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ERIC J. SCHNEIDEWIND

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November 9, 2009

Ms. Mary Jo Kunkle  
Michigan Public Service Commission  
6545 Mercantile Way  
P.O. Box 30221  
Lansing, MI 48909

Re: Case No. U-15645

Dear Ms. Kunkle:

Attached for paperless electronic filing are Comments Of Energy Michigan, Inc. On Consumers Energy November 5 And November 6, 2009 Rate And Tariff Filings. Also attached is the original Proof of Service indicating service on counsel.

Thank you for your assistance in this matter.

Very truly yours,

**V**ARNUM, <sup>LLP</sup>

Eric J. Schneidewind

EJS/mrr

cc: ALJ  
parties

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 and distribution of )  
electricity and for other relief. )

Case No. U-15645

\_\_\_\_\_)

COMMENTS OF ENERGY MICHIGAN, INC. ON CONSUMERS ENERGY  
NOVEMBER 5 AND NOVEMBER 6, 2009 RATE AND TARIFF FILINGS

I. Introduction and Summary of Position.

A. Introduction.

These Comments are filed on behalf of Energy Michigan, Inc. ("Energy Michigan") by Varnum.

In its Order dated November 2, 2009 in the General Rate Case U-15645 filed by Consumers Energy Company (the "Order") the Michigan Public Service Commission ("Commission") Ordered Consumers Energy Company ("Consumers Energy") to file redesigned and realigned rates and tariff sheets along with calculations and workpapers by 12 PM November 5, 2009 and serve copies on all parties to this proceeding on that date. The Commission stated that parties to this case may file Comments on the filed rates and tariff sheets by 12 PM on November 9, 2009.

On November 5, 2009, Consumers Energy served a set of tariffs but not workpapers, on all parties. On November 6, 2009 Consumers Energy filed revised tariffs and a set of workpapers on all parties.

B. Summary of Position.

The Cost of Service for the Educational Rate, the Education Credits for at a minimum Rates GPD and GP (and likely the Education Credits for Rates GS and GSD) and the Retail Open Access ("ROA") versus bundled service distribution charges do not produce logical results in aggregate. Therefore, the proposed Education Credits should not be accepted as filed. Rather, these credits and the underlying basis for the credits should be subject to further examination by all parties together with all supporting documentation and then revised credits should be established.

The initial indication of illogical results are supported was the fact that using Staff Cost of Service models which in both cases were supposed to bring Education Rates to Cost of Service, the Education Discounts established in Case U-15245 more than doubled in Case U-15645 for Rates GS, GSD, GP and GPD. Energy Michigan's subsequent examination of the proposed distribution charges for Rate GPD (full service and ROA) reveals that the distribution per kilowatt hour charge net of the Education Credit is higher for an ROA Education customer than for a bundled Education customer on the same rate. This means that since per kW maximum demand rates are the same for ROA and bundled service, ROA Education customers will pay more for delivery service than bundled customers. The issue is not so much that ROA customers are paying a great deal too much, but rather that there is any difference at all. There should not be a difference and the fact that a difference exists indicates some flaw in the Cost of Service model used.

Rates GP and GPD have exactly the same Education Credits, both for power supply and for delivery. Since these rates have a different cost basis and allocations, the Education Credits should be different.

Finally, bundled Rates GP and GPD (as well as Rates GS and GSD) have summer and winter power supply prices but the Education Credit is the same throughout the year. However, the Education Credit for power supply should be different in summer and winter. Using GPD as an example, use of a uniform Education Credit in winter and summer results in an Education

contribution to fixed costs of only \$0.0028/kWh in the winter compared to \$0.0132/kWh in the summer. Use of the uniform Education Credit with rates that are seasonally differentiated means that Education customers pay only \$0.0028/kWh toward summer fixed production costs which total \$0.01863/kWh. Thus Education customers only pay about 15% of the total winter production cost. Yet the same Education customers make a contribution to summer fixed costs of \$0.0132/kWh out of a total cost of \$0.02898/kWh or about 46%. The application of a uniform Education Discount throughout the year to seasonally differentiated rates results in education institutions which use the majority of their power during the October through May time period paying little more than \$0.0028/kWh toward production costs.

For the above reasons the Commission should reject the Consumers Energy November 5 and 6, 2009 rate filings in toto or at least reject the Education Rates as filed and require recalculation of these rates or a full examination by all parties of the basis for the proposed Education rates.

## II. Detailed Discussion

The Cost of Service for the Educational Rates, the Education Credits for GPD and GP (as well as GS and GSD) and the Retail Open Access distribution charges compared to bundled distribution charges do not produce logical results in aggregate.

A. The Education Discount Is More Than Doubled Even Though The Previous Education Discount Was Based on Cost of Service.

The Education Discount approved in Case U-15245 was based on a Staff Cost Of Service model and was supposed to bring Education Rates to true Cost Of Service. Order U-15245, dated June 10, 2008, p. 86-87. The new Education Rates established in Case U-15645 are required to be brought to Cost of Service by 2008 PA 286 § 11(4).

A comparison of the Education Discount rates filed on November 5, 2009 with the rates approved June 10, 2008 reveals a dramatic increase in Education discounts provided. For Rates

GS and GSD the Education Discount has slightly more than doubled from \$0.01 to \$0.020060/kWh. For Rates GP and GPD the discount almost triples. See Attachment A.

This dramatic increase in discounts seems illogical in view of the fact that both sets of discounts were supposed to be based on Cost of Service.

B. The New Education Rates Filed By Consumers On November 5 And 6 Produce An Illogical Result: The Distribution Per kWh Charge Net Of The Education Credit Is Different And Higher For An ROA Customer Than For Bundled Education Customers.

Attachment B contains an analysis which demonstrates that for bundled service customers the Rate GPD per kWh variable distribution charge net of discount decreased 48.8% but for ROA Education customers per kWh the variable distribution charge net of Education discount increased 93.5%. When all per kW fixed and per kWh delivery charges are examined, it can be seen that the total delivery charge for ROA customers net of Education Discount is greater than that of full service customers by approximately 3.4%. See Attachment B, Items A and B.

These facts are important primarily because they demonstrate an illogical result. ROA Education and full service Education customers are paying different distribution charges even though the cost to provide distribution service to these customers should be exactly the same. In the face of this illogical result it must be concluded that there is a flaw in the model supporting these results.

C. For Rate GP With Its Summer/Winter Power Supply Prices, Bundled Education Customers Contribute Very Little To Fixed Production Costs In The Winter Months Of October Through May.

Attachment B, Item C demonstrates that the application of a level fixed Education discount throughout the year to Consumers Energy retail bundled rates which are seasonally differentiated (higher rates for June through September and lower rates for October through May) produces a dramatic and unsupportable reduction in the contribution to summer fixed production costs. The result is that in the case of Rate GP (and by inference GPD) a bundled Education customer

contributes \$0.0028/kWh toward fixed production costs of \$0.01863/kWh (subtract PSCR base and Education Credit from power supply). The \$0.0028/kWh contribution is only about 15% of the \$0.01863/kWh total. Yet that same customer contributes more than \$0.0132/kWh to summer fixed production costs of \$0.02898/kWh (subtract PSCR base and Education Credit from power supply costs, see Attachment B, Item C) or about 45.6% of the total \$0.02898/kWh production cost.

The result of applying a year-long level discount to seasonally differentiated rates is that Education customers contribute greatly varying percentages of the production fixed costs on the Consumers system during the year. This variation in contribution to costs cannot be justified under accepted ratemaking principles and clearly disadvantages non-participating customers.

D. Conclusions.

1. The Cost Of Service for the Education Rate, the Education Credits For Rates GPD and GP, and the ROA versus bundled distribution charges do not produce logical results in the aggregate.
2. ROA GPD customers should not pay higher charges for delivery service than bundled customers. Therefore, either something is inconsistent in the Cost of Service for the Education class or the Education Credits have not been applied properly for Rate GPD and by inference for Rates GP, GS and GSD.
3. A 48.8% decrease for bundled customers for the net per kWh distribution rate in Rate GPD while the ROA customer net per kWh distribution rate is increased by 93.5% is an unreasonable result.
4. It seems unreasonable that Rates GP and GPD (as well as Rates GS and GSD) have exactly the same Education Credits, both for power supply and delivery. Since these rates have different cost basis and allocations it would seem that the Education Credits would be different as well.

5. Both Rates GP and GPD (as well as GS and GSD) have summer and winter power supply prices. Therefore, the Education Credit for power supply should be different in summer and winter.

### III. Prayer for Relief

Based upon the above, Energy Michigan recommends that the Commission:

- A. Reject the Consumers Energy rate filings of November 5, 2009 and November 6, 2009 or reject the Education Credits as proposed for Rates GS, GSD, GP and GPD;
- B. The power supply Education Credits for Rates GP, GPD, GS and GSD should be adjusted so that the contributions to fixed costs, after subtracting the PSCR base and the Education Credit, are the same in summer and winter;
- C. Examine the rate filing of Consumers Energy on November 5 and November 6, 2009 as well as the underlying Cost of Service models to determine the reason that they yield the illogical, discriminatory and unreasonable result that ROA Education customers pay higher charges for delivery service than bundled customers;
- D. Correct the flaws and inconsistencies in the models or calculations leading to the illogical and inconsistent rates as described above; and
- E. Grant such other relief as may be appropriate.

Respectfully submitted,

Varnum,<sup>LLP</sup>  
Attorneys for Energy Michigan, Inc.

November 9, 2009

By: \_\_\_\_\_

Eric J. Schneidewind (P20037)  
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201 N. Washington Square  
Lansing, Michigan 48933  
517/482-6237



## CURRENT ('08) AND PROPOSED ('09) EDUCATIONAL DISCOUNTS

	'08 Current Discount in \$/kWh	'09 Proposed Discount in \$/kWh
	<u>GS</u>	<u>GEI</u>
Full Service	-.01	-.020060
ROA Service	<u>-.005</u>	<u>-.004864</u>
Difference	-.005	-.015196
	<u>GSD</u>	<u>GEI</u>
Full Service	-.01	-.020060
ROA Service	<u>-.005</u>	<u>-.004864</u>
Difference	-.005	-.015196
	<u>GP</u>	<u>GEI</u>
Full Service	-.008	-.022735
ROA Service	<u>-.002</u>	<u>-.002430</u>
Difference	-.006	-.01979785
	<u>GPD</u>	<u>GEI</u>
Full Service	-.009	-.022735
ROA Service	<u>-.001</u>	<u>-.002430</u>
Difference	-.006	-.01979785

**Energy Michigan Notes on Final Rates for U-15645  
9 Nov 2009**

*Reference: U-15645 Exhibit A-Final Order,  
Schedule F-3, pages 6 & 7 of 11, Rate GPD, and page 5 of 11, Rate GP.*

**A. The distribution per-kWh charge, net of the education credit, is higher for an ROA education customer than for a bundled education customer, for rate GPD.**

		<u>Present</u> <u>Rate</u>	<u>Proposed</u> <u>Rate</u>	<u>Diff</u>	<u>%</u> <u>Diff</u>
	<u>Bundled</u>				
p.6, L40	Distribution per kWh	0.003009	0.008027		
p.6, L44	Education GEI Delivery	-0.001	-0.006999		
		0.002009	<b>0.001028</b>	-0.000981	<b>-48.8%</b>
	<u>ROA</u>				
p.7, L58	Distribution per kWh	0.001831	0.004038		
p.7, L60	Education GEI Delivery	-0.001	-0.00243		
		0.000831	<b>0.001608</b>	0.000777	<b>93.5%</b>
	ROA / Bundled		<b>56.4%</b>		

*Conclusions:*

- The net ROA per-kWh rate of .001608 is 56% higher than the net bundled rate of .001028.
- Large decrease for bundled (-48.8%) but large increase for ROA (+93.5%) does not make sense.

**B. Since the per kW max demand rates are the same, ROA education customers will pay more for delivery service than bundled customers, for rate GPD.**

	-----Bundled-----		-----ROA-----		
	<u>Rate</u>	<u>\$</u>	<u>Rate</u>	<u>\$</u>	<u>% Diff</u>
	<u>Example Educ Customer</u>				
p.6,L38; p.7,L56	1 kW max at VL3	2.09	2.09	2.09	2.09
	Distrib per kWh, 400 kWh	0.008027	3.2108	0.004038	1.6152
	Educ Credit per kWh	-0.006999	-2.7996	-0.00243	-0.972
	Total	<b>\$2.5012</b>		<b>\$2.7332</b>	<b>9.3%</b>

*Conclusion:*

- The ROA total delivery charge of \$2.7332 is 9.3% higher than the bundled charge of \$2.5012.

**C. For Rate GP, with its summer/winter power supply prices, bundled education customers contribute very little to fixed costs in the winter months of October through May.**

		<u>Summer</u> <u>Rate</u>	<u>Winter</u> <u>Rate</u>	<u>%</u> <u>Wint/Sum</u>
p.5, L1 & L2	Power Supply	0.07764	0.067291	
Final Order p.94	Less PSCR base	-0.04866	-0.04866	
p.5, L5	Less Educ credit (Prod)	-0.015786	-0.015786	
	Contribution to Fixed Costs	\$0.0132	<b>\$0.0028</b>	21.6%

*Conclusion:*

- *The Education credit for a summer/winter rate should also have separate summer/winter credits, such that the contribution to fixed costs is the same for each month.*

**D. Observations/Conclusions:**

**The COS for the Educational rate, the education credits for GPD and GP, and the ROA vs. Bundled distribution charges do not produce logical results, in aggregate.**

1. ROA GPD customers should not end up paying higher charges for delivery service than bundled customer. Therefore, either something is inconsistent in the cost-of-service for the education class, or the education credits have not been applied properly for rate GPD.
2. For the net per-kWh distribution rate in GPD, a 48.8% decrease for bundled customers while ROA customers increase by 93.5% is an unreasonable result.
3. Why do rates GP and GPD have exactly the same education credits, both for power supply and for delivery?  
Since these rates have different cost bases and allocations, it would seem that the education credits would end up different also.
4. Both rates GP and GPD have summer and winter Power Supply prices.  
Therefore, the education credit for Power Supply should be different in summer and winter.

*Recommendation: In addition to other needed corrections, the Power Supply education credits for rates GP and GPD should be adjusted so that contributions to fixed costs, after subtracting the PSCR base and the education credit, are the same in summer and winter.*

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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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-15645

PROOF OF SERVICE

Monica Robinson, duly sworn, deposes and says that on this 9th day of November, 2009 she served a copy of Comments Of Energy Michigan, Inc. On Consumers Energy November 5 And November 6, 2009 Rate And Tariff Filings upon the individuals listed on the attached service list by e-mail and regular mail at their last known addresses.

\_\_\_\_\_  
Monica Robinson

Subscribed and sworn to before me  
This 9th day of November, 2009.

\_\_\_\_\_  
Eric J. Schneidewind, Notary Public  
Eaton County, Michigan  
Acting in Ingham County, Michigan  
My Commission Expires: April 24, 2012.

CASE NO. U-15645 SERVICE LIST

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