VARNUM
ATTORNEYS AT LAW

201 N. Washington Square • Suite 910
Lansing, Michigan 48933
Telephone 517 / 482-6237 • www.varnumlaw.com

Timothy J. Lundgren

Direct: 616 / 336-6750
tjlundren@varnumlaw.com

July 17, 2015

Ms. Mary Jo Kunkle
Michigan Public Service Commission
7109 W. Saginaw Highway
P.O. Box 30221
Lansing, Michigan 48909

Re: MPSC Case No. U-17735

Dear Ms. Kunkle:

Attached for electronic filing in the above-referenced matter, please find the Initial Brief and Proof of Service on behalf of Energy Michigan, Inc.

Thank you for your assistance in this matter.

Sincerely yours,

VARNUM

Timothy J. Lundgren

Digitally signed by Timothy J. Lundgren
DN: cn=Timothy J. Lundgren, o, ou, email=tjlundgren@varnumlaw.com, c=US
Date: 2015.07.17 13:31:17 -04'00'

Timothy J. Lundgren

TJL/ba

c. ALJ (via email and First-Class Mail)
Parties

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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-17735

INITIAL BRIEF

OF

ENERGY MICHIGAN, INC.

Tim Lundgren, P62807
Varnum, LLP
Counsel for Energy Michigan, Inc.
201 N. Washington Square, Suite 910
Lansing, MI 48933
(616) 336-6750

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INITIAL BRIEF OF ENERGY MICHIGAN, INC.

I. INTRODUCTION

This Initial Brief is filed on behalf of Energy Michigan, Inc. ("Energy Michigan") by its attorneys, Varnum LLP. Failure to address any issues or positions raised by other parties should not be taken as agreement with those issues or positions.

II. ARGUMENT

A. Consumers' Incentive Compensation Proposal Needs to Be Modified to Properly Reflect True Costs and Benefits for its Customers

While Energy Michigan does not take a position as to whether or not the Commission should allow Consumers Energy Company ("Consumers") to implement an Incentive Compensation Program, yet if it does, then Energy Michigan recommends that the Commission make several modifications to the program proposed by Consumers. These suggested revisions will better align the proposed program with true cost of service, in accordance with MCL 460.11(1).

As Energy Michigan's witness, Mr. Alexander J. Zakem, pointed out in his Direct Testimony, there are two main deficiencies in Consumers' program, the first of which is that it fails to tie the performance being rewarded under the program to benefits to customers. See, generally, 9 Tr. pp. 1667-1670. Consumers' Exhibit A-24 shows that 50% of the incentive payout is tied to financial goals that benefit shareholders and not customers. It is only equitable that if there is to be a shared benefit based on these goals, that share should come from the increased shareholder earnings and not from customer rates. It is not reasonable to ask Consumers' customers to pay increased rates to reward the Company for making more money for its shareholders, when that money has come from the customers themselves.

The second main deficiency in Consumers' proposed Incentive Compensation Program relates to a failure to separate distribution service benefits from power supply service benefits. This can be seen in the "reliability" component of the proposed program (see Exhibit A-24). As Mr. Zakem discusses, Retail Open Access ("ROA") customers of Consumers, who take only distribution service and not power supply, do not see the benefits that are associated with improvements in power supply reliability. Therefore, the Commission should require that in accordance with the cost-of-service principle of assigning costs to the customers that receive the benefits, ROA customers should be charged only for those incentive program costs that benefit distribution-only customers, and not for those that benefit power supply customers. A similar separation of power supply and distribution benefits and costs should be required for the "customer value" category on Exhibit A-24.

For these reasons, if the Commission decides to approve the Incentive Compensation Program that Consumers has proposed, it should also require it to modify the program in

accordance with the changes outlined by Mr. Zakem in his Direct Testimony so as to ensure that it better reflects true cost of service principles.

B. Allocated Costs of Discounts for Senior Citizens and Income Assistance Should be Separated Into Distribution and Power Supply Components and Allocated to Customer Classes Accordingly.

Approximately 70% of the nearly $26.4 million in discounts, i.e., approximately $18 million, are allocated to rate classes based on power supply costs. 9 Tr. 1670, 1674-1675. However, these costs are all recovered through delivery charges, which means that the power supply costs are being paid for in part by distribution-only customers, such as those on Retail Open Access. As Mr. Zakem explained:

> … there are two types of customers in a rate class – full service and ROA. Full service customers are responsible for *all* of the power supply costs, and both full service customers and ROA customers jointly are responsible for all of the delivery costs. ROA customers are not responsible for any of the power supply costs.

9 Tr. 1672. Because Consumers places all of the cost of these discounts into the delivery charge, ROA customers are paying in their delivery rates not only for the distribution portion of the discount, but also a portion of the power supply costs of Consumers' bundled customers. The practical result of this is that ROA customers are subsidizing the power supply discounts of full-service customers. This results in ROA customers' charges being higher than they otherwise would be, if not for the subsidy, but also ensuring that default service customers do not pay the full cost of the service from which only they receive benefit.

As Mr. Zakem discusses in his testimony, Consumers can make this adjustment through a simple arithmetic calculation performed after the allocation to rate classes has already been done. Then, Consumers could simply divide up the dollars allocated on the basis of total cost of service

to each rate class by power supply cost of service and delivery cost of service, numbers which Consumers already has. Then the power supply portion of the discount would be allocated within the rate class to all power supply customers, and the delivery portion would be allocated within the rate class to all customers taking delivery service.

Since the Commission has recently expressed concern that division of uncollectibles into power supply and distribution costs could be "unnecessarily burdensome from an accounting and administrative standpoint,"[1] it is worth noting that allocating these costs in this manner requires only a simple arithmetic calculation and as Mr. Zakem testified, "can be accomplished without changing the company's initial allocation to the rate classes." 9 Tr. 1672. Mr. Zakem even provided an exhibit, Exhibit EM-2, that shows what should be done to separate the Senior Citizen and Income Assistance discounts into power supply and delivery portions. As further evidence that the separation of these costs into power supply and distribution components is not "unnecessarily burdensome," it is noteworthy that Consumers Energy agreed to undertake this same separation for its E-1 Economic Development discount in the settlement in Case No. U-17087.

For these reasons, the Commission should require that the Senior Citizen and Income Assistance costs be allocated in accordance with cost of service principles so that power supply and distribution-only customers pay only their appropriate portions of such costs, and ROA customers no longer subsidize Consumers' power supply customers.

C. In Order to Eliminate ROA Customer Subsidization of Power Supply Customers, Uncollectibles Should be Separated Into a Distribution Portion and a Power Supply Portion Within the Class to Which They are Allocated.

[1] June 15, 2015, Opinion and Order in Case No. U-17689, p. 29

Consumers currently includes all uncollectibles in the distribution portion of its rates. However, uncollectibles include both distribution and power supply costs, and so should be separated into a distribution portion and a power supply portion when the costs are allocated to customers. Mr. Zakem explained in Exhibit EM-4, p. 2 of 7,

> Because uncollectibles include both distribution and power supply charges, uncollectibles should be separated in a reasonable way into a distribution portion and a power supply portion. The distribution portion should be included in distribution rates, and the power supply portion should be included in power supply rates. Distribution customers should pay a fair share of uncollectibles in their distribution rates, and power supply customers should pay a fair share of uncollectibles in their power supply rates.

Including all uncollectibles only in distribution rates is an incorrect and unfair allocation of costs to customers and flies in the face of cost of service principles. Consumers offers two separate types of services – distribution service and power supply service. The costs for these services should be kept separate. If a customer does not pay the distribution component of a bill, then the utility is short of compensation for its distribution service, and therefore the "uncollectible" portion of the distribution component is a distribution expense. The same reasoning applies for power supply service. If a customer does not pay the power supply component of a bill, then the utility is short of compensation for its power supply service, and therefore the "uncollectible" portion of the power supply component is a power supply expense. Power supply expenses should not be collected by distribution charges. It is illogical and arbitrary that a power supply charge is transformed into a distribution charge by a customer's failure to pay. Nor does a full service customer's failure to pay make distribution-only customers suddenly responsible for the costs imposed on the system for the power supply of that customer.

The end result of the current practice is that customers on electric choice who only take distribution service from Consumers are unfairly subsidizing Consumers' power supply customers by paying power supply costs for those who do not pay their bills. Electric choice customers who only take distribution service from Consumers should only have to pay for the uncollectible expense properly attributed to the distribution service that they receive. If implemented in this manner, then the appropriate costs are assigned to the appropriate customer classes and cost of service principles are satisfied.

There should be no concern that separating distribution and power supply costs would impose any significant burdens on the Company, as Mr. Zakem has provided in Exhibit EM-4 to his Direct Testimony both a discussion and an example of how this could be easily accomplished. This same issue was addressed by Energy Michigan in detail in the Company's recent case, U-17688, and Mr. Zakem's examples in Exhibit EM-4 are drawn from the Company's filings in that docket.

Furthermore, the Commission approved a fair allocation of uncollectible costs between distribution and power supply services in Consumers' last general rate case (U-17087), when it approved the allocation for the E-1 rate to various rate classes, and then separated within each rate class a distribution portion and a power supply portion. Energy Michigan proposes a similar treatment of the uncollectibles at issue in this case.

D. Consumers' Proposed Change in Metering Notification Language for ROA Customers is Problematic

Consumers' Exhibit A-18, Schedule F-5, page 90 of 93 adds a sentence to the metering requirements for ROA customers that says: "It is the customer's responsibility to notify the Company of any telephonic communications issues that may inhibit the Company's ability to

access meter data electronically." As Mr. Zakem noted in his Direct Testimony, there was no explanation provided by Consumers in its Application for this proposed change. Whatever Consumers may have intended with this language, as proposed it raises serious concerns.

First, there is no definition of "telephonic communications issues." It is not clear that it would be confined to simply failure of telephonic communications. The second problem, as Mr. Zakem pointed out, is that Consumers will be the first to know if Consumers does not have telephonic access to the meter. 9 Tr. 1683. There is no point in placing on a customer the obligation to communicate to the utility something that the utility already knows, but the customer may not.

In rebuttal testimony, Consumers sought to clarify their intent for this language, and provided an alternative form of it in Exhibit A-81.[2] 5 Tr. 574. Consumers' witness Laura M. Collins expresses the Company's intent as follows: "The intent of the additional tariff language is to clarify that it is the customer's responsibility to inform the Company if there is a problem with their phone line that is being addressed, particularly when the customer needs additional time to resolve the issue." *Id.* Energy Michigan has no objection to the purpose of this language as expressed by Ms. Collins. However, while the substitute language in Exhibit A-81 is an improvement, it still does not fully address the above concerns. If the Commission decides to approve the inclusion of language such as that proposed by Consumers, Energy Michigan proposes that it add the word "known" between "any" and "telephonic", so that the sentence would read "It is the customer's responsibility to notify the Company of the status of any known

[2] Note that the official exhibits filed by Consumers on June 11, docket entry 292, contain two versions of Tariff Sheet No. E-7.00, one found in Exhibit A-18, p. 90, and one found in Exhibit A-81, p. 1. The language at issue here is different in these two exhibits – the former retains the originally filed language while the latter contains the additional words "of the status." It is therefore unclear which version the Company intends to implement.

telephonic communication issues that may inhibit the Company's ability to access meter data electronically." Such a change would address the concerns Energy Michigan has raised, in that it only requires the customer to notify the Company of issues about which the customer has knowledge. We believe that this also comports with the Company's expressed intent and so should not be a controversial change.

E. Consumers' Proposed Line Loss Study and Tariff Changes for Line Loss Are Not Properly Supported and Should Not Be Accepted In This Proceeding.

In his Direct Testimony, Mr. Zakem provided a discussion of the Consumers line loss study as presented and supported in its Application. In his direct testimony, Consumers' witness Michael H. Ross testified that the line loss study resulted in an increase to the Residential and Secondary class revenue requirements of $25 million and $2 million, respectively, and a $26 million reduction to the Primary class revenue requirement. 5 Tr. 477. These are significant transfers of costs among classes.

However, the effects of the revised loss study are quite different. In his rebuttal testimony, Mr. Ross stated that "The revised line loss study reflects only small changes to the existing line losses, and results in an approximate $1 million aggregate reduction in revenue requirement for Residential and Secondary customers, and an approximate $1 million increase for the Primary class as indicated in discovery response 17735-AG-CE-314." 5 Tr. 491-492.

Consequently, one would expect that the original Consumers cost of service, including proposed rated designs, would be revised to reduce the Residential and Commercial class revenue requirement by $26 million – additional losses now of $1 million versus $27 million originally – and increase the Primary class revenue requirement by $25 million – reduced losses now of $1 million versus $26 million originally. Further, one would expect that the Real Power

Losses percentages on Exhibit A-18, pages 91 and 93 of 93, would be changed to match the revised loss study. But Consumers has not done so.

In its Rebuttal filings and in cross examination, Consumers addressed concerns voiced by several parties about its line loss study. On cross examination, Consumers' witness Mr. Ross testified that he did not file amended tariff provisions reflecting corrected line loss percentages, although the Company had provided corrected line loss percentages in discovery responses. 5 Tr. 515 *et seq.* Therefore, there is nothing on the record in this case that reflects, accounts for, or matches the results of the Consumers revised line loss study.

Because the Company has failed to demonstrate how its new line loss study will be reflected in the tariffs that determine its customers' actual costs and has offered nothing on the record to adjust its cost of service, rate design, and tariff sheet proposals to match the results of the new line loss study, Energy Michigan requests that the Commission defer acceptance of the new line loss study to a future proceeding, where Consumers will have the opportunity on the record to offer its justification for the study and to explain how it will affect customer rates, which it has failed to do in this proceeding.

If the Commission decides to accept Consumers' assertion of a revised line loss study in its final order in this case, Energy Michigan requests that the Commission order Consumers to provide in a compliance filing corrected allocation exhibits and corrected tariff sheets that reflect the revised line loss study and allow parties an opportunity to review and, if needed, comment.

F. Consumers' Proposed Conditions for the Energy Intensive Primary Rate are Anti-Competitive.

Consumers has proposed that the new Energy Intensive Primary Rate be available to customers only under the following conditions:

> This rate is limited to existing metal melting customers taking service under the Company's Furnace/Metal Melting Service Provision (GFM), on June 7, 2012, the date of the final order in Case No. U-16794. An additional 200 MW of Maximum Demand capacity will be available on a first-come, first-served basis to Full Service customers with new electric metal melting or energy intensive industrial load not previously served by the Company.

Exhibit A-18, page 68 of 93 (strikeouts and underlining not shown). The wording of this provision would prevent an existing customer on the current Metal Melting Primary Pilot Rate (the proposed Energy Intensive Primary Rate) from obtaining its supply from a competitive supplier, and then at some point coming back to the Energy Intensive Primary Rate. In short, it penalizes customers who switch to a competitive provider by making them ineligible to receive the Energy Intensive Primary Rate should they return to full service with the utility. This condition of service acts as a disincentive to the customers' ability to choose a competitive supplier, as it treats such customers differently than other similarly situated customers that remain with the utility. Thus, this is an anti-competitive provision.

Should the Commission choose to approve the change of this pilot program into an Energy Intensive Primary Rate, it should require that the Company change its availability requirements to permit all Full Service customers to be able to qualify for the Energy Intensive Primary Rate or any other rate, even if that customer switches to competitive supply for a period and then elects to return to utility service. All Full Service customers should be treated equally.

G. Energy Michigan Supports Staff's Standby Rate Working Group Proposal

Staff witness, Julie K. Baldwin, proposed that the Commission should establish a Standby Rate Working Group. 10 Tr 2073-2076. Energy Michigan supports both the proposal and the goals for the Group set forth by Ms. Baldwin. Consumers' witness Mr. Ross proposed a group more limited in scope and membership. 5 Tr. 488-489. Such limitations on the group's

goals and membership would impair the ability of the working group to address the new and diverse technologies and applications that are only now coming into the market and to which standby rates will apply in the near future. It is important to the success of the this effort that the restrictions suggested by Consumers not be implemented. In particular, under Consumers' proposed limitations, Energy Michigan would apparently be prevented from participating in the working group. However, Energy Michigan members, which includes institutions and businesses in Michigan that are currently utilizing on-site generation and are interested in the possibilities of doing more self-generation, would want to be represented by their association on this working group. Therefore, Energy Michigan supports the formation of the proposed working group, along the lines set forth by Ms. Baldwin, and objects to the proposed limitations on both scope and membership of the group suggested by Consumers.

III. CONCLUSION

WHEREFORE, Energy Michigan respectfully requests that the Commission:

A. Should it approve the Incentive Compensation Program that Consumers has proposed, it also require Consumers to modify the program in accordance with the changes outlined by Mr. Zakem in his Direct Testimony so as to ensure that it better reflects true cost of service principles; and

B. Require that the Senior Citizen and Income Assistance costs be allocated in accordance with cost of service principles so that power supply and distribution-only customers pay only their appropriate portions of such costs; and

C. Require Consumers to separate the allocation of uncollectibles into a distribution and power supply portion and apply those costs to the appropriate customer

classes in accordance with the approach outlined in Mr. Zakem's testimony and exhibits; and

D. Should it decide to approve the inclusion of language such as that proposed by Consumers in its ROA metering tariff, that it require Consumers to modify that language as set forth in this Initial Brief; and

E. Should it decide to accept Consumers' assertion of a revised line loss study in its final order in this case, that the Commission order Consumers to provide in a compliance filing corrected allocation exhibits and corrected tariff sheets that reflect the revised line loss study and allow parties an opportunity to review and, if needed, comment; and

F. Should it choose to approve the change of this pilot program into an Energy Intensive Primary Rate, it should require that the Company change its availability requirements to permit all Full Service customers to be able to qualify for the Energy Intensive Primary Rate or any other rate, even if that customer switches to competitive supply for a period and then elects to return to utility service; and

G. Approve and implement the Standby Rate Working Group as proposed by Staff.

Respectfully submitted,

Varnum LLP
Attorneys for Energy Michigan, Inc.

July 17, 2015

By: Timothy J. Lundgren
Digitally signed by Timothy J. Lundgren
DN: cn=Timothy J. Lundgren, o, ou, email=tjlundgren@varnumlaw.com, c=US
Date: 2015.07.17 13:30:34 -04'00'

Laura A. Chappelle (P42052)
Timothy J. Lundgren (P62807)
The Victor Center
201 N. Washington Square, Ste. 910
Lansing, MI 48933
517/482-6237

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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-17735**

PROOF OF SERVICE

STATE OF MICHIGAN)
) ss.
COUNTY OF KENT)

Barbara Allen, the undersigned, being first duly sworn, deposes and says that she is a Legal Secretary at Varnum LLP and that on the 17th day of July 2015, she served a copy of Energy Michigan Inc.'s Initial Brief to Consumers Energy Company upon those individuals listed on the attached Service List via email at their last known addresses.

Barbara Allen
Digitally signed by Barbara Allen
DN: cn=Barbara Allen, o=Varnum, ou, email=baallen@varnumlaw.com, c=US
Date: 2015.07.17 13:33:30 -04'00'

Barbara Allen

SERVICE LIST
MPSC CASE NO. U-17735

Administrative Law Judge (email & regular mail)
Honorable Mark E. Cummins
Michigan Public Service Commission
4300 W. Saginaw Hwy.
Lansing, MI 48917
Cumminsm1@michigan.gov

Counsel for the Attorney General, Bill Schuette
John A. Janiszewski
Assistant Attorney General
Environment, Natural Resources, and Agriculture Division
6th Floor Williams Building
525 W. Ottawa Street
Lansing, MI 48909
janiszewskij2@michigan.gov

Counsel for ABATE
Robert A.W. Strong
Clark Hill, PLC
151 S. Old Woodward Ave., Ste. 200
Birmingham, MI 48009
rstrong@clarkhill.com

Leland Rosier
Sean P. Gallagher
212 E. Grand River Ave.
Lansing, MI 48906
lrrosier@clarkhill.com
sgallagher@clarkhill.com

Counsel for the MPSC
Lauren D. Donofrio
Amit T. Singh
Graham Filler
Bryan A. Brandenburg
7109 W. Saginaw Hwy., 3rd Floor
Lansing, MI 48919
donofriol@michigan.gov
singha9@michigan.gov
fillerg@michigan.gov
brandenburgb@michigan.gov

Counsel for Consumers Energy Company
H. Richard Chambers
Raymond E. McQuillan
Bret A. Totoraitis
Robert W. Beach
Kelly M. Hall
Anne Uitvlugt
One Energy Plaza
Jackson, MI 49201
Rick.chambers@cmsenergy.com
Raymond.mcquillan@cmsenergy.com
Bret.totoraitis@cmsenergy.com
Robert.beach@cmsenergy.com
Kelly.hall@cmsenergy.com
Anne.uitvlugt@cmsenergy.com

Counsel for the Kroger Company
Kurt J. Boehm
Jody Kyler Cohn
Boehm, Kurtz & Lowry
36 East Seventh Street, Suite 1510
Cincinnati, Ohio 45202
KBoehm@BKLlawfirm.com
JKylerCohn@BKLlawfirm.com

Counsel for MEC
Christopher M. Bzdok
Emerson Hilton
Olson, Bzdok & Howard, P.C.
420 E. Front St.
Traverse City, MI 49686
chris@envlaw.com
emerson@envlaw.com

Counsel for the Municipal Coalition
Roderick S. Coy
Leland R. Rosier
Clark Hill PLC
212 E. Grand River Ave.
Lansing, MI 48906-4328
rcoy@clarkhill.com
lrrosier@clarkhill.com

Counsel for Michelle Rison and Residential Customer Group
Brian W. Coyer
Don L. Keskey
University Office Place
333 Albert Avenue, Suite 425
East Lansing, MI 48823
bwcoyer@publiclawresourcecenter.com
donkeskey@publiclawresourcecenter.com

Counsel for NRDC
Christopher M. Bzdok
Emerson Hilton
Olson, Bzdok & Howard, P.C.
420 E. Front St.
Traverse City, MI 49686
chris@envlaw.com
emerson@envlaw.com

Counsel for Citizens Against Rate Excess
John R. Liskey
John R. Liskey Attorney at Law PLLC
921 N. Washington Ave.
Lansing, MI 48906
john@liskeypllc.com

Counsel for Wal-Mart Stores East, LP and Sam's Club, Inc.
Tyler Tennent
Dawda, Mann, Mulcahy & Sadler, PLC
39533 Woodward Ave., Ste. 200
Bloomfield Hills, MI 48304
ttennent@dmms.com

Rick D. Chamberlain
Behrens, Wheeler & Chamberlain
6 N.E. 63rd Street, Suite 400
Oklahoma City, OK 73105
rchamberlain@okenergylaw.com

Counsel for Hemlock Semiconductor Corporation
Jennifer Utter Heston
David E.S. Marvin
Fraser Trebilcock Davn & Dunlap PC
124 West Allegan Street, Suite 1000
Lansing, Ml 48933
jheston@fraserlawfirm.com
dmarvin@fraserlawfirm.com

Counsel for Midland Cogeneration Venture Limited Partnership
Ford J.H. Turrell
David R. Whitfield
900 Fifth Third Center
111 Lyon Street NW
Grand Rapids, MI 49503
fturrell@wnj.com
dwhitfield@wnj.com

Counsel for Michigan State Utility Workers Council, Utility Workers Union of America, AFL-CIO
John R. Canzano
400 Galleria Officentre
Southfield, MI 48034
jcanzano@michworklaw.com

Counsel for Michigan Cable Telecommunications Association
Michael S. Ashton
Fraser, Trebilicock, Davis & Dunlap, PC
124 W. Allegan, Ste. 1000
Lansing, MI 48933
mashton@fraserlawfirm.com