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May 13, 2020

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

Re: **MPSC Case No. U-20757**

Dear Ms. Felice:

Attached for electronic filing, please find Energy Michigan, Inc.'s Comments in the above-referenced matter. If you have any questions, please feel free to contact my office. Thank you for your assistance in this matter.

Very truly yours,

VARNUM

Laura A. Chappelle

LAC/sej

STATE OF MICHIGAN
MICHIGAN PUBLIC SERVICE COMMISSION

In the matter, on the Commission’s own)
motion, to review its response to the novel)
coronavirus (COVID-19) pandemic, including)
the statewide state of emergency, and to)
provide guidance and direction to energy and)
telecommunications providers and other)
stakeholders.)
_____)

Case No. U-20757

**ENERGY MICHIGAN’S COMMENTS ON
THE MICHIGAN PUBLIC SERVICE COMMISSION’S COVID-19 ORDER**

Energy Michigan, Inc. (“Energy Michigan”) by its attorneys, Varnum, LLP, submits to the Michigan Public Service Commission (“MPSC” or “Commission”) its comments regarding the Commission’s April 15, 2020 Order (“Order”) in this proceeding seeking comment on several issues stemming from the novel coronavirus (“COVID-19”).¹ In particular, the Commission’s Order provided guidance and directed further action and comment on matters affecting: customer protections and affordability; accounting treatment; regulatory activities; energy assistance coordination; energy waste reduction and demand response continuity; and broadband access and expansion efforts.

Energy Michigan appreciates the Commission’s foresight in its timely opening of this docket and for allowing a comment period for all interested stakeholders who are being impacted by the historic and, in many ways, devastating impacts of COVID-19. Energy Michigan also extends its appreciation to Commission Staff, who have made themselves available to engage

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.

with stakeholders such as Energy Michigan, whose members have had many questions and concerns regarding the economic impact of COVID-19 on their business operations.

I. Comments

Energy Michigan provides these comments on one particular topic of the Commission's Order, that of "customer protections and affordability." From a customer perspective, Energy Michigan could not agree more with the Commission's statements that:

Ensuring customers have access to safe, reliable energy and telecommunications services at reasonable rates is vital during an extended pandemic of this nature. Individuals and businesses face tremendous near- and long-term uncertainty with respect to their own financial situation and the economy as a whole. Unemployment applications are at unprecedented levels at both the state and national level. Industrial customers and many small- to medium-sized businesses have shuttered operations, with uncertainty whether and when they will resume business. Rate design and tariff provisions, particularly for large customers or those on special rates such as interruptible or time-of-use rates, are designed for normal consumption patterns and may lead to changes in utility bills.²

"Reasonable rates" for customers during this pandemic are as important as ever. As the Commission noted, utility rate designs and tariff provisions are "designed for normal consumption patterns," and have not accounted for emergency actions that affect not only the utility's operations, revenues and expenditures, but those of its customers as well. While it is natural that the utilities will seek and expect to be fully compensated for unique expenditures due to COVID-19, there is no corresponding "make whole" provisions for customers, and the current utility tariffs fail to provide for any relief from their utility bills under this emergency situation, despite having no control over what has been "abnormal" consumption patterns over the last few months.

² Order No. U-20757, p. 8 (emphasis added).

As of the date of these comments, Governor Whitmer has issued numerous executive orders and directives in direct response to the COVID-19 pandemic, including four “Stay Home Stay Save” orders that suspended all non-essential activities.³ These orders, while necessary, have had a serious impact on not only utility service in the state, but also on the normal operations of schools and businesses. With these concerns in mind, Energy Michigan recommends the following for the Commission’s consideration.

A. Ensure That Cost Of Service Principles Are Adhered To In Order To Prevent Cost Shifts Among Ratepayer Classes.

As an initial matter, Energy Michigan agrees with comments and concerns expressed in the Citizens Utility Board of Michigan’s (“CUB’s”) April 30, 2020 comments related to the most vulnerable population, that of low income customers.⁴ But as CUB notes, the hardships caused by COVID-19 will fall on all customers, including business customers. As CUB states, “All businesses are suffering in this new economic environment. Utilities are not entitled to special treatment, such as being able to collect the same amount of revenue from customers that it would have had the economy not entered a recession.”⁵ CUB notes several states that have targeted “debt forgiveness” plans for low-income households. Energy Michigan recommends that the Commission consider providing additional flexibility in instances where the burden will otherwise be placed on low-income households and taxpayer-supported programs and institutions, including public and private schools. However, to the extent that the Commission entertains any type of debt forgiveness plans, Energy Michigan submits that the Commission

³ Executive Orders: 2020-21 (March 23, 2020); 2020-42 (April 9, 2020); 2020-59 (April 24, 2020); 2020-70 (May 1, 2020); and 2020-77 (May 7, 2020).

⁴ Comments Of Citizens Utility Board Of Michigan, Case No. U-20757, dated April 30, 2020 (“CUB Comments”).

⁵ *Id.*, p. 3.

should ensure that costs remain appropriately cost-of-service based and avoid cost shifting between rate classes.

B. Ensure That Schools Are Charged Only The “Actual Costs” Of Utility Service During The COVID-19 Pandemic.

Like all ratepayers, public and private schools and universities have had unique challenges during the COVID-19 pandemic, including shuttering school buildings beginning on March 13, 2020 with Governor Whitmer’s first stay-at-home order.⁶ Obviously, with no pupils in the school buildings and teachers also having to shelter in place, schools have not been under normal operations and have not utilized energy and telecommunications services as they normally would. MCL 460.11(3) provides that the Commission’s established rate schedules for public and private schools, universities, and community colleges must ensure that retail electric rates “reflect the actual cost of providing service to those customers.” As school buildings have largely been closed since March 13, 2020, these schools, universities and community colleges should be given some relief from rate schedules that do not anticipate or recognize sudden declines in energy use and demand. As schools, universities and community colleges operate under increasingly tight taxpayer funding constraints, there should be some provision in utility tariffs to address these rare, albeit real unfortunate events and which would allow flexibility to address such situations.

C. The Commission Should Require Utilities To Allow Commercial And Industrial Customers To Switch To Non-Demand-Based Tariffs Under Temporary And Periodic Emergency Conditions.

Utilities have reported drastic revenue losses due to COVID-19. For example, Consumers Energy Company (“Consumers”) has stated that it is “experiencing significant and

⁶ Executive Order 2020-5 (March 13, 2020).

material revenue losses that will more than offset any cost savings” due to the pandemic. More specifically, stating that:

The closure of non-essential industrial facilities and commercial enterprises (schools, government offices, retail stores, restaurants, etc.) means that sales of electricity and natural gas that were anticipated in previous proceedings that set rates for delivery of these products and services are not occurring. For example, the Company’s sales records indicate that since the closure of non-essential businesses began, electricity sales to industrial customer are down 20%. Further, electricity sales to commercial customers are down approximately 25%. Electricity sales to residential customers have increased approximately 5%. In total, the revenue declines due to social distancing to date have been approximately \$12 to \$16 million per month. The company is not asking for relief for these unplanned reductions in revenues, but feels they are a significant consideration as the Commission determines what extraordinary costs may be appropriate for deferred accounting treatment to ensure continued utility financial health and continuity of essential services.⁷

Similarly, DTE Energy Company (“DTE”) is experiencing significant loss of load as well, stating, in part that:

The Companies are also experiencing unexpected and significant load loss as a result of the Governor’s stay-at-home order and the associated closure of non-essential businesses and activities. Compared to forecasts, overall electric load has decreased significantly across the commercial and industrial customer classes while rising for residential customers. Concurrent and commensurate reductions in revenue compared to projections have occurred as well, with potential DTE Electric 2020 operating earnings impacts from lower sales of \$30-50 million. While the Companies are not at this time requesting regulatory relief related to COVID-19 load and revenue declines, they underscore the challenged environment in which DTE is incurring the above-described extraordinary pandemic response costs.⁸

⁷ Consumers Energy Company’s Comments on Utility Accounting Issues Resulting From COVID-19, Case No. U-20757, dated April 30, 2020 (“Consumers’ Comments”), pp. 4-5.

⁸ Comments of DTE Electric Company and DTE Gas Company on Utility Accounting, Case No. U-20757, dated April 30, 2020 (“DTE Comments”), p. 4.

While neither Consumers nor DTE are requesting regulatory relief for these significant costs due to the revenue declines at this time, both are seeking deferred accounting treatment and so, presumably, will be seeking to recover these costs in future rate cases.

Unfortunately, both utilities' customers are facing similar economic challenges, particularly manufacturing and large commercial customers which are often on demand-based rates. While these rates are appropriate and reflect the cost of service for these customers when they are operating under normal circumstances, when they are shut down for an extended period of time, as they are now under these emergency conditions, then other energy-based tariff rates would more appropriately reflect their use of the system and the costs imposed. Energy Michigan does not favor a subsidization of costs from one class to another, and believes that by allowing customers to make a short-term shift from a demand-based rate to an energy-based rate under extraordinary circumstances, when that rate reflects the customer's actual usage during that period, customers are able to maintain a rate structure that reflects their actual usage and avoid charges for power they are not able to use, while at the same time enabling the utility to charge fully under its tariff structure cost-of-service rates for the power the customer is using. This avoids any cross subsidization of costs, and relieves the burden on the customer.

At present, there are no tariff or other regulatory provisions that allow industrial customers to lessen the impact of demand charges on their monthly bills, despite having to reduce or cease operations over the past two months under Executive Order, so tariff switching is the most direct solution. The principle obstacle is that current tariffs do not specifically allow for such emergency and temporary switching, but rather allow only for limited switching just once in a 12-month period.⁹ Under this present limitation, customers could switch once, but would

⁹ See, for example, Consumers Energy's Tariff C4.2, and DTE's Tariff 4.4. The wording in both is similar. Both Tariffs allow a waiver of the 12-month notice rule for switching between tariffs, but only for specified reasons that

not be able to switch back to their original rate when schools and manufacturing facilities are reopened. Energy Michigan asks the Commission to waive the 12-month limitation requirement and similar provisions that present obstacles to the utilities allowing customers to use existing utility tariffs to obtain relief from high demand charges.

Waiving the 12-month limitation requirement is not harmful. As long as a customer takes service on a standard rate, a rate which the Commission has approved and so reflects the typical usage characteristics of that rate, the customer is compensating the utility for the cost of service. Consequently, switching from one rate to another if usage characteristics change does not result in a loss for the utility. The note above from Consumers Energy's Tariff C4.2 recognizes the effect of a "Bona Fide Change in Customer Load."

Furthermore, both Consumers Energy's Tariff C4.2 and DTE's Tariff C4.4 contain the same sentence that indicates that the 12-month rule is primarily for administrative ease: "The intent of this rule is to prohibit frequent shifts from rate to rate." A customer who switches from one rate to another obviously continues to be a customer of the utility and would continue to satisfy any other specific contract obligations to the utility. For ease of administration if the Commission waives the 12-month limitation, Energy Michigan recommends that a switching customer must remain on the new rate for two full billing periods.

II. Conclusion

Energy Michigan appreciates the opportunity to provide these comments to the Commission given the current pandemic. Energy Michigan respectfully requests that the Commission continue to ensure that no cost-shifting occur due to regulatory impacts of COVID-

are solely within the judgment of the utility. Thus, Consumers Energy's tariff states: "The provisions of this paragraph may also be waived where the customer can demonstrate that a Bona Fide Change in Customer Load has occurred."

19, and that the Commission consider requiring that utility tariffs allow for temporary switching between tariffed rates for demand-based customers, without the need for a 12-month limitation, to most appropriately reflect actual use of energy services during emergency operations.

Respectfully submitted,

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