

STATE OF MICHIGAN
DEPARTMENT OF ATTORNEY GENERAL



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JENNIFER MULHERN GRANHOLM
ATTORNEYGENERAL

July 13, 2000

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

Dear Ms. Wideman:

Re: MPSC Case No. U-12505

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 black ink that reads "Donald E. Erickson".

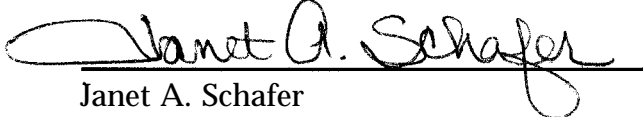
Donald E. Erickson
Assistant Attorney General

c All Parties
sld/cases/U-12505

PROOF OF SERVICE

MPSC Case No. U-12505

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 13th day of July 2000.


Janet A. Schafer

Administrative Law Judge:

ALJ George Schankler (P23237)
Michigan Public Service Commission
6545 Mercantile Way, Suite 14
P. O. Box 30221
Lansing, MI 48909 [I. D. Mail]

MPSC Staff:

Mr. Stephen Hughey (P32230)
Assistant Attorneys General
Public Service Division
6545 Mercantile Way, Suite 15
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**Residential Ratepayer Consortium
(RRC):**

Mr. David L. Shaltz (P29330)
Ms. Diane R. Royal (P39965)
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Consumers Energy Company (CECo):

Mr. Jon R. Robinson (P27953)
Consumers Energy Company
212 W. Michigan Avenue
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**Michigan Community Action Agency
Association (MCAAA):**

Mr. Brian W. Coyer (P48909)
Mr. Christopher Ammerman (P51441)
Knaggs, Harter, King & Brake
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**Association of Businesses Advocating
Tariff Equity (ABATE):**

Mr. Robert A. W. Strong (P27724)
Clark Hill, P.L.C.
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Shell Western E & P Inc.:

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Mr. Roderick S. Coy (P12290)
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**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)
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Indiana Michigan Power Company:

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MPA/MACS:

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**Midland Coeneration Venture
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**The Dow Chemical Company
DowElanco:**

Mr. David E. S. Marvin (P26564)
Frasier, Trebilcock, Davis & Foster, P.C.
1000 Michigan National Tower
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**Michigan Independent Power Ass'n
NIPSCO Energy Services Co., Inc.:**

Mr. Ronald E. Russell (P41595)
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**North American Natural Resources et
al:**

Mr. Thomas J. Waters (P37829)
Fraser Trebilcock Davis & Foster, P.C.
1000 Michigan National Tower
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STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the Matter of the Application of
Consumers Energy Company for a Financing
Order Approving the Securitization of its
Regulatory Assets and other Qualified Costs

MPSC Case No. U-12505

**Notice of Intervention
by Attorney General Jennifer M. Granholm**

Attorney General Jennifer M. Granholm 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 not all regulatory assets carried on the books of CECo are qualified costs within the meaning of 1939 PA 3, §10h(g), as added by 2000 PA 142

6. The Attorney General takes the position that under §10h(g)CECo must prove by a preponderance of the evidence that the regulatory assets the Company proposes to include in its qualified costs are within the scope of regulatory assets defined by the MPSC's previous orders as stranded costs.

7. The Attorney General takes the position that CECo must prove by a preponderance of the evidence that CECo would be unlikely to collect any other costs which the Company proposes to include in its qualified costs in a competitive market, i.e., that those costs would be part of CECo's net stranded costs referred to in 1939 PA 3, §10a(1), as added by 2000 PA 141.

8. The Attorney General takes the position that under 1939 PA 3, §10i(1), as added by 2000 PA 142, CECo must prove by a preponderance of the evidence that the net present value of the revenues to be collected under a financing order in this case is less than the amount that would be recovered by CECo over the remaining life of the qualified costs using conventional financing methods.

9. The Attorney General takes the position that under 1939 PA 3, §10i(2)(a), as added by 2000 PA 142, CECo must prove by a preponderance of the evidence that the Company will use the proceeds of securitization bonds solely for the purposes of the refinancing or retirement of debt or equity.

10. The Attorney General takes the position that under 1939 PA 3, §10i(2)(b), as added by 2000 PA 142, CECo must prove by a preponderance of the evidence that its securitization proposal provides tangible and quantifiable benefits to CECo's electric customers.

11. The Attorney General takes the position that under 1939 PA 3, §10i(2)(c), as added by 2000 PA 142, CECo must prove by a preponderance of the evidence that the expected structuring and expected pricing of the securitization bonds will result in the lowers securitization charges consistent with market conditions and the terms of the Company's proposed financing order.

12. The Attorney General takes the position that under 1939 PA 3, §10i(2)(d), as added by 2000 PA 142, CECo must prove by a preponderance of the evidence that the amount securitized does not exceed the net present value of the revenue requirement over the life of the proposed securitization bonds associated with the qualified costs sought to be securitized.

13. The Attorney General takes the position that under 1939 PA 3, §10k(3), as added by 2000 PA 142, CECo's proposed financing order must include a mechanism requiring that securitization charges be reviewed and adjusted by the cornmission at least annually, within 45 days of the anniversary date of the issuance of securitization bonds, to correct any overcollections or undercollections of the preceding 12 months and to ensure the expected recovery of amounts sufficient to timely provide all payments of debt service and other required amounts and charges in connection with the securitization bonds. The Attorney General takes the position that CECo's proposed capital subaccount mechanism does not satisfy the statutory requirements, will not permit adequate review by the MPSC, and would probably result in CECo's retention of any overcollections.

14. The Attorney General takes the position that for future references the format of the statutory references in CECo's application is slightly inaccurate. 2000 PA 141 adds new sections 10, 10a, 10b, 10c, 10d, 10e, 10f, 10g, 10p, 10q, 10r, 10s, 10t, 10u, 10v, 10w, 10x, 10y, 10aa, 10bb, and 10cc to 1939 PA 3. Therefore, those section numbers are section numbers of 1939 PA 3, not section numbers of 2000 PA 141. Likewise, 2000 PA 142 adds sections 10h, 10i, 10j, 10k, 10l, 10m, 10n, 10o, and 10z to

1939 PA 3, and those section numbers are section numbers of 1939 PA 3, not section numbers of 2000 PA 142. For purposes of accurate reference to the applicable statutes, section references should be to 1939 PA 3, not to 2000 PA 141 or 2000 PA 142.

Relief Reauested

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 the new statutory provisions added by 2000 PA 141 and/or 2000 PA 142; 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

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Assistant in Charge
Special Litigation Division

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Dated: July 13, 2000
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