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April 28, 2009

Ms. Mary Jo Kunkle
Executive Secretary
Michigan Public Service Commission
6545 Mercantile Way
P.O. Box 30221
Lansing, MI 48909

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

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-15889

E-File/Paperless (Consolidated)

Dear Ms. Kunkle:

Enclosed for filing, in the above-captioned consolidated proceedings, please find the **INITIAL BRIEF OF THE ASSOCIATION OF BUSINESSES ADVOCATING TARIFF EQUITY**. Proof of Service upon the Parties of Record is also enclosed. These documents have been filed electronically, in paperless format, on the Commission's Electronic Case Filing System.

Sincerely,

CLARK HILL PLC

Leland R. Rosier

LRR: met
Enclosures

cc: Parties of Record

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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)	Case No. U-15805
CONSUMERS ENERGY COMPANY to fully comply)	
with Public Acts 286 and 295 of 2008.)	

_____)	
In the matter, on the Commission’s own motion,)	
regarding the regulatory reviews, revisions,)	
determinations, and/or approvals necessary for)	Case No. U-15889
CONSUMERS ENERGY COMPANY to)	
fully comply with Public Acts 286 and 295)	
of 2008.)	

**INITIAL BRIEF OF
THE ASSOCIATION OF BUSINESSES ADVOCATING TARIFF EQUITY**

The Association of Businesses Advocating Tariff Equity (“ABATE”) by its attorneys, Clark Hill PLC, submits its Initial Brief to the Michigan Public Service Commission (“Commission”) in accordance with the schedule established for this proceeding.

I. PROCEDURAL BACKGROUND.

Consumers Energy Company (“Consumers”) filed its combined electric and gas renewable energy plan and energy optimization plans on February 17, 2009. Pursuant to 2008 PA 295 and the Commission’s Temporary Order of December 4, 2008 in Case U-15805, this proceeding was established as an expedited proceeding. A prehearing conference was held by Administrative Law Judge Sharon Feldman on February 27, 2009. At the prehearing conference, the Commission Staff and the Attorney General appeared, and the following parties were granted Intervenor status: ABATE, Midland Cogeneration Venture Limited Partnership, Natural Resources Defense Council, Michigan Environmental Council, Environmental Law & Policy

Center, Ecology Center of Ann Arbor, Constellation New Energy, Hemlock Semiconductor Corporation, RES North America, Inc., LS Power Associates LP, Lafarge Midwest, Inc., Michigan Wholesale Power Association, New Covert Generating Company, Michigan Community Action Agency Association (MCAAA), Michigan Cable Telecommunications Association, Michigan Sustainable Energy Coalition, and Energy Michigan.

Evidentiary hearings for the cross examination of witnesses were conducted on April 13, 14, 15, and 16, 2009. The evidentiary record is contained in volumes 3-6 of the transcript. Following the hearings, the Administrative Law Judge transmitted the record to the Commission. This Initial Brief is submitted in accordance with the schedule established at the prehearing conference on February 27, 2009.

II. THE COMMISSION SHOULD NOT APPROVE CONSUMERS' RENEWABLE ENERGY PLAN AS SUBMITTED.

Consumers' renewable energy plan calls for approximately 900 MW of renewable energy system capacity to be built or purchased between now and the end of 2017. Consumers' plan anticipates that most of the renewable capacity will be wind generation. Consumers anticipates that approximately half of the new resources will be purchased under long-term renewable energy purchase agreements and approximately half of the resources with Consumers' owned wind generation.

The revenue requirement associated with these capital investments and purchase power agreements is expected to be approximately \$5.3 billion over a 20-year period. Exhibit A-33. Consumers indicates that approximately \$3.5 billion of that amount will be "off-set" by avoided capacity and energy cost. These "avoided costs" will actually be recovered from ratepayers through the Power Supply Cost Recovery mechanism. The net amount of the renewable energy plan cost, nearly \$1.8 Billion, will be recovered through the Renewable Energy Plan Surcharge.

Exhibit A-33. Exhibit A-6. Nearly all of the \$5.3 Billion will be paid by ratepayers either through the PSCR clause or through the surcharge.

Despite the huge sums involved, a review of the discovery and the record shows that the underlying support for subjecting the ratepayers to this incredible liability rests on speculation and on keeping the entire risk on the ratepayers. ABATE thus recommends that the Commission keep the ratepayers in mind and reduce the scope of Consumers' collections until more information is known.

To analyze both the renewable energy plan and the energy optimization plan, and to present ABATE's proposals, ABATE presented the expert testimony of James T. Selecky. Mr. Selecky's qualifications are presented at 6 TR 1245-1247. Based on Mr. Selecky's recommendations, and the speculative nature of Consumers' plan, ABATE recommends that the Commission reject parts of Consumers' renewable energy plan as proposed.

A. The Viability And Cost Of Consumers' Plan To Construct 450 MW Of Wind Generation Is Speculative In Nature.

Consumers has admitted that, even under the plan, its position is that it will not be obligated to actually add 900 MW of wind capacity. Yet, Consumers relies on the plan to develop 900 MW as the basis for collecting nearly \$2 Billion in surcharges and over \$5 Billion in total from the ratepayers. 6 TR 1221.

There exist certain significant uncertainties as to the cost-effectiveness of wind generation. For example, Consumers is currently undertaking a one-year study of onsite wind data to determine the appropriate long-term average net capacity factor for the wind generation.

The renewable plan that is used to develop the proposed surcharges utilizes an average net capacity factor of 28% for wind generation. Consumers did not develop this factor based on its own experience or study; rather, that study is yet to be done. 6 TR 1221. Although

Consumers' witnesses were unclear to pinpoint where capacity factor figure came from within the report, Mr. Ronk and Ms. Rose both testified that the 28% capacity factor was taken from the Commission's 21st Century Energy Plan. 3 TR 202-203. 4 TR 427-428.¹

When pressed about any company experience to support the capacity factor, Consumers' witness Ronk testified that one existing wind facility has not been in operation for a full year, and that another facility has not achieved a 28% capacity factor. 3 TR 203-204.

Discovery also revealed the speculative nature of Consumers' plans. For example, Consumers admits that:

- It is not yet begun design for the 2013 wind farm. Exhibit AB-2, response 15805/15889-AB-CE-111.
- Consumers cannot estimate line losses. Exhibit AB-2, response 15805/15889-AB-CE-112.
- Consumers' schedule is sketchy and is described by Consumers as a "work in progress." Exhibit AB-2, response 15805/15889-AB-CE-118.
- Consumers has not even developed an inventory of zoning changes necessary. Exhibit AB-2, response 15805/15889-AB-CE-119.
- Consumers has not yet determined the height of the turbines or towers, only an indication that they are still investigating wind turbines with hub heights from 80 to 100 meters. Exhibit AB-3, response 15805/15889-AB-CE-107 and 108.
- Consumers has not decided on a turbine name plate capacity. Exhibit AB-3, response 15805/15889-AB-CE-109.

¹ The apparent source is Michigan's 21st Century Electric Energy Plan, Appendix – Volume II, Workgroup Reports, pp. 136-142. The entire document was officially noticed by the Administrative Law Judge. 4 TR 566.

- Consumers has no data to determine off peak capacity factors or on peak capacity factors. Exhibit AB-3, response 15805/15889-AB-CE-109.
- Consumers has insufficient data to determine fixed O&M or variable O&M. Exhibit AB-3, response 15805/15889-AB-CE-113.

In addition, the reduced availability or significant price increases of wind turbine equipment and engineering, procurement and construction contracts are also of concern. Specifically, if federal renewable standards were enacted, it would greatly increase the demand for wind turbines impacting both price and availability of equipment. This may make other options more attractive. 6 TR 1221-1222.

Potentially the most serious concern relates to the lack of information regarding the contribution during peak periods, because it impacts the total cost to ratepayers of any renewable energy plan that is approved by the Commission. For example, there is not sufficient information as to whether wind generation will provide for any capacity at the time of system peak. If the answer is that wind will not contribute to Consumers' capacity needs during peak, then ratepayers would not only be faced with the cost of the renewable energy program but also the additional cost of the new generation that Consumers would need to meet those peaks. The question is whether this consideration makes other renewable options more cost competitive or cost effective. The Commission should not look at the renewable energy plan in isolation. Any plan that is approved should consider all relevant or related costs. 6 TR 1222.

B. Consumers' Plan Is So Expansive That The Levelized Surcharges Result In Revenues That Vastly Exceed Plan Costs In The Early Years Of The Plan.

Mr. Selecky's concerns with the renewable energy plan are not limited to the speculative nature of the benefits of Consumers' proposal to build capacity. The surcharges are based on that capacity construction plan, and there are serious concerns with the proposed levelized

surcharges. Consumers has proposed levelized surcharges that will result in over-collection in the early years of its renewable energy plan. These surcharges will total \$87 Million per year starting in 2010. Exhibit A-2. Consumers will collect, for example, \$116.3 Million in 2009-2010 and spend only \$6.4 Million in incremental cost of compliance during that same period. Exhibit A-2. Exhibit A-6. By 2014, the first year that expenditures exceed the surcharge for the individual year, Consumers will be holding a regulatory balance of \$353 Million. Exhibit A-2.

Consumers' plan is that any over-collection will earn at the average short-term borrowing rate, estimated to be 4.70%. Consumers claims this is the rate approved by statute and is the appropriate rate because the surcharge money displaces short term borrowing requirements. 3 TR 180. Neither argument is convincing.

Act 295 provides at Section 21(4) that the levelized charges shall accrue interest "at the average short-term borrowing rate available to the electric provider during the appropriate period." [Emphasis added] When enacted, this was presumed to be a short period of time. But Consumers' plan results in loans from the ratepayers to Consumers during hard economic times in the amount of \$353 Million for over 5 years before Consumers even begins to pay it down. Such an expensive loan of over 5 years is not an "appropriate period" as envisioned by Act 295, and in no sense of the word can this be called "short term" or be said to displace short-term borrowing. This is a long term, up-front loan of an exorbitant amount for which Consumers proposes to pay the ratepayers a very low interest rate. Moreover, large portions of the monies raised by the surcharge will be added to Consumers' rate base,² for which the Company will

² Consumers did not indicate in exhibits the amount of the investment that would be added to rate base from the total investment listed in Exhibit A-33. Mr. Swartz, however, did acknowledge that an amount would be added to rate base as shown on his workpaper A1. 4 TR 635. The workpaper is attached to this brief as Attachment 1, which shows rate base additions of approximately \$1.2 Billion.

have the opportunity to earn its authorized rate of return. Therefore, there is a serious opportunity for arbitrage for Consumers raised by application of the average short-term borrowing rate for ratepayer contribution while Consumers earns a rate of return at a higher rate, another indication that a period of 5 years or more is not an “appropriate period” for which to pay a short term rate for what is a very long term loan indeed.

C. Recommendations.

1. The Commission Should Only Consider Consumers’ Proposal To Build 450 MW Of Wind Generation After A Separate Hearing, And Direct Consumers To Meet Its Initial Renewable Energy Requirements Through Purchased Power Agreements.

Given the largely speculative nature of Consumers’ support for building 450 MW of wind capacity at a huge cost to ratepayers, Mr. Selecky recommends that the Commission initiate a separate hearing to evaluate the total cost to ratepayers of meeting the renewable requirements. MCL 460.6s provides for such a proceeding. This proceeding would not only consider the cost of renewable energy but also the cost of meeting Consumers’ future peak demand requirements. To meet Consumers’ initial renewable requirements, Consumers could enter into purchase power contracts consistent with its proposal in this case. 6 TR 1222.

2. The Commission Should Reduce Consumers’ Proposed Renewable Energy Plan Surcharges To Reflect The Uncertainty Associated With The Costs Incurred.

Because of the uncertainty of the type of supply and the cost associated with the renewable energy plan, Mr. Selecky recommends that the surcharges that Consumers is proposing be reduced by 50%. Since the plan is speculative, it should not be utilized to establish the surcharges authorized by the Commission in this case. 6 TR 1223.

3. The Commission Should Require The Company To Pay Interest To Ratepayers At The Company's Authorized Pre-Tax Rate Of Return.

Because of the length of time that Consumers will have use of these over-collected funds, and due to the very real possibility of arbitrage at the expense of ratepayers, the earning rate should be Consumers' pre-tax rate of return. 6 TR 1223.

III. Natural Gas Transportation Customers Should Be Excluded From The Energy Optimization Plan.

Consumers seeks to impose the energy optimization surcharge on gas transportation-only customers as well as on gas customers who purchase the gas itself from Consumers. Consumers lists the surcharge as follows:

<u>Transportation</u>	
0 to 100,000 Mcf per year	0.1588/Mcf
Above 100,000 Mcf per year	0.0053/Mcf

Consumers indicates the energy optimization surcharges would be applied on a customer meter or account basis, and would be charged the applicable rate per account for all usage based on the historical usage for that account. Exhibit AB-1, Response 15805/15889-AB-CE-90.

Gas transportation customers should be excluded from paying the energy optimization plan surcharges because these customers do not purchase natural gas from Consumers. As Consumers' witness, Mr. Mierzwa, testified at 5 TR 869-870:

Q. Do transportation customers purchase natural gas from Consumers?

A. They do not.

Q. Does Consumers manage the gas supply for any transportation customers?

A. I don't believe so.

Q. If you know, what is the larger component of gas expense for the transportation customers, the supply or the transportation?

A. I think it's the supply, but I'm not certain of that.

Gas transportation customers simply utilize Consumers' system to transport gas from their third-party supplier to their facility in Consumers' service territory. Since these customers did not purchase the commodity from Consumers, they should be excluded from the EO plan, and should not be assessed energy optimization surcharges. 6 TR 1224-1225.

In response, Consumers simply relied upon the Commission's holding in its Order of February 3, 2009 in Case No. U-15800, holding in the abstract that the surcharge could be applied to transportation customers.

ABATE disagrees with that holding and has appealed it to the Court of Appeals, *ABATE v PSC*, Court of Appeals No. 290640. ABATE takes this opportunity to point out that the sole record evidence in this case indicates that transportation customers purchase no gas from Consumers and will receive no benefits because they cannot reduce their consumption of Consumers' natural gas below zero. There is no record at all to the contrary. Therefore, for the reasons previously stated in ABATE's Petition for Reconsideration and/or Rehearing of the Temporary Order and Request for Stay filed on January 1, 2009 in Case No. U-15805, ABATE again asks that the Commission determine that energy optimization surcharges cannot legally apply to transportation-only customers under Act 295.

IV. The Commission Should Reject Consumers' Proposed Incentive Plan.

Consumers proposes that the Commission grant it a rate increase in the form of an annual incentive payment that would be based on the magnitude of any net cost reductions that its customers experience under the Company's energy optimization plan in excess of the statutory requirements. For every one percent of energy savings achieved by the Company in excess of the savings target set by PA 295, the Company's proposal would allow it to retain 0.5% of the total net cost reduction associated with these energy savings. The benefits under the incentive

mechanism would be calculated using the Utility System Resource Cost Test. Any incentive payments would be determined separately for the Company's electric and natural gas operations on an annual basis. 5 TR 837-839. Mr. Ozar for Staff proposed a modified plan, but Consumers rejected that alternative in rebuttal. 5 TR 843.

PA 295, at Section 75, makes it clear that the payment of any financial incentives for this purpose is subject to the approval of the Commission. Therefore, the Commission is not required to implement the energy efficiency incentives requested by Consumers in this proceeding. 6 TR 1239.

Mr. Selecky recommends disapproving the proposed incentive based on the concept of risk. Consumers has always borne the risk of a reduction in revenues between rate cases under the traditional ratemaking process. Such revenue reductions can result from multiple factors, including weather fluctuations, broad economic downturns, as well as independent energy efficiency efforts undertaken by customers on the Consumers' system. The Company's shareholders are fairly compensated for assuming the risk of such revenue reductions through the Company's allowed return on equity. The Company has presented no evidence to demonstrate that any efforts on its part to exceed the mandatory energy efficiency savings targets would create an extraordinary level of business risk that would justify granting the Company an additional financial reward for such efforts. 6 TR 1240.

If Consumers so demonstrates, the proper place for such a demonstration would be in a general rate case. This approach would allow the Commission to comprehensively review all aspects of the Company's costs and revenues prior to determining whether a rate adjustment is warranted. A full base rate review is warranted to determine whether cost reductions on the Company's system might offset the impact of sales declines and thereby obviate the need for a

rate increase. This comprehensive rate review is far preferable to authorizing annual rate increases based on a narrow, isolated examination of the Company's energy efficiency program performance. 6 TR 1240-1241.

Nor is the Company's proposal the most cost-effective use of energy efficiency funds. Retail customers in the Consumers' service area are exposed to power and natural gas price fluctuations through the PSCR and GCR mechanisms. Such customers rationally respond to price signals in the electricity market by undertaking independent efforts to reduce their energy consumption, to the extent that individual customers find such efforts to be cost-effective. The customer can spend its own resources to independently pursue these conservation efforts without paying a financial incentive to Consumers on top of the costs of its own independent efforts. There is no reason to believe that the Company can procure these energy efficiency services more cost-effectively than customers who directly access the market for such services, particularly if the Company demands a financial bonus in exchange for providing these programs in its service area. Paying an incentive bonus to Consumers would, all else being equal, artificially inflate the cost of providing energy efficiency services that are otherwise readily available to customers in the open market. 6 TR 1241-1242. Other, more cost-effective alternatives exist, such as time-of-use pricing and real-time pricing. The refined price signals resulting from such rate designs can stimulate voluntary customer energy conservation efforts that would contribute to exceeding the statutory energy efficiency mandates. 6 TR 1242.

Consumers' proposed incentive mechanism would also create additional rate volatility and uncertainty. The incentive mechanism would allow Consumers to impose annual rate increases on customers. This increases financial risk and rate volatility for customers by giving the Company additional avenues to increase customer rates between base rate cases. The

additional rate uncertainty created by the incentive mechanism would adversely impact customers by exposing them to a higher level of financial risk, making it more difficult for them to manage their energy budgets and plan for future power requirements. 6 TR 1243. Therefore, it is vital to control the proliferation of rate adjustments that could impose additional rate surcharges on the Company's customers outside of a base rate case. 6 TR 1244. In other words, fewer such mechanisms should be in place, not more as Consumers requests.

Mr. Selecky reached the proper conclusion, which the Commission should adopt. As Mr. Selecky stated at 6 TR 1239:

The Company does not need an incentive mechanism to compensate it for exceeding the statutory energy efficiency savings targets. If such savings lead to lost revenues of a magnitude that would prevent Consumers from earning its authorized rate of return, the appropriate remedy available to the Company is to petition the Commission for a base rate increase. Moreover, the Company's proposal fails to ensure that energy efficiency efforts are pursued in the most cost-effective manner. In addition, the incentive mechanism should be rejected because it would unnecessarily inflate the cost of providing energy efficiency services to retail end users and create additional rate volatility and uncertainty.

Consumers has always borne the risk of a reduction in revenues between rate cases under the traditional ratemaking process. Such revenue reductions can result from multiple factors, including weather fluctuations, broad economic downturns, as well as independent energy efficiency efforts undertaken by customers on the Consumers' system. The Company's shareholders are fairly compensated for assuming the risk of such revenue reductions through the Company's allowed return on equity. The Company has presented no evidence to demonstrate that any efforts on its part to exceed the mandatory energy efficiency savings targets would create an extraordinary level of business risk that would justify granting the Company an

additional financial reward for such efforts. 6 TR 1240. The Commission should reject the incentive plan.

V. Relief

In summary, the Commission should:

1. Disapprove portions of the renewable energy plan as filed by Consumers.
2. Disapprove the plan to build 450 MW of wind capacity on the basis that the planned additional capacity is based on speculation. Instead, the Commission should subject any plan to build capacity to a separate hearing pursuant to MCL 460.6s.
3. Reduce the renewable energy surcharge by 50%, and, due to the long term nature of the funds collected, direct Consumers to pay ratepayers interest at the level of Consumers' authorized pre-tax rate of return.
4. Exclude natural gas transportation-only customers from the energy optimization plan and related surcharges as they do not purchase any gas and do not benefit from such plans.
5. Reject Consumers' proposed energy optimization incentive mechanism.
6. Grant such other and further relief as is necessary and appropriate.

Respectfully submitted,

CLARK HILL PLC

By:

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Attorneys For The Association of
Businesses Advocating Tariff Equity

Date: April 28, 2009

Attachment 1

Projected Average CWIP & Rate Base Balances for Consumers Energy Renewables Build Plan (\$ Millions)

WP TWS-1a

Based on meeting 50% build allowance under PA295 10% RPS

FORECAST	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	Total		
CWIP Additions	0.4	3	6	29	2	165	111	263	175	268	247	0	0	0	0	0	0	0	0	0	0	0	0	0	1,260	
CWIP Deductions								(263)	(414)	(585)															(1,260)	
Net Cumulative CWIP	0.4	4	10	39	41	206	317	309	484	339	585	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Average CWIP Balance	0.2	2	7	25	40	124	261	183	397	204	462	(0)	0	0	0	0	0	0	0	0	0	0	0	0	0	
Rate Base Additions:								261	414	585																
12/31/2013 COD - 100 MW's of Wind Farms								261																		
12/31/2015 COD - 150 MW's of Wind Farms									414																	
12/31/2017 COD - 200 MW's of Wind Farms										585																
Rate Base Total	0	0	0	0	0	0	0	261	0	414	0	585	0	0	0	0	0	0	0	0	0	0	0	0	0	
Depreciation:																										
Assumes 20 year straight line																										
12/31/2013 COD - 100 MW's of Wind Farms								13	13	13	13	13	13	13	13	13	13	13	13	13	13	13	13	13	13	13
12/31/2015 COD - 150 MW's of Wind Farms									21	21	21	21	21	21	21	21	21	21	21	21	21	21	21	21	21	21
12/31/2017 COD - 200 MW's of Wind Farms										29	29	29	29	29	29	29	29	29	29	29	29	29	29	29	29	29
Total Depreciation	0	0	0	0	0	0	0	13	34	63	91	120	149	178	207	236	265	294	323	352	381	410	439	468	497	
Net Plant Balance (End of Year):																										
12/31/2013 COD - 100 MW's of Wind Farms								248	235	222	208	195	182	169	156	143	130	117	104	91	78	65	52	39	26	
12/31/2015 COD - 150 MW's of Wind Farms									393	373	353	331	311	290	269	249	228	208	187	166	145	124	103	82	61	
12/31/2017 COD - 200 MW's of Wind Farms										556	527	497	468	439	410	381	352	323	294	265	236	207	178	149	120	
Total Net Plant (End of Year)	0	0	0	0	0	0	0	248	235	615	581	1,103	1,040	977	914	851	788	725	662	599	536	473	410	347	284	
Average Net Plant Balance:																										
12/31/2013 COD - 100 MW's of Wind Farms								254	241	228	215	202	189	176	163	150	137	124	111	98	85	72	59	46	33	
12/31/2015 COD - 150 MW's of Wind Farms									404	383	362	342	321	300	280	259	238	217	196	175	154	133	112	91	70	
12/31/2017 COD - 200 MW's of Wind Farms										571	541	512	483	453	424	395	365	336	307	278	249	220	191	162	133	
Total Average Net Plant	0	0	0	0	0	0	0	254	241	632	598	1,135	1,072	1,009	946	883	820	757	694	631	568	505	442	379	316	
Average CWIP & Rate Base Balances																										
Average CWIP Balance	0	2	7	25	40	124	261	183	397	204	462	(0)	0	0	0	0	0	0	0	0	0	0	0	0	0	
Avg. Rate Base Balance	0	0	0	0	0	0	0	254	241	632	598	1,135	1,072	1,009	946	883	820	757	694	631	568	505	442	379		
(a) Total Average CWIP & Rate Base Balances	0	2	7	25	40	124	261	437	638	836	1,060	1,135	1,072	1,009	946	883	820	757	694	631	568	505	442	379		
(b) Pre-tax WACC Rate (Case: U-15245)								9.551%																		
Return on CWIP & Rate Base (a x b)	\$0.64	\$2.35	\$3.84	\$11.80	\$24.96	\$41.71	\$60.91	\$79.87	\$101.24	\$108.40	\$102.38	\$96.36	\$90.34	\$84.33	\$78.31	\$72.29	\$66.27	\$60.25	\$54.23	\$48.21	\$42.19	\$36.17	\$30.15	\$24.13	\$18.11	
Return on Avg. CWIP from Prior Years:																										
2008	\$0.18																								0.18	
2007	\$0.02																								0.02	
Total Return on CWIP & Rate Base	\$0.84	\$2.35	\$3.84	\$11.80	\$24.96	\$41.71	\$60.91	\$79.87	\$101.24	\$108.40	\$102.38	\$96.36	\$90.34	\$84.33	\$78.31	\$72.29	\$66.27	\$60.25	\$54.23	\$48.21	\$42.19	\$36.17	\$30.15	\$24.13		

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter, on the Commission’s own motion,)
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CONSUMERS ENERGY COMPANY to)
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Case No. U-15805

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Case No. U-15889

PROOF OF SERVICE

STATE OF MICHIGAN)
) ss.
COUNTY OF INGHAM)

Mary E. Turney, being duly sworn, deposes and says that she is an employee of Clark Hill PLC, and that on April 28, 2009, in the above-captioned consolidated proceedings, she served a copy of the INITIAL BRIEF OF THE ASSOCIATION OF BUSINESSES ADVOCATING TARIFF EQUITY and this Proof of Service upon:

SEE ATTACHED SERVICE LIST

Service was accomplished via electronic mail.

Mary E. Turney

Subscribed and sworn to before me
this 28th day of April, 2009.

Tema L. Crowell, Notary Public
Gratiot County, Michigan
Acting in Ingham, Michigan
My Commission Expires: November 16, 2012

SERVICE LIST
MPSC Consolidated Case Nos. U-15805 & U-15889

CONSUMERS ENERGY

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Mr. M. Bryan Little
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**LAFARGE MIDWEST, INC., LS POWER
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