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O L S O N , B Z D O K & H O W A R D

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March 4, 2019

Ms. Kavita Kale  
Michigan Public Service Commission  
7109 W. Saginaw Hwy.  
P. O. Box 30221  
Lansing, MI 48909

RE: MPSC Case No. U-20165

Dear Ms. Kale:

The following is attached for paperless electronic filing:

Exception of Michigan Environmental Council, Natural Resources Defense  
Council and Sierra Club

Proof of Service

Sincerely,

Christopher M. Bzdok  
[Chris@envlaw.com](mailto:Chris@envlaw.com)

xc: Parties to Case No. U-20165

STATE OF MICHIGAN  
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the Application of  
**CONSUMERS ENERGY COMPANY** for  
approval of its integrated resource plan  
pursuant to MCL 460.6t and for other relief

U-20165

ALJ Sharon L. Feldman

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**EXCEPTION OF MICHIGAN ENVIRONMENTAL COUNCIL,  
NATURAL RESOURCES DEFENSE COUNCIL, AND SIERRA CLUB**

**I. The Commission Should Recommend Changes to Consumers Energy's IRP Consistent with the PFD's Findings and Recommendations, rather than Disapproving it Outright.**

The Michigan Environmental Council, Natural Resources Defense Council, and Sierra Club (MEC-NRDC-SC) submit a single exception to the Proposal for Decision (PFD) issued by Administrative Law Judge Sharon L. Feldman (ALJ) on the Integrated Resource Plan (IRP) submitted by Consumers Energy (Consumers or the Company).

The PFD is thorough and well-reasoned. MEC-NRDC-SC agree with most of the ALJ's findings and recommendations concerning specific aspects of the IRP and the specific requests by Consumers. With respect to the small number of points on which MEC-NRDC-SC disagree with the PFD, those disagreements mostly do not rise to a level that warrants taking an exception.

MEC-NRDC-SC submit this exception solely to comment on the ultimate relief recommended by the ALJ – which is apparently to reject Consumers' IRP. (“Even though the ALJ recommends that the Commission reject the company's IRP for the reasons explained above...”).<sup>1</sup> To the extent the ALJ recommends an outright rejection of the IRP, MEC-NRDC-SC disagree with that conclusion. MEC-NRDC-SC believe the better course is for the Commission to recommend changes to the IRP, as permitted by statute. Subsection (7) of the IRP statute provides in pertinent part:

Not later than 300 days after an electric utility files an integrated resource plan under this section, the commission shall state if the commission has any recommended changes, and if so, describe them in sufficient detail to allow their incorporation in the integrated resource plan. If the commission does not recommend changes, it shall issue a final, appealable order approving or denying the plan filed by the electric utility. If the commission recommends changes, the commission shall set a schedule allowing parties at least 15 days

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<sup>1</sup> PFD, p 292.

after that recommendation to file comments regarding those recommendations, and allowing the electric utility at least 30 days to consider the recommended changes and submit a revised integrated resource plan that incorporates 1 or more of the recommended changes. If the electric utility submits a revised integrated resource plan under this section, the commission shall issue a final, appealable order approving the plan as revised by the electric utility or denying the plan. The commission shall issue a final, appealable order no later than 360 days after an electric utility files an integrated resource plan under this section.<sup>2</sup>

As outlined in testimony and prior briefs, MEC-NRDC-SC support many of the components of Consumers' Preferred Course of Action (PCA). These components include Consumers' proposal to retire the Karn 1 and 2 coal units in 2023; and to replace that capacity with incremental increases in Energy Waste Reduction (EWR), Demand Response (DR), and Conservation Voltage Reduction (CVR). MEC-NRDC-SC also support Consumers' plan to build up additional capacity in the 2020s using clean resources, in anticipation of future fossil generation retirements. MEC-NRDC-SC also support – with recommended changes – Consumers' proposal to utilize a competitive bid process to address the Company's future capacity needs and determine its avoided cost rates under the Public Utility Regulatory Policies Act (PURPA).<sup>3</sup> MEC-NRDC-SC also support – with recommended changes – Consumers' requests to recover the undepreciated book balance and decommissioning costs for Karn units 1 and 2 and for approval of a Financial Compensation Mechanism (FCM) for new PPAs executed through the competitive bid process. By contrast, MEC-NRDC-SC do not support Consumers' proposal to continue operating the uneconomic Campbell 1 and 2 coal units until 2031. In addition, MEC-NRDC-SC believe that it would be unreasonable, imprudent, and harmful to customers for Consumers to abandon the

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<sup>2</sup> MCL 460.6t(7).

<sup>3</sup> Pub L 95–617; 92 Stat 3117 (1978).

beneficial elements of its PCA if the Commission does not adopt all of the Company's proposals with respect to the FCM and PURPA avoided costs.

The PFD made a number of findings and recommendations that MEC-NRDC-SC agree with and will support in reply to exceptions, if necessary. These include:

- Finding that Consumers Energy's plan to acquire solar generation is reasonable.
- Finding that Consumers Energy's plan to ramp up its acquisition of capacity in advance of plant retirements, creating for certain time periods more capacity than required to meet planning margins, is reasonable.
- Finding that it is reasonable to retire Karn units 1 and 2 by 2023.
- Finding that Consumers Energy's modeling of the potential early retirement of Campbell units 1 and 2 by 2023 relies on certain unsupported assumptions and limited modeling choices; and recommendation that the Company provide a revised analysis now rather than waiting for its next IRP case.
- Finding that Consumers Energy's proposed competitive solicitation is a reasonable means of acquiring capacity, subject to certain changes and additional oversight.
- Finding that Consumers Energy's version of the proposed FCM is in excess of the statutory cap and otherwise unreasonably high.<sup>4</sup>

That said, MEC-NRDC-SC believe that those findings and recommendations listed above that are negative to Consumers' requests should be proposed to the Company as recommended changes under MCL 460.6t(7) – instead of being relied upon as reasons to deny the plan.

MEC-NRDC-SC acknowledge the PFD's point that Consumers has taken the position that the elements of its PCA are all-or-nothing.<sup>5</sup> However, that will be an assessment for Consumers

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<sup>4</sup> Full list found in the PFD at pp 296-298.

<sup>5</sup> PFD, p 17, discussing testimony of Consumers Energy witness Richard Blumenstock regarding the PCA; PFD, p 266, discussing the FCM ("The alternatives suggested by parties to the company's proposal are not addressed in detail in this PFD, however, since the company has made clear only its proposed mechanism is acceptable, and reiterated throughout its evidentiary presentation that it will not be willing to execute its PCA unless the Commission approves its FCM.").

to make at a later stage of this proceeding. “All-or-nothing” is typically an opening position, not a bottom line.

Consumers and its leadership have been intentionally vocal and visible the past eight months regarding the Company’s commitment to a new, clean and sustainable business model going forward. MEC-NRDC-SC have supported the fundamental objectives of Consumers’ new business model throughout this case and will continue to support them. The question for Consumers will be whether it remains committed to that business model; or whether the Company will abandon its plans if the Commission does not approve all of Consumers’ requests. Ultimately, only Consumers can answer this question. But Consumers will only reach that decision point if the Commission puts the question to them – by recommending changes consistent with the PFD and allowing the Company to decide whether to accept those changes, using the process created by statute for precisely this purpose.

## **II. Conclusion and Request for Relief**

For the reasons discussed above, MEC-NRDC-SC respectfully request that the Commission uphold the PFD, subject to recommending changes to the IRP that are consistent with the PFD rather than denying the IRP outright. MEC-NRDC-SC reserve the right to further articulate and clarify their positions on specific findings or recommendations from the PFD in reply to exceptions filed by other parties.

Respectfully submitted,

OLSON, BZDOK & HOWARD, P.C.  
Counsel for MEC, NRDC & Sierra Club

Date: March 4, 2019

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**PROOF OF SERVICE**

On the date below, an electronic copy of Exception of MEC-NRDC-SC was served on the following:

Name/Party	E-mail Address
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The statements above are true to the best of my knowledge, information and belief.

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Counsel for MEC-NRDC-SC

Date: March 4, 2019

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