

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the application of)	
CONSUMERS ENERGY COMPANY)	
for authority to increase its rates for the generation)	Case No. U-16794
and distribution of electricity and for other relief.)	
_____)	

At the March 15, 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 SETTLEMENT AGREEMENT

On June 10, 2011, Consumers Energy Company (Consumers) filed an application in this case seeking authority to increase its rates and charges for the generation and distribution of electricity. Pursuant to the provisions of MCL 460.6a(1), Consumers filed tariffs indicating that the company intended to self-implement a rate increase designed to increase revenues in the annual amount of \$147 million on and after December 8, 2011.

On December 6, 2011, the Commission ordered that Consumers not self-implement any increase in excess of \$118 million annually, with any such increase to be effective the day after applicable tariff sheets were filed by the company (December 6 order). On December 7, 2011, Consumers filed tariffs implementing a \$118 million rate increase for service on and after December 8, 2011. The tariffs used the rate design directed by the Commission in the December 6 order.

On June 7, 2012, the Commission issued an order in this case authorizing Consumers to increase its retail electric rates in the annual amount of \$118,475,000 (June 7 order). The rates designed to produce this increase went into effect for service rendered on and after June 8, 2012. The Commission directed Consumers to file a self-implementation reconciliation application within 90 days of the date of the order.

On September 5, 2012, Consumers filed an application requesting that the Commission find that revenues collected under the self-implemented rates for the period of December 8, 2011 to June 7, 2012, did not exceed the revenues that would have been collected under the final rates set by the Commission in this case. Consumers requested that the Commission find that no refund is due pursuant to MCL 460.6a(1).

A prehearing conference was held on November 15, 2012, before Administrative Law Judge Sharon L. Feldman. Consumers and the Commission Staff participated in the proceedings. Subsequently, the parties submitted a settlement agreement resolving all issues in the case.

According to the terms of the settlement agreement, attached as Exhibit A, the parties agree that the total revenues collected by Consumers during the self-implementation period from December 8, 2011 to June 7, 2012, did not exceed the total revenues that would have been produced by the rates ordered in the June 7 order. The parties also agree that the Commission should find that no refund is required pursuant to MCL 460.6a(1) with respect to the self-implemented rates charged by Consumers for the self-implementation period.

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

THEREFORE, IT IS ORDERED that:

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

B. No refund is required pursuant to MCL 460.6a(1) with respect to the self-implemented rates charged by Consumers Energy Company for the period December 8, 2011 to June 7, 2012.

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

John D. Quackenbush, Chairman

Orjiakor N. Isiogu, Commissioner

Greg R. White, Commissioner

By its action of March 15, 2013.

Mary Jo Kunkle, Executive Secretary

STATE OF MICHIGAN

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In the Matter of the application of)
CONSUMERS ENERGY COMPANY)
for authority to increase its rates for)
the generation and distribution of)
electricity and for other relief.)
_____)

Case No. U-16794

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 September 5, 2012 Consumers Energy Company (“Consumers Energy” or the “Company”) filed an application requesting that the Commission find that revenues collected under the self-implemented rates for the period December 8, 2011 to June 7, 2012 did not exceed the revenues that would have been collected under the final rates set by the Commission in this case. The Company filed testimony and exhibits in support of its positions concurrently with its application. Based on the Company’s testimony and exhibits, Consumers Energy sought a Commission order finding that no refund is due pursuant to MCL 460.6a(1) as a result of the Company’s self-implemented rates.

WHEREAS, the initial prehearing conference in this proceeding was held on November 15, 2012 before Administrative Law Judge Sharon L. Feldman. The parties to the case are Consumers Energy and the Commission Staff.

NOW THEREFORE, for purposes of settlement of the self-implementation reconciliation in Case No. U-16794, the undersigned parties agree as follows:

1. The Commission should find and order that no refund is required pursuant to MCL 460.6a(1) with respect to the self-implemented rates charged by Consumers Energy in Case No. U-16794 for the period December 8, 2011 to June 7, 2012.

2. The parties agree that the resolution of this case is non-precedential and all parties reserve the right to take different positions in future proceedings regarding all such issues.

3. 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.

4. This Settlement Agreement is based on the facts and circumstances of this case and is intended for the final disposition of the self-implementation reconciliation in Case No. U-16794. 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. 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.

5. This Settlement is not severable. Each provision of the Settlement Agreement is dependent upon all other provisions of this 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.

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

7. 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.

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: 

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CONSUMERS ENERGY COMPANY

By: 

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