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Timothy J. Lundgren

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August 7, 2017

Ms. Kavita Kale
Executive Secretary
Michigan Public Service Commission
7109 W. Saginaw Highway
P.O. Box 30221
Lansing, Michigan 48909

Re: MPSC Case No. U-18239

Dear Ms. Kale:

Attached for electronic filing in the above-referenced matter, please find the Rebuttal Testimony and Exhibit of Alexander J. Zakem on behalf of Energy Michigan Inc., as well as the Proof of Service. Thank you for your assistance in this matter.

Sincerely yours,

VARNUM

Timothy J. Lundgren

TJL/kc

Enclosures

c. ALJ

All parties of record.

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter, on the Commission's own motion,)
to open a docket to implement the provisions of)
Section 6w of 2016 PA 341 for)
CONSUMERS ENERGY COMPANY'S)
service territory.)
_____)

Case No. U-18239

REBUTTAL TESTIMONY
OF
ALEXANDER J. ZAKEM
ON BEHALF OF
ENERGY MICHIGAN, INC.

1 **Q. Please state your name and business address.**

2 A. My name is Alexander J. Zakem and my business address is 46180 Concord, Plymouth,
3 Michigan 48170.

4
5 **Q. On whose behalf are you testifying in this proceeding?**

6 A. I am testifying on behalf of Energy Michigan, Inc. (“Energy Michigan”).

7
8 **Q. Are you the same Alexander J. Zakem who provided direct testimony in this**
9 **proceeding?**

10 A. Yes, I am.

11
12 **Q. Are you sponsoring any exhibits in your rebuttal testimony?**

13 A. Yes, I am sponsoring Exhibit EM-16 (AJZ-6).

14
15 **Q. Was this exhibit prepared by you or under your supervision?**

16 A. Yes, it was.

17
18 **Q. What is the purpose of your testimony?**

19 A. On behalf of Energy Michigan, I am addressing how the subtractions for all energy
20 market sales and other sales specified in Section 6w(3) subparagraph (b) of PA 341
21 should be included in the proposed SRM charges of the Commission Staff, ABATE, and
22 Constellation. I am not addressing or critiquing the SRM proposals of these parties that

1 relate to capacity-related generation costs, but rather advising the Commission of how the
2 subtractions specified in the statute might be applied.

3
4 **Q. Would you summarize your conclusions?**

5 A. In summary, Section 6w(3) subparagraph (b) must be applied to the outcome of
6 “capacity-related generation costs” under subparagraph (a) for the implementation of an
7 SRM charge to be complete. If, under the Michigan cost of service statute, capacity
8 related costs are determined from methods other than embedded costs, then subtraction
9 for the various sales in subparagraph (b) is not needed.

10
11 In short, the application of a credit for “all energy market sales” and other sales specified
12 in subparagraph (b) is straightforward:

- 13 1. If “capacity-related generation costs” are extracted from the utility’s base rates
14 under subparagraph (a), then “all energy market sales” net of fuel must be
15 subtracted under subparagraph (b). The two subparagraphs in Section 6w(3)
16 go together.
17
18 2. If the SRM charge is determined by a method that does not use the utility’s
19 embedded costs, then no subtraction for “all energy market sales” is needed.
20

21 **Q. Which proposed SRM charges use embedded costs and which do not?**

22 A. Consumers, Staff, ABATE, and Constellation offer an SRM charge where the “capacity-
23 related generation costs” are based on embedded costs, where a subtraction is required.
24 Staff and Constellation also offer an SRM charge based on costs benchmarks other than
25 embedded, so no subtraction is required.
26

1 **Q. Are there other statutes that apply to rates set by the Commission including the**
2 **SRM charge?**

3 A. As described in my Direct Testimony, Michigan's cost of service statute, MCL
4 460.11(1), also applies to rates set by the Commission. PA 341 is not the only law that
5 applies to setting a capacity charge under Section 6w. Because the capacity charge
6 becomes part of the rate structure for the utility, then MCL 460.11(1) also applies. Thus,
7 two statutes – not one – apply to the setting of the SRM charge. How the Commission
8 will harmonize Section 6w and MCL 460.11(1) is open to legal argument. In this rebuttal
9 testimony, I will describe how the subtractions for all energy market sales and other sales
10 should, in my view, be applied to SRM charges determined from PA 341 and from MCL
11 460.11(1).

12
13 **Q. Will you be offering a legal interpretation of PA 341 or of other relevant Michigan**
14 **statutes?**

15 A. No, not at all. I am not a lawyer, and am not offering legal interpretations. Nevertheless,
16 the components of the SRM charge are described in the statute, and it is necessary to cite
17 that statute, as did Consumers in its Application and testimony. So I will recognize and
18 explain the practical effect of implementation choices presented to the Commission under
19 Section 6w and MCL 460.11(1), namely, the subtraction for all energy market sales.

20
21 **Q. What does PA 341 specify as components of the SRM charge?**

22 A. Section 6w(3) describes two components of the SRM charge, in subparagraphs (a) and
23 (b). Subparagraph (a) in part states:

1 . . . include the capacity-related generation costs included in the utility's base
2 rates, surcharges, and power supply cost recovery factors, regardless of whether
3 those costs result from utility ownership of the capacity resources or the purchases
4 or lease of the capacity resource from a third party. [Section 6w(3)(a). Emphasis
5 added.]
6

7 Subparagraph (b) in part states:

8 . . . subtract all non-capacity-related electric generation costs, including, but not
9 limited to . . . the projected revenues, net of projected fuels costs, from all of the
10 following:

- 11 (i) all energy market sales.
12
13 (ii) off-system energy sales.
14
15 (iii) ancillary services sales.
16
17 (iv) energy sales under unit-specific bilateral contracts.
18

19 [Section 6w(3)(b). Emphasis added.]
20
21

22 **Q. What are “all energy market sales”?**

23 A. MISO buys all energy injected into the grid, except what is scheduled to a receiver
24 external to MISO. MISO also charges for all load. Since all the output of all generation
25 is sold to the MISO energy market, and all energy delivered to LSEs is bought from the
26 MISO energy market, face-value interpretation of “all energy market sales” means all
27 energy sales, not energy sales less energy purchases. Generation and load can be at
28 various and different locations for a utility and thus have different MISO locational
29 marginal prices. Therefore, netting of MWh energy generation against MWh of energy
30 load, and attaching a single price to the difference is inaccurate and does not reflect the
31 real and complete costs in the MISO market. For this reason, it would be inaccurate to
32 net MISO sales against purchases from MISO and subtract the net, as Consumers has
33 done in its proposed calculation of the SRM charge.

1 It would also be potentially in conflict with the plain meaning of the statutory language to
2 assume “all energy market sales” means only the hourly amount above the utility’s load
3 as an LSE. The statute specifically calls only for netting of “projected fuel costs” while
4 specifically stating “all” energy market sales. See Section 6w(3)(b).

5
6 To be clear, MISO in its bill to a market participant may offset some charges against
7 some credits to get to one payable number for a particular service. This is not what I
8 mean by “netting” of energy in the explanation above.

9
10 **Q. Could it also make sense to interpret “all energy market sales” as either net of**
11 **purchases annually or net of customer load hourly?**

12 A. Although that is for the Commission to decide, there are difficulties with such an
13 interpretation. Load and generation can be priced differently, so the net dollars that go
14 with net energy may have no meaning. If “all energy market sales” were net of
15 purchases, what would “net of projected fuel costs” mean for projected purchases? While
16 totals can always be netted, such totals may not be meaningful to subparagraph (b). I
17 cannot see a way to make netting of sales with purchases work, under the MISO market.

18
19 The plain meaning of “all energy market sales” would be everything sold, meaning
20 everything that MISO pays for. The Commission could interpret “sales” as wholesale or
21 retail, but my opinion is that wholesale is the appropriate meaning. The word “all” is
22 attached to “energy market sales.” Presumably, this is for emphasis, since “all” is not
23 attached to “off-system energy sales,” “ancillary services sales,” and “energy sales under

1 unit-specific bilateral contracts” yet the plain meaning of these three types of sales would
2 be all such sales as well.

3
4 **Q. Section 6w(3) subparagraph (b) states “net of projected fuel costs.” How should this**
5 **be applied?**

6 A. The words have no qualifier, such as “hourly” or “marginal” or “average.” The statement
7 is a flat “projected fuel costs,” not cost of goods sold or a cost imputed for a specified
8 sale. PA 341 was a negotiated statute. Plain meaning would indicate total fuel costs
9 during the period under study, which would be a year, which Mr. Jennings has done in
10 his projections.

11
12 **Q. What is included in Energy Michigan’s assessment of “all energy market sales”?**

13 A. Energy Michigan witness Mr. Jennings explains the inclusions on pages 6-10 of his direct
14 testimony. The sales include both Consumers-owned power plants and generation related
15 to purchase power agreements, as Mr. Jennings notes on page 6 of his testimony, lines
16 25-29.

17
18 **Q. Why are purchases included, when the statute says “sales.”**

19 A. While it is the Commission’s responsibility to determine the subtraction for “all energy
20 market sales,” Energy Michigan is laying out and valuing the complete picture for the
21 Commission.

22

1 MISO pays the Locational Marginal Price (“LMP”) for energy injected into the market,
2 and that transaction is the “sale.” The question is: “Who gets paid the LMP for the sale?
3 Is it Consumers, or is it the party selling to Consumers?”
4

5 In Consumers’ PSCR Plan filing for 2017, Case No. U-18142, Consumers reports the
6 purchase price of the energy purchases for its Nuclear Purchased Power Agreement and
7 its Non-Utility Generation Purchases. If the selling party were credited by MISO with
8 the energy sale into the MISO market, then the selling party would be collecting twice, so
9 to speak: collecting the purchase price from Consumers and collecting the LMP from
10 MISO. So obviously the selling party is not receiving the energy market LMP price from
11 MISO.
12

13 If the selling party were receiving the LMP from MISO but passing it on to Consumers,
14 then the Consumers PSCR would show as an expense only the difference between the
15 purchase price and the MISO LMP. But the PSCR shows the full purchase price, not a
16 difference.
17

18 MISO charges for all load, but there is no such charge reported. Consumers, therefore,
19 according to its PSCR accounting, is apparently paying the full purchase price to the
20 selling party and receiving from MISO the LMP value for energy injected into the MISO
21 market. This is the sale to MISO – dollar credit for energy injected into the MISO
22 market.
23

1 **Q. Are there other factors that could affect the Commission’s interpretation of Section**
2 **6w(3) subparagraph (b)?**

3 A. PA 341 (as Senate Bill 437) was debated, deliberated, and revised over an 18-month
4 period. The outcome, in my view, is not a carefully constructed rate design but rather a
5 negotiated agreement among the parties involved. Some words were put in, other words
6 were taken out, trade-offs were made, and the final result is the deal. I do not know what
7 was conceded in return for the words “all energy market sales.” The Commission will
8 have to interpret the intent of subparagraph (b), but I believe it is important for the
9 Commission to bear in mind that PA 341, and in particular Section 6w(3), is the product
10 of a negotiated deal and not necessarily a unified, self-coherent, and internally consistent
11 proposal.

12
13 **Q. Under its plain meaning, how should Section 6w(3)(b) be applied to an SRM**
14 **charge?**

15 A. Again, there are two statutes that govern the setting of rates, PA 341 and the cost of
16 service statute 460.11(1). First, if the Commission or a party uses subparagraph (a) –
17 “*capacity-related generation costs included in the utility’s base rates, surcharges, and*
18 *power supply cost recovery factors*” – then it should also include the subtraction for
19 subparagraph (b) – “*projected revenues, net of projected fuels costs, from . . . all energy*
20 *market sales.*” For example, Consumers determined its SRM charge using the embedded
21 costs per subparagraph (a), but incorrectly did not subtract “all energy market sales” for
22 subparagraph (b). Energy Michigan, in the testimonies and exhibits of witnesses Mr.

1 Smith and Mr. Jennings showed how the subtraction should be done, using Mr. Jennings'
2 projection of Consumers generation.

3
4 Second, if the Commission or a party uses a cost-of-service pricing method that is not
5 based on the utility's embedded costs, then subparagraph (b) should not apply.

6

7 **Q. What is the value of the subtraction for subparagraph (b)?**

8 A. In his testimony and exhibits, Energy Michigan witness Mr. Jennings has determined that
9 on a projected basis, the value is \$651 million, considering all energy used by Consumers
10 and all fuel. This number is for 2018, consisting of Total Sales Revenue of \$1,060
11 million on Exhibit EM-14 (RRJ-4) less Total Fuel Cost of \$409 million on Exhibit EM-
12 15 (RRJ-5).

13
14 **Q. How would the \$651 million affect the proposals of the Staff, ABATE, and**
15 **Constellation?**

16 A. The Staff presents two methods for determining an SRM charge. The first method does
17 not need a subtraction. The second method does.

18
19 The first method uses the Cost of New Entry ("CONE") that MISO calculates based on a
20 combustion turbine and is approved by the FERC. Staff witness Mr. Revere states: "In
21 Staff's opinion, the proper cost of capacity is the Cost of New Entry (CONE), or the cost
22 to build a combustion turbine (CT)." [Mr. Revere Direct Testimony, page 5, lines 23-
23 24.] Mr. Revere notes that "all energy is bid into the market" and that such sales "capture

1 what Staff could consider to be the energy related portion of capacity costs”; Staff
2 concludes that if one is using a CT as the cost of capacity service provided, then “to
3 remove all costs above a CT and then apply an offset which effectively, if imperfectly,
4 does the same, would be double counting the offset.” [Mr. Revere Direct Testimony,
5 page 6, lines 2-6.]

6
7 I certainly agree with this. Staff is using CONE/CT as a cost-of-service capacity value –
8 not using the utility embedded costs – and so no subtraction for all energy market sales or
9 other specified sales is needed.

10
11 The second way that Staff presents is to determine “capacity-related” costs from the
12 utility’s Cost of Service Study, using the utility’s embedded costs in rates, per Section
13 6w(3) subparagraph (a). Here, Staff does make a subtraction for subparagraph (b),
14 explaining: “The revenue produced from energy sales into the market resulting from
15 plants producing above the use of the Company’s customers should be included as an
16 offset to the cost of the capacity used to produce that energy.” [Mr. Revere Direct
17 Testimony, page 8, lines 2-5.]

18
19 **Q. Do you agree with this subtraction?**

20 A. I agree that a subtraction is required. However, for the reasons I have explained
21 previously, the subtraction should be for “all energy market sales” as stated in Section
22 6w(3)(b), not just the portion of energy that is “above the use of the Company’s
23 customers.” Again, the Commission is implementing a deal, not revising it.

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In his Exhibit S1.1, line 9, column (d), Mr. Revere shows a subtraction of \$105,412 (000). as part of the determination of a capacity-related cost number on line 10 of \$875,043 (000). I recommend that the Commission replace the \$105,412,000 with a subtraction of \$651,000,000, which Energy Michigan witness Mr. Jennings has determined is the appropriate value for net revenue less fuel costs. This results in a cost of \$329,455,000 or about \$108 per MW-day ($= \$329,455 / 8395 / 365$).

Q. How would the \$651 million affect ABATE’s proposal?

A. ABATE’s proposal is similar to Staff’s second method, using the utility’s embedded costs as the basis for determining “capacity-related generation costs.” ABATE makes no subtraction for energy sales, so such a subtraction should be included in its calculation.

On pages 1 and 2 of ABATE witness Mr. Dauphanais’s Exhibit AB-2 (JRD-2), capacity-related costs are shown on line 9, column (A) as \$1,565,027 (000), less the energy allocator on line 10 of \$391,257, for a resulting recommended capacity-related number of \$1,264,770. Mr. Jennings’s determination of “all energy market sales” and other sales, net of fuel, of \$651 million, should be subtracted, resulting in a SRM charge cost of \$613,770 (000). This is equivalent to about \$200 per MW-day ($= \$613,770 / 8395 / 365$).

Q. How would the \$651 million affect Constellation’s proposal?

1 A. Constellation has two approaches – one is the determination of capacity-related costs
2 using an “Average and Excess” analytical method, the other is a review the cost of
3 capacity from evidence in the market.

4
5 Constellation’s “Average and Excess” method of determining capacity-related costs is
6 based on Consumers’ embedded costs, so a subtraction for “all energy market sales”
7 should be included in its calculation under the provisions of Section 6w(3) subparagraph
8 (b). On page 27 of his testimony, Table 1, column (c), Constellation witness Dr.
9 Makhholm shows a capacity-related allocated amount of \$781,758 (000). This is a
10 determination of capacity-related costs from the embedded costs in Consumers’ rates, and
11 so would comport with Section 6w(3) subparagraph (a). Therefore, Mr. Jennings’s \$651
12 million – the subparagraph (b) amount – should be subtracted from this, resulting in
13 \$130,758 (000), equivalent to about \$43 per MW-day. Again, this is to maintain the
14 “deal” of PA 341.

15
16 On pages 30-31 of his direct testimony, Dr. Makhholm checks the reasonableness of his
17 SRM charge determination based on three visible indicators: MISO CONE of
18 approximately \$260 per MW-day, Consumers’ RFP for demand side ZRCs, where only
19 responses at or below \$164 per MW-day were picked, and Consumers’ assumption in its
20 Palisades case that market capacity value is 50% of CONE, or \$130 per MW-day. As
21 explained previously for cost-of-service methods not based on the utility’s embedded
22 costs, no subtraction for “all energy market sales” is needed.

23

1 **Q. The resulting amounts from several of the above methods that include the**
2 **subtraction for “all energy market sales” are low compared to Consumers’**
3 **proposals. Do you understand why?**

4
5 A. The differences in perspective here are differences among (1) a traditional capacity rate
6 that could be charged to customers based on Consumers’ embedded costs, where
7 “capacity” is valued by Consumers’ traditional embedded cost method, and (2) other
8 methods that adjust for “capacity related” extractions from embedded costs, and (3) the
9 “deal” under PA 341.

10

11 **Q. Would you summarize the outcomes when the subtractions for “all energy market**
12 **sales” and other sales are applied?**

13

14 Outcomes of the SRM charge from Section 6w(3) subparagraphs (a) and (b) are shown in
15 Exhibit (EM-16) (AJZ-6). Column B shows the equivalent \$ per MW-day. Column C
16 identifies the source of the proposal. Column D identifies whether or not the proposal is
17 based on CE’s embedded costs. Column E identifies how the subtraction for Section
18 6w(3) subparagraph (b) is applied.

19

20 Again, PA 341 is not the result of a careful rate design, but rather a settlement from 18
21 months of arguing and negotiating. Specification of the charging method changed over
22 time. We don’t know what the parties involved foresaw as the ultimate outcome after the

1 final bill was enacted. The outcome as determined by law – not by rate design – is
2 something the Commission will have to assess.

3
4 **Q. Would any of the above outcomes be suitable as an SRM charge?**

5 A. The numbers alone are insufficient. A charge has to be applied to a specified quantity
6 under specified circumstances, and the result must be just and reasonable and in
7 accordance with costs of service. Energy Michigan has a single proposal for an SRM
8 charge in two parts, as explained in my direct testimony and as shown in Exhibit EM-16
9 (AJZ-6). The first part applies to all LSEs as a sharing of the cost of new local resources
10 acquired by Consumers. Beyond that, all LSEs are able to use any resource allowed by
11 MISO, including the capacity auction, to demonstrate sufficient capacity under PA 341,
12 as PA 341 allows. The second part of the charge applies to any capacity requirements
13 that the LSE has not satisfied in its demonstration with resources that MISO allows.

14
15 The SRM charges proposed by other parties have to be attached to something, and that
16 something has not been clearly identified and quantified in their filings.

17
18 Further, the SRM charge has to be used to provide some service of benefit to the AES.
19 As explained in my direct testimony, Consumers may not have the ability under the
20 MISO tariff to take on the responsibility for and the cost of providing capacity for AESs
21 that are deemed deficient under PA 341. The Commission will have to decide not only
22 on the method of determining the SRM charge, but also on how that charge will be
23 applied.

1 Finally, the Commission will have to harmonize the requirements of setting an SRM
2 charge – a rate – derived from Section 6w (3) of PA 341 with a rate derived from the
3 cost of providing service under MCL 460.11(1).

4

5 **Q. Does this conclude your testimony?**

6 **A. Yes, it does.**

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STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter, on the Commission's own motion,)	
to open a docket to implement the provisions of)	
Section 6w of 2016 PA 341 for)	Case No. U-18239
CONSUMERS ENERGY COMPANY'S)	
service territory.)	
_____)	

EXHIBIT
OF
ALEXANDER J. ZAKEM
ON BEHALF OF
ENERGY MICHIGAN, INC.

Outcomes of Proposed SRM Charges With and Without Required Subtractions for “All Energy Market Sales”

(A) <u>Outcome</u>	(B) <u>\$ per MW-day</u>	(C) <u>Proposal</u>	(D) <u>Cost Method</u>	(E) <u>Section 6w(3) (b) subtraction for “All Energy Market Sales” etc.</u>
#1	\$511	CE embedded	<i>embedded</i>	• w/o required subtraction
#2	\$383	ABATE embedded	<i>embedded</i>	• w/o required subtraction
#3	\$285	Staff embedded	<i>embedded</i>	• with \$105 M partial subtraction
#4	\$260	Staff CONE	COS	• no subtraction required
#5	\$260-ACP	Energy MI CONE-ACP - applied to new local cost sharing	COS	• no subtraction required
	\$260	Energy MI CONE - applied to residual non-demonstration after using resources allowed by MISO	COS	
#6	\$255	Constellation embedded	<i>embedded</i>	• w/o required subtraction
#7	\$200	ABATE embedded	<i>embedded</i>	• with \$651 M subtraction
#8	\$164	Constellation review, CE RFP for demand response	COS	• no subtraction required
#9	\$130	Constellation review, CE 50% CONE estimated market	COS	• no subtraction required
#10	\$108	Staff embedded	<i>embedded</i>	• with \$651 M subtraction
#11	\$43	Constellation embedded	<i>embedded</i>	• with \$651 M subtraction

STATE OF MICHIGAN
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CONSUMERS ENERGY COMPANY'S)
service territory.)
_____)

PROOF OF SERVICE

STATE OF MICHIGAN)
) ss.
COUNTY OF INGHAM)

Kimberly Champagne, the undersigned, being first duly sworn, deposes and says that she is a Legal Secretary at Varnum LLP and that on the 7th day of August, 2017, she served a copy of the Rebuttal Testimony and Exhibit of Alexander J. Zakem on behalf of Energy Michigan Inc., as well as this Proof of Service upon those individuals listed on the attached Service List via email at their last known addresses.

Kimberly Champagne

SERVICE LIST
MPSC CASE NO. U-18239

Administrative Law Judge

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