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Timothy J. Lundgren

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May 30, 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-18393

Dear Ms. Kale:

Attached for electronic filing in the above-referenced case, please find the Objection of Energy Michigan, Inc. to Consumers Energy Company's Application for Ex Parte Approval of a Voluntary Large Customer Renewable Energy Program. If you have any questions, please feel free to contact my office. Thank you for your assistance in this matter.

Sincerely yours,

VARNUM

Timothy J. Lundgren

TJL/kc
Enclosures
Cc: Service List

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the application of)
CONSUMERS ENERGY COMPANY)
for approval to amend its Renewable Energy)
Plan to include a Voluntary Large Customer)
Renewable Energy Pilot Program.)
_____)

Case No. U-18393

**OBJECTION OF ENERGY MICHIGAN, INC. TO CONSUMERS ENERGY
COMPANY’S APPLICATION FOR EX PARTE APPROVAL OF A VOLUNTARY
LARGE CUSTOMER RENEWABLE ENERGY PROGRAM**

Energy Michigan, by its attorneys, Varnum, LLP, submits to the Michigan Public Service Commission ("MPSC" or "Commission") its opposition to Consumers Energy Company’s (“Consumers” or “Company”) Application for Ex Parte Approval of an Amendment to its Renewable Energy Plan in order to offer a Voluntary Large Customer Renewable Energy Pilot Program (“Green Pricing Program,” "GPP," or “Program”) in the above-entitled proceedings (“Application”).¹

Energy Michigan respectfully submits that the Commission should deny the *ex parte* Application and require the Company to file its requested Program in the appropriate case docket – the Commission’s ongoing evaluation of the requirements of the Customer-Requested Renewable Energy (“Section 61”) subpart of Public Act 342 of 2016 (MCL 460.1061) (“Act 342”) in Case Nos. U-18349 and U-18351 (“Section 61 Docket”).

¹ The comments expressed in this filing represent the position of Energy Michigan as an organization, but may not represent the views of any particular member of Energy Michigan.

A. Overview

Section 61 directs electric providers to offer customers the opportunity to participate in voluntary green pricing programs. Electric providers whose rates are regulated by the Commission must have their programs approved by the Commission. To that end, on March 28, 2017, the Commission, on its own motion, opened Case No. U-18349, *et al.*, soliciting comments on, among other things, what voluntary green pricing programs and tariffs should contain, what options should be made available to different customer classes, how program costs will be recovered, and the associated accounting of these costs. The Commission opened a separate docket for each of the eight regulated utilities. Consumers Energy was directed to file its voluntary green pricing program in Case No. U- 18351 by October 2, 2017.

On April 28, 2017, the Commission received comments from 10 stakeholder groups, including Energy Michigan, and 9 electric providers, including Consumers Energy. Reply comments are due on May 30.

Instead of filing a proposed voluntary green pricing program in Case No. U-18351, Consumers filed its proposal for large business customers in this new docket, seeking *ex parte* approval of an amendment to its Renewable Energy Plan for the new voluntary green pricing program.

Energy Michigan objects to *ex parte* approval of Consumers' voluntary green pricing program. As discussed in detail by the Environmental Law and Policy Center's ("ELPC") May 25, 2017, Opposition to Consumers' Application, Consumers' Application raises serious questions and concerns that require a thorough examination by the Commission with the appropriate input from all interested parties. Energy Michigan agrees with the numerous concerns raised in the ELPC's opposition, including the fact that Consumers' proposed "three-

year pilot” (with terms renewable for up to a total of 20 years) is “not in reality a ‘pilot,’ but is instead a separate green pricing program that would be accessible only to a small number of the Company’s customers through a process that offers none of the safeguards and deliberation necessary to establish confidence in the program.” ELPC Objection, p.2.

Energy Michigan also asserts that *ex parte* review is not appropriate for Consumers’ proposed voluntary green pricing program for two important reasons: (1) the Company has not shown that the GPP “will not result in an increase in the cost of service to its customers.” MCL § 460.6a; and (2) the Application violates the Commission’s directive in U-18349 and U-18351 that GPP proposals be filed in those dockets, amounting to “piecemeal litigation” of the sort the Commission recently expressed concerns about in its May 11, 2017 Order in U-18197, as it does not involve all of the affected and interested parties who have provided comments in the appropriate GPP dockets. For all of these reasons, the Company’s request for *ex parte* approval should be denied and the Company should be directed to file its Program in the appropriate Section 61 Docket (U-18351) so that all appropriate stakeholders will be made aware of the proposal and be provided with an opportunity to comment on it.

B. Consumers’ Proposed Tariff May Result In A Rate Increase

Under Consumers’ Green Pricing Program, cost of service rates to participants would almost certainly increase, and there is insufficient information to determine whether the program’s impact on Consumers’ own renewable requirements would lead to an increase in service costs for non-participants. *Ex parte* approval is therefore inappropriate.

According to Consumers’ request for *ex parte* relief, Consumers’ Green Pricing Program offers large business customers (those with at least 1 MW of demand) two options for renewable energy purchases. Option A allows a customer to (1) stay on its existing tariff, and (2) pay an

additional subscription fee of 4.5¢ per kWh of renewable energy, offset by a credit from revenue generated by sales into the wholesale capacity and energy markets. A second option, Option B, is available only to customers with new or expanding load exceeding 3 MW that are not previously served by the Company. Option B allows eligible customers to (1) take service under its applicable tariff, and (2) purchase their renewable energy requirements from any 100% certified renewable energy source in the MISO footprint. Consumers would, for a fee, administer the sale of renewable energy associated with the customer's contract into the wholesale market and would offer a market index billing option to customers.

While Energy Michigan is interested in continuing to explore the concept of Consumers' proposed Option B, as that option may resemble certain portions of Energy Michigan's own green pricing proposal in Case No. 18349, we would need sufficient time to consider and evaluate this option – including the opportunity to question Consumers' witnesses supporting the proposal, and to possibly make recommendations regarding its implementation. At the very least, then, *ex parte* relief would be inappropriate at this stage, as it would deny Energy Michigan and other commenters in U-18349 the opportunity to fully review and comment on Consumers' proposal.

Furthermore, as proposed, it appears that Option B is essentially a “swap” of the energy price component of rate GPD for the Midcontinent Independent System Operator (“MISO”) Locational Marginal Price (“LMP”), with the customer still paying the Standard Rate demand charge, with a credit of the ACP for the capacity value of the specified renewable energy. The 4.5 cents “subscription charge” would still be applicable. Because MISO's LMP rate changes from year-to-year, there is not a guarantee that this type of “swap” would not ultimately end up

with the general rate class customers subsidizing the large renewable energy customers if the market rate does not evenly match the cost of service regulated rates.

In addition, there are two different potential revenue streams resulting from the proposed Program, depending on which option the customer chooses. Given that system revenue will be differentially affected by the customer choosing Option A over Option B, it is difficult to see how the utility's overall revenue requirements could not be impacted. Therefore, from a cost-of-service perspective, this proposal must have impacts on other customers as the revenues cannot be tied to the Program's actual costs.

C. Consumers' Application Amounts to Piecemeal Litigation of An Important Commission Undertaking

The Commission's Section 61 Dockets are well underway, with initial comments already filed by interested parties on April 28, 2017, and reply comments due on May 30, 2017. On April 28, 2017, Consumers filed initial comments in both Case No. U-18349 and U-18351, regarding the "structure and elements" of a voluntary green pricing program. Nowhere in either filing does Consumers mention the proposed Voluntary Large Customer Renewable Energy Pilot Program at issue in this *ex parte* Application. Consumers' attempt to position this filing as necessitating a new docket because it is seeking an amendment to its Renewable Energy Program should be disregarded. Consumers acknowledges that "Section 61 of Act 342 requires electric providers, like Consumers Energy, to offer its customers the ability to participate in voluntary green pricing programs." Application, at p. 2. The Commission has opened dockets in accordance with the requirements of Section 61 in Case Nos. U-18349 and U-18351. The Commission should determine that these Section 61 Dockets, "rather than piecemeal litigation that cannot involve all of the affected energy providers at the same time, are a sounder method to

determine this issue”² than Consumers’ proposal for an *ex parte* proceeding for one significant portion of a proposed voluntary green pricing program.

D. Conclusion

For all of these reasons, Energy Michigan respectfully recommends that the Commission deny Consumers’ application for *ex parte* approval of the proposed large customer Green Pricing Program and direct consideration of the proposed Program to the Section 61 Dockets.

Respectfully submitted,
Varnum LLP
Attorneys for Energy Michigan, Inc.

May 30, 2017

By: _____

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² *In the matter of the investigation, on the Commission’s own motion, into the electric supply reliability plans of Michigan’s electric utilities for the years 2017 through 2021.* Case No. 18197, et al., May 11, 2017, p. 4.

STATE OF MICHIGAN
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Case No. U-18393

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 30th day of May, 2017, she served a copy of the Objection of Energy Michigan, Inc. to Consumers Energy Company's Application for Ex Parte Approval of a Voluntary Large Customer Renewable Energy Program and 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-18393

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