Consumers Energy
Count on Us

A CMS Energy Company

General Offices:
One Energy Plaza Tel: (517) 788-0550
Jackson, MI 49201 Fax: (517) 768-3644

*Washington Office:
1730 Rhode Island Ave. N.W. Tel: (202) 778-3340
Suite 1007
Washington, DC 20036 Fax: (202) 778-3355

Writer's Direct Dial Number: (517) 788-2112
Writer's E-mail Address: anne.uitvlugt@cmsenergy.com

LEGAL DEPARTMENT
CATHERINE M REYNOLDS
Senior Vice President
and General Counsel

MELISSA M GLEESPEN
Vice President, Corporate
Secretary and Chief
Compliance Officer

SHAUN M JOHNSON
Vice President and Deputy
General Counsel

Bret A Totoraitis
Kelly M Hall
Eric V Luoma
Assistant General Counsel

Ashley L Bancroft
Robert W Beach
Don A D'Amato
Robert A. Farr
Gary A Gensch, Jr.
Gary L Kelterborn
Chantez P Knowles
Mary Jo Lawrie
Jason M Milstone
Rhonda M Morris
Deborah A Moss*
Mirče Michael Nestor
Michael C. Rampe
James D W Roush
Scott J Sinkwitts
Adam C Smith
Theresa A G Staley
Janae M Thayer
Anne M Uitvlugt
Aaron L Vorce
Attorney

March 26, 2018

Ms. Kavita Kale
Executive Secretary
Michigan Public Service Commission
7109 West Saginaw Highway
Post Office Box 30221
Lansing, MI 48909

RE: MPSC Case No. U-18383 – In the matter, on the Commission's Own Motion, to Implement the Provisions of Sections 173 and 183(1) Of 2016 PA 342, and Section 6a(14) of 2016 PA 341.

Ms. Kale:

Enclosed for electronic filing in the above-captioned case, please find the **Reply Comments of Consumers Energy Company**. This is a paperless filing and is therefore being filed only in PDF.

Sincerely,

Digitally signed by Anne M. Uitvlugt
Date: 2018.03.26 13:39:49 -04'00'

Anne M. Uitvlugt

fl0318-2-229

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter, on the Commission's Own Motion, to Implement the Provisions of Sections 173 and 183(1) Of 2016 PA 342, and Section 6a(14) of 2016 PA 341.	))))))	Case No. U-18383

REPLY COMMENTS OF CONSUMERS ENERGY COMPANY

On February 22, 2018, the Michigan Public Service Commission ("MPSC" or the "Commission") issued an Order after review of the final Distributed Generation ("DG") Report that was prepared by the MPSC Staff ("Staff") after conducting a DG Workgroup with interested parties. In the DG Report, Staff recommended the implementation of an Inflow/Outflow billing mechanism as part of the DG tariff for Michigan utilities.

In its Order, the Commission indicated that Staff's proposed Inflow/Outflow method for developing a DG tariff is cost-of-service based and would comport with the requirements of Public Act 341 of 2016 ("Act 341"). MPSC Case No. U-18383, February 22, 2018 Order and Notice of Opportunity to Comment, page 5 ("February Order"). Nevertheless, the Commission stated that electric providers and other interested parties will have an opportunity to propose alternative DG tariffs, along with an Inflow/Outflow approach, in electric rate cases filed after June 1, 2018. *Id*.

Additionally, the Commission requested comments from interested parties on the following issues:

> "• Are there any concerns with the recommended process for developing and approving a DG tariff as discussed above (i.e., an interim case to develop a uniform outflow compensation method, coupled with a rate case to finalize the DG tariff)?

> “• The DG Study relied primarily on the language in MCL 460.6a(14) to develop a method and tariff ‘reflecting equitable cost of service for utility revenue requirements’ for DG customers. This method would replace net metering and modified net metering for customers who enroll after the tariff is approved. Are there any legal limitations to the implementation of the Inflow/Outflow method and tariff as proposed in the DG Report? Specifically, does adoption of the Inflow/Outflow billing method conflict with Sections 177(4) and (5) of 2008 PA 295, MCL 460.1177(5)?
>
> “• Do any providers anticipate any technical limitations with respect to measuring and billing/crediting under the Inflow/Outflow method?
>
> “• In the July 12 order, the Commission found that the current net metering program should continue as the DG program until new DG tariffs are approved in rate cases filed after June 1, 2018. In addition, under MCL 460.1183 and MCL 460.6a(14), any customer ‘participating’ in a net metering or DG program before the new DG tariff is approved may continue net metering for 10 years, or may opt to receive service under a DG tariff. At what point should a customer be considered to be ‘participating’ in a net metering program?”

Consumers Energy Company (“Consumers Energy” or the “Company”) filed Comments pursuant to the Commission’s invitation. Initial comments were also filed by numerous individuals and other organizations.[1] Reply comments must be filed no later than March 26, 2018.

There are similarities among the comments of several of the commenting entities. Consumers Energy provides this response on matters involving the material disputes. Specifically, the Company’s Reply Comments address the process for approving the DG tariff,

[1] Numerous entities filed comments in this proceeding including DTE Electric Company, the Michigan Electric & Gas Association, Sunrun Inc (“Sunrun”), the Michigan Energy Innovation Business Council (“MEIBC”), Michigan House of Representatives House Democratic Leader Sam Singh (“Representative Singh”), Michigan Conservative Energy Forum, joint Comments of Mayors of Grand Rapids, Traverse City, East Lansing, and Ann Arbor , Chart House Energy, and the Abrams Environmental Law Clinic at the University of Chicago on behalf of Soulardarity (“Soulardarity”). Several other parties also filed jointly (and some also separately) including comments of 5 Lakes Energy, the Ecology Center, Environmental Law and Policy Center, Great Lakes Renewable Energy Association, Michigan Environmental Council, and Sierra Club (referred to jointly as “5 Lakes Energy”). Additionally, comments were filed by members of the public.

the study undertaken by the Commission Staff, and the determination of the Outflow credit. To the extent the Company does not address a particular issue, this does not constitute the Company's agreement with a particular commenter. Instead, Consumers Energy continues to support its March 12, 2018 Comments.

I. RESPONSE

Significant work was undertaken to conduct a study on an "appropriate tariff reflecting equitable cost of service for utility revenue requirements." Following the enactment of Act 341, to meet the requirements of MCL 460.6a(14), Staff commenced a DG Workgroup, which met for the first time in March 2017. Six additional meetings were held over the remainder of 2017, with the workgroup process culminating in the Staff report and proposed DG tariff. Consumers Energy recognizes the work undertaken to conduct a study on an appropriate DG Program tariff that reflects an equitable cost of service for utility revenue requirements for customers who participate in a net metering program or DG Program. Nationwide, the creation of cost-based DG programs has been controversial, and the process used by Staff to address this issue ensured that all participants were provided an opportunity to be heard and to discuss issues prior to a contested case proceeding.

In their Comments, some of the commenters suggested that the utilities intentionally withheld data during the workgroup process. See, e.g., ChartHouse Energy, page 3. This claim is misplaced. These Comments ignore the fact that prior to the passage of the Public Act 295 of 2008 ("Public Act 295"), the Company required net metering customers to install a separate generation meter for billing purposes. That metering configuration would have enabled the Company to capture the data that is necessary to understand the generation and usage provided for net metering customers that would be fully sufficient for a cost of service studies. Under Public Act 295, a single metering requirement was adopted in an effort to make participation in net metering administratively and economically efficient. While it is accurate that the Company has completed its implementation of smart meters, which does provide the capability of determining net hourly use for all customers, the Company does not have a full year of data for all net metering customers that would be required for load studies on DG customers. The Company worked cooperatively with Staff to assist with the DG study. The Company willingly provided the information requested by Staff that was permitted under current rules. Any claim to the contrary is inaccurate.

Ultimately, some of the commenting parties suggested that the implementation of the DG tariff should be delayed, as the Commission has not conducted the necessary study as required by law. MCL 460.6a(14) provides that "the Commission shall conduct a study on an appropriate tariff reflecting equitable cost of service for utility revenue requirements for customers who participate in a net metering program or distributed generation program under the clean and renewable energy and energy waste reduction act, 2008 PA 295, MCL 460.1001 to 460.1211." While Sunrun argues that Staff should complete further "value of solar" and "cost benefit analyses" (Sunrun, page 4), nothing in the statute requires the analyses requested. Moreover, Consumers Energy disagrees with the Comments that allege that the Commission failed to meet its statutory obligation based on the contention that Staff did not complete a cost of service study on DG customers. See Sunrun, pages 8 through 10; MEIBC, page 4. There is no statutory requirement that the utility must conduct an embedded cost of service study on a separate class of DG customers. The statute only requires the Commission to conduct a study on an appropriate tariff that reflects equitable cost of service. See MCL 460.6a(14). By requiring the Commission to conduct a study on an appropriate tariff reflecting equitable cost of service for utility revenue requirements, the cost components of the service provided by the utility to

DG customers is addressed. Moreover, a utility revenue requirement does not include considerations for avoided costs or valuations on energy that flows back to the Company as suggested by some of the commenters. See 5 Lakes Energy, pages 2 through 3. The statute requires a study on an appropriate tariff for DG customers that reflects their equitable share of the revenue requirements required by the cost of service. Staff has completed the necessary work and analysis which resulted in their recommendation for an Inflow/Outflow methodology. The proposed tariff addresses the requirements of Act 341.

A. The Current Status of Net Metering

A common concern raised by the commenting parties involves the current status of the Net Metering Program. See, e.g., Sunrun, page 2; MEIBC, page 6. Of note, Representative Singh raises his concern that the "Staff report recommends an interim rate that would significantly reduce how much compensation residents receive from generating energy from rooftop solar until further study is completed." Representative Singh further indicates that it was the Legislature's intent to ensure certainty for net metering customers as the Commission developed a DG tariff. Consumers Energy recognizes the need for certainty for net metering customers and supports the continued use of its current net metering tariff until such time as its new DG tariff has been approved by the Commission in its next general rate case filed after June 1, 2018.

In its July 12, 2017 Order, the Commission determined that:

> "Considering the statutory language under Section 173 of Act 342 and Section 6a(14) of Act 341, and in light of the consensus among the commenters, the Commission agrees that until such time as new distributed generation tariffs are approved after June 1, 2018, keeping the net metering (now, distributed generation) program in place, as it is currently structured, is the most reasonable approach. In addition, the Commission finds that maintaining the current program comports with the requirement under Section 173(1) that the Commission establish a distributed generation program within 90 days of April 20,

> 2017. Accordingly, the Commission approves the continuation of the net metering program as the interim distributed generation program under the terms and conditions set forth in amended Act 295." MPSC Case No. U-18383, July 12, 2017 Order, page 5.

Consumers Energy continues to believe that it would be appropriate to administer the 2016 Public Act 342 ("Act 342")-mandated DG Program pursuant to established Net Metering tariffs pending approval of the DG tariffs in rate cases filed after June 1, 2018. This approach would minimize confusion among current and future participants in the Net Metering Program and would limit operational and billing changes to those that result from the tariff revisions which occur after the Commission concludes the study required by Section 6a(14) of Act 341. Consumers Energy believes that this viewpoint is consistent with the February Order, which requested comments on what point a customer is considered to be participating in a net metering program, and restated its previous determination that "the Commission found that the current net metering program should continue as the DG program until new DG tariffs are approved in rate cases filed after June 1, 2018. In addition, under MCL 460.1183 and MCL 460.6a(14), any customer 'participating' in a net metering or DG program before the new DG tariff is approved may continue net metering for 10 years, or may opt to receive service under a DG tariff." February Order, page 5.

B. <u>Recommended Process for Developing and Approving a DG Tariff</u>

In the DG Report, Staff recommended the adoption of the Inflow/Outflow method. Further, Staff recommended that "the Commission establish a new contested proceeding establishing a uniform *outflow compensation method* for regulated utilities. In particular, this would give an opportunity to take a closer look at the issue of additional avoided costs and benefits (beyond energy and capacity) associated with DG power outflows into the distribution grid. The methodology approved in such a proceeding would be incorporated into future general rate cases filed after June 1, 2018." DG Report, page 17. Several of the commenters' supported establishing a separate contested case to determine an outflow compensation method, or other aspects of a new DG tariff. See, e.g., 5 Lakes Energy, page 3; Sunrun, page 3; Soulardarity, page 3. However, the Commission did not approve the Inflow/Outflow model in its Order. Instead, the Commission stated that: "electric providers and other interested parties will still have an opportunity to propose alternative DG tariffs, along with an Inflow/Outflow approach, in electric rate cases filed after June 1, 2018." February Order, page 5. Moreover, as discussed below, MCL 460.1177(4) establishes the credit options for utilities to consider with respect to crediting customers for energy delivered into the utility's distribution system. A separate contested case to determine the outflow compensation mechanism would be unnecessary as utilities are to include a DG tariff in rate cases filed after June 1, 2018.[2]

As the DG tariff is not approved, and parties have the ability to submit proposed tariffs, it would be inefficient and unnecessary to have an interim case to develop a uniform outflow credit. By conducting an interim proceeding to develop the uniform outflow compensation, the Commission would seemingly be prejudging the methodology to be used for the DG tariff. Absent an established tariff, this proceeding would not provide value.

C. <u>Limitations on the implementation of the Inflow/Outflow method</u>

In the final DG Report, Staff recommends the adoption of the Inflow/Outflow method for the uniform DG tariff. Under its Inflow/Outflow approach, Staff recommends the use of each electric provider's avoided costs, as determined by the Commission in separate proceedings, as the basis to set compensation under the Inflow/Outflow mechanism. However, the credit for

[2] One of the commenters, Sunrun, erroneously claims that the Legislature "intended" that a tariff be "approved" before it is included in a rate case, indicating that utilities should not be allowed to file a DG tariff until the Commission has approved "the DG tariff". Sunrun, page 4. This claim is not supported by the statutory language.

DG customers delivering electricity to the utility's distribution system has already been addressed and the Staff's proposed credit methodology does not align with the requirements of Section 177(4) of Act 342. Section 177(4) states:

> "(4) If the quantity of electricity generated and delivered to the utility distribution system by an eligible electric generator during a billing period exceeds the quantity of electricity supplied from the electric utility or alternative electric supplier during the billing period, the **eligible customer shall be credited by their supplier of electric generation service for the excess kilowatt hours generated during the billing period. The credit shall appear on the bill for the following billing period and shall be limited to the total power supply charges on that bill**. Any excess kilowatt hours not used to offset electric generation charges in the next billing period will be carried forward to subsequent billing periods. Notwithstanding any law or regulation, distributed generation customers **shall not receive credits for electric utility transmission or distribution charges. The credit per kilowatt hour for kilowatt hours delivered into the utility's distribution system shall be either of the following**:
>
> > "(a) The **monthly average real-time locational marginal price for energy** at the commercial pricing node within the electric utility's distribution service territory, **or for distributed generation customers on a time-based rate schedule, the monthly average real-time locational marginal price for energy at the commercial pricing node** within the electric utility's distribution service territory during the time-of-use pricing period.
> >
> > "(b) The electric utility's or alternative electric supplier's **power supply component, excluding transmission charges, of the full retail rate** during the billing period or time-of-use pricing period." MCL 460.1177(4). (Emphasis added).

Several of the commenters argue that the compensation for outflow should be based on a methodology not listed in 177(4), such as a "value of solar" methodology. See 5 Lakes Energy, page 3; Sunrun, page 4. The Company disagrees with the assertion that an outflow compensation methodology should include such components as they are inconsistent with

MCL 460.1177(4). Similarly, MEIBC suggests that a fair evaluation of the energy outflow from DG systems must include the full benefits and avoided costs such as line losses, avoided transmission and distribution costs, avoided air emissions and environmental costs, decreased fuel price risk, and reactive supply and voltage control. However, the statute is clear on how the credit is to be determined. Moreover, the Company does not believe it would be consistent to include these externalities in a credit, since these credits are not considered in the credits and rebates provided to customers to participate in Demand Response, Load Control, and Energy Efficiency programs that are available today – which provide proven benefits.

In its Comments, at page 3, 5 Lakes Energy additionally states that: "Staff recommends that any credits from outflow should not be used to offset the customer's monthly fixed charge. We see no legal or economic justification for that position." Under Staff's Inflow/Outflow proposal, the distribution charges could be reduced, or completely offset by outflow credits. See, e.g., DG Report, page 14. This proposal is in direct contrast to the language of Section 177(4) of Act 342, which indicates that "The credit shall appear on the bill for the following billing period and shall be limited to the **total power supply charges on that bill**" and further states that: "distributed generation customers shall not receive credits for electric utility transmission or distribution charges." Emphasis added. Under the statutory language, credits cannot reduce distribution or transmission charges. 5 Lakes Energy's claim that there is no legal basis to conclude that certain charges cannot be offset ignores the plain language of the statute.

II. <u>CONCLUSION</u>

In conclusion, Consumers Energy Company respectfully requests that the Michigan Public Service Commission consider its Reply Comments.

Respectfully submitted,

CONSUMERS ENERGY COMPANY

Dated: March 26, 2018