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January 19, 2009

Ms. Mary Jo Kunkle  
Executive Secretary  
Michigan Public Service Commission  
6545 Mercantile Way  
Lansing, MI 48909

Via E-Filing – Paperless

Dear Ms. Kunkle:

***Re: In the matter, on the Commission's own motion, regarding the regulatory reviews, revisions, determinations, and/or approvals necessary for CONSUMERS ENERGY COMPANY to fully comply with Public Acts 286 and 295 of 2008.  
MPSC Case No. U-15805 (Paperless E-File)***

Dear Ms. Kunkle:

Enclosed for filing in the captioned matter are the Appearance of Richard J. Aaron of Fahey Schultz Burzych Rhodes PLC along with the Petition to Intervene of Midland Cogeneration Venture Limited Partnership and the Certificate of Service thereon.

Thank you for your assistance. If you have any questions, please feel free to call.

Very truly yours,

FAHEY SCHULTZ BURZYCH RHODES PLC

Richard J. Aaron

RJA/mln

Enclosures

cc w/enc: Parties of Record  
Midland Cogeneration Venture Limited Partnership

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MICHIGAN DEPARTMENT OF LABOR AND ECONOMIC GROWTH  
PUBLIC SERVICE COMMISSION

**ENTRY OF APPEARANCE IN AN ADMINISTRATIVE HEARING**

This form is issued as provided for by 1939 PA 3, as amended, and by 1933 PA 254, as amended. The filing of this form, or an acceptable alternative, is necessary to ensure subsequent service of any hearing notices, Commission orders, and related hearing documents.

**General Instructions:**

Type or print legibly in ink. For assistance or clarification, please contact the Public Service Commission at (517) 241-6170.

*Please Note: The commission will provide service of documents in this proceeding to only one person for each party.*

**THIS APPEARANCE TO BE ENTERED IN ASSOCIATION WITH THE ADMINISTRATIVE HEARING:**

Case / Company Name: \_\_\_\_\_ Docket No. \_\_\_\_\_

Please enter my appearance in the above-entitled matter on behalf of:

1. (Name)
2. (Name)
3. (Name)
4. (Name)
5. (Name)
6. (Name)
7. (Name)

Name \_\_\_\_\_

Address \_\_\_\_\_  
\_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_

Zip \_\_\_\_\_ Phone (\_\_\_\_) \_\_\_\_\_

Email \_\_\_\_\_

Date \_\_\_\_\_

Signature: \_\_\_\_\_

I am not an attorney

I am an attorney whose:

Michigan Bar # is P- \_\_\_\_\_

\_\_\_\_\_ Bar # is: \_\_\_\_\_  
( state )

**STATE OF MICHIGAN**  
**BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION**

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In the matter, on the Commission’s own )  
motion, regarding the regulatory reviews, )  
revisions, determinations, and/or approvals )  
necessary for **CONSUMERS ENERGY** )  
**COMPANY** to fully comply with Public )  
Acts 286 and 295 of 2008. )

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Case No. U-15805

**PETITION TO INTERVENE OF**  
**MIDLAND COGENERATION VENTURE LIMITED PARTNERSHIP**

Midland Cogeneration Venture Limited Partnership (“MCV”) files this Petition to Intervene (“Petition”) pursuant to Rule 201 of the Rules of Practice and Procedure before the Michigan Public Service Commission (“Commission”) (1992 AACRS, R 460.17201). In support of its Petition, MCV states:

**I. STATEMENT OF INTEREST**

1. This matter, initiated by the Commission, involves Consumers Energy Company’s (“Consumers”) compliance with Public Acts 295 and 286 of 2008, including its renewable energy and energy optimization plans.

2. MCV is a Michigan Limited Partnership, which operates a gas-fired cogeneration plant (the “Facility”) in Midland, Michigan. The Facility provides steam and electricity to The Dow Chemical Company (“Dow”) and capacity and energy to Consumers. The Facility has been certified by the Federal Energy Regulatory Commission (“FERC”) as a qualifying cogeneration

facility pursuant to the provisions of Section 210 of the Public Utility Regulatory Policies Act of 1978 (“PURPA”).

3. As stated in the attached Affidavit of Gary B. Pasek, Vice President, General Counsel and Secretary of MCV, pursuant to an Amended and Restated Power Purchase Agreement (“PPA”) between MCV as seller and Consumers as purchaser, MCV supplies electric generating capacity and associated energy to Consumers at specific capacity and energy charges set forth in the PPA. The PPA has a term of 35 years, commencing as of March 16, 1990. MCV also makes wholesale sales of electricity to third parties.

4. The PPA has been amended and restated and cost recovery issues for Consumers were addressed by a settlement agreement and order in Case No. U-15320.

5. MCV is a customer of Consumers. MCV takes electric services from Consumers under numerous tariffs, including, but not limited to, Rate Codes 028 (Electric General Service Primary Rate D), as amended or superseded, 020 (Electric General Service Secondary Rate B), as amended or superseded, 011 (Electric General Service Secondary Rate C), as amended or superseded, 182 (Electric Cogeneration and Small Power Production Purchase Rate CG), as amended or superseded, 010 (Electric General Service Commercial), as amended or superseded, and 263 (Electric General Service Industrial), as amended or superseded. In addition, MCV has a contract with Consumers for 25 MW of standby power, and is obligated to pay for certain standby charges to Consumers for power Consumers provides to Dow.

6. MCV, as a customer of Consumers, will be subject to the rates, terms, and conditions of service approved in this case. Moreover, Consumers’ filing of the required energy optimization plan and renewable energy plan could result in surcharges to MCV. Therefore, this matter will substantially affect MCV’s future costs of electric service from Consumers.

## II. GROUNDS FOR INTERVENING

7. As a customer, MCV's interests fall within the zone of interest sought to be protected in this case. As a major source of energy supply to Consumers under the PPA and as a customer of Consumers, MCV has a substantial interest in the determinations of the Commission in this matter. Moreover, MCV has standing to intervene of right because this matter addresses several issues that, upon resolution, may cause injury in fact to MCV.

8. The Commission's Order initiating this proceeding features issues the resolution of which may cause injury in fact to MCV.

a. First, Consumers' energy optimization plan and renewable energy plan will substantially affect MCV's future costs of electric service from Consumers. In other words, because MCV is a customer of Consumers, they will be substantially affected by the energy optimization and renewable energy plans required to be filed by Consumers. Therefore, Commission should allow MCV to intervene and protect and advocate its position regarding all issues presented in this case.

b. Second, because MCV will be substantially affected by the energy optimization and renewable energy plans required to be filed by Consumers, the Commission should allow MCV to intervene so MCV may ensure Consumers' plans are reasonable reflections of prudent business practices.

c. Third, reasonable rates, terms, and conditions of Consumers' service, Consumers' ability to recover costs of providing service, and Consumers' ability to make a reasonable return on its electric business, are critical to Consumers' financial health. Continued performance under the PPA will be affected by various matters to be addressed and resolved in this case.

9. MCV's interests fall within the zone of interests sought to be protected in this case – specifically, the interests of customers. MCV has an interest relating to the transactions that are the subject of this action. Moreover, the disposition of this action, without the intervention of MCV, may impair or impede MCV's ability to protect that interest. As a customer, the disposition of this case may result in increased costs to MCV. Consequently, MCV has an interest in assuring that Consumers' plans and resulting rates, terms, and conditions of service are a product of reasonable and prudent management decisions.

10. The Commission has consistently recognized MCV's interests and standing to intervene in cases involving Consumers. MCV has been granted intervention in several Consumers' general rate cases cases, including all of Consumers' most recent general electric rate cases, e.g., Nos. U-15645, U-15245, U-10335, U-10685, and U-14347; all of Consumers' most recent PSCR plan cases, e.g., Nos. U-15675, U-15415, U-15001, U-14701, U-14274, and U-13917; and Consumers' stranded costs and securitization cases, Nos. U-12639, U-12505, U-13380, U-13720, and U-14098. The Commission's grant of intervention in this case would ensure that MCV's participation in these cases is consistent and uninterrupted.

### **III. STATEMENT OF POSITION**

11. MCV intends to take the position that any order in this proceeding must be in accordance with the purpose of and the terms and conditions set forth in 2008 PA 286, and 2008 PA 295, prior Commission orders, and MCV's rights under the PPA and PURPA.

12. MCV reserves the right to take positions on any other issues that become relevant during the course of this proceeding.

13. Upon being granted intervenor status in this case, MCV requests that all notices and pleadings be served upon the following persons:

Richard J. Aaron (P-35605)  
Ross K. Bower II (P-70574)  
Fahey Schultz Burzych Rhodes PLC  
4151 Okemos Road  
Okemos, MI 48864  
[raaron@fsblawyers.com](mailto:raaron@fsblawyers.com)  
[rbower@fsblawyers.com](mailto:rbower@fsblawyers.com)

Gary B. Pasek (P-54099)  
Midland Cogeneration Venture LP  
100 Progress Place  
Midland, MI 48640  
[gbpasek@midcogen.com](mailto:gbpasek@midcogen.com)

WHEREFORE, Midland Cogeneration Venture Limited Partnership requests that this Petition to Intervene be granted and that MCV be afforded the full status of a party to this case.

Respectfully submitted,

FAHEY SCHULTZ BURZYCH RHODES PLC  
Attorneys for Midland Cogeneration Venture  
Limited Partnership

Dated: January 19, 2009

By: \_\_\_\_\_

Richard J. Aaron (P-35605)  
Ross K. Bower II (P-70574)  
4151 Okemos Road  
Okemos, MI 48864  
(517) 381-0100

Gary B. Pasek (P-54099)  
Vice President, General Counsel and Secretary  
MIDLAND COGENERATION VENTURE LP  
100 Progress Place  
Midland, MI 48640  
(989) 633-7870

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter, on the Commission’s own )  
motion, regarding the regulatory reviews, )  
revisions, determinations, and/or approvals )  
necessary for CONSUMERS ENERGY )  
COMPANY to fully comply with Public )  
Acts 286 and 295 of 2008. )

Case No. U-15805

**AFFIDAVIT OF GARY B. PASEK IN SUPPORT OF MIDLAND  
COGENERATION VENTURE LIMITED PARTNERSHIP’S PETITION  
TO INTERVENE**

STATE OF MICHIGAN )  
 ) ss.  
COUNTY OF MIDLAND )

Gary B. Pasek, being first sworn, states:

1. I have personal knowledge of the facts set forth in this Affidavit and file it in support of the Petition to Intervene of Midland Cogeneration Venture Limited Partnership (“MCV”) in Case No. U-15805. If sworn as a witness, I could testify competently to the truth of the matters set forth in this Affidavit.

2. I am the Vice President, General Counsel, and Secretary of MCV. MCV operates an approximate 1575 MW gas-fired cogeneration plant located in Midland, Michigan (the “Facility”). The Facility provides steam and electricity to The Dow Chemical Company (“Dow”), steam to the Dow Corning Corporation, capacity and energy to Consumers Energy Company (“Consumers”), and makes wholesale sales of electricity to third parties.

3. With respect to Consumers, MCV supplies electric generation capacity and energy pursuant to an Amended and Restated Power Purchase Agreement (“PPA”), which was amended and restated by a settlement agreement in Case No. U-15320.

4. MCV is a customer of Consumers. MCV also has a contract with Consumers for 25 MW of standby power, and is obligated to pay for certain standby charges to Consumers for power Consumers provides to Dow.

5. MCV also takes electric services from Consumers under numerous tariffs, including but not limited to, Rate Codes 028 (Electric General Service Primary Rate D), as amended or superseded, 020 (Electric General Service Secondary Rate B), as amended or superseded, 011 (Electric General Service Secondary Rate C), as amended or superseded, 182 (Electric Cogen and Small Power Production Purchase Rate CG), as amended or superseded, 010 (Electric General Service Commercial), as amended or superseded, and 263 (Electric General Service Industrial), as amended or superseded.

6. This case, initiated by the Commission, involves Consumers’ compliance with Public Acts 295 and 286 of 2008, including its renewable energy and energy optimization plans.

7. As a customer of Consumers, MCV will be subject to the rates, terms, and conditions of service approved in this case. In addition, MCV could be subject to surcharges resulting from the filing of required energy optimization plan and renewable energy plan.

8. As a customer of Consumers, MCV’s interests are among those sought to be protected in this case.

9. The Commission has consistently recognized MCV’s interests and standing to intervene in cases involving Consumers. MCV has been permitted to intervene in numerous Consumers’ general rate cases, including all of Consumers’ most recent general electric rate

cases, e.g., Nos. U-15645, U-15245, U-10335, U-10685, and U-14347; all of Consumers' most recent PSCR plan cases, e.g., Nos. U-15675, U-15415, U-15001, U-14701, U-14274, and U-13917; and Consumers' stranded costs and securitization cases, Nos. U-12639, U-12505, U-13380, U-13720, and U-14098.



Gary B. Pasek, Vice President,  
General Counsel and Secretary  
Midland Cogeneration Venture  
Limited Partnership

Subscribed and sworn to before me in Midland County,  
Michigan, this 19th day of January, 2009.



Jean H. Weaver  
Notary Public, State of Michigan, County of Bay.  
My commission expires August 15, 2013.  
Acting in the County of Midland.



STATE OF MICHIGAN

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motion, regarding the regulatory reviews, )  
revisions, determinations, and/or approvals )  
necessary for CONSUMERS ENERGY )  
COMPANY to fully comply with Public )  
Acts 286 and 295 of 2008. )

Case No. U-15805

CERTIFICATE OF SERVICE

STATE OF MICHIGAN )  
 ) ss  
COUNTY OF INGHAM )

Michelle L. Nash, being first duly sworn, deposes and says that on January 19, 2009, she served copies of the Entry of Appearance in an Administrative Hearing form for Richard J. Aaron on behalf of Midland Cogeneration Venture Limited Partnership, Petition to Intervene with the attached Affidavit of Gary B. Pasek along with a copy of this Certificate of Service upon the following parties via e-mail.

Michelle L. Nash

Subscribed and sworn to before me  
this 19<sup>th</sup> day of January, 2009.

Rhonda Mask, Notary Public  
State of Michigan, County of Ingham  
My Commission Expires: 04/11/2013

**SERVICE LIST**  
**MPSC Case No. U-15805**

**Consumers Energy**

Jon R. Robinson  
M. Bryan Little  
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One Energy Plaza  
Jackson, MI 49201  
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**Association of Businesses Advocating  
Tariff Equity ("ABATE")**

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**Michigan Sustainable Energy Coalition**

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