

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the rates, terms, and conditions)
for retail customers of **CONSUMERS ENERGY**)
COMPANY to choose an alternative electric)
supplier.)
_____)

Case No. U-12488

At the April 26, 2002 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. Laura Chappelle, Chairman
Hon. David A. Svanda, Commissioner
Hon. Robert B. Nelson, Commissioner

OPINION AND ORDER

On December 20, 2001, the Commission approved retail open access (ROA) tariffs for Consumers Energy Company (Consumers). On January 22, 2002, Energy Michigan filed a petition for rehearing on five issues. On February 12, 2002, Consumers filed a response. On February 13, 2002, the Association of Businesses Advocating Tariff Equity filed a response in support of Energy Michigan's petition and a motion for the Commission to accept its late filing.

Rule 403 of the Commission's Rules of Practice and Procedure, 1992 AACS, R460.17403, provides that a petition for rehearing may be based on claims of error, newly discovered evidence, facts or circumstances arising after the hearing, or unintended consequences resulting from compliance with the order. A petition for rehearing is not merely another opportunity for a party to argue a position or to express disagreement with the Commission's decision. Unless a party can

show the decision to be incorrect or improper because of errors, newly discovered evidence, or unintended consequences of the decision, the Commission will not grant a rehearing.

Waiver of Telemetry

Energy Michigan requests that the Commission modify the order by waiving the requirement of telemetry for ROA customers with loads of less than 1,000 kilowatts (kW). It notes that the Commission waived a similar requirement for customers of The Detroit Edison Company (Detroit Edison), and says that a waiver is necessary to ensure that ROA service commences within 45 days, as the order contemplated.

Consumers responds that Energy Michigan failed to present any evidence on this proposal and raised it for the first time in its brief, primarily in the context of arguing that Detroit Edison's telemetry requirement was causing enrollment delays. It says that the concern about enrollment delays was addressed by imposing a requirement that Consumers complete enrollments within 45 days. Further, it says that telemetry is necessary to permit it to read all ROA meters within a day or two of the end of the month, as required to comply with the Open Access Transmission Tariff that was approved by the Federal Energy Regulatory Commission. In addition, it says that the cost of manually reading all ROA meters within a few days, as well as the better balancing of load and generation that is possible with telemetry, justifies the requirement regardless of how the issue is handled for Detroit Edison.

The Commission finds that the telemetry requirement of the December 20 order is appropriate and should not be changed. Further, the Commission is reinstating the requirement for Detroit Edison's ROA customers in today's order in Case No. U-12489.

Credit Requirement

Energy Michigan requests that the Commission clarify that 24 months of good payment history as a sales customer or as an ROA customer will satisfy the credit requirement of the tariff.

Consumers responds that the disputed provision is found in the retailer section of the tariff and applies only to transmission-related charges. It says that the paragraph that refers to distribution-related charges was included in that portion of the tariff because, until January 1, 2002, retailers had been paying the transition charge, which was considered a distribution charge. It suggests that the paragraph could be deleted, although it would prefer to retain the provision because retailers might pay distribution-related charges in the future.

The Commission finds that the tariff provision lends itself to ambiguity. For clarity, and to accommodate Consumers' preference to keep a provision that may be needed at a later date, the Commission concludes that Consumers should add language to clarify that 24 months of good payment history need not be accumulated solely as an ROA customer.

Standby Service

Energy Michigan requests that the Commission clarify that marketers with transmission service agreements, as well as retailers and ROA customers, may purchase standby service.

Consumers responds that the tariff permits marketers who enter into transmission service agreements for resale to retailers to purchase standby service.

With that clarification by Consumers, the Commission finds that the tariff need not be changed.

Rate Reduction Equalization

Energy Michigan says that tariffs attached to the order did not include the rate reduction equalization credit for residential customers.

Consumers responds that the tariffs filed on January 18, 2002 include the credit.

The Commission agrees that the filed tariffs include the credit.

Enrollment Deadline

Energy Michigan requests that the Commission clarify that the 45-day enrollment deadline is to be measured in calendar days rather than business days.

Consumers responds that any ROA tariff reference to "days" means calendar days unless otherwise indicated.

With that clarification by Consumers, the Commission finds that the tariff need not be changed.

The Commission FINDS that:

a. Jurisdiction is pursuant to 1909 PA 106, as amended, MCL 460.551 et seq.; 1919 PA 419, as amended, MCL 460.51 et seq.; 1939 PA 3, as amended, MCL 460.1 et seq.; 1969 PA 306, as amended, MCL 24.201 et seq.; and the Commission's Rules of Practice and Procedure, as amended, 1992 AACS, R 460.17101 et seq.

b. Energy Michigan's petition for rehearing should be denied in part and granted in part.

THEREFORE, IT IS ORDERED that Energy Michigan's petition for rehearing is denied except as it relates to the clarifications set forth above.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26.

MICHIGAN PUBLIC SERVICE COMMISSION

/s/ Laura Chappelle
Chairman

(S E A L)

/s/ David A. Svanda
Commissioner

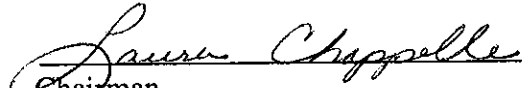
/s/ Robert B. Nelson
Commissioner

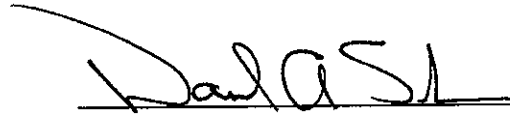
By its action of April 26, 2002.

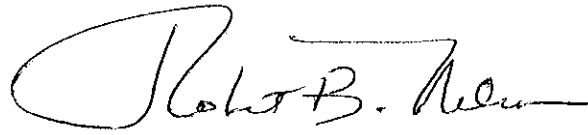
/s/ Dorothy Wideman
Its Executive Secretary

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26.

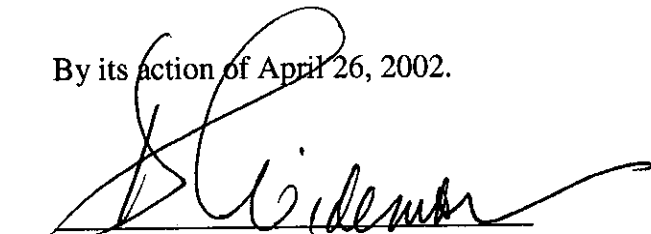
MICHIGAN PUBLIC SERVICE COMMISSION


Chairman


Commissioner


Commissioner

By its action of April 26, 2002.


Its Executive Secretary

PROOF OF SERVICE

STATE OF MICHIGAN)

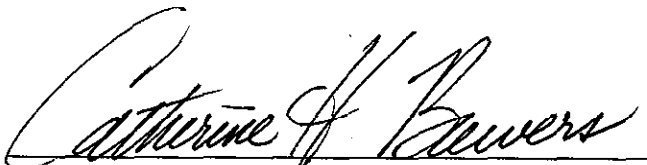
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County of Ingham)

Susan Smith, being duly sworn, deposes and says that on April 26, 2002, A.D. she served a copy of the attached order, by mailing copies thereof by first class mail, postage prepaid, or by inter-departmental mail, to the persons as shown on the attached service list.

A handwritten signature in cursive script, appearing to read "Susan Smith", written over a horizontal line.

Subscribed and sworn to before me
this 26th day of April 2002

A handwritten signature in cursive script, appearing to read "Catherine H. Bowers", written over a horizontal line.

Notary Public, in Eaton County, Michigan.
Acting in Ingham County
My Commission expires November 22, 2004

SERVICE LIST FOR DOCKET # U - 12488-
DATE OF PREPARATION: 04/12/2002

CASE #

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