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August 16, 2019

Ms. Barbara Kunkel
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. Kunkel:

Attached for electronic filing in the above-referenced matter, please find the Exceptions and Proof of Service on behalf of Energy Michigan, Inc. Thank you for your assistance in this matter.

Very truly yours,
VARNUM

Timothy J. Lundgren

TJL/sej
Enclosures
c. ALJ
All 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)	Case No. U-20322
distribution of natural gas and for other relief.)	
_____)	

EXCEPTION OF ENERGY MICHIGAN, INC.

Pursuant to Rule 435 of the Commission's Rules of Practice and Procedure before the Commission, R 792.10435, and in accordance with the schedule set by the Administrative Law Judge ("ALJ") in this proceeding, Energy Michigan, Inc. ("Energy Michigan") submits this Exception to the Proposal for Decision ("PFD") issued in this case on August 1, 2019.

The PFD makes recommendations in response to Consumers Energy Company's ("Consumers") Application to increase rates for the distribution of natural gas and for other relief. Energy Michigan provides the following Exception to the PFD.

I. EXCEPTION TO THE PFD

In his discussion of the Economic Breakeven Points, specifically on p. 210 of the PFD, the Administrative Law Judge ("ALJ") states the following: "The ALJ finds that the parties weighing in on this issue, including Energy Michigan, agree that the 4.00 Bcf eligibility requirement for Rate XXLT is reasonable and appropriate given the unique characteristics of the two gas-fired generating facilities taking service under that rate." Unfortunately, this statement is incorrect. Energy Michigan's position is that basing the rate on usage of the high-pressure

distribution system is reasonable, and consequently the 4.00 Bcf eligibility requirement is an artificial impediment and should be removed. This was plainly stated in our Reply Brief:

For these reasons, Energy Michigan respectfully requests that the Commission require that Consumers Energy set the eligibility requirement for Rate XXLTL to reflect the actual basis for the rate – that is, that it be restricted to customers who make exclusive use of the utility's high-pressure distribution system. Likewise, the artificial 4,000,000 annual Mcf eligibility requirement should be removed. As Staff further discusses, the current size metric is a false one, "This size of the customer alone is not an appropriate metric to support separating customers among rates." *Id.* at staff's Initial Brief. p109. Therefore, Energy Michigan requests that the current eligibility requirement based on customer usage be stricken and replaced with language indicating that the rate is available to customers who are making use only of Consumers Energy's high-pressure distribution system. In this way, the eligibility requirement will properly reflect the actual purpose of and basis for the rate, and will be properly set to capture the correct customer group.

Energy Michigan Reply Brief, p. 2. We would continue to advocate for the removal of the artificial 4.00 Bcf requirement and to replace it with language reflecting what Staff and the utility both agreed is the true purpose of the rate: to restrict it to customers who are exclusively using Consumers Energy's high-pressure distribution system.

The ALJ found Energy Michigan's recommended change to the eligibility requirement reasonable, *i.e.*, making it apply explicitly to customers who are exclusively using Consumers Energy's high-pressure distribution system, but he added, "because this recommendation came so late in the proceeding, any discussion of changes to the Rate XXLTL tariff language should be addressed in the Company's next general rate case." PFD, p. 210. Energy Michigan takes exception to this recommendation for delay. The purpose of having a process in which parties provide testimony and rebuttal, followed by briefing and reply, is to accomplish exactly what has happened here, that is, to enable the parties to respond to each others' positions and to modify their own accordingly. Once that has happened, to then say that because a proposal has changed since the original filing, that any decision on it will have to be postponed to a later case when it

can be presented as initial testimony, simply defeats the purpose of the process. It is also unnecessary. The parties here have all had an opportunity to respond to what has been filed, and in these Exceptions and Replies to Exceptions will yet again have an opportunity to voice their views. There can thus be no basis for any concerns over a lack of Due Process. Finally, it would be administratively inefficient to require parties to intervene again in a later case to again raise the same issue already addressed fully here, so that it can once again come before the Commission for determination – only this time as a proposal raised at the Initial Testimony stage. This would be a waste of the time and effort of all parties, intervenors, the utility, and the administrative process, to re-hash an issue already fully addressed in a previous case. Energy Michigan therefore urges the Commission to set aside the ALJ's recommendation for delay, and to require Consumers Energy to incorporate Energy Michigan's proposed eligibility requirement for XXLTL in place of the artificial 4.00 Bcf requirement that is currently in place.

Respectfully submitted,

Varnum LLP
Attorneys for Energy Michigan, Inc.

August 16, 2019

By: _____
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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

PROOF OF SERVICE

STATE OF MICHIGAN)
) ss.
COUNTY OF INGHAM)

Sarah E. Jackinchuk, the undersigned, being first duly sworn, disposes and says that she is a Legal Secretary at Varnum LLP, and that on the 16th day of August, 2019 she served a copy of the Exception of Energy Michigan, Inc.'s and Proof of Service upon those individuals listed on the attached Service List via email at their last known addresses.

Sarah E. Jackinchuk

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CASE NO. U-20322

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