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December 13, 2011

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

**Re: *In the matter, on the Commission's own motion, to consider the appropriate regulatory response to proposals by various producers of natural gas from Antrim Shale Formation to operate their wells under a vacuum***  
**MPSC Case No. U-16230**

Dear Ms. Kunkle:

Enclosed for electronic filing is Intervenor's, Chevron Michigan, LLC's, Response to Applicants' Motion to Compel Chevron USA, Inc.'s Compliance with Applicants' Subpoenas and Proof of Service in the above-captioned matter. If you have any questions, please call the undersigned.

Very truly yours,

Jack D. Sage

JDS/daf  
Enc.

cc: Hon. Mark D. Eyster/w. enc. (including hard copy by regular first-class mail, postage pre-paid)

All Interested Parties/w. enc.

**STATE OF MICHIGAN**

**MICHIGAN PUBLIC SERVICE COMMISSION**

In the matter, on the Commission's own motion, )  
to consider the appropriate regulatory response to )  
proposals by various producers of natural gas from ) Case No. U-16230  
Antrim Shale Formation to operate their wells )  
under a vacuum. )

**INTERVENOR'S, CHEVRON MICHIGAN, LLC'S, RESPONSE TO  
APPLICANTS' MOTION TO COMPEL CHEVRON USA, INC.'S  
COMPLIANCE WITH APPLICANTS' SUBPOENAS**

**NOW COMES** Intervenor, Chevron Michigan, LLC ("Chevron Michigan"), by and through its attorneys Varnum, Riddering, Schmidt & Howlett LLP ("Varnum"), and by way of Intervenor's, Chevron Michigan, LLC's, Response to Applicants' Motion to Compel Chevron USA, Inc.'s Compliance with Applicants' Subpoenas ("Response"), states as follows.

1. On November 17, 2011, Applicants Linn Midwest Energy, LLC; Linn Operating, Inc.; Terra Energy Company, LLC; BreitBurn Operating, LP; BreitBurn Management, LLC; Enervest Management Partners, LP; Belden & Blake Corporation d/b/a Ward Lake Energy; Enervest Institutional Fund IX, LP; and Merit Energy Company, LLC (collectively, "Applicants") filed Applicants' Motion to Compel Chevron USA, Inc.'s Compliance with Applicants' Subpoenas ("Motion").

2. In the Motion, Applicants request that "pursuant to Rules 103(1), 317, 319, and 321 of the Commission's Rules of Practice and Procedure, and the Michigan Court Rules, that Chevron U.S.A., Inc. ('Chevron') be compelled to obey the Applicants' subpoenas of September 26, 2011, and that Chevron's indirect subsidiary, Chevron Michigan, LLC ('Chevron Michigan') be estopped from opposing the Applicants' pending applications in this proceeding until such

time as Chevron has complied with the aforementioned subpoenas." Motion, p. 1. Chevron Michigan states Applicants' Motion, as it relates to Chevron Michigan, is without support as stated *infra* and that the record speaks for itself. To the extent the allegations in the introductory paragraph on page 1 of the Motion are inconsistent with this response, they are denied.

3. Applicants assert that "[P]ursuant to MPSC Rule 321, R 460.17321, if a party to a proceeding, or an 'officer, member, or employee' of a party fails to obey a subpoena, the presiding officer may take certain measures to compel compliance, including refusing to allow the party to support or oppose designated claims or defenses." Motion, p. 4, ¶14.

4. Applicants further assert "Chevron Michigan is an indirect subsidiary of Chevron USA, and therefore ultimately subject to the control and direction of Chevron USA." Motion, p. 4, ¶15.

5. Applicants conclude "Furthermore, because Chevron Michigan is a subsidiary of Chevron [i.e. Chevron U.S.A., Inc.], Chevron Michigan should be barred from taking any further measures to oppose the pending Applications in this matter, until such time as Chevron complies with the Second Chevron Subpoenas." Motion, p. 4, ¶17.

6. Applicants' interpretation that, under Michigan Public Service Commission ("Commission") Rule 321, R 460.17321, Chevron Michigan could be prevented from opposing the Applicants' applications until Chevron U.S.A., Inc. ("Chevron U.S.A.") complies with the Applicants' subpoenas of September 26, 2011 ("September Subpoenas"), is without substance.

7. Commission Rule 321, R 460.17321, states in part "[I]f the person who fails to obey the subpoena is a party to the proceeding or an *officer, member, or employee* of a party, the presiding officer may ... refuse to allow that party to support or oppose designated claims and defenses." (Emphasis supplied.)

8. In regards to the September Subpoenas, Commission Rule 321, R 460.17321, is inapplicable as to Chevron Michigan. The September Subpoenas were *directed to Chevron U.S.A.* Furthermore, Chevron U.S.A. is neither an "officer, member, or employee" of Chevron Michigan. Accordingly, Chevron Michigan has a right to continue full participation in Case No. U-16230.

9. Additionally, there is no support that the language of Commission Rule 321, R 460.17321, encompasses persons other than an "officer, member, or employee of a party." Moreover, Commission Rule 321, R 460.17321 does *not* reference parents, affiliates, subsidiaries or similar entities. Any attempt by the Applicants to *expand* Commission Rule 321, R 460.17321, is without support.

10. Likewise, by asserting that Chevron Michigan should "be estopped from opposing the Applicants' pending applications in this proceeding until such time as Chevron [i.e. Chevron U.S.A.] has complied with the [September Subpoenas]," Applicants *disregard* the *distinction* in Michigan law between parent and subsidiary corporations. It is well established in Michigan that parents and subsidiaries are separate entities and such distinctions are not to be blurred. ("Michigan law presumes that, absent some abuse of corporate form, parent and subsidiary corporations are separate and distinct entities." *Seasword v Hilti, Inc*, 449 Mich 542, 547-548; 537 NW2d 221 (1995).)

11. Chevron Michigan is a subsidiary of Chevron AE Operating Company, LLC, which is a subsidiary of Chevron AE Resources, LLC, which is a subsidiary of Chevron Northeast Upstream Corp., which is owned by Chevron U.S.A.

12. As Applicants have not shown that Chevron U.S.A. is an "officer, member, or employee" of Chevron Michigan, the Applicants' request that "Chevron Michigan should be

barred from taking any further measures to oppose the pending Applications in this matter, until such time as Chevron [i.e. Chevron U.S.A.] complies with the Second Chevron Subpoenas" is inconsistent with the language of Commission Rule 321, R 460.17321, and disregards the common law of Michigan which recognizes the separation and distinction between corporate entities. Therefore, the Motion should be denied.

**WHEREFORE**, Chevron Michigan requests the Commission:

- A. Deny the Applicants' Motion as described herein;
- B. Award Chevron Michigan its attorney fees, costs and expenses incurred in opposing this Motion; and
- C. Provide Chevron Michigan any further relief the Commission deems appropriate.

Respectfully submitted,

VARNUM, RIDDERING, SCHMIDT & HOWLETT LLP  
Attorneys for Chevron Michigan, LLC

Dated: December 13, 2011

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

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**STATE OF MICHIGAN**

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In the matter, on the Commission's own motion, )  
to consider the appropriate regulatory response to )  
proposals by various producers of natural gas from )  
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Case No. U-16230

**PROOF OF SERVICE**

Deliah A. Fowler says that she is an employee of VARNUM, RIDDERING, SCHMIDT & HOWLETT LLP and on December 13, 2011, she caused to be served a copy of Intervenor's, Chevron Michigan, LLC's, Response to Applicants' Motion to Compel Chevron USA, Inc.'s Compliance with Applicants' Subpoenas and Proof of Service upon the following persons in the attached Service List by electronic mail (note, a hard copy of the above-listed documents was also sent to the Honorable Mark D. Eyster on this day by regular first-class mail, postage pre-paid at the mailing address in the attached Service List).

I declare that the statement above is true to the best of my information, knowledge, and belief.

---

Deliah A. Fowler

## SERVICE LIST

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**Also sent a hard copy by regular first-class mail, postage pre-paid**

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