

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.)
_____)

Case No. U-13000

At the May 16, 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

ORDER DENYING REHEARING

On January 18, 2002, Thomas C. DeWard filed a petition for rehearing, pursuant to R 460.17403, of the Commission's December 20, 2001 order that granted Consumers Energy Company (Consumers) interim rate relief in the annual amount of \$15,380,000 in this proceeding. On February 8, 2002, Consumers filed an answer to Mr. DeWard's petition for rehearing.

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.

The Commission is not persuaded that its December 20, 2001 order should be reconsidered because it finds that Mr. DeWard's petition fails to meet the standard set forth in Rule 403. Nothing in Mr. DeWard's petition convinces the Commission that it acted incorrectly in granting interim rate relief to Consumers or that it improperly rejected Mr. DeWard's two alternative positions on interim relief, both of which proposed interim rate reductions.

The parties, including Mr. DeWard, were afforded an opportunity to a hearing as required by MCL 460.6a(1). After reviewing the evidence submitted at that hearing, the Commission found that the record supported an interim rate increase of \$15,380,000, which was conditioned on Consumers' collection of rates under bond and subject to refund.

Contrary to Mr. DeWard's assertions, MCL 460.6a(1) does not require the Commission to adhere to any specific ratemaking methodology or formula. Rather, the Commission has significant latitude in ruling on requests for interim relief. Attorney General v Public Service Comm, 63 Mich App 69; 234 NW2d 437 (1975). Likewise, MCL 460.6a(1) does not obligate the Commission to engage in the comprehensive issue review process proposed by Mr. DeWard. Such a complex review of a utility's request for interim rate relief would clearly frustrate the legislative intent underlying adoption of MCL 460.6a(1), which was designed to protect a utility from financial hardship until final rate relief can be obtained through a fully litigated rate case. In any event, MCL 460.6a(1) simply does not authorize the Commission to order an interim rate reduction as proposed by Mr. DeWard in response to a utility's request for an interim rate increase.

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 AACCS, R 460.17101 et seq.

b. The petition filed by Mr. DeWard seeking rehearing of the December 20, 2001 order granting interim rate relief to Consumers should be denied.

THEREFORE, IT IS ORDERED that the petition filed by Thomas C. DeWard seeking rehearing of the December 20, 2001 order granting interim rate relief to Consumers Energy Company is 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.

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 May 16, 2002.

/s/ Dorothy Wideman
Its Executive Secretary

amended, MCL 24.201 et seq.; and the Commission's Rules of Practice and Procedure, as amended, 1992 AACCS, R 460.17101 et seq.

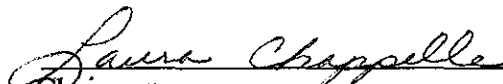
b. The petition filed by Mr. DeWard seeking rehearing of the December 20, 2001 order granting interim rate relief to Consumers should be denied.

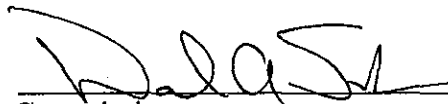
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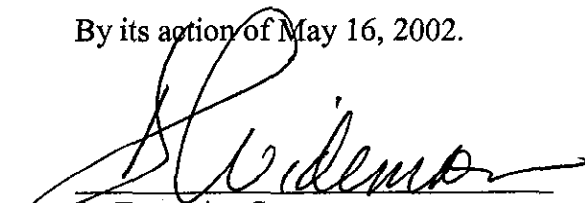
MICHIGAN PUBLIC SERVICE COMMISSION


Chairman


Commissioner


Commissioner

By its action of May 16, 2002.


Its Executive Secretary

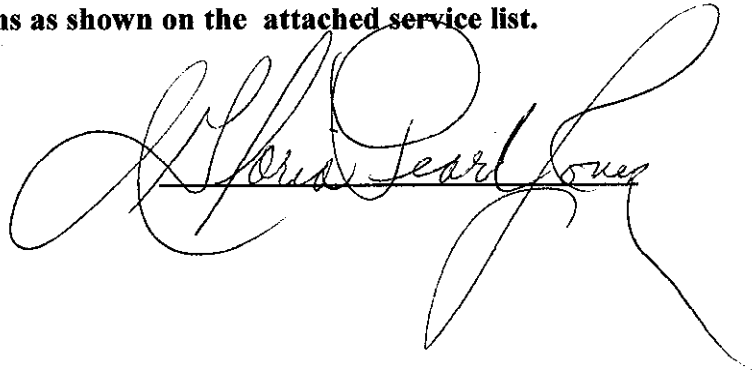
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STATE OF MICHIGAN)

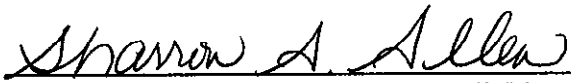
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County of Ingham)

Gloria P. Jones being duly sworn, deposes and says that on May 20, 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 large, stylized handwritten signature in black ink, which appears to read "Gloria P. Jones", is written over a horizontal line.

Subscribed and sworn to before me
this 20th day of May 2002


Notary Public, Ingham, County, Michigan
My Commission expires August 16, 2004

SERVICE LIST FOR DOCKET # U - 13000-
DATE OF PREPARATION: 05/20/2002

CASE #

MR. THOMAS C. DEWARD
25806 GLOVER COURT
FARMINGTON HILLS MI 48335

MR. THOMAS MCNISH
CONSUMERS ENERGY COMPANY
212 W. MICHIGAN AVENUE
JACKSON MI 49201

MR. DONALD E. ERICKSON
ASSISTANT ATTORNEY GENERAL
SPECIAL LITIGATION DIVISION
6520 MERCANTILE WAY, SUITE 1
LANSING MI 48910
ID MAIL

MR. STEVEN D. HUGHEY
ASSISTANT ATTORNEY GENERAL
6545 MERCANTILE WAY, 2ND FLOOR
LANSING MI 48910
ID MAIL

MR. ROBERT A. STRONG
CLARK HILL PLC
255 S. WOODWARD AVE.
SUITE 301
BIRMINGHAM MI 48009

MR. JON R. ROBINSON
CONSUMERS ENERGY COMPANY
212 W. MICHIGAN AVENUE
JACKSON MI 49201

MR. JOHN M. DEMPSEY
DICKINSON WRIGHT PLLC
215 S. WASHINGTON AVENUE, SUITE 200
LANSING MI 48933

MR. MICHAEL J. BROWN
HOWARD & HOWARD
222 WASHINGTON SQUARE, SUITE 500
LANSING MI 48933 1817

MR. JOSEPH H. FIELDS
JOSH FIELDS & ASSOCIATES
4700 SOUTH HAGADORN ROAD
SUITE 195
EAST LANSING MI 48823

MR. DANIEL E. NICKERSON, JR.
PSC ALJ DIVISION
6545 MERCANTILE WAY
LANSING MI 48909
ID MAIL