of proving it actually and reasonably and prudently incurred \$30.2 million in electric restructuring implementation costs.

6. The Attorney General takes the position that the MPSC should audit and verify CECo's claimed implementation costs and should hold hearings in this case to examine those cost for reasonableness and prudence.

7. The Attorney General takes the position that prior to the passage of 2000 PA 141 and prior to the MPSC's order dated August 17, 2000, in Case Nos. U-11290 *et al.*, CECo did not justifiably rely upon the the June 5, 1997, Opinion and Order in U-11290 because CECo challenged the MPSC's power to issue that order.

8. The Attorney General takes the position that implementation cost recovery should not be allocated to all customers as proposed by CECo.

9. The Attorney General takes the position that to the extent that CECo is entitled to recover 1999 implementation costs recovery of those costs over a period of only 12 months is unreasonable because many of those costs would be capitalized and relate to capital assets which have a useful life of more than 12 months.

Relief Requested

WHEREFORE, Attorney General Jennifer M. Granholm requests the Michigan Public Service Commission to:

- A. Enter her Notice of Intervention upon the official record of the captioned proceeding and treat her as a party for all purposes;
- B. Conduct proceedings in this case in a manner consistent with prior MPSC orders; and
- C. Grant the ratepayers of Consumers Energy Company such further and additional relief as the facts and circumstances show to be appropriate.

Respectfully submitted,

JENNIFER M. GRANHOLM
Attorney General

J. Peter Lark (P26970)
Assistant in Charge
Special Litigation Division

Donald E. Erickson

Donald E. Erickson (P13212)
Assistant Attorney General

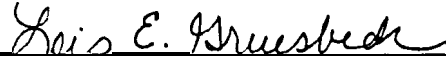
6520 Mercantile Way, Suite 2
P. O. Box 30218
Lansing, Michigan 48909
(517) 373-1123

Dated: June 29, 2000
sld/cases/U-12358

PROOF OF SERVICE

MPSC Case No. U-12358

The undersigned certifies that a copy of the Notice of Intervention by Attorney General Jennifer M. Granholm was served upon the parties listed below by mailing the same to them at their respective addresses with first class postage fully prepaid thereon, or by State Interdepartmental mail as indicated, on the 29th day of June 2000.



Lois E Gruesbeck

Administrative Law Judge:

ALJ James N. Rigas (P23155)
Michigan Public Service Commission
6545 Mercantile Way, Suite 14
P. O. Box 30221
Lansing, MI 48909 **[I. D. Mail]**

The Detroit Edison Company (DECo):

Mr. Bruce R. Maters (P28080)
Mr. Jon P. Christinidis (P47352)
The Detroit Edison Company
2000 Second Avenue, 688 WCB
Detroit, MI 48226

Mr. William K Fahey
Foster, Swift, Collins & Smith PC
313 S. Washington Square
Lansing, MI 48933

Residential Ratepayer Consortium (RRC):

Mr. David L. Shaltz (P29330)
Ms. Diane R. Royal (P39965)
Shaltz & Royal, P.C.
3303 W Saginaw, Suite C-1
Lansing, MI 48917

MPSC Staff:

Mr. Stephen Hughey (P32230)
Assistant Attorneys General
Public Service Division
6545 Mercantile Way, Suite 15
Lansing, MI 48911 **[I.D. MAIL]**

Consumers Energy Company (CECo):

Mr. Jon R. Robinson (P27953)
Consumers Energy Company
212 W. Michigan Avenue
Jackson, MI 49201

Association of Businesses Advocating Tariff Equity (ABATE):

Mr. Robert A. W. Strong (P27724)
Clark Hill, P.L.C.
255 S. Woodward Ave., Third Floor
Birmingham, MI 48009

Mr. Roderick S. Coy (P12290)
Clark Hill P.L.C.
2455 Woodlake Circle
Okemos, MI 48864-5941

**Competitive Utility Tariffs Inc (CUT)
first Power ,L.L.C.:**

Mr. William R. Ralls (P19203)
Mr. Leland R. Rosier (P33827)
Kelley, Cawthorne & Ralls
120 N. Washington Square, Suite 1050
Lansing, MI 48933

Shell Western E & P Inc.:

Mr. Glen A. Schmiede (P37112)
Foster, Swift, Collins & Smith PC
313 S. Washington Square
Lansing, MI 48933

**Michigan Public Power Agency
Michigan South Central Power Agency
City of Detroit Public Lighting Dept.:**

Mr. Peter H. Ellsworth (P23657)
Mr. Edward R. Becker (P51398)
Dickinson, Wright, Moon, Van Dusen
& Freeman
215 S. Washington Square, Suite 200
Lansing, MI 48933

Indiana Michigan Power Company:

Mr. James A. Ault (P30201)
Loomis, Ewert, Parsley, Davis
& Gotting P.C.
232 S. Capitol Ave., Suite 1000
Lansing, MI 48933

Wisconsin Public Service Corporation:

Mr. Harvey J. Messing (P23309)
Ms. Sherri A. Wellman (P38989)
Loomis, Ewert, Parsley, Davis
& Gotting, P.C.
232 S. Capitol Avenue, Suite 1000
Lansing, MI 48933

MPA/MACS:

Mr. Don L. Keskey (P23003)
Knaggs, Harter, Brake & Schneider, P.C.
1375 S. Washington Ave., Suite 300
Lansing, MI 48910

**Midland Cogeneration Venture
Limited**

Partnership (MCV):

Mr. Stephen O. Schultz (P29084)
Foster, Swift, Collins & Smith PC
313 S. Washington Square
Lansing, MI 48933

The Dow Chemical Company

DowElanco:

Mr. David E. S. Marvin (P26564)
Frasier, Trebilcock, Davis & Foster, P.C.
1000 Michigan National Tower
Lansing, MI 48933

**Michigan Community Action Agency
Association (MCAAA):**

Mr. Brian W. Coyer (P48909)
Mr. Christopher Ammerman (P51441)
Knaggs, Harter, King & Brake
1375 S. Washington Avenue, Suite 300
Lansing, MI 48910

MidCon Gas Services Corp.

MC², Inc.:

Mr. Thomas J. Augspurger (P47147)
MidCon Gas Services Corp.
Office of General Counsel
701 East 22nd Street
Lombard, IL 60148-5072

**Michigan Independent Power Ass'n
NIPSCO Energy Services Co., Inc.:**

Mr. Ronald E. Russell (P41595)
Russell & Russell, P.C.
525 Okemos Road, Suite B
Mason, MI 48854

Energy Michigan:

Mr. Eric J. Schneidewind (P20037)
Varnum, **Riddering**, Schmidt &
Howlett, LLP
The Victor Center Suite 810
201 N. Washington Square
Lansing, **MI** 48933

North American Natural Resources et

al:

Mr. Thomas J. Waters (P37829)
Fraser Trebilcock Davis & Foster, P.C.
1000 Michigan National Tower
Lansing, MI 48933