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ERIC J. SCHNEIDEWIND

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September 17, 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 is Exception of Energy Michigan, Inc. Also attached is the original Proof of Service indicating service on counsel.

Thank you for your assistance in this matter.

Very truly yours,

VARNUM,^{LLP}

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

EXCEPTION OF ENERGY MICHIGAN, INC.

I. Introduction and Summary of Position

A. Introduction.

On September 2, 2009 Administrative Law Judge Sharon L. Feldman ("ALJ") issued a Notice of Proposal For Decision in this matter ("PFD"). The ALJ provided that Exceptions to the PFD, if any, must be filed on or before September 17, 2009 with Replies to Exceptions filed on or before September 28, 2009. The Exception set forth below by Varnum, LLP on behalf of Energy Michigan, Inc. ("Energy Michigan") responds to an issue decided in the PFD. Failure to respond to other issues or positions recommended in the PFD should not be construed as agreement with those issues or positions.

B. Summary of Exception: The Residential ROA Cancellation Period Should Not Be Extended to 14 Days.

The ALJ recommended adoption of the Staff position that the period during which residential customers may cancel an enrollment in Electric Choice be extended from three days to 14 days. Energy Michigan urges the Commission to limit the period during which a residential customer can cancel an ROA contract to five days. A 14 day cancellation period is both unnecessary and

may add significant cost to AESs due to the need to hold open an offer to a customer in a volatile market while the customer potentially shops for a better deal and is free to abandon their contract.

II. Energy Michigan Exception: The Residential Cancellation Period Should Not Be Extended to 14 Days

A. The PFD.

The ALJ recommended extension of the residential Electric Choice rescission period from three days to 14 days. Despite opposing arguments citing potential financial burdens and inequities imposed on Alternate Electric Suppliers, the ALJ concluded that customers of Consumers Energy should be given the same 14 day rescission period as recently approved for Detroit Edison in Case U-15244 and that 14 days would be significantly less onerous for the AESs than the 30 days recommended by Consumers Energy. PFD, p. 207. Finally, the ALJ stated that, "The Commission can revisit this question if it becomes problematic". *Id.*

B. Energy Michigan Exception: The Residential Electric Choice Rescission Period Should Not Be Extended From Three Days to 14 Days.

The Testimony of Energy Michigan Witness Ronald Carrier effectively rebuts contentions by the ALJ that a 14 day rescission period is reasonable and not onerous to the AES. Mr. Carrier stated that the more likely outcome of this lengthened rescission period would be that the customer would lock in a price from one AES and then use the expanded timeframe to shop for a better price. It is not appropriate to characterize such a proposal as a "customer protection" measure. Moreover, this practice is unfair to the AES that has incurred an obligation to purchase power based upon the commitment of a customer to purchase that power as well as to other customers of the AES that may be affected by that purchase. Energy Michigan Reply Brief, p. 12.

It is telling that Mr. Carrier was the only witness with direct experience regarding AES economics and operations in the retail competitive electric markets. 7 Tr 280. Mr. Carrier's

experience alone should entitle him to far greater deference on this issue than MPSC Staff or Consumers Energy witnesses on this competitive issue. No party to this case has demonstrated that Mr. Carrier's proposal to extend the rescission period from three days to five business days is not an adequate period for customers to discover errors and then cancel contracts. For these reasons, the ALJ's proposal to expand the residential rescission period to 14 days should be rejected and the Energy Michigan proposal to expand the period to five business days should be adopted. Energy Michigan Reply Brief, p. 12.

While the statement of the ALJ that, "The Commission can revisit this question if it becomes problematic" is an improvement over outright rejection of the Energy Michigan position, it may be too little, too late. If numerous residential customers rescind Electric Choice contracts in order to take advantage of rapidly changing energy market pricing, the financial status of AESs may be damaged significantly in a rapidly changing energy market. The promise to revisit the entire issue might come too late for Alternate Electric Suppliers who absorb significant losses and potentially go out of business. The Commission can avoid this potential problem by adopting the proposal of Energy Michigan to extend the residential rescission period from three days to five business days. There is expert Testimony on the record that the Energy Michigan proposal will help customers and will help AESs maintain their financial status.

III. Conclusion and Prayer for Relief

WHEREFORE, Energy Michigan respectfully requests that the Commission reject the PFD recommendation to extend residential customer cancellation periods from three days to 14 days but rather adopt a five day cancelation period for residential customers.

Respectfully submitted,

Varnum,^{LLP}
Attorneys for Energy Michigan, Inc.

September 17, 2009

By: _____
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PROOF OF SERVICE

Monica Robinson, duly sworn, deposes and says that on this 17th day of September, 2009 she served a copy of Exception of Energy Michigan, Inc. 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 17th day of September, 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

Administrative Law Judge

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