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**Timothy J. Lundgren**

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June 7, 2019

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

**Re: MPSC Case No. U-20322**

Dear Ms. Kale:

Attached for electronic filing in the above-referenced matter, please find the Initial Brief of Energy Michigan, Inc., as well as Proof of Service. Thank you for your assistance in this matter.

Very truly yours,  
**VARNUM**

Timothy J. Lundgren

TJL/kks

Enc.

c. ALJ  
Parties of Record

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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 )  
distribution of natural gas and for other relief. )  
\_\_\_\_\_ )

**Case No. U-20322**

**INITIAL BRIEF**  
**OF**  
**ENERGY MICHIGAN, INC.**

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**STATE OF MICHIGAN**

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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**

Energy Michigan sponsored the testimony of Mr. Paul Wilken, who examined the basis for the eligibility requirements for Consumers Energy Company's ("Consumers") gas transportation rate XXLT. 4 Tr 92 *et seq.* Specifically, Mr. Wilken challenged the basis for the 4,000,000 annual Mcf eligibility requirement for a gas transportation customer to be able to access the XXLT rate. Mr. Wilken provided an analysis of the economic breakeven points for the proposed Rate XXLT with the 4% Authorized Tolerance Level ("ATL") both with and without the proposed Investment Recovery Mechanism ("IRM"). In either case it is below 2,000,00 Mcf (1,050,918 Mcf and 1,087,962 Mcf, respectively). See 4 Tr 93-94. As Mr. Wilken discusses, failure to set the rate at the optimum economic breakeven point causes customers to pay more for

the service than it costs. 4 Tr 94-95. This is therefore an opportunity to improve the cost of service rate structure for the benefit of large transportation customers.

In response to Mr. Wilken's testimony, the expert for Michigan State University and Lansing Board of Water and Light, Mr. Lyons, argued that the eligibility requirements should not be changed because the cost of service to Rate XLT customers "is materially different than the cost of service to Rate XXLTL customers" and the current rate structure was, in fact, based on actual cost of service despite the disparity in the economic breakeven point. Mr. Lyons pointed to three principle reasons why the cost of service for Rate XXLTL is lower than that for XLT, each of which he had discussed in his Direct Testimony: 1) because XXLTL's annual demand requirements are, in his calculation, more than 26 times that of Rate XLT; 2) because Rate XXLTL's load factor is 40.0 percent higher than Rate XLT; and 3) because Rate XXLTL customers are not served from nor otherwise utilize Consumers' Non-High-Pressure distribution system, which, he noted, represents 89.1 percent of total distribution mains. 7 Tr 1936.

In response to the testimony of both Mr. Wilken and Mr. Lyons, Staff witness Spencer Ruggles testified on rebuttal that he also disagreed with Mr. Wilken's recommendation, but that he also disagreed with some of Mr. Lyons' analysis. Mr. Ruggles disagreed with Mr. Wilkens because the Rate XXLTL "was designed specifically for" two customers, and "[m]oreover, the two customers targeted for the pilot Rate XXLTL are located at points on Consumers energy Company's ... natural gas system where they are only served by transmission and high-pressure distribution mains." 7 Tr 2226 (quotations omitted). Mr. Ruggles disagreed with Mr. Lyons analysis and argument that the Rate XXLTL's annual demand requirements are more than 26 times that of Rate XLT. See discussion at 7 Tr 2227. Staff reviewed Mr. Lyons' analysis and called it "misleading." *Id.* Following a discussion of Staff's reasons for disagreeing with Mr. Lyons'

analysis, Mr. Ruggles concludes that "Staff continues to assert that the variation in the per-unit cost of service is a flawed justification for creating Rate XXLTL." 7 Tr 2229.

Nevertheless, there is an issue on which both Mr. Ruggles and Mr. Lyons are in agreement, namely that the essential reason for the existence of rate XXLTL is to capture the distinction between customers who make use of Consumers' Non-High-Pressure distribution system and those who do not. Staff put it as follows in their Rebuttal Testimony:

The Rate XXLTL could instead be termed the "High-Pressure Distribution System Only" Rate. Therefore, to ensure that customers on the low-pressure distribution system do not take service on Rate XXLTL, which does not and is not intended to include costs for the low-pressure distribution system, Staff opposes Energy Michigan's proposal to lower the eligibility requirement to mirror the calculate economic breakeven point.

7 Tr 2227. On this point Energy Michigan is in agreement with Staff. If the true basis for the Rate XXLTL is in fact, as Staff and Mr. Lyons assert, that the customers who are on that rate do not make use of the utility's non-high-pressure distribution system, then that should be the eligibility requirement, rather than the 4,000,000 Mcf cut-off that was hand-selected to favor two customers. Energy Michigan respectfully submits that constructing the rate around how a customer class uses the system rather than tailoring it to include specific customers is sounder ratemaking policy.

### **III. CONCLUSIONS AND PRAYER FOR RELIEF**

WHEREFORE, Energy Michigan hereby respectfully requests that the Commission do the following:

- a) Remove the eligibility requirement for the Rate XXLTL based on 4,000,000 Mcf and replace it with a requirement that the customer be a user only of Consumers high-pressure distribution system.

Respectfully submitted,

Varnum LLP  
Attorneys for Energy Michigan, Inc.

June 7, 2019

By: \_\_\_\_\_

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STATE OF MICHIGAN

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Case No. U-20322

**PROOF OF SERVICE**

STATE OF MICHIGAN )  
 ) ss.  
COUNTY OF Wayne )

Karri Standish, 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 June, 2019, she served an electronic copy of the Initial Brief of Energy Michigan, Inc., as well as Proof of Service upon those individuals listed on the attached Service List via email at their last known addresses.

\_\_\_\_\_  
Karri K. Standish

**SERVICE LIST**  
**MPSC CASE NO. U-20322**

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