

# CLARK HILL

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May 22, 2019

***VIA ELECTRONIC CASE FILING***

Ms. Mary Jo Kunkle  
Michigan Public Service Commission  
7109 W. Saginaw Hwy.  
Lansing, MI 48917

Re: ***MPSC Case No. U-17953***  
***In the Matter of the Complaint of Midland Cogeneration Venture Limited***  
***Partnership v. Consumers Energy Company***

Dear Ms. Kunkle:

Attached for filing is the ***Agreement Regarding Review of Privilege Log Documents*** along with a ***Proof of Service*** in regards to the above-referenced case.

Very truly yours,

**CLARK HILL PLC**

Douglas R. Kelly  
Douglas R. Kelly

Digitally signed by Douglas R. Kelly  
DN: CN = Douglas R. Kelly email  
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= Clark Hill PLC  
Date: 2019.05.22 15:47:42 -05'00'

DRK:lat  
Attachment

cc: w/attachment: Parties of Record via Electronic Mail  
ALJ, Hon. Sharon L. Feldman

221662724.1 45617/186747

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

\* \* \* \* \*

In the matter of the Complaint of MIDLAND	)	
COGENERATION VENTURE LIMITED	)	
PARTNERSHIP against CONSUMERS	)	Case No. U-17953
ENERGY COMPANY	)	
_____	)	

**AGREEMENT REGARDING REVIEW OF PRIVILEGE LOG DOCUMENTS**

Consumers Energy Company (“Consumers”) having filed a Motion For A Protective Order (“Motion”) related to redactions on documents it produced; Midland Cogeneration Venture Limited Partnership (“MCV”) having filed a Response in Opposition to the Motion; the parties having resolved the Motion by agreeing to submit discovery issues pertaining to privileged redactions to former Judge Peter Houk for review and consideration; it is hereby agreed by the parties that:

1. Former Judge Peter Houk (“Judge Houk”) shall be engaged by the parties to assist in resolving issues related to the documents produced by Consumers that have redactions for privilege that is the subject of the Motion;

2. The parties shall split the fees evenly (50/50) that are charged by Judge Houk’s law firm for his services related to this engagement;

3. On or before May 31, 2019, Consumers Energy shall provide Judge Houk with the following:

(A) All Consumer documents that were produced by Consumers on April 30, 2019 for which Consumers has retained the privilege redactions and a version of the documents without the redactions; and

(B) A copy of the spreadsheet provided to MCV on April 30, 2019.

4. In addition, there are 37 files from the privilege log documents from the earlier review by Judge Houk that he could not open. If Judge Houk can identify these documents and if Consumers has the ability to provide them in a form that can be opened, then Consumers will provide these files to Judge Houk for review.

5. Judge Houk shall review the materials submitted by the parties and provide the parties with his assessment as to documents (a) that should retain the privilege redaction and (b) documents that are not properly designated and redacted as privileged or work product. Judge Houk shall also provide the rationale for his finding.

6. After Judge Houk's assessment the Parties will confer regarding next steps concerning the privilege log documents.

Agreed to this 22nd day of May, 2019:

/s/ Linda M. Watson  
CLARK HILL PLC  
Douglas R. Kelly(P49856)  
Linda M. Watson (P45320)  
Attorneys for MCV  
[dkelly@clarkhill.com](mailto:dkelly@clarkhill.com)  
[lwatson@clarkhill.com](mailto:lwatson@clarkhill.com)

/s/ Eric V. Luoma  
Theresa A.G. Staley (P56998)  
Eric V. Luoma (P42678)  
Attorneys for Consumers Energy  
[theresa.staley@cmsenergy.com](mailto:theresa.staley@cmsenergy.com)

STATE OF MICHIGAN  
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

\* \* \* \* \*

In the matter of the Complaint of MIDLAND )  
COGENERATION VENTURE LIMITED ) Case No. U-17953  
PARTNERSHIP against CONSUMERS ENERGY ) Sharon L. Feldman, ALJ  
COMPANY. )

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**PROOF OF SERVICE**

STATE OF MICHIGAN )  
 ) ss  
COUNTY OF OAKLAND )

Douglas R. Kelly, being first duly sworn, deposes and says that on September 4, 2018, he did cause to be served the *Agreement Regarding Review of Privilege Log Documents* and this *Proof of Service*, in the above docket, via electronic mail, on the persons identified on the attached service list.

Douglas R. Kelly

Digitally signed by: Douglas R. Kelly  
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Date: 2019.05.22 15:43:04 -05'00'

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Douglas R. Kelly

Subscribed and sworn to before me  
this 22<sup>nd</sup> day of May, 2019.

**Lisa A.  
Teets**

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Lisa Ann Teets, Notary Public, State of MI  
County of Oakland  
My Commission expires: August 23, 2024  
Acting in County of Oakland

**SERVICE LIST**  
**MPSC Case No. U-17953**

**Administrative Law Judge**

Sharon L. Feldman, ALJ  
Administrative Law Judges Division  
7109 West Saginaw Highway  
P. O. Box 30221  
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Limited Partnership**

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