

STATE OF MICHIGAN  
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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| In the matter, on the Commission's own motion, | ) |                  |
| to establish uniform terms and conditions for  | ) |                  |
| the provision of voluntary gas customer choice | ) | Case No. U-12550 |
| programs offered in Michigan.                  | ) |                  |
| _____                                          | ) |                  |

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| In the matter of the application of               | ) |                  |
| <b>CONSUMERS ENERGY COMPANY</b>                   | ) |                  |
| for authority to increase its rates for the       | ) | Case No. U-13000 |
| distribution of natural gas and for other relief. | ) |                  |
| _____                                             | ) |                  |

At the August 16, 2001 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

**ORDER ON REHEARING AND CLARIFICATION**

In its July 11, 2001 order in Case No. U-12550, the Commission directed Consumers Energy Company (Consumers) to file an unbundled cost of service allocation study in its recently filed gas rate proceeding, Case No. U-13000. The Commission also directed each gas utility subject to the Commission's rate jurisdiction to file such a study prior to or with the filing of its next general rate case, but in no event later than January 1, 2005.

On July 25, 2001, Consumers filed a motion for clarification, modification, or rehearing. Consumers seeks confirmation of its understanding that the July 11 order seeks information to aid the Commission in a future determination of whether specific identified services should be

unbundled. In addition, Consumers expresses concern that the filing of the study could delay completion of Case No. U-13000. Consumers notes that Commission Guideline 1991-1 sets forth the objective of completing rate cases within nine months. In order to avoid delaying its general rate case, Consumers proposes that the cost allocation study be considered in another proceeding. Responses to Consumers' petition were due on August 15, 2001. None were filed.

On August 10, 2001, the Michigan Electric and Gas Association and SEMCO Energy Gas Company (collectively, MEGA) filed a motion for modification or rehearing. MEGA contends that the Commission has ordered the filing of cost studies without the concurrence of its members and has conferred the right to use those studies on any party to its rate cases. MEGA argues that the Commission cannot order unbundling unless the utility volunteers to do so and that its members do not presently propose to do so.

Rule 403 of the Commission's Rules of Practice and Procedure, 1992 AACRS, 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.

Consumers seeks clarification that the July 11 order seeks information to aid the Commission in a future determination of whether specific identified services should be unbundled. Consumers' proposed clarification is correct. The July 11 order provides an efficient administrative process for developing cost of service information for use in each utility's rate case. It does not involve a

determination that any specific service should be unbundled, but leaves those issues for consideration in each utility's rate case.

Consumers also proposes that the cost of service study be considered in another proceeding in order to avoid delaying Case No. U-13000. The Commission declines to do so. This approach would result in two parallel proceedings involving similar and potentially overlapping issues. It is doubtful that such a process would result in efficient use of the administrative resources of the Commission and the parties. However, the Commission intends that the filing of the cost of service study not unduly delay Case No. U-13000. The July 11 order is designed to promote the efficient processing of general rate cases. Accordingly, the Administrative Law Judge in Case No. U-13000 should establish a schedule consistent with that set forth in Guideline 1991-1.

The Commission denies the remaining request for rehearing. As noted above, the July 11 order requires the filing of unbundled cost of service allocation studies in order to permit the efficient processing of future general rate case applications. Hypothetical arguments about whether a given utility might voluntarily agree to offer specific unbundled services under yet to be determined rates, terms, and conditions, and what statutory jurisdiction the Commission might have under such hypothetical circumstances are irrelevant at this time. The information to be filed in the studies is relevant information that could be obtained by discovery in the utility's rate case. By requiring the filing of the study prior to or contemporaneously with the filing of the utility's request for a general rate increase, the processing of that proceeding will be expedited. Issues relating to the Commission's jurisdiction to order unbundling under a given set of circumstances should be addressed when the Commission has before it a specific request to do so. Such decisions cannot be made in a vacuum.

The Commission FINDS that:

- a. Jurisdiction is pursuant to 1909 PA 300, as amended, MCL 462.2 et seq.; MSA 22.21 et seq.; 1919 PA 419, as amended, MCL 460.51 et seq.; MSA 22.1 et seq.; 1939 PA 3, as amended, MCL 460.1 et seq.; MSA 22.13(1) et seq.; 1969 PA 306, as amended, MCL 24.201 et seq.; MSA 3.560(101) et seq.; and the Commission's Rules of Practice and Procedure, as amended, 1992 AACCS, R 460.17101 et seq.
- b. Consumers' request for clarification should be granted.
- c. The requests for rehearing should be denied.
- d. The Administrative Law Judge in Case No. U-13000 should establish a schedule consistent with that set forth in Guideline 1991-1.

THEREFORE, IT IS ORDERED that:

- A. The request for clarification filed by Consumers Energy Company is granted.
- B. The motions for rehearing are denied.

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; MSA 22.45.

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 August 16, 2001.

/s/ Dorothy Wideman  
Its Executive Secretary

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MICHIGAN PUBLIC SERVICE COMMISSION

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By its action of August 16, 2001.

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Its Executive Secretary

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programs offered in Michigan. )

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Case No. U-12550

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. )

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Case No. U-13000

Suggested Minute:

“Adopt and issue order August 16, 2001 granting the request for clarification by Consumers Energy Company and denying the motions for rehearing, as set forth in the order.”