

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)
generation and distribution of electricity)
and for other relief.)

Remand Case No. U-15645

PETITION TO INTERVENE OF MICHELLE RISON

Michelle Rison, appearing in pro per, hereafter referred to as "Petitioner", submits this petition to intervene in and become a party in this case, reopened on October 17th, 2013, and to intervene pursuant to Rule 201(1) of the Rules of Practice and Procedure Before the Commission.

I. Basis for Adding New Intervener(s) to Existing Case

1. Because intervention is being sought in a general rate case that had begun in November 2008, it may be necessary to state the reasons why justice may require the admission of one or more additional interveners now that the case has been reopened pursuant to an October 30th, 2012 unpublished remand Order of the Michigan Court of Appeals, Appeal File No 295287.
2. While it may not be customary for additional interveners, not involved in the original proceeding, to be added at the time of reopening a case on remand, Petitioner can find no rule in the "Rules of Practice Before the Commission" that would preclude an intervener from being added to a reopened case, particularly where a pre hearing conference has yet to take place and no schedule of direct testimony, cross examinations or briefs has yet been established for the reopened case.

3. The Appeals Court, following the precedent set in *In re Detroit Edison Co Applications*, 296 Mich App at 115, stated

“...we remand this case to the PSC for full hearing on the AMI program to consider “evidence related to the benefits, usefulness, and potential burdens of the AMI, specific information gleaned from pilot phases of the program The Appeals Court, following the precedent set in *In re Detroit Edison Co* regarding costs, operations, and customer response and impact, an assessment of similar programs initiated here or in other states, risks associated with AMI, and projected effects on rates.”

During the original proceedings on this case, none of the parties or interveners addressed the “*risks associated with AMI*”, particularly as related to health dangers to the public, privacy dangers or risks to the security of the entire electrical grid. None addressed the “*burdens of AMI*” upon the customers other than the purely financial costs vs. alleged financial benefits (which the pilot studies failed to demonstrate).

4. Those persons who might have intervened in the original case to raise those issues, including this petitioner, were denied fair opportunity to do so at the inception of the case because of the failure of the public notice to forthrightly identify that Consumers Energy was, in effect, seeking *approval from the Commission for a radically new technology* that will intimately and directly impact the lifestyles of all customers. There was no notice, either in the Commission’s Notice of Hearing or in the public notices printed by Consumers Energy in newspapers that anything impacting residential customers, other than a minor monthly rate increase, was to be considered in this case.

5. The issue here is that the “Notice of Hearing” which Consumers Energy was ordered by the Commission to publish in local newspapers and distribute to city governments made no mention that this case was to deal with “smart meters” or “smart grid” or “AMI metering”. In docket entry no. 7 of the original proceedings in this reopened case may be found a letter from the Commission’s Executive Secretary dated September 25th, 2012, to a Mr. Raymond E. McQuillan of Consumers Energy directing the Company to publish a notice and specifying the exact content and form of the notice. The notice goes into considerable detail as to what the case will be about and makes no mention of the AMI issues that petitioners now seek to raise as interveners in this case. This is curious because *these issues, involving health, safety and privacy, are qualitatively different from all the other kinds of issues mentioned in the notice* and would, if mentioned, have drawn the attention and participation of a distinctly different segment of the public.

6. Appellants note that general rate cases, by their very nature, involve complex accounting concepts that are going to be unfamiliar to most lay persons, and that the pre-filed testimonies and other evidence submitted in general rate cases tends to be voluminous and not readily comprehensible by lay members of the public. As a result the formal interveners in such cases tend, almost always, to be large organizations that can afford to be represented by attorneys and accountants. But Consumers Energy intended to get ongoing approval for its massive deployment of a new technology in this case. These issues are so qualitatively different from most other issues in general rate cases as to require separate mention in the

Notice of Hearing so that those members of the public who are passionately interested in these matters would have a way of knowing that they should intervene.

7. Petitioner argues that the inclusion of one or more new interveners will materially contribute to the likelihood that the reopened case will fulfill the mandate laid down by the Court of Appeals.
8. Therefore, Petitioner urges the Commission to avoid the injustice that excluding new interveners would cause. In further support of this petition, Petitioner represents that the rights and interests of this Petitioner, the grounds of the proposed intervention and Petitioner's position in the proceedings are as follows:

II. Statement of Rights and Interests

9. Petitioner is a residential customer of Consumers Energy, with a residence in Spring Lake, Michigan at which address she takes electrical service. As a customer, she is affected by any change in rates and by any change in terms or conditions of service.
10. Petitioner asserts that she has certain rights or a protected legal interest as an electrical customer under the contract for electrical service known as the "tariff" or "Rate Book". This document is the contract between Consumers Energy and its electrical customers, as approved by the Michigan Public Service Commission following contested case procedures, as required by due process of law. Petitioner alleges that her rights under the existing contract have been violated because Consumers Energy is seeking in this case approval to force a new device not authorized in the then existing tariff for the time period covered by this rate case.

Further Consumers shows clear intent to make acceptance of such device a condition of service without seeking any modification in its tariff that would allow for such a condition of service.

11. Petitioner asserts that, regardless of any opt-out provision that might be available to an individual homeowner, the entire rollout of AMI meters creates an environment that severely and immediately limits the life activities of electro-sensitive persons. The limitations created diminish the opportunities for such persons to find employment, patronize stores, visit their health care providers and much else.
12. Petitioner asserts that she is an electro-sensitive person who will argue and present evidence on behalf of herself and similarly handicapped persons. She will argue that she and others similarly affected are entitled to protection under the Americans with Disability Act (ADA) or under the Persons With Disabilities Civil Rights Act (PWDCRA). Persons with disabilities are entitled to “reasonable accommodation” under these acts.
13. Petitioner will argue that the health dangers caused by AMI meters are not limited to electro-sensitive persons, and will present evidence that this technology places the entire population at long term risk for cancer and for neurological illnesses.
14. Petitioner asserts that the attachment of this device to her own home poses an immediate threat to her privacy and greatly increases her exposure to electromagnetic radiation and that she has a protected legal interest with respect to the invasion of her home under Michigan tort law.
15. Petitioner asserts that she has a protected legal interest under the Fourth Amendment to the United States Constitution, not to have data concerning

heretofore private activities within her home collected by a private monopoly company acting at the behest of federal and/or state government and stored in a company database, and ultimately provided to the government and perhaps sold to third parties.

16. Petitioner asserts that she has a protected legal interest under the "Takings Clause", also known as the eminent domain clause, of the Fifth Amendment to the United States Constitution, not to have her health taken or the value of her home substantially diminished, without just compensation, by a private, monopoly company acting under financial incentives provided by the state and/or federal governments under a smart grid, or any other, program. The diminution of home value would be caused by either the loss of privacy or by the creation of a condition detrimental to long term health, or both, as will be further developed at the evidentiary hearing.
17. Petitioner argues that the interests she has outlined in 10-16 above are not being represented by any of the existing interveners nor by Michigan's Attorney General where that office has limited itself to dealing only with the financial costs, risks and benefits of AMI technology.

III. Statement of General Position

18. Petitioner will argue that the Commission erred both in approving funding for the AMI program *and for failing to regulate conditions of service* for the following reasons:

19. That the current and potential burdens and risks of the AMI program, particularly its non monetary burdens and risks, outweigh its potential benefits and were in no way taken into account.
20. That the Commission clearly has authority, *when acting on written complaints*, to fashion remedies that go well beyond simply setting rates. *Union Carbide v. Public Service Commission*, 431 Mich. 135, 428 N.W.2d 322 (1988)
21. That the burdens and risks of AMI technology include not only the effects upon electro sensitive individuals, who are generally thought to comprise only 3 to 15% of the population, but also the *long term health consequences of the cumulative exposure to electromagnetic radiation from all sources to all members of the population*. That those burdens and risks also include loss of Constitutionally protected privacy from an AMI program that is *not in compliance with the federal National Institute of Standards & Technology report titled "The Smart Grid Interoperability Panel–Cyber Security Working Group"*. This federal agency laid down privacy standards that were supposed to be followed in all smart grid projects and which were not followed in Michigan and in most other states that have implemented AMI programs.
22. That the Michigan Public Service Commission is, pursuant to Michigan Compiled Laws 460.6, "vested with the power and jurisdiction to regulate all rates, fares, fees, charges, *services, rules, conditions of service*, and all other matters pertaining to the formation, operation, or direction of public utilities" (emphasis added). Michigan Courts have held that the above is only an outline of jurisdiction and not a grant of specific powers. Specific powers have, however, been delegated to the Commission by the Electric Transmission Act of 1909, P.A. 106, MSA

460.551 *et seq*, by the Railroad Commission Act of 1909, P.A. 300, and by the Public Utilities Commission Act, P.A. 419 of 1919, among others.

23. That the Commission has not exercised its responsibility to regulate “rules and conditions of service” in that it has made no determination, by any contested hearing process, whether smart meters should be the standard of metering in this state from now on, whether such meters should be required as a condition of service or whether such meters should even be lawful in this state.
24. That the Commission has not exercised its responsibility to regulate “rules and conditions of service” in that it has made no determination, by any contested hearing process, that AMI meters, or “smart meters” are a necessary, or even appropriate component of a modernized electrical grid. In particular the Commission has made no proper finding:
 - a) That AMI meters will, in fact, result in overall energy savings, absent some form of coercive rationing;
 - b) That AMI meters will, in fact, reduce the need for building new power plants by significantly shifting peak load demand to off peak demand;
 - c) That AMI meters are necessary to implement time-of-use pricing;
 - d) That AMI meters are necessary to improve outage detection and repair.
 - e) That an alternative type of new meter would not better meet all of these alleged needs while protecting the privacy and health of utility customers.

25. Petitioner will also argue:

- a) That a prima facie case has already been made by the submissions of experts and others under public comments in Case No. U-17000, that smart meters do in fact violate the utility customer's health. The documents submitted or referenced in that case alone should be enough to trigger a contested case as to whether smart meters should be the standard in this state or whether they should remain on an experimental or voluntary basis.
- b) That there is a tremendous amount of unbiased scientific evidence, including peer reviewed research, showing harm to all living tissue—whether human or animal—from the radio frequencies and voltage transients generated by smart and digital meters. The Commission staff, in preparing its report dated June 29th, 2012, was highly selective in reporting only studies commissioned by either the utility industry or the federal Department of Energy. The Commission, in its Order under Case U-17000, asked only for the utility companies to submit data known to them. Data submitted by the utilities was often outmoded and obsolete. Citations were made to reports that even at the time they were submitted by Consumers Energy, were shown to be outdated.
- c) That smart meters have a deleterious effect on health not only because of the radio frequency radiation emitted, but because these meters contain a switched-mode power supply that emits harmonics and transient pulses that travel through the wiring of a home or business. This energy has often been characterized by experts as “dirty electricity” and petitioner will

submit evidence that this can make residents ill even when there are no intentional radio transmissions.

26. Petitioner will argue that the appropriate action for the Commission to take at this time, while this remand case is proceeding, is to issue an Order that will:

- a) Temporarily halt the installation of smart meters in Michigan, at least until such time as the Commission has *completed* evidentiary hearings on the health, safety, and privacy effects and the costs vs benefits of smart meters.
- b) Continue the suspension of installations until procedures can be put in place that will protect the interests of persons entitled to protection under the Americans with Disability Act (ADA) or under the Persons With Disabilities Civil Rights Act (PWDCRA).

Petitioner will argue that unless or until the Commission explicitly approves AMI meters as a condition of service through a contested hearing process, the company's smart meter program will remain illegal and that individual customers may raise the issue of its illegality in the circuit courts of this state as a defense to any action by Consumers Energy, including shut-off of electrical service.

WHEREFORE, Petitioner asks that the Commission grant this Petition To Intervene, and that Petitioner be treated as a party to the case.



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