

**UTILITY CONSUMER REPRESENTATION FUND**

**2015 GRANT APPLICATION**

**TABLE OF CONTENTS**

GRANT ANNOUNCEMENT ..... 1

GENERAL INFORMATION ..... 2

TERMS AND CONDITIONS ..... 6

INFORMATION REQUIRED FROM APPLICANTS ..... 14

PROJECT SUMMARY ..... 17

SUMMARY OF PROPOSED PARTICIPATION IN PROCEEDINGS ..... 19

PROPOSED BUDGET ..... 20

ATTACHMENT A - ANTICIPATED CASES ELIGIBLE FOR GRANT AWARDS ..... 21

## UTILITY CONSUMER REPRESENTATION FUND GRANT ANNOUNCEMENT

**Goals:** The Utility Consumer Participation Board (“UCPB” or “Board”) will issue grants from the Utility Consumer Representation Fund (“UCRF” or “Fund”) pursuant to PA 304 of 1982, as amended, to nonprofit organizations or local units of government in this state to ensure equitable representation of the interests of residential ratepayers or classes of government of residential ratepayers in cases eligible under Act 304. These primarily include electricity and natural gas supply and cost recovery plan review proceedings (“PSCR Plan” and “GCR Plan” review cases) and corresponding reconciliation proceedings (“Reconciliation” cases) before the Michigan Public Service Commission. Other cases may qualify if eligibility under Act 304 can be established.

**Project Tasks:** These grants can be used to pay eligible expenses associated with representing residential ratepayer interests in Act 304 proceedings. Coordination of representation with the Attorney General, who also intervenes in Act 304 cases, is required. The Board encourages applicants to develop new and innovative approaches. Strategies should address the six issues of particular importance to residential ratepayers that were identified in the 1986 legislative review of Public Act 304.

**Funding:** The Governor’s Executive Recommendation for Fiscal Year 2015 requests \$950,000 to be appropriated for grants and administrative support. Approximately \$900,000 would be available for grants. This amount is subject to the appropriation process. A final amount will not be established until the appropriation bill is passed by the Legislature and signed into law by the Governor.

**Timeline:** Applications for the grant application consideration at the August 26, 2013 meeting of the Board are due no later than **Monday, July 28, 2014 at 4:00 p.m. to the address below.** Applications and a cover letter attesting to the truth and accuracy of the grant application, must be submitted by the deadline in one of the following manners:

- Electronically to the contact identified below. If delivered electronically to meet the deadline, five (5) paper copies (including 1 original signed copy of the attestation cover letter) of the application must be delivered by 4:00 p.m. the next business day to the same address.
- U.S. Mail or courier to address below – 1 original and 5 copies of the application. The five (5) copies may be delivered by 4:00 p.m. the next business day to the same address.
- Hand Deliver to address below – 1 original and 5 copies of the application. The five (5) copies may be delivered by 4:00 p.m. the next business day to the same address.

Proposals will be evaluated at the August 25, 2014 Utility Consumer Participation Board meeting. If all of the funds are not granted at the meeting scheduled August 25, 2014, UCRF grant applications and amendments to grants will continue to be accepted for consideration at regular or special meetings of the board until funding is no longer available or the fiscal year ends, whichever occurs first.

**Eligible Applicants:** Nonprofit organizations or local units of government in this state representing interests of residential ratepayers or classes of residential ratepayers in the service territory of the utility case for which funds are being sought. Eligibility requirements are described in the grant application and in PA 304, 1982 as amended, section 460.6m.

**Evaluation Criteria:** The six criteria and point system to be used by the Board in evaluating competitive grant applications are described in the grant application.

**Email Applications to:** Robin Bennett at (517) 335-5968  
Email: [BennettR1@Michigan.gov](mailto:BennettR1@Michigan.gov) (cc. [wilseym@casair.net](mailto:wilseym@casair.net))

**Mail Applications to:** Ms. Robin Bennett, Executive Secretary  
Michigan Department of Licensing and Regulatory Affairs  
P. O. Box 30004  
Lansing, MI 48909

**Hand Deliver to:** Ottawa Building  
611 W. Ottawa, 4th Floor  
Lansing, MI 48933

**UTILITY CONSUMER REPRESENTATION FUND  
GRANT APPLICATION  
GENERAL INFORMATION**

**I. PROGRAM DESCRIPTION**

BACKGROUND

Public Act 304 of 1982, as amended, prohibits regulated utilities from using automatic adjustment clauses to reflect changes in the cost of purchased gas, fuel or electricity. In their place the Act provides for establishment of gas and power supply cost recovery clauses in utility rate schedules, which require review and approval by the Michigan Public Service Commission (MPSC).

To recover increases in gas and power supply costs, an electric or gas utility must file a gas or electric cost recovery plan describing its expected sources and quantity of gas and electric power and the changes in cost anticipated over a twelve-month period. Contemporaneously with the filing of the plan, the utility must submit a five-year forecast of the gas and electric requirements of its customers, its anticipated sources of supply, and projections of cost.

Once the plan and the forecast have been filed, the MPSC conducts a proceeding called a gas or power supply and cost review to evaluate the reasonableness and prudence of the plan and to establish gas/power recovery factors. This is a contested case in which the MPSC staff, the Attorney General Special Litigation Division, and others may participate through legal counsel.

Not later than three months after the end of the twelve-month period covered by a utility's cost recovery plan, a cost reconciliation proceeding is convened. This is also a contested case before the MPSC. In a cost reconciliation proceeding, the MPSC considers any issue regarding the reasonableness and prudence of expenses for which customers were charged, if the issue could not have been considered adequately in a previously conducted supply and cost review. The MPSC will require a utility to refund to customers amounts in excess of what the Commission determines to have been reasonable and prudent actual expenses.

PURPOSE

Public Act 304 of 1982 also creates a Governor-appointed, five-member Utility Consumer Participation Board (UCPB) to administer the Michigan Utility Consumer Representation Fund established by Public Act 304 of 1982.

The UCPB will issue grants to qualified groups to ensure equitable representation of the interests of residential ratepayers or classes of residential ratepayers at annual supply and cost review proceedings and at cost reconciliation proceedings before the MPSC. These grants can be used to pay eligible expenses associated with representing residential ratepayer interests at the proceedings. A current list of anticipated, eligible cases is included in Attachment A. Information on past cost review/reconciliation proceedings and current dockets is available at [www.michigan.gov](http://www.michigan.gov) under "E-Dockets".

FUNDING

Public Act 304 also creates a Utility Consumer Representation Fund (UCRF) from which grants are issued to groups representing the interests of residential ratepayers for participation in supply and cost review proceedings and in cost reconciliation proceedings.

The Utility Consumer Representation Fund is funded through contributions made by certain Michigan utility companies as prescribed by Act 304, as amended. Approximately half of the fund is reserved for the Attorney General for intervention in Act 304 cases.

Grants from the Utility Consumer Representation Fund will be used to sponsor participation by interveners in cost recovery proceedings involving several utilities. More than one intervener may be funded to participate in a given utility's proceedings if issues covered or testimony is sufficiently distinct so as to advance the scope of representation.

### MPSC PROCEDURAL STEPS FOR INTERVENORS

The procedural steps involved in a supply and cost review or in a cost reconciliation are very specific, and all grantees are expected to follow these steps.

1. Once a regulated utility files for either of these two proceedings (plan case or reconciliation case), the MPSC establishes a date and directs the utilities to give notice of hearing by publication and mailings.
2. The utilities must then publish hearing notices to customers and to municipalities in daily newspapers 10-15 days prior to the scheduled public hearings.
3. The hearing notice will specify the requirements for participation in the hearings.
4. After a utility files, the prepared testimony and exhibits submitted by the utility are available in the Commission offices as public information.
5. An intervenor may file a petition with the MPSC to intervene up to five days prior to the first hearing.
6. This petition will be acted upon at a prehearing conference or at the initial hearing.

Rule II of the Commission's Rules of Practice and Procedures requires that:

"A petition to intervene shall set out clearly and concisely the facts supporting the petitioner's alleged right or interest, the grounds of the proposed intervention and the position of the petitioner in the proceeding, so as to fully and completely advise the parties and the Commission of the specific issues of fact or law to be raised or controverted."

Once a party's petition to intervene has been granted, an intervenor may participate fully in the case. Among other things, the intervener is granted the right to present witnesses, cross examine witnesses, do discovery, participate in oral arguments, present briefs and file exceptions to a proposal for decision. Any intervenor, unless an individual is representing him or herself, must be represented by Michigan legal counsel.

## **II. ELIGIBLE APPLICANTS**

Michigan-based nonprofit organizations or local units of government are eligible to apply.

Applicants must represent the interests of residential utility customers.

An application which primarily benefits the applicant or a service provided or administered by the applicant will not be considered. An application will not be considered if one of the organization's primary interests is the welfare of a utility or its investors or employees, the welfare of businesses, or the welfare of corporate owned or operated farms. Ownership or securities by a nonprofit organization or its members will not disqualify an application.

Funds cannot be used in proceedings in which the utility is organized as a cooperative corporation.

## **III. ELIGIBLE EXPENDITURES**

The grant may be used only for the advancement of interests of residential customers in proposed actions approved by the Utility Consumer Participation Board, including costs for staff, legal personnel, expert witnesses, fringes, administrative costs, filing fees, supplies, postage, telephone, copying and other costs required to effectively represent residential utility consumers. Funds may be used for proceedings other than energy cost recovery proceedings if the issues to be addressed are eligible under Act 304. The grantee must clearly establish permissibility of issues under Act 304. A grant recipient will be required to coordinate its efforts with those of the Attorney General and other grantees to ensure effective and non-duplicative representation of consumer interests.

## **IV. INELIGIBLE EXPENDITURES**

Grant funds may not be used for the purchase or lease of equipment.

## **V. ELIGIBLE PROJECTS**

A list of major cases eligible for UCRF grant funds is provided in Attachment A. For assistance in determining other cases that may be eligible for funding please contact Michelle Wilsey, Assistant to the Utility Consumer Participation Board, at 517-282-8609 or wilseym@casair.net.

## **VI. ADMINISTRATIVE COSTS**

To maximize the benefit to residential ratepayers, the Utility Consumer Participation Board is committed to the use of grant funds primarily for intervention in energy cost recovery proceedings. Recognizing that there are administrative costs for nonprofit organizations or local units of government who are granted awards, the Board may grant administrative costs which are reasonable and for the advancement of proposed actions approved by the Board. Applicants are required to provide a complete explanation of any request for funding of administrative costs. Such explanation should include the percentage of the costs and how they will be applied to the budget.

## VII. EVALUATION CRITERIA

Applications will be reviewed by members of the Utility Consumer Participation Board. The following criteria and point system will be used by the Board in evaluating grant applications.

	<u>POINTS</u>	<u>CRITERIA</u>
A.	20	Whether the approach presented for the proceedings is sound, feasible, clearly stated and supportable by evidence.
B.	15	The uniqueness of a particular position or approach when compared with the proposals.
C.	20	The ability of the applicant to effectively represent residential customers in the cost recovery proceedings based on (1) past representation in utility regulatory proceedings; and (2) experience and expertise of legal and technical staff selected to participate in the proceedings.
D.	15	The potential dollar impact of the proceeding on residential utility customers.
E.	15	The applicant's potential for continued participation in future energy cost recovery proceedings and for development of expertise related to such participation.
F.	15	The amount of funds requested and the reasonableness of proposed budget items.

## VIII. ORAL PRESENTATION

Applicants are required to make an oral presentation to the Board. Meeting times and locations will be scheduled with each applicant after the deadline for applications.

## IX. AWARD RIGHTS

The Board reserves the right to award any part or portion of a grant proposal by utility, type of proceeding or other reasonable method which best serves the interests of residential ratepayers. Grant applicants are requested to prioritize issues to be raised before the MPSC in order of (1) economic impact on residential ratepayers; and (2) likelihood of success, based on precedent or other appropriate analysis. A specific dollar amount should be attached to each prioritized item. Such information is useful to the Board in view of limited financial resources and proscriptions inherent in Public Act 304 of 1982, as amended.

**UTILITY CONSUMER REPRESENTATION FUND  
GRANT APPLICATION  
TERMS AND CONDITIONS**

**I. PAYMENT SCHEDULE**

Progress payments up to a total of 85% of the total authorized budget may be made upon submission of a grantee request on forms provided by the grantor indicating grant funds received to date, project expenditures to date (supported with computer printout of accounts, general ledger sheets, balance sheets, etc.), and objectives completed to date. Backup documentation such as computer printouts of accounts, ledger sheets, check copies, etc. shall be maintained for audit purposes in order to comply with this Agreement. The expenditure of state funds shall be reported by line item and compared to the approved budget. The payment of the final 15% of the grant amount shall be made only after the board and the grant administrator have received and approved the final report. The final payment is also contingent upon the submission of a final invoice that includes expenditures of grant funds reported by line item and compared to the approved Budget.

**II. ACCOUNTING AND RECORDS**

The Grantee shall adhere to the Generally Accepted Accounting Principles and shall maintain records which will allow, at a minimum, for the comparison of actual outlays with budgeted amounts. The Grantee's overall financial management system must ensure effective control over and accountability for all funds received. Accounting records must be supported by source documentation including, but not limited to, balance sheets, general ledgers, time sheets and invoices. The expenditure of state funds shall be reported by line item and compared to the Budget. Administrative costs budgeted at less than 1% of the entire grant budget will not require documentation but will require initial justification (See Section VI under General Information).

The Grantee shall retain all financial records, supporting documents, statistical records and all other records relating to the grant for a period of seven (7) years or greater as provided by law following creation of the records or documents.

**III. REPORTING REQUIREMENTS**

The Grantee will be required to submit quarterly reports, within 30 days of the end of each quarter, and a final report, within 30 days of the end of the grant period. The reports will include summary information and financial statements as required by the Board. In addition, the reports should include copies of all documents filed by the Grantee in energy cost recovery proceedings and full disclosure of settlement agreements. Additional reports and attendance at Board meetings as deemed necessary by the Board may be required of the Grantee.

**IV. DISCLOSURE**

All information in a grant application, grant agreement or reports filed with the Board is subject to disclosure under Public Act 442 of 1976, known as the "Freedom of Information Act."

## **V. PERSONNEL**

The Board reserves the right to interview key personnel assigned by the Grantee to this project and to recommend reassignment of personnel deemed unsatisfactory by the Board.

## **VI. CONDUCT AND STANDARD OF WORK**

Unless otherwise provided, the Grantee will be required to perform all tasks with due diligence. The Board will determine whether or not the Grantee has performed with due diligence. The Board may issue written or oral instructions to fill in details in the Statement of Work described in the grant. Any instructions that affect the scope of work, price, period of performance or any provision of the grant must be in accordance with specific provisions of the grant. If the Grantee is unable to litigate any specific issues authorized, the Board must be notified of that decision within fifteen (15) days by the Grantee. The Grantee agrees to perform the services of the grant in conformance with high professional standards.

## **VII. CHANGES**

The Board may make changes within the general scope of the grant at any time by written order. If such a change causes an increase or decrease in the cost of, or time required for, the performance of any part of the work under the grant, the grant will be modified in writing accordingly. Any claim by the Grantee for adjustment under this clause must be requested within thirty (30) days from the date of receipt by the Grantee of the notification of change; provided, however, that the Board, if it decides that the facts justify such action, receives and acts upon any such claim at any time prior to final payment under this grant. Failure to agree to any adjustment will be a dispute concerning a question of fact within the meaning of Section X below entitled "Disputes." However, nothing in this paragraph shall excuse the Grantee from proceeding with the grant as changed.

The grantee shall advise the Board of any Proposal for Decision (PFD) issued by an Administrative Law Judge (ALJ) that is adverse to the objective of the grant. Board approval shall be required to appeal any Commission order.

The Grantee must obtain prior written approval from the Board for grant changes including, but not limited to:

- A. Changes in the grant activities as outlined in the grantee's proposal,
- B. Any change in the amount of administrative costs or the Rate/Percentage used to calculate the cost,
- C. Line item changes or the accumulation of line item changes in the budget equal to or greater than 5% of any one line item amount; provided the total grant amount is not exceeded,
- D. Changes in personnel or organizations identified in the grantee's budget.

The grantee may request an extension to the grant period upon submission of a written request to the Grant Administrator justifying the need. The Grant Administrator may approve or modify the extension request or present the extension request at the next Board meeting. The Grant Administrator will notify the Board of the extension request as well as the action taken on the extension request.

## VIII. CANCELLATION

The State may terminate this Agreement without further liability or penalty to the State, its departments, divisions, agencies, offices, commissions, officers, agents and employees for any of the following reasons:

(a) Termination for Cause

In the event that Grantee breaches any of its material duties or obligations under this Agreement or poses a serious and imminent threat to the health and safety of any person, or the imminent loss, damage or destruction of any real or tangible personal property, the State may terminate this Agreement immediately in whole or in part, for cause, as of the date specified in the notice of termination. In the event that this Agreement is terminated for cause, in addition to any legal remedies otherwise available to the State by law or equity, Grantee shall be responsible for all costs incurred by the State in terminating this Agreement, including but not limited to, State administrative costs, reasonable attorneys' fees and court costs, and any reasonable additional costs the State may incur.

(b) Termination for Convenience

The State may terminate this Agreement for its convenience, in whole or part, if the State determines that such a termination is in the State's best interest. Reasons for such termination shall be left to the sole discretion of the State and may include, but not necessarily be limited to (a) the State no longer needs the Services or products specified in the Agreement, (b) relocation of office, program changes, changes in laws, rules, or regulations make implementation of the services no longer practical or feasible. The State may terminate this Agreement for its convenience, in whole or in part, by giving Grantee written notice at least thirty (30) days prior to the date of termination. If the State chooses to terminate this Agreement in part, the Budget shall be equitably adjusted to reflect those reductions.

(c) Non-Appropriation

Grantee acknowledges that continuation of this Agreement is subject to appropriation or availability of funds for this Agreement. If funds to enable the State to effect continued payment under this Agreement are not appropriated or otherwise made available (including the federal government suspending or halting the program or issuing directives preventing the State from continuing the program), the State shall have the right to terminate this Agreement, in whole or in part, at the end of the last period for which funds have been appropriated or otherwise made available by giving written notice of termination to Grantee. The State shall give Grantee at least thirty (30) days advance written notice of termination for non-appropriation or unavailability (or such time as is available if the State receives notice of the final decision less than thirty (30) days before the funding cutoff). In the event of a termination under this section, the Grantee shall, unless otherwise directed by the State in writing, immediately take all reasonable steps to terminate its operations and to avoid and/or minimize further expenditures under the Agreement.

(d) Criminal Conviction

The State may terminate this Agreement immediately and without further liability or penalty in the event Grantee, an officer of Grantee, or an owner of a 25% or greater share of Grantee is convicted of a criminal offense incident to the application for, or performance of, a State, public or private contract or subcontract or grant; convicted of a criminal offense, including any of the following: embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, attempting to influence a public employee to breach the ethical conduct standards for State of Michigan employees; convicted under State or federal antitrust statutes; or convicted of any other criminal offense which in the sole discretion of the State reflects upon Grantee's business integrity.

(e) Approvals Rescinded

The State may terminate this Agreement without further liability or penalty in the event any final administrative or judicial decision or adjudication disapproves a previously approved request for purchase of personal services pursuant to Constitution 1963, Article 11, § 5, and Civil Service Rule 7-1. Termination may be in whole or in part and may be immediate as of the date of the written notice to Grantee or may be effective as of the date stated in such written notice.

## **IX. DISPUTES**

Except as otherwise provided for in the grant, disputes concerning a question of fact arising under the grant which are not disposed of by agreement will be decided by the Board who will issue its decision in writing to the Grantee. The decision of the Board will be final and conclusive unless, within thirty (30) days from the date of receipt of such copy, the Grantee mails or otherwise furnishes to the Board a written appeal. Pending final decision of disputes, the Grantee must proceed diligently with the performance of the grant in accordance with the Board's decision.

This paragraph does not preclude consideration of law questions in connection with decisions provided for in Paragraph X.a. above; provided that nothing in the grant shall be construed as making final the decision of any administrative official, representative or board on a question of law.

## **X. OFFICIALS NOT TO BENEFIT**

No member of the Legislature or Judiciary of the State of Michigan or any individual employed by the State of Michigan will be permitted to share in this grant or any benefit that arises from the Grant.

## **XI. ASSIGNMENT**

Grantee shall not have the right to assign the Agreement, or to assign or delegate any of its duties or obligations under the Agreement, to any other party (whether by operation of law or otherwise), without the prior written consent of the Grantor. Any purported assignment in violation of this section shall be null and void.

The Grantee warrants that he/she has not employed or retained any company or person, other than a bona fide employee working solely for the Grantee, to solicit or secure a grant, and that he/she has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Grantee, any fee, commission, percentage, brokerage fee, gift, or other consideration contingent upon or resulting from the award to making of a grant. For breach or violation of this warranty, the Board will have the right to annul the grant without liability or, in its discretion, to deduct from the grant price or consideration the full amount of such commission, percentage, brokerage or contingent fees.

## **XII. INDEPENDENT CONTRACTOR RELATIONSHIP**

The relationship between the State and Grantee is that of client and independent Contractor. No agent, employee, or servant of Grantee or any of its Subcontractors shall be or shall be deemed to be an employee, agent or servant of the State for any reason. Grantee will be solely and entirely responsible for its acts and the acts of its agents, employees, servants and subcontractors during the performance of the Agreement.

### **XIII. GRATUITIES**

The Board may, by written notice to the Grantee, terminate the right of the Grantee to proceed under the grant if it is found, after notice and hearing, by the Board or its duly authorized representative that gratuities in the form of entertainment, gifts or otherwise were offered or given by the Grantee, or any agent or representative of the Grantee, to any Board member, officer or employee of the state with a view toward securing a grant or securing favorable treatment with respect to the awarding or amending or the making of any determinations with respect to the performing of such grant; provided that the existence of the facts upon which the Board or its duly authorized representative makes such findings shall be in issue and may be reviewed in any competent court.

In the event the grant is canceled as provided in Paragraph VIII above, the state will be entitled to pursue the same remedies against the Grantee as it could pursue in the event of a breach of grant by the Grantee and, as a penalty, in addition to any other damages to which it may be entitled by law, to exemplary damages in an amount, as determined by the Board or its duly authorized representative, which will be not less than three (3), nor more than ten (10), times the costs incurred by the Grantee in providing any such gratuities to any such officer or employee.

The rights and remedies of the state provided in this paragraph will not be exclusive and are in addition to any other rights and remedies provided by law or under the grant.

### **XIV. NONDISCRIMINATION**

In the performance of the Grant, Grantee agrees not to discriminate against any employee or applicant for employment, with respect to his or her hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of race, color, religion, national origin, ancestry, age, sex, height, weight, marital status, physical or mental disability. Grantee further agrees that every subcontract entered into for the performance of this Grant will contain a provision requiring non-discrimination in employment, as here specified, binding upon each subcontractor. This covenant is required pursuant to the Elliott Larsen Civil Rights Act, 1976 PA 453, MCL 37.2101, et seq. and the Persons with Disabilities Civil Rights Act, 1976 PA 220, MCL 37.1101, et seq., and any breach of this provision may be regarded as a material breach of the Agreement.

### **XV. SHARE-IN-SAVINGS**

The Grantor expects to share in any cost savings realized by the Grantee. Therefore, final Grantee reimbursement will be based on actual expenditures.

### **XVI. INDEMNIFICATION**

#### **(a) General Indemnification**

To the extent permitted by law, the Grantee shall indemnify, defend and hold harmless the State from liability, including all claims and losses, and all related costs and expenses (including reasonable attorneys' fees and costs of investigation, litigation, settlement, judgments, interest and penalties), accruing or resulting to any person, firm or corporation that may be injured or damaged by the Grantee in the performance of this Agreement and that are attributable to the negligence or tortuous acts of the Grantee or any of its subcontractors, or by anyone else for whose acts any of them may be liable.

(b) Employee Indemnification

In any and all claims against the State, its departments, divisions, agencies, sections, commissions, officers, employees and agents, by any employee of the Grantee or any of its subcontractors, the indemnification obligation under the Agreement shall not be limited in any way by the amount or type of damages, compensation or benefits payable by or for the Grantee or any of its subcontractors under worker's disability compensation acts, disability benefit acts or other employee benefit acts. This indemnification clause is intended to be comprehensive. Any overlap in provisions, or the fact that greater specificity is provided as to some categories of risk, is not intended to limit the scope of indemnification under any other provisions.

(c) Patent/Copyright Infringement Indemnification

To the extent permitted by law, the Grantee shall indemnify, defend and hold harmless the State from and against all losses, liabilities, damages (including taxes), and all related costs and expenses (including reasonable attorneys' fees and costs of investigation, litigation, settlement, judgments, interest and penalties) incurred in connection with any action or proceeding threatened or brought against the State to the extent that such action or proceeding is based on a claim that any piece of equipment, software, commodity or service developed or supplied by the Grantee or its subcontractors, or the operation of such equipment, software, commodity or service, or the use or reproduction of any documentation provided with such equipment, software, commodity or service infringes any United States patent, copyright, trademark or trade secret of any person or entity, which is enforceable under the laws of the United States.

The Grantee's duty to indemnify pursuant to this section continues in full force and effect, notwithstanding the expiration or early cancellation of the Agreement, with respect to any claims based on facts or conditions that occurred before expiration or cancellation.

## **XVII. LIABILITY**

The State is not liable for any costs incurred by the Grantee before the start date or after the end date of this Agreement. Liability of the State is limited to the terms and conditions of this Agreement and the grant amount.

## **XVIII. FEES AND OTHER SOURCES OF FUNDING**

The Grantee will not be allowed to seek or obtain funding through fees or charges to any client receiving services for which the state reimburses the Grantee under the grant. The Grantee will be required to guarantee that any claims made to the state under the grant shall not be financed by any source other than the state under the terms of the grant. If funding is received through any other source, the Grantee must delete from billings, or immediately refund to the state, the total amount representing such duplication of funding.

## **XIX. AUDIT**

The Grantee agrees that the State may, upon 24-hour notice, perform an audit and/or monitoring review at Grantee's location(s) to determine if the Grantee is complying with the requirements of the Agreement. The Grantee agrees to cooperate with the State during the audit and/or monitoring review and produce all records and documentation that verifies compliance with the Agreement requirements. The Grantor may require the completion of an audit before final payment.

If the Grantee is a governmental or non-profit organization and expends the minimum level specified in OMB Circular A-133 (\$500,000 as of June 27, 2003) or more in total federal funds in its fiscal year, then Grantee is required to submit a Single Audit report to all agencies that provided federal funds to the entity during the fiscal year being audited.

If the Grantee is a commercial or for profit organization which is a recipient of Workforce Investment Act Title I funds and expends more than the minimum level specified in Office of Management and Budget (OMB) Circular A-133 (\$500,000 as of June 27, 2003), then the Grantee must have either an organization-wide audit conducted in accordance with A-133 or a program specific financial and compliance audit conducted. Section .320(a) of OMB Circular A-133 states the Single Audit report must be submitted to the Grantor within thirty (30) days after the completion of the audit, but no later than nine (9) months after the end of the Grantee's fiscal year.

## **XX. COMPETITIVE BIDDING**

The Grantee agrees that all procurement transactions involving the use of state funds shall be conducted in a manner that provides maximum open and free competition. When competitive selection is not feasible or practical, the Grantee agrees to obtain the written approval of the Grant Administrator before making a sole source selection. Sole source contracts should be negotiated to the extent that such negotiation is possible.

## **XXI. INTELLECTUAL PROPERTY**

License to Grantor

Grantee grants to the Grantor a non-exclusive, royalty-free, site-wide, irrevocable, transferable license to use the Deliverables and related documentation according to the terms and conditions of this Agreement. For the purposes of this license, "site-wide" includes any State of Michigan office regardless of its physical location.

The Grantor may modify the Deliverable and may combine the Deliverable with other programs or materials to form a derivative work. The Grantor will own and hold all copyright, trademarks, patent and other intellectual property rights in any derivative work, excluding any rights or interest in Deliverable other than those granted in this Agreement.

The Grantor may copy each Deliverable to multiple hard drives or networks unless otherwise agreed by the parties.

The Grantor will make and maintain no more than one archival copy of each Deliverable, and each copy will contain all legends and notices and will be subject to the same conditions and restrictions as the original. The Grantor may also make copies of the Deliverable in the course of routine backups for the purpose of recovery of contents.

## **XXII. UNFAIR LABOR PRACTICES**

Pursuant to 1980 PA 278, MCL 423.231, et seq., the State shall not award a grant or subcontract to an employer whose name appears in the current register of employers failing to correct an unfair labor practice compiled pursuant to section 2 of the Act. This information is compiled by the United States National Labor Relations Board. A Grantee, in relation to the Agreement, shall not enter into a contract

with a subcontractor, manufacturer, or supplier whose name appears in this register. Pursuant to section 4 of 1980 PA 278, MCL 423.324, the State may void any Agreement if, subsequent to award of the Agreement, the name of Grantor as an employer or the name of the subcontractor, manufacturer or supplier of Grantor appears in the register.

### **XXIII. CERTIFICATION REGARDING DEBARMENT**

The Grantee certifies, by signature to this Agreement, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this Agreement by any federal or State department or agency. If the Grantee is unable to certify to any portion of this statement, the Grantee shall attach an explanation to this Agreement.

**UTILITY CONSUMER REPRESENTATION FUND  
GRANT APPLICATION  
INFORMATION REQUIRED FROM APPLICANTS**

Grant proposals must be submitted in the format outlined below:

**I. IDENTIFICATION OF ORGANIZATION**

Applicants who are not current grantees through this program are required to submit all information listed below. Current Grantees are required only to submit amendments to information listed in A and B; information in C is not required from current Grantees.

A. Provide the following information:

1. The date of creation of the group.
2. The stated philosophy, purposes and major activities of the group.
3. Description of the group's membership.
4. Number of active, dues-paying group members within Michigan.
5. Annual budget and sources of funding since 1984.
6. Copy of applicant's most recent financial audit or most recent financial statement properly endorsed by the executive officers.

B. If a nonprofit organization, attach a copy of the articles of incorporation, bylaws, or similar chartering documents and indicate date and place of filing.

C. Describe past and current participation in utility cost recovery proceedings or similar types of rate making intervention or litigation. List each proceeding by title and docket number, beginning with the most recent one. For no more than four cases, briefly describe the manner and extent of your participation and major issues you addressed.

**II. AUTHORIZED NEGOTIATORS**

Include the names and phone numbers of personnel authorized to negotiate the proposed grant agreement with the state.

**III. APPLICANT'S PROPOSED WORK PLAN**

A. On the attached form, "Summary of Proposed Participation in Proceedings," indicate with an "X" those proceedings in which you propose to participate if your application is funded. You may propose intervention in any one or more of the cases, with each proposal being given equal consideration by the Board. For each utility, indicate the total funds you are requesting.

You may request funds for participation in proceedings other than energy cost recovery proceedings if the issues to be presented will have an impact on Act 304 cases or issues.

- B. Describe in detail the participation planned by your group for each utility company in each set of energy cost recovery proceedings checked in A. above.

The relationship between Act 304 cases and issues and any planned intervention before the FERC or other proposed intervention must be clearly explained separately.

For each set of proceedings specify the following:

1. Any unique method for obtaining guidance from the Board in cases that have undetermined issues at this date due to the lateness of their filing or otherwise.
  2. Relevant cost issues you intend to address in each case and which you feel are most important.
  3. Any unique or innovative approaches you intend to use.
  4. Evidence or testimony you will submit.
  5. The extent of your planned participation: discovery, cross examination of direct testimony, direct testimony, written briefs, etc.
- C. Describe how you plan to coordinate participation with the Special Litigation Division of the Attorney General.
- D. Explain, in detail, how the legal/technical staff will communicate with the residential constituencies they are representing.
- E. If participation in multiple projects is being proposed, or if stages or phases of participation are to be funded separately, a priority ranking of each component should be made. Explain criteria used to establish the priority ranking.

#### **IV. PERSONNEL**

Include a resume for each legal and technical person expected to perform activities under this grant proposal. Explain relevant training and experience for each, why specific personnel were assigned to each case and how each case will be supervised.

#### **V. BUDGET**

Complete one attached "Proposed Budget" form for each set of proceedings in which you will participate. You should have a separate page for each utility. If you intend to intervene before the FERC, complete a separate "Proposed Budget" form for each case.

The hourly rate shown for legal personnel should include all costs for legal services, such as salaries, rent, copying, postage and equipment, regardless of whether the personnel are on the staff of the applicant organization or are contracted.

Transportation and per diem expenses for expert witnesses should be included in the hourly rate shown.

Explain any request for funding of administrative costs in narrative form. Include sufficient detail to fully support each expenditure.

## **VI. SUMMARY**

Complete Attachment B – Summary, as an overview of the grant application. Responses to each question should be responded to using the guidelines provided within each question. All detail supporting each question should be included in the complete grant application and may be referenced in your responses.

**UTILITY CONSUMER REPRESENTATION FUND GRANT APPLICATION  
PROJECT SUMMARY**

1. Provide a brief summary (one paragraph) of your proposed work plan.
2. Explain the uniqueness with your position or approach to carrying out the activities outlined in the work plan (one paragraph).
3. List of expert witnesses (actual names) to be used in carrying out activities outlined in the work plan.
4. Briefly describe how you plan to coordinate participation with the Special Litigation Division of the Attorney General (one paragraph)
5. Briefly explain the evidence or testimony you will submit (one paragraph)
6. Provide your past (one year) successful representation in utility regulatory proceedings.
7. What is the potential dollar impact for consumers as a result of the activities identified in your work plan?
8. What is your potential for continued participation in future energy cost recovery proceedings and for development of expertise related to such participation? (one paragraph)
9. Total project cost: \$ \_\_\_\_\_
10. Information Concerning Grantee and Grant Proposal:
  - (a) Do you intend to participate in administrative and judicial proceedings under MCL 460.6h, 6i, 6j, 6k which directly affect the energy costs paid by Michigan energy utilities?

(b) Please identify the proceeding(s) you intend to participate in.

(c) Please identify the issue(s) you intend to raise in the above identified proceedings.

(d) Explain how the issue(s) you propose to raise in the proceeding(s) identified above is within the scope of MCL 460.6h, 6i, 6j, 6k and 6m.

(e) Has the issue(s) identified above been previously litigated before the Michigan Public Service Commission? Please explain.

(f) Will you represent the interests of residential utility consumers in the above identified proceeding(s)?

(g) Do you represent residential customers in the service territory of the utility in the proceeding(s) identified above?

(h) Has your organization previously participated or intervened in a Michigan Public Service Commission proceeding?

(i) Have you ever been granted intervenor status in a proceeding before the Michigan Public Service Commission?

11. Are you a nonprofit organization or local unit of government in the State of Michigan?

12. Please disclose any existing or potential conflicts of interest that your organization may have in the proceeding(s) identified above (i.e. financial interest in the outcome of the proceeding(s) or financial interest with a utility or conflict with restrictions in 460.6m(12)).



**UTILITY CONSUMER REPRESENTATION FUND GRANT APPLICATION  
PROPOSED BUDGET (One budget sheet per case)**

(Name of Utility or Proceeding)

TYPE OF CASE:

GCR Plan

PSCR Plan

GCR Recon.

PSCR Recon.

Other-Specify

9

9

9

9

9

YEAR:

(If Fiscal, specify period)

	Col. 1	Col. 2	Col. 3	Col. 4	Col. 5 (Col. 3 + 4)
BUDGET CATEGORY BY LINE ITEM	HOURLY RATE	BUDGETED HOURS	FUNDS REQUESTED	FUNDS OTHER SOURCES	TOTAL FUNDS BUDGETED
<b>1. ADMINISTRATIVE COSTS</b> Salaries & Fringes (List Name & Position)					
<b>2. Supplies, Postage, Telephone, copying:</b>					
<b>3. Other (Specify)</b>					
<b>TOTAL ADMINISTRATIVE</b>					
<b>INTERVENTION COSTS</b>					
<b>4. Legal Personnel:</b> (List Names)					
<b>5. Expert Witnesses:</b> (List Names)					
<b>6. Filing Fees</b>					
<b>7. Other (Specify):</b>					
<b>TOTAL INTERVENTION</b>					
<b>GRAND TOTAL COSTS</b>					

**ATTACHMENT A  
UTILITY CONSUMER REPRESENTATION FUND  
ANTICIPATED MAJOR CASES ELIGIBLE FOR GRANT AWARDS**

Additional cases may be eligible based on statutory compliance with  
Michigan Public Act 304 (1982, as amended)

<b>UTILITY NAME</b>	<b>TYPE OF CASE</b>	<b>YEAR COVERED</b>	<b>FILING DATE</b>
Alpena Power Company	<b>PSCR PLAN</b>	<b>2015</b>	<b>9/30/2014</b>
Consumers Energy Company			
DTE Energy Company			
Indiana Michigan Power Company			
Northern States Power Company			
Upper Peninsula Power Company			
Wisconsin Electric Power Company			
Wisconsin Public Service Corporation			
Alpena Power Company	<b>PSCR RECONCILIATION</b>	<b>2014</b>	<b>3/31/2015</b>
Consumers Energy Company			
DTE Energy Company			
Indiana Michigan Power Company			
Northern States Power Company			
Upper Peninsula Power Company			
Wisconsin Electric Power Company			
Wisconsin Public Service Corporation			
Consumers Energy Company	<b>GCR Plan</b>	<b>4/15 - 3/16</b>	<b>12/31/2014</b>
DTE Gas Company			
Michigan Gas Utilities Corporation			
SEMCO Energy Gas Company			

Consumers Energy Company	<b>GCR Reconciliation</b>	<b>4/14 - 3/15</b>	<b>6/30/2015</b>
DTE Gas Company			
Michigan Gas Utilities Corporation			
SEMCO Energy Gas Company			