



August 27, 2020

Ms. Lisa Felice
Michigan Public Service Commission
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Via E-filing

RE: MPSC Case No. U-20697

Dear Ms. Felice:

The following is attached for paperless electronic filing:

Initial Brief of the City of Grand Rapids

Proof of Service

Sincerely,

Christopher M. Bzdok
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xc: Parties to Case No. U-20697

**STATE OF MICHIGAN
MICHIGAN PUBLIC SERVICE COMMISSION**

In the matter of the application of)	
CONSUMERS ENERGY COMPANY for)	
authority to increase its rates for the generation)	Case No. U-20679
and distribution of electricity and for other)	ALJ Sally Wallace
relief.)	
)	
)	

CITY OF GRAND RAPIDS INITIAL BRIEF

August 27, 2020

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I. INTRODUCTION

The City of Grand Rapids (“City”) hereby files its Opening Brief recommending the Michigan Public Service Commission (“Commission” or “MPSC”) reject Consumers Energy Company’s (“Consumers” or the “Company”) proposed Distributed Generation (“DG”) Tariff. The above-captioned case encompasses many issues, and the City’s testimony and briefing focuses solely on the proposed DG Tariff.¹ Consumers’ interactions with the City regarding the City’s desire to self-generate have revealed serious concerns about the clarity and transparency of the Company’s self-generation programs that appear to carry through to its proposed DG Tariff. Among other things, the Company has displayed a pronounced lack of engagement and promotion of the program. Consistent with that approach, the Company has now proposed a program that undervalues excess energy, is not based on a Company evaluation of the true cost of serving DG customers, and creates a billing mechanism that is impossible for customers to quantitatively evaluate. The Commission should direct the Company to retain its existing net metering program until such time as the Company can put into place a fair DG Tariff that is understandable and accessible for customers; and to establish a program in its next rate case that includes the changes described below.

II. BACKGROUND ON NET METERING AND DISTRIBUTED GENERATION

A. Net Metering

Since 2009, Consumers has used “Net Metering” when billing customers who have DG systems installed for on-site production and consumption of energy. Under Net Metering, customers with self-generation consume their own energy on-site. If a DG customer does not

¹ Focus on this issue should not be construed as agreement with any other party on any other issues.

generate enough energy on-site, that customer purchases energy from Consumers at their normal retail rate. For DG customers with systems smaller than 20 kW, if they generate more energy than can be consumed on-site, that excess energy feeds into Consumers' system, and the DG customer is provided a credit in the amount of their full retail rate (Category 1, true net-metering). MCL 460.1177 (4). DG customers with systems between 20 kW and 150 kW operate under that same mechanism, but the amount of the credit is reduced to remove the transmission and distribution portions of the retail rate (Category 2, modified net-metering). *Id.* For all Net Metering customers, the amount of purchased energy and the amount of excess energy are netted on a monthly basis. *Id.*

B. Distributed Generation Tariff

On December 21, 2016, then-Governor Snyder signed Public Acts 341 and 342 (Acts 341 and 342) into law. Acts 341 and 342 created a "Distributed Generation Program" that utilities were directed to implement. First, the Commission was required to "conduct a study on an appropriate tariff reflecting equitable cost of service for utility revenue requirements." MCL 460.6a (14) Then, the Commission would approve such a tariff in any rate case filed after June 1, 2018, presumably having had the benefit of the Staff's study. *Id.* The Commission convened a workgroup in Case No. U-18383, and Staff eventually published a Report recommending use of an "Inflow/Outflow" mechanism as the Distributed Generation Tariff. The Commission adopted Staff's recommendation and directed utilities to file an Inflow/Outflow tariff in any rate case filed after June 1, 2018. Case No. U-18383, April 18, 2018, Order at 17-18. The Inflow/Outflow construct would allow for different rates for any energy purchased by a DG customer (Inflow) and any excess energy generated by a DG customer (Outflow). However, the specific rates were to be set in rate cases and based on "equitable cost of service." Case No. U-18383, March 29, 2018,

Order at 6. The Commission’s Order recognized that the Inflow/Outflow model, aided by advanced metering technology, allowed the Commission to collect data that could illuminate the true costs and benefits attributable to DG customers. *Id.* at 11. This rate case is the first to include Consumers’ proposed DG Tariff under the Inflow/Outflow mechanism.

C. Consumers’ Proposed Distributed Generation Tariff

As explained above, the existing net metering framework charges customers for inflow at the retail rate, credits customers for outflow at the retail rate, and nets over the monthly billing period. In this case, the Company proposes to continue charging customers for inflow at the retail rate, but to reduce the outflow credit to only to what the Company describes as “embedded production rates (power supply less transmission).” (3 TR 577). The Company also proposes a new billing framework that eliminates netting of inflow and outflow over the monthly billing period, instead using a two-channel billing approach, where the Company applies charges for inflow and credits for outflow but does not “net” any usage. (8 TR 4347). Under net metering, if a customer had inflow of 20 kW over the monthly billing period and outflow of 20 kW over the monthly billing period, the customer’s inflow and outflow would “net” to zero. Under the Company’s proposed DG Tariff, if a customer had inflow of 20 kW over the monthly billing period and outflow of 20 kW over the monthly billing period, the customer would pay full retail for the 20 kW of inflow and receive only “power supply less transmission” as a credit for outflow.

III. LEGAL STANDARD

Michigan law requires the Commission to conclude that all rates—including the DG Tariff—are just and reasonable. MCL 460.6g(2). Those rates must reflect the equitable cost of providing service to the customer paying the rate and must ensure that the customer is assessed for her “fair and equitable use of the grid.” MCL 460.6a (14); 460.11 (1). Consumers carries the

burden of proof and must provide sufficient evidence to demonstrate that its proposed DG Tariff is just and reasonable and reflects equitable cost of service. See *In re Consumers Energy Application for Rate Increase*, Case No. U-18322, March 29, 2018, Order at 6. Consumers must provide “thorough, detailed, and meaningful” evidence that supports the justness and reasonableness of its proposed DG Tariff. MCL 460.6a; Case No. U-16794, June 7, 2014, Order at 13 (“[I]n the absence of thorough, detailed, and meaningful evidence, the Commission’s hands are tied.”). The Commission need not simply approve or deny the Company’s request but instead can use its broad authority to order Consumers to adopt a DG Tariff that complies with Michigan law. See *In re Consumers Energy Co*, 322 Mich App 480, 490; 913 NW2d 406, 413 (2017).

IV. ARGUMENT

A. Consumers’ Proposed DG Tariff is Not Just and Reasonable.

Ms. Alison Waske Sutter, Sustainability and Performance Management Officer at the City of Grand Rapids, submitted testimony on behalf of the City regarding this issue. She discussed Consumers’ proposed Distributed Generation Tariff from the perspective of a customer with renewable energy goals and a desire to self-generate as much electricity as possible. Ms. Sutter’s testimony demonstrates that the Company’s proposed DG Tariff is neither just nor reasonable when applied to the City as a customer, or to the residents, businesses, and institutions within the City of Grand Rapids that are interested in installing on-site solar. (8 TR 4069).

The Company proposes to replace traditional net metering with an Inflow/Outflow framework to bill its DG customers. That billing framework eliminates monthly netting of customer generation and consumption over the billing period. (8 TR 4347). While a DG customer still consumes energy generated on site and continues to pay the full retail rate for any energy purchased from the Company, Consumers proposes a dramatic reduction in the credit customers

are provided for excess energy. (8 TR 4347). The Company seeks to reduce the credit for excess energy from the full retail rate to the power supply component of the retail rate less transmission. (3 TR 577). A witness in this case for the Joint Clean Energy Organizations² (“JCEO”), Mr. William Kenworthy, estimates that the average current Net Metering customer would pay an average of \$17 more per month (a 62% increase) if they were moved to the Company’s proposed DG program. (8 TR 4161).

The Company does not offer any quantitative data to support its outflow credit and is criticized by many of the expert witnesses in the case for its failure to undertake available analyses to determine what a fair outflow credit would be. JCEO witness Karl Rábago testifies that “the Company has not brought the data to this proceeding that is required to support their conclusions, and ultimately, their proposed DG Tariff.” (8 TR 4348). JCEO witness Ronny Sandoval concludes that “[i]t does not appear that the Company has evaluated the grid benefits of distributed generation in any thorough or systematic manner.” (8 TR 4421:6-7). When asked about the distribution system benefits of DG, Staff witness Kevin Krause testified that he assumed “that the lessening of load on certain assets in the system is providing a benefit, however, I have not seen any analysis or any quantification of that benefit.” (7 TR 2897).

The Company’s unsupported outflow rate undermines the City’s commitment to renewable energy. Ms. Sutter explains that the City is developing a multi-pronged approach to meeting its own 100 percent renewable energy goals, which includes: “(1) continuing energy efficiency; (2) incorporating Consumers committed increases in renewable sources; (3) installing solar onsite, and (4) purchasing RECs.” (8 TR 4071). Yet the outflow rate proposed by the Company is roundly

² Environmental Law & Policy Center, Ecology Center, Solar Energy Industries Association, Vote Solar, and Great Lakes Renewable Energy Association.

criticized by experts in this case for failing to collect data on the impact of DG on the Company's grid or the benefits DG solar can provide to all customers. Many of those experts propose that the Commission require a Value of Solar analysis to ensure that customers are receiving a fair credit for excess energy provided to Consumers. JCEO witness Dr. Gabriel Chan, who is involved in the Value of Solar process in Minnesota, explains how a Value of Solar process can serve the public interest:

With these sentiments in mind, it is important that the first implementation of a VOS tariff is not viewed as the end point of setting policy for distributed energy resource integration to serve the public interest. Instead, establishing a VOS for the first time should be seen as a midway point of a process to integrate new technologies that create varying degrees of private and social benefits. With this perspective, it becomes clearer that establishing a VOS tariff should be part of an adaptive management process to uncover new data, develop new working relationships, grow collective understanding of shared infrastructure systems, and collaborate across sectors to serve the public interest.

(8 TR 4313:15-4314:2). The City does not disagree with these proposals, and recommends that during the period in which a Value of Solar study is undertaken, for purposes of regulatory certainty the Commission require Consumers to continue to offer the current Net Metering program with changes made for customer protection and transparency as discussed below.

The Company's proposal to reduce the outflow credit also makes it nearly impossible for customers to estimate the cost of and return on investment for a solar project. (8 TR 4077-78). The City's experience with modified net metering exemplifies the challenges of calculating return on investment where the outflow credit is less than the retail rate. As Ms. Sutter explained:

The method for calculating customer credits under net-metering or distributed generation must be easily calculated and communicated to customers so that customers interested in installing solar have an accurate and easy method to calculate costs, credits and the return on investment.

(8 TR 4078:2-5). For this same reason, while the Company undertakes a process to analyze the Value of Solar, the Commission should keep in place true net metering for all projects up to 150 kW. Because the Commission is no longer bound by the restrictions of the prior Net Metering program, it is free to conclude that an interim DG Tariff that sets the outflow credit at full retail rate for all projects up to 150 kW is the best reflection of rates based on equitable cost of service.

B. The Company's Proposed DG Tariff Will Lead to Unjustified Complications for Customers Interested in On-Site Solar.

Even though the City enjoys regular communications with the Company, and a position of relative advantage as a large customer, Ms. Sutter's testimony details the onerous process through which the City attempted to develop requests for proposals for behind-the-meter solar at multiple locations. (8 TR 4073). Ms. Sutter explains that the City is in "frequent communications" with Consumers about the City's desire to reach our renewable energy goal as well as support our residents and businesses that are interested in procuring more renewable energy. (8 TR 4072). Despite this uncommon access to Company insight and assistance, the City's testimony describes a litany of missteps and complications that create unnecessary barriers to on-site solar.

A nationally-recognized expert in renewable energy modeling engaged by the City – the U.S. Department of Energy's National Renewable Energy Laboratory ("NREL") —inaccurately modeled Consumers' Net Metering tariff based on poorly presented publicly available information. (8 TR 4075). Staff seems to chalk the issue up to NREL being a "national organization," and therefore the Commission should not be surprised that "it is not familiar with all the smaller details of a state's policy on self-generation." (7 TR 2867). But NREL was not evaluating the "smaller details" of the Company's net metering program—it was evaluating Consumers' own description on its website of the key mechanism by which customers are credited for excess energy, the information that any customer interested in self-generation would use to

calculate the estimated costs and benefits. And what witness Krause does not address is that NREL's information is based on the Company's own description of its net metering program—as confirmed through e-mail conversations and meetings with the Company. (See Ex. CGR-6). The way Net Metering was described by Consumers, and interpreted by the City, members of the Energy Advisory Committee, and NREL, was that Consumers would not permit self-consumption from projects that were sized between 20 and 150 kW. (8 TR 4075; Ex. CGR-6).

Ms. Sutter's testimony provides an illustration of how complicated it can be to forecast a return on investment even under traditional net metering. (8 TR 4079-80). Her testimony further demonstrates that customers are developing an increasingly acute understanding of the value of excess energy from self-generation, yet the Company consistently fails to undertake any quantitative analysis of how to provide fair crediting to customers from that energy. When explaining why the City does not intend to pursue solar at its Market Avenue Retention Basin ("MARB") at this time, Ms. Sutter is clear that "[t]he City views a credit at the [Locational Marginal Price] as a subsidy by the City to Consumers, and is not something the City is interested in pursuing." (8 TR 4079).

C. Consumers' Proposed DG Tariff Is Not Consistent with Key Principles of Utility Ratemaking or the Company's Obligation To Fairly Serve All Customers

While the City works to meet the needs of its residents with respect to access to renewable energy, Consumers is not doing the same work to meet the needs of its customers. Ms. Sutter's testimony described the work the City is doing to make on-site solar more accessible to City residents, including revising zoning ordinances, updating permitting checklists, and training their building inspections team in inspecting solar installations. (8 TR 4080). The Company does not respond kindly to Ms. Sutter's request that the Company aid in these efforts by providing

information about solar installations, using consistent nomenclature between the tariff and invoice, and providing an annual report showing demographic metrics. The Company apparently does not believe it needs to do any more than comply with the basic requirements of its tariff, even if that means its customers find the program operated under the tariff confusing, difficult to understand, and lacking in transparency. (4 TR 599). The Company's response is contrary to fundamental principles of public utility ratemaking as described by JCEO witness Karl Rábago: "rates must be simple, understandable, free from controversy in interpretation, stable, and non-discriminatory." (8 Tr. 4330). While the Company attempts to dismiss Ms. Sutter's criticisms by insisting it will focus on processes and customer education as part of the plan to move forward with a new DG Program (4 TR 599), the Company's proposed DG Tariff is even worse with respect to the concerns Ms. Sutter raises.

Because the Commission's approval of a DG Tariff in this case will reflect the equitable cost of serving DG customers based on the available – albeit sparse – evidence in this case, the Company should be required to apply that DG Tariff even after the legislative "cap" of 1% is reached. Several witnesses testified that if the DG Tariff is cost-based, the Company has no reason to limit participation in the DG Tariff to 1% of load. Staff witness Matthews recommends that the Company voluntarily agree to increasing its cap to allow new DG program enrollments after the Company reaches the cap. (8 Tr. 4817). JCEO witness Kenworthy explains that increasing the cap would be a reasonable path forward for the Company, given it is implementing a cost-based tariff. (8 TR 4177).

D. Consumers' Criticisms of Ms. Sutter's Testimony Are Baseless

In response to Ms. Sutter's recommendation that the outflow credit should be used to offset the transmission and distribution portion of monthly bills, Company witness Miller argues that "outflow credits reflect excess power supplied and, therefore, should be limited to the power supply component of the bill." (4 TR at 598). Mr. Miller's argument is undermined by his own colleagues. As Mr. Blumenstock explained on cross examination, Distributed Generation is currently providing grid benefits but the Company has failed to quantify those benefits or include a proxy for those benefits in the outflow credit. (6 TR 1485).

Company witness Miller also disagrees with Ms. Sutter's recommendation to continue using net metering until the Company can determine a fair value for outflows. (4 TR 598). Mr. Miller testified that moving away from net metering to the "inflow/outflow method leverages investments made in installing advanced metering technology to better reflect how customers with DG use the system." But when asked about whether the Company had made any effort to leverage those investments, Mr. Miller could not testify to a single way in which the Company had used advanced metering to study the impacts of DG on Consumers' distribution system:

Q: The Company has not to date used that advanced metering to study the impacts of DG customers on the Company's distribution system, has it?

A: I'm not aware of a study.

(4 TR 635:5-8)

V. CONCLUSION AND RECOMMENDATIONS

The Company's proposed DG Tariff only compounds the flaws Ms. Sutter identifies with the existing net metering program—it is confusing and hard to understand; it undervalues the excess energy provided to Consumers from DG solar; and, it violates fundamental principles of utility ratemaking. Given the issues identified by Ms. Sutter and a host of expert witnesses in this case, the Commission should require Consumers to:

- (a) Retain the existing net metering program until such time as a Value of Solar analysis is conducted;
- (b) Conclude that the 1% “cap” on DG Tariff is not applicable so long as the tariff is cost-based;
- (c) Remove the distinction between true and modified net metering and apply true net metering to all distributed generation projects until such time as a Value of Solar analysis is concluded;
- (d) Require Consumers to provide accurate and transparent descriptions of credits under net metering, including using terms in bills that match terms used in a Distributed Generation program; and
- (e) Require Consumers to report information on how many solar projects were installed, what size, where, on what type of facility, how many kWh are expected to be generated, who the developer was, total costs paid to Consumers for the installation (interconnection, stand by rates, etc.) and other relevant details about the projects so municipalities and the community understand how much solar is being installed within Consumers' territory.

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Date: August 27, 2020

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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
 generation and distribution of electricity and
 for other relief.

U-20697

ALJ Sally Wallace

PROOF OF SERVICE

On the date below, an electronic copy of **Initial Brief of the City of Grand Rapids** was served on the following:

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The statements above are true to the best of my knowledge, information and belief.

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Counsel for the City of Grand Rapids

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