

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 electric and  
for other relief.

Case No. **U-17087**  
**(e-file/paperless)**

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**MICHIGAN PUBLIC SERVICE COMMISSION STAFF'S  
REPLY BRIEF**

The Michigan Public Service Commission (MPSC or Commission) Staff (Staff), in accordance with the schedule established by the Administrative Law Judge, files the following Reply Brief in Consumers Energy Company's (Consumers Energy or the Company) request for an increase in electric rates.

Staff's Reply Brief is responding to the various positions put forth by the Attorney General in his Initial Brief. Staff's failure to address any particular assertion, of any party, should not be construed as acquiescence of another party's position. Rather, Staff continues to advance the positions taken in its testimony, exhibits, and Initial Brief unless otherwise noted.

The sole issue remaining in this proceeding is related to the Company's Advanced Metering Infrastructure (AMI) and its proposed tariffs allowing for the use of voluntary non-transmitting meters. Pursuant to the partial settlement agreement entered into by the parties, the outcome of this proceeding is on a non-revenue basis as the parties agreed that the \$89.0 million annual revenue increase specified in the partial settlement agreement shall not be affected by the

Commission's ruling on this issue. See MPSC Case No U-17087, Partial Settlement Agreement, May 7, 2013, Section 5; MPSC Case No U-17087, Order Approving Settlement Agreement, May 15, 2013.

### **Advanced Metering Infrastructure**

In his Initial Brief, the Attorney General makes several arguments opposing the Company's AMI project. These arguments lack merit and should be disregarded.

The Attorney General specifically attacks three savings categories of the Company's business case to support his reduction in AMI's forecasted benefits: uncollectible expense, electricity theft reduction, and AMI induced energy conservation. Attorney General's Initial Brief, pp 7-9. In each of these categories, the Attorney General believes that the cost savings are inaccurate or inflated, relying exclusively on the opinion of his witness, Mr. Sebastian Coppola. Attorney General's Initial Brief, pp 7-9. Mr. Coppola opposed the Company's AMI / smart grid proposal based on his own economic analysis, which calculates the project's net present value (NPV) to be a negative \$133.4 million. In his analysis, Mr. Coppola relied on the project's annual cash flows, and simply reduced the assumed savings by 30-50%. 7 TR 1503. However, Mr. Coppola's opinions and alternate estimates are arbitrary as he provides no evidence such as case studies or reports to support his opinion that cost savings are inflated or inaccurate. In fact, in the electricity theft reduction category, one could argue that the Company is actually being quite conservative by estimating the level of theft mitigation to be 1%, considering the

reports from other companies used to support this 1% estimate state that theft reduction could be up to 3%.

The Attorney General states in his Initial Brief that “[i]n U-15986, the Commission ruled that ‘The Commission also finds that in its next rate proceeding, Consumers should file a detailed benefit cost analysis and a report on the progress it has made with AMI.’ (U-15986, May 17, 2010 Order, page 7).”<sup>1</sup> Attorney General’s Initial Brief, p 5. The Commission’s May 17, 2010 Order’s requirement is something of a red herring, as this is not the “next rate proceeding”. Consumers Energy has filed detailed cost benefit analyses that show a net benefit to customers from the new meters in previous rate cases, such as MPSC Case No. U-16794, Consumers Energy’s Exhibit A-45 (MKT-3).

In the equally detailed cost-benefit analysis filed with this case, the Company is projecting an overall NPV of \$42 million, indicating that installing the new meters will provide a net benefit to customers. Exhibit A-71 (LEY-3), 7 TR 1882. As the Company correctly points out in its Initial Brief, Consumers Energy’s business case has now been vetted in several rate cases and Staff has agreed that there is a positive business case for AMI. Consumers Energy’s Initial Brief, p 8. Consumers Energy also points out that in two previous electric cases, Case Nos. U-16191 and U-16794, the Attorney General advocated suspension of AMI and

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<sup>1</sup> Staff believes that the Attorney General’s citation to Case No. U-15986 is in error. Case No. U-15986 involved Consumers Energy’s gas division and the findings in this order would not be related to the Company’s electric division. Nevertheless, Staff recognizes that the Commission has instructed Consumers Energy’s electric division to provide its complete business case related to AMI and takes the Attorney General’s citation to stand for this proposition.

disallowance of all associated expenditures. In both cases, the Commission was not persuaded by the Attorney General's arguments. Consumers Energy's Initial Brief, pp 7-8.

The Attorney General also relies upon the Court of Appeals' decision in *In re Consumers Energy*, unpublished opinion per curiam of the Michigan Court of Appeals issued October 30, 2012 (Docket Nos. 295287, 296625, 296633, 296640, 298476) pp 21-22. Attorney General's Initial Brief, pp 5-6. In that case, the Court of Appeals remanded the AMI issue back to the Commission, holding that the Commission relied on "aspirational testimony" in Case No. U-15645 concerning the project's expectations. The Attorney General presumably mentions the holding to provide support for his position in this instant case.

But, the Commission should not give the decision any weight in this case. The Court of Appeals' decision has nothing to do with the facts and circumstances of this case because each rate case stands on the merits of the expenses that the utility proposes to include in its rates. The fact that the Court of Appeals in an earlier case found the record inadequate to support the Commission's findings in no way impacts the facts of this case.

The Attorney General made a similar argument in the last Consumers Energy general electric case, Case No. U-16794, using the then-recent Michigan Court of Appeals' April 10, 2012 decision in *In re Detroit Edison Co*, 296 Mich App 101; 817 NW2d 630 (2012). The Court of Appeals remanded the approval of funding for Detroit Edison's AMI pilot program in Case No. U-15765 back to the

Commission for a full hearing on the matter. In its Exceptions to the Proposal for Decision in Case No. U-16794, the Attorney General cited that appeals court decision as support for his recommendation that Consumers Energy's Smart Grid / AMI program costs should be disallowed and that the Commission should require further evidence on the record in the utility's next rate case as to the benefits of the Smart Grid / AMI program. See MPSC Case No. U-16794, Attorney General's Exceptions, April 13, 2013, p 14. The Attorney General reiterated this position in his Replies to Exceptions. MPSC Case No. U-16794, Attorney General's Replies to Exceptions, April 24, 2012, p 3. The Commission rejected the Attorney General's argument and instead agreed with Staff's position, stating that that Court of Appeals' decision "addresses the state of the evidence supporting Detroit Edison's AMI pilot, and is limited to the specific facts of that case." MPSC Case No. U-16794, Order, June 7, 2012, p 31.

Furthermore, the Commission's decision in Case No. U-16191 to approve Consumers Energy's AMI program was affirmed in *In re Consumers Energy*, unpublished opinion per curiam of the Michigan Court of Appeals issued November 20, 2012 (Docket Nos. 301318, 301381). The Court of Appeals noted the proper question in cases regarding AMI following the Consumers Energy and Detroit Edison cases that were remanded to the Commission on the AMI issue: "The question in this case, then, is whether the evidence of record better justifies the AMI funding involved than was the case in *In re Application of Detroit Edison*. We conclude that it does."

The record evidence in this case is more than sufficient to justify continued AMI funding. First, the Company's cost-benefit analysis provided to Staff shows an NPV of \$42 million over the life of the project *from the customer's perspective*. 7 TR 1882. Staff's opinion is that the Company's approach is a better measure of the project's cost-effectiveness than the one performed by Mr. Coppola because it explicitly shows the financial impact to ratepayers. Further, Consumers Energy's approach is based upon both testimony and documentary evidence, for example, reports of the results of utilities in other jurisdictions that have implemented AMI.

Second, the Attorney General's reduction in forecasted benefits is arbitrary, unsupported, and reflects an unreasonable and draconian view of the risks of the investment in AMI. Staff is aware that there is no absolute certainty that the project will bear precisely \$794 million in benefits; however, some degree of inaccuracy in the forecast of benefits is a given in all utility projects. However, based on the project's cost-benefit analysis and the overall benefits of AMI to customers (including the non-quantified benefits discussed later), the AMI project is a worthwhile investment.

Finally, the Staff notes that the Attorney General bases his case for disallowing AMI costs and suspending the project entirely on Mr. Coppola's opinion of the project's cost-benefit analysis. However, the cost-benefit analysis is merely one perspective of the project that the Staff and the Commission considers when deciding its prudence. The cost-benefit analysis is not the be-all end-all, for prudence review. In reviewing the various types of costs that the Commission may

lawfully include in rates, the courts have been clear that the Commission has broad discretion to determine whether certain costs represent reasonable costs of doing business for a utility. As described earlier, there are numerous benefits to the project that were not included in the cost benefit analysis. Staff's Initial Brief also describes how the new meters can provide benefits that the older electromechanical and digital meters cannot. Staff Initial Brief, pp 4-6. Non-quantified benefits include:

1) Outage Detection: The new meters will be able to immediately detect an outage which will enable the utility to know immediately that service is out and where it is out. That will permit the utility to more quickly determine the cause of the outage and therefore shorten the time needed to restore electricity to customers whose power is out. This will improve electric service for all customers. Vulnerable customers, such as the elderly or those using in-home medical equipment, will especially benefit from the new meters' ability to detect outages; shorter outage times may be lifesaving for vulnerable customers.

2) Improved Bill Accuracy: The new meters will improve customer service by nearly eliminating estimated bills and incorrect meter reads.

3) Customer Web Access to Consumption Information: Customers with a new electric meter will be able to log in to the Consumers Energy website and view their daily or hourly electricity consumption. This will permit customers to be aware of their energy consumption at any given point and therefore adjust their usage to meet their budgetary needs. This website feature will be a great convenience for Consumers Energy customers.

In Consumer Energy's last general electric rate case, the Commission authorized the Company to begin Phase 2 of its AMI installation. MPSC Case No. U-16794, Order, June 7, 2012, p 31. Phase 2 is the first phase of full meter deployment, and involved the installation of over 400,000 electric meters in the Muskegon, Zeeland, and Grand Rapids areas. The Commission should also recall that it previously held that "Commission approval of full deployment means that

the Commission supports a utility's decision to move the project out of the pilot/testing phase into final deployment." MPSC Case No. U-16191, Order, November 4, 2010, pp 17, 19. The Commission has also stated that "Commission approval of Smart Grid full deployment means that the Commission will not re-evaluate the utility's initial decision to move forward with a system-wide infrastructure deployment midway through the full deployment phase." *Id.*

For these reasons, the Attorney General's position on AMI should be rejected, and the Commission should approve the continuation of the Company's investment in the Advanced Metering Infrastructure.

### **Voluntary Non-Transmitting Meter Provision**

The Attorney General argues that the costs for a customer electing to utilize a voluntary non-transmitting meter are too high. Attorney General's Reply Brief, pp 12-14. In fact, the Attorney General disputes the approach taken to develop the costs associated with choosing to use a non-transmitting meter. *Id.* at 12. The Attorney General's argument fails to recognize the changes associated with updating Consumers Energy's system and the Commission's previous order related to opt-out tariffs.

In Case No. U-17000, the Commission convened a proceeding to specifically review issues related to the replacement of the Company's electromechanical and digital meters with new meters that have the ability to transmit meter reads and other information wirelessly. In that proceeding, the Commission concluded that an on-going assessment of these meters should be done on a case-by-case basis in the

context of general rate cases where the Staff and parties could continue to assess the scope of investment in new meters and the costs and benefits of these new technologies. MPSC Case No. U-17000, Order, September 11, 2012, p 4. The Commission also concluded that for customers who have significant concerns about the new meters, the Commission adopted Staff's recommendation "that an opt-out option be provided by the electric utilities." *Id.* at 5. Additionally, the Commission ordered the utility to provide a customer opt-out tariff, which allows for the voluntary use of non-transmitting meters, based on the Company's cost-of-service. *Id.* at 6.

Under a cost-of-service approach, a utility is allowed to set rates based on the cost of providing service to customers. Generally speaking, the cost of service approach will include all different components that may change during the test year, which may allow the utility to recover all of its fixed costs. Consumers Energy requested approval of voluntary non-transmitting meter tariffs, which are proposed tariffs to allow the ability to opt-out of the installation of AMI meters, and utilized a cost-of service approach to develop the associated fees. Exhibit A-72 (LEY-4). Staff reviewed the Company's proposed tariff and determined that it was consistent with the Commission's September 11, 2012 Order in Case No. U-17000, and recommended the adoption of Consumers Energy's proposed tariff with Staff's modifications. 7 TR 1933.

After reviewing Consumers Energy's cost estimates and determining that these estimates are based on the Company's experiences and past practices with

meter reading and associated functions, Staff recommended modifying Consumers Energy's proposed monthly charge. Staff witness Poornima Jayasheela testified that "Staff recommends that the monthly charge should be reduced to remove the costs associated with meter reading, AMI capital investment, and expenses that are included in the rates under which the customer is taking electric service." 7 TR 1934. The Company accepted Staff's reduction to the monthly charge. 3 TR 557.

Contrary to the methodology ordered by the Commission, the Attorney General supports utilization of an incremental cost approach for developing the costs associated with choosing to use a non-transmitting meter. Attorney General's Reply Brief, p 12. The incremental cost approach fails to recognize the Company's actual costs of maintaining an outdated system for a few customers (approximately 1-2%), while updating its remaining system for 98% of its customers. 4 TR 550. In fact, the Attorney General's proposal ignores the additional administrative expenses incurred by the Company simply by operating a separate system for a small number of customers. See Exhibit AG-23.

Staff reviewed the Attorney General's proposed adjustments to the upfront and ongoing monthly costs associated with using a non-transmitting meter. In particular, Staff takes exception to the removal of the \$39.52 included in the upfront fees. Whether it is the current customer, who chooses a non-transmitting meter, or a future customer moving into the premises after the current customer moves out, the new standard transmitting meter will be installed on that premises and that cost should be borne by the customer that chooses a non-transmitting

meter. Staff further notes that these costs will continue to be reviewed and refined in all future rate cases.

Therefore, Staff recommends that the Commission adopt Consumers Energy's proposed voluntary non-transmitting meter tariffs with Staff's modifications.

### **Conclusion**

For the reasons stated in Staff's testimony, exhibits, Initial Brief, and this brief, Staff respectfully requests that the Commission adopt its findings and recommendations and approve the continuation of Consumers Energy's investment in the Advanced Metering Infrastructure and the associated voluntary non-transmitting meter tariffs.

Respectfully submitted,

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