

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the application of	)	
<b>CONSUMERS ENERGY COMPANY</b>	)	
for authority to amend its energy optimization	)	Case No. U-17138
plan approved in Case No. U-16670.	)	
_____	)	

At the January 31, 2013 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. John D. Quackenbush, Chairman  
Hon. Orjiakor N. Isiogu, Commissioner  
Hon. Greg R. White, Commissioner

**ORDER APPROVING PARTIAL SETTLEMENT AGREEMENT**

On November 7, 2012, Consumers Energy Company (Consumers) filed an application requesting authority to amend its energy optimization (EO) plan approved in Case No. U-16670 and for approval of its proposed performance incentive mechanism and a net-to-gross ratio of 0.9.

A prehearing conference was held on November 20, 2012, before Administrative Law Judge Sharon L. Feldman (ALJ). Consumers and the Commission Staff participated in the proceedings. The ALJ granted intervenor status to the Natural Resources Defense Council and the Environmental Law and Policy Center. Subsequently, the parties submitted a partial settlement agreement resolving the case, with the exception of whether the 1.10 multiplier is applied before or after Consumers reaches the minimum savings target. The parties will submit briefs and reply briefs on this issue for the Commission’s consideration.

According to the terms of the settlement agreement, attached as Exhibit A, the parties agree that for Consumers' electric EO programs, the company may use a deemed net-to-gross ratio of 0.90 for 2012-2015 for all programs, with the exception of conventional compact fluorescent lamps (CFLs) for 2014-2015. The company will use a net-to-gross ratio of 0.90 for calculating energy savings for its conventional CFLs for 2012-2013. The parties agree that the Commission shall revisit the appropriate net-to-gross ratio for conventional CFLs in 2013 for the 2014 and 2015 program years.

The parties also agree that Consumers' current performance incentive mechanism shall remain in place with the following adjustments. The company shall earn 8% of overall program spending as an incentive if it achieves at least 100.1% of the mandated savings amount. Consumers shall earn a maximum of 12% of overall program spending as an incentive if it achieves 115% or more of the mandated savings amount. In calculating total energy savings to be applied to the base energy savings performance metric, the company may use a multiplier of 1.10 for measures with lifespans of 10 years or more as modified by the agreement.

The parties further agree that the metric for low-income program performance shall be based on energy savings, not spending and participation. In addition, the metrics for low-income, peak reduction, and multi-measure incentive shall be based on a sliding scale. The chart provided on page 3 of the settlement agreement summarizes the other agreed upon changes to the performance incentive mechanism.

Regarding Consumers' natural gas EO programs, the parties agree that the company may use a deemed net-to-gross ratio of 0.90 for 2012-2015 for all programs. The parties also agree that, in regards to Consumers' natural gas performance incentive mechanism, the company

will earn an 8% incentive if it reaches 100.1% of the total portfolio energy savings target and a 12% incentive if it reaches 115% of that target. The low-income incentive should be tied to the program energy savings target filed in 2011 (same as for electric). Specifically, a 0.67% incentive would be earned for meeting that target, and a 2% incentive would be earned for reaching 120% of that target. The incentives for multi-measures would have the same structure as for electric multi-measures, which are more specifically outlined in the settlement agreement.

Further, the parties agreed to other metrics related to new energy efficient construction for the natural gas performance incentive mechanism, outlined and summarized on pages 4-6 of the settlement agreement. In calculating total energy savings to be applied to the base energy savings performance metric, Consumers may use a multiplier of 1.10 for measures with lifespans of 10 years or more as modified by the agreement. The parties agree that the metric for low-income program performance shall be based on energy savings, not spending and participation. Further, the metrics for low-income, multi-measure, and new energy efficient construction incentives shall be based on sliding scales.

The parties agree that the settlement agreement resolves all issues in the case with the exception of whether the 1.10 multiplier is applied before or after Consumers reaches the minimum statutory savings target. The parties will submit briefs and reply briefs on this issue for the Commission's consideration.

The Commission finds that the partial settlement agreement is reasonable and in the public interest, and should be approved.

THEREFORE, IT IS ORDERED that:

A. The partial settlement agreement, attached as Exhibit A, is approved.

B. For Consumers Energy Company's electric energy optimization programs, the net-to-gross ratio of 0.90 is approved.

C. Consumers Energy Company's electric performance incentive mechanism is approved, subject to adjustments described in the settlement agreement.

D. For Consumers Energy Company's natural gas energy optimization programs, the net-to-gross ratio of 0.90 is approved.

E. Consumers Energy Company's natural gas performance incentive mechanism is approved, subject to adjustments described in the settlement agreement.

F. The issue of whether the 1.10 multiplier is applied before or after the company reaches the minimum statutory savings target shall be determined in a separate proceeding by the Commission.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order pursuant to MCL 462.26.

MICHIGAN PUBLIC SERVICE COMMISSION

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John D. Quackenbush, Chairman

By its action of January 31, 2013.

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Orjiakor N. Isiogu, Commissioner

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Mary Jo Kunkle, Executive Secretary

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Greg R. White, Commissioner

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the application )  
of CONSUMERS ENERGY COMPANY )  
to Amend its Energy Optimization Plan )  
Approved in Case No. U-16670 )  
\_\_\_\_\_ )

Case No. U-17138

**SETTLEMENT AGREEMENT**

Pursuant to MCL 24.278 and Rule 333 of the Rules of Practice and Procedure before the Michigan Public Service Commission (“MPSC” or “Commission”), the undersigned parties agree as follows:

WHEREAS, on November 7, 2012 Consumers Energy Company (“Consumers Energy” or the “Company”) filed a limited scope application with supporting testimony and exhibits requesting: (a) a determination that the Company’s proposed amendments to the Energy Optimization (“EO”) Plan approved in U-16670 are reasonable and prudent and meet all relevant requirements under 2008 PA 295; and (b) approval of the proposed performance incentive mechanism and a net-to-gross ratio of 0.9.

WHEREAS, the initial prehearing conference in this proceeding was held on November 20, 2012. The parties to the case are Consumers Energy, the Commission Staff, the Natural Resources Defense Council, and the Environmental Law and Policy Center.

WHEREAS, the Commission issued an order on December 20, 2012 in U-17049 approving an amendment to the Detroit Edison Company’s (“DTE”) EO plan. The U-17049 order approved changes to DTE’s performance incentive mechanism and net-to-gross ratio that are acceptable to all parties to this U-17138 case as they relate to the Company’s electric EO programs.

NOW THEREFORE, for purposes of settlement of Case No. U-17138, the undersigned parties agree as follows:

- 1) Regarding the Company's electric EO programs:
  - a) The Company may use a deemed net-to-gross of 0.90 for 2012 through 2015 for all programs, with the exception of conventional CFLs for the 2014-2015. The Company will use a net-to-gross of 0.90 for calculating energy savings for its conventional CFL for 2012-2013. The Commission will revisit the appropriate net-to-gross for conventional CFLs in 2013 for the 2014 and 2015 program years.
  - b) Regarding the electric performance incentive mechanism, Company's current mechanism shall remain in place with the adjustments described below. The Company shall earn 8% of overall program spending as an incentive if it achieves at least 100.1% of the mandated savings amount. The Company shall earn a maximum of 12% of overall program spending as an incentive if it achieves 115% or more of the mandated savings amount. In calculating total energy savings to be applied to the base energy savings performance metric, the Company may use a multiplier of 1.10 for measures with lifespans of 10 years or more as modified below in paragraph (3). Further, the metric for low-income program performance shall be based on energy savings, and not spending and participation. Further, the metrics for low-income, peak reduction, and multi-measure incentive shall be based on a sliding scale. The following chart

summarizes the other agreed upon changes to the performance incentive mechanism:

Performance Metric	Description	Minimum Performance to earn incentive	Incentive amount at Minimum Performance	Point at which Maximum Incentive is earned	Maximum Incentive
Base Energy Savings	GWh of energy savings from all programs, including a 1.10 multiplier for long-life measures	100.1%	8%	115%	12%
Low-Income Programs	GWh savings from low-income programs	100% of target	0.67%	120% of target	2%
Multi-Measure Residential	Increase participants who install 3+ measures	50% increase in 2013; 33% in 2014; 33% in 2015	0.33%	60% increase in 2013; 40% increase in 2014; 40% increase in 2015	1%
Multi-Measure C&I	Increase participants who install measures from 2+ categories	50% increase in 2013; 33% in 2014; 33% in 2015	0.33%	60% increase in 2013; 40% increase in 2014; 40% increase in 2015	1%
Demand Savings	Total coincident peak savings from all programs	64 MW in 2013 67 MW in 2014 70 MW in 2015	0.33%	76.8 MW in 2013 80.4 MW in 2014 84.0 MW in 2015	1%

- 2) Regarding the Company's natural gas EO programs:
  - a) The parties agree that the Company may use a deemed net-to-gross of 0.90 for 2012 through 2015 for all programs.
  - b) Regarding the natural gas performance incentive mechanism, the Company will earn an 8% incentive if it reaches 100.1% of the total portfolio MCF energy savings target and 12% incentive if it reaches 115% of that target. The low-income incentive should be tied to the program MCF energy savings target filed in 2011 (same as for electric). Specifically a 0.67% incentive would be earned for meeting that target; a 2.00% incentive would be earned for reaching 120% of that target. The

incentives for multi-measures would have the same structure as for electric multi-measures. That is:

- i. 2.0% would be split evenly into two metrics – one for residential and one for C&I (i.e. a maximum of 1.00% determined separately for each sector);
- ii. The Company would earn a 0.33% incentive for achieving a 50% increase in multi-measure participants in 2013 (over 2012 levels) and additional 33% increases in each of 2014 and 2015.
- iii. The Company would earn a 1.0% incentive for achieving a 60% increase in 2013 and additional 40% increases in each of 2014 and 2015

In addition, the Parties agree to other metrics related to new energy efficient construction for the natural gas performance incentive mechanism. That is:

- i. 2.0% would be split evenly into two metrics – one for residential and one for C&I (i.e. a maximum of 1.00% determined separately for each sector);
- ii. The Company would earn, on a sliding scale, an incentive between 0% and 0.33% for achieving an increase (over 2012 levels) between 0% and 50% in the number of residential new construction participants certified as achieving the ENERGY STAR version 3.0 standard in 2013 and additional 0% to 33% increases in each of 2014 and 2015. See the attached Exhibit 1 for an example of this sliding scale.

- iii. The Company would earn, on a sliding scale, an incentive between 0.33% and 1.0% incentive for achieving an increase between 50% and 60% in residential ENERGY STAR participants in 2013, and additional 33% to 40% increases in each of 2014 and 2015.
- iv. The Company would earn, on a sliding scale, an incentive between 0% and 0.33% for achieving an increase (over 2012 levels) between 0% and 50% in gas energy savings for the New Construction C&I program, and additional 0% to 33% increases in savings in each of 2014 and 2015.
- v. The Company would earn, on a sliding scale, an incentive between 0.33% and 1.0% incentive for achieving an increase between 50% and 60% in gas energy savings for the New Construction C&I program, and additional 33% to 40% increases in savings in each of 2014 and 2015.

The following chart summarizes the performance incentive mechanism:

Performance Metric	Description	Minimum Performance to earn incentive	Incentive amount at Minimum Performance	Point at which Maximum Incentive is earned	Maximum Incentive
Base Energy Savings	MCF energy savings from all programs, including a 1.10 multiplier for long-life measures	100.1%	8%	115%	12%
Low-Income Programs	MCF savings from low-income programs	100% of target	0.67%	120% of target	2%
Multi-Measure Residential	Increase participants who install 3+ measures	50% increase in 2013; 33% in 2014; 33% in 2015	0.33%	60% increase in 2013; 40% increase in 2014; 40% increase in 2015	1%
Multi-Measure C&I	Increase participants who install measures from 2+ categories	50% increase in 2013; 33% in 2014; 33% in 2015	0.33%	60% increase in 2013; 40% in 2014; 40% in 2015	1%
New Construction Residential	Increase in ENERGY STAR new construction participants	50% increase in 2013; 33% in 2014; 33% in 2015 (with	0.33%	60% increase in 2013; 40% increase in 2014; 40% increase in 2015	1%

		sliding scale)		(with sliding scale)	
New Construction C&I	MCF savings from program participants	50% increase in 2013; 33% in 2014; 33% in 2015 (with sliding scale)	0.33%	60% increase in 2013; 40% increase in 2014; 40% increase in 2015 (with sliding scale)	1%

c) In calculating total energy savings to be applied to the base energy savings performance metric, the Company may use a multiplier of 1.10 for measures with lifespans of 10 years or more as modified below in paragraph (3). Further, the metric for low-income program performance shall be based on energy savings, and not spending and participation. Further, the metrics for low-income, multi-measure and new energy efficient construction incentives shall be based on sliding scales.

3) The Parties agree on all issues in this Settlement Agreement with the exception of whether the 1.10 multiplier is applied before or after the Company reaches the minimum statutory savings target. The Parties agree to settle all issues in U-17138 in accordance with this Settlement Agreement with the exception of this sole issue. The Parties will submit briefs (and reply briefs at each Party's option) on this sole issue and agree to be bound by the Commission's determination on this issue.

4) The Parties agree that all pre-filed testimony should be bound into the record without any changes.

5) The parties agree that the above-described changes to the Company's EO Plan are reasonable and prudent and meet all relevant requirements under PA 295.

6) This settlement is entered into for the sole and express purpose of reaching a compromise among the parties. All offers of settlement and discussions relating to this settlement are, and shall be considered, privileged under MRE 408. If the Commission approves

this Settlement Agreement without modification, neither the parties to this Settlement Agreement nor the Commission shall make any reference to, or use, this Settlement Agreement or the order approving it, as a reason, authority, rationale, or example for taking any action or position or making any subsequent decision in any other case or proceeding; provided, however, such references may be made to enforce or implement the provisions of this Settlement Agreement and the order approving it.

7) This Settlement Agreement is based on the facts and circumstances of this case and is intended for the final disposition of Case No. U-17138. So long as the Commission approves this Settlement Agreement without any modification, the parties agree not to appeal, challenge, or otherwise contest the Commission order approving this Settlement Agreement. Except as otherwise set forth herein, the parties agree and understand that this Settlement Agreement does not limit any party's right to take new and/or different positions on similar issues in other administrative proceedings, or appeals related thereto.

8) This Settlement is not severable. Each provision of the Settlement Agreement is dependent upon all other provisions of this Settlement Agreement. Failure to comply with any provision of this Settlement Agreement constitutes failure to comply with the entire Settlement Agreement. If the Commission rejects or modifies this Settlement Agreement or any provision of the Settlement Agreement, this Settlement Agreement shall be deemed to be withdrawn, shall not constitute any part of the record in this proceeding or be used for any other purpose, and shall be without prejudice to the pre-negotiation positions of the parties.

9) The parties agree that approval of this Settlement Agreement by the Commission would be reasonable and in the public interest.

10) The parties agree to waive Section 81 of the Administrative Procedures Act of 1969 (MCL 24.281), as it applies to the issues resolved in this Settlement Agreement, if the Commission approves this Settlement Agreement without modification.

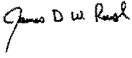
11) This Settlement Agreement may be executed in any number of counterparts, each considered an original, and all counterparts that are executed shall have the same effect as if they were the same instrument.

WHEREFORE, the undersigned parties respectfully request the Commission to approve this Settlement Agreement on an expeditious basis and to make it effective in accordance with its terms by final order.


MICHIGAN PUBLIC SERVICE  
COMMISSION STAFF

By: Spencer Sattler  
Digitally signed by Spencer Sattler  
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CONSUMERS ENERGY COMPANY

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ENVIRONMENTAL LAW AND POLICY CENTER

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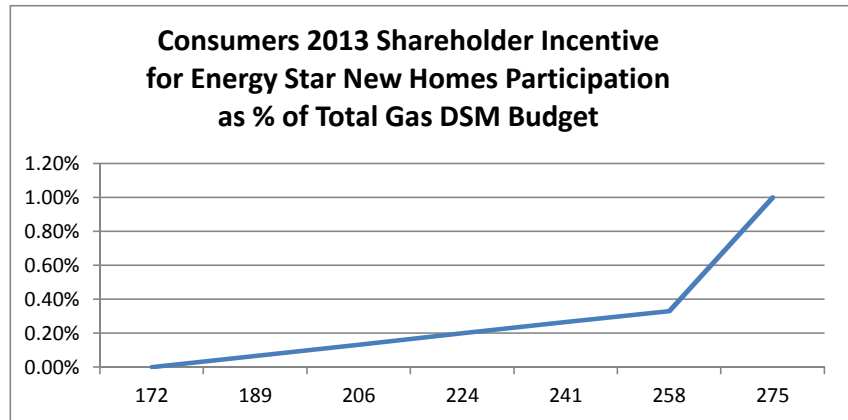
Attorneys for the Environmental Law and Policy Center

**New Consumers' Residential New Construction Gas Metric**

	2012	2013			2014			2015		
	Actuals	Floor	0.33% Incentive	1% incentive	Floor	0.33% Incentive	1.00% incentive	Floor	0.33% Incentive	1.00% Incentive
<b>Targets</b>	172	172	258	275	258	343	361	343	456	480

**2013 Incentives**

	Participants	Settlement Agreement
Floor	172	0.00%
1.1 x floor	189	0.07%
1.2 x floor	206	0.13%
1.3 x floor	224	0.20%
1.4 x floor	241	0.26%
1.5 x floor	258	0.33%
1.6 x floor	275	1.00%



**2014 Incentives**

	Participants	Settlement Agreement
Floor	258	0.00%
1.10 x floor	284	0.10%
1.20 x floor	310	0.20%
1.30 x floor	335	0.30%
1.33 x floor	343	0.33%
1.40 x floor	361	1.00%

**2015 Incentives**

	Participants	Settlement Agreement
Floor	343	0.00%
1.10 x floor	377	0.10%
1.20 x floor	412	0.20%
1.30 x floor	446	0.30%
1.33 x floor	456	0.33%
1.40 x floor	480	1.00%

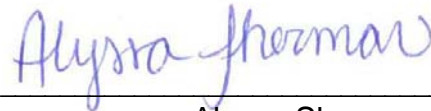
# P R O O F O F S E R V I C E

STATE OF MICHIGAN )

Case No. U-17138

County of Ingham )

Alyssa Sherman being duly sworn, deposes and says that on January 31, 2013 A.D. she served a copy of the attached Commission order by first class mail, postage prepaid, or by inter-departmental mail, to the persons as shown on the attached service list.



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Alyssa Sherman

Subscribed and sworn to before me  
This 31st day of January 2013

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Gloria Pearl Jones  
Notary Public, Ingham County, MI  
My Commission Expires June 5, 2016  
Acting in Eaton County

Service List U-17138

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