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December 16, 2019

Ms. Lisa Felice  
Executive Secretary  
Michigan Public Service Commission  
7109 West Saginaw Highway  
Post Office Box 30221  
Lansing, MI 48909

**Re: MPSC Case No. U-20650 – 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.**

Dear Ms. Felice:

Enclosed for electronic filing in the above-captioned case, please find **Consumers Energy Company's Application, a Proposed Notice of Hearing, a Proposed Protective Order, and the Testimony and Exhibits of Consumers Energy Company's Witnesses**. Also included is a Proof of Service showing service upon the parties in Consumers Energy Company's last two gas rate cases (Case Nos. U-18424 and U-20322). This case has been designated as a paperless case and is therefore being filed in PDF format.

In accordance with filing procedures adopted by the Michigan Public Service Commission in Case No. U-18238: (i) exhibits that were prepared in Microsoft Excel format are being filed in Excel format in addition to PDF format; (ii) tariff changes are being filed in Microsoft Word format in addition to PDF with changes shown in redline format; and (iii) economic models used to support the rate increase request will be provided to parties upon request in working Microsoft Excel version. Copies of the rate case filing are being provided to parties to Case Nos. U-18424 and U-20322 on electronic disks concurrently with this filing and will be made available on electronic disks to all requesting parties to this case.

The public workpapers of Consumers Energy Company's witnesses are being provided on electronic disks in PDF format to the Michigan Public Service Commission Staff and to other

parties to Case Nos. U-18424 and U-20322, and will be provided to any parties to Case No. U-20650 who were not parties to Case Nos. U-18424 and U-20322.

Sincerely,



Anne M. Uitvlugt

cc: Mike Byrne, Executive Director, MPSC Staff  
Gary Kitts, MPSC Staff  
Bill Stosik, MPSC Staff  
Patricia Poli, MPSC Staff  
Paul Proudfoot, MPSC Staff  
Bob Nichols, MPSC Staff  
Parties to Case Nos. U-18424 and U-20322

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-20650  
distribution of natural gas and for other relief. )  
\_\_\_\_\_ )

**APPLICATION**

Consumers Energy Company (“Consumers Energy” or the “Company”) respectfully requests that the Michigan Public Service Commission (“MPSC” or the “Commission”) authorize the Company to increase its rates for the distribution of natural gas and grant it additional relief as set forth herein. In support of its request, Consumers Energy states as follows:

**I. INTRODUCTION**

1. Consumers Energy is, among other things, engaged as a public utility in the business of purchasing, storing, transporting, distributing, and selling natural gas to approximately 1.8 million customers in the state of Michigan. The natural gas system of Consumers Energy is an integrated and interconnected system and is operated as a single utility system in which the same rates and tariffs are applicable.

2. Consumers Energy’s retail natural gas business, including its retail transportation, storage, and distribution business, is subject to the jurisdiction of the Commission pursuant to various statutory provisions of 1909 PA 300, as amended, MCL 462.2 *et seq.*; 1919 PA 419, as amended, MCL 460.54 *et seq.*; 1939 PA 3, as amended, MCL 460.1 *et seq.*; and 1982 PA 304, as amended, MCL 460.6h(1) *et seq.* Pursuant to these statutory provisions, the Commission has the

power and jurisdiction to regulate Consumers Energy's retail natural gas sales, transportation, storage, and distribution rates.

3. On September 26, 2019, in Case No. U-20322, the Commission issued an Order approving Consumers Energy's current retail natural gas transportation, storage, and distribution rates. Consumers Energy recovers its cost of gas associated with sales to its retail natural gas sales customers by means of a gas cost recovery clause authorized by the Commission pursuant to the provisions of 1982 PA 304, MCL 460.6h. In addition, the Commission has authorized, through various orders, the recovery of certain additional costs as set forth in the tariffs on file with the Commission.

## **II. REQUESTED RATE INCREASE**

4. For purposes of this case, Consumers Energy has undertaken a complete examination, using a projected test year for the 12-month period ending September 30, 2021, of relevant items of investment, expense, and revenues for the determination of just and reasonable natural gas rates. The Company has chosen to utilize this projected test year as it will allow the rates established in this case to more closely reflect the investments made and expenses incurred during the time the rates established in this case will be in effect. Through its examination, Consumers Energy has determined that an increase in its natural gas rates is required to afford the Company a reasonable opportunity to recover its reasonable costs of providing natural gas service, including a reasonable return on common equity, as more fully described in the accompanying direct testimony and exhibits. Consumers Energy has calculated that, without rate relief, it will experience an annual jurisdictional revenue deficiency of approximately \$245 million for the 12-month period ending September 30, 2021.

5. There are several factors contributing to Consumers Energy's need for additional gas revenues above levels currently recovered in base rates. These factors include:

- (i.) Ongoing investments in the gas utility assets to provide safe, reliable, and efficient service;
- (ii.) Ongoing investments in enhanced technology to provide improved operational efficiencies and increased customer satisfaction;
- (iii.) Increased Operation and Maintenance ("O&M") expenses necessary to, among other things, support long-term investments and improve customer interactions;
- (iv.) Increased financing costs associated with a higher return on equity necessary to attract capital for the Company's large capital investment program, partially offset by more favorable long-term debt cost rates; and
- (v.) Increased costs related to manufactured gas plant environmental response activities.

The net impacts of these and other factors described in more detail in the supporting direct testimony and exhibits, when examined in total, necessitate an increase in Consumers Energy's retail natural gas rates.

6. The rate relief requested in this filing is driven by the need to serve Consumers Energy's customers and reflects the Company's continued investment in Michigan. Consumers Energy is committed to customer value and system safety. Approximately \$124 million, or 50% of this request, is comprised of investment-related costs. This ongoing investment is part of Consumers Energy's capital investment plan to maintain and improve utility infrastructure, enhance safety of aging distribution assets, and ensure that customers receive the service and value that they expect from the Company.

7. In order to provide an overview of the Company's long-term distribution and operation investment needed for the supply and delivery of natural gas, as discussed in Case No. U-20322, the Company is presenting its Natural Gas Delivery Plan. The Natural Gas Delivery

Plan provides a clear and transparent framework for the next decade of investments in the Company's natural gas assets, planning for natural gas supply and demand, and continuing to evolve how the Company operates in accordance with the Gas Pipeline industry standard American Petroleum Institute Recommended Practice 1173. In addition, it incorporates recommendations addressed in the Statewide Energy Assessment final report, in Case No. U-20646.

8. The Natural Gas Delivery Plan is built around four objectives: safe, reliable, affordable, and clean. The principal factor necessitating rate relief is Consumers Energy's ongoing infrastructure investments in its Michigan natural gas utility system, which will enable it to execute the first year of the Natural Gas Delivery Plan. The Company is undertaking significant efforts, in a variety of areas, to improve its natural gas infrastructure. Examples of the investments being made are in the Company's Enhanced Infrastructure Replacement Program, Vintage Service Replacement Program, New Business Program, Compression and Transmission Replacement Programs, Pipeline Integrity Program, and Asset Relocation Program. These continued investments in natural gas infrastructure reflect the Company's commitment to identify and replace at-risk natural gas distribution pipe across the state, and include investments required to maintain compliance with pipeline integrity requirements, transmission, compression, and storage system upgrades to better serve customers, and distribution system improvements. These investments will help ensure that the Company is able to safely and reliably deliver natural gas to customers. Among other things, the Company is undertaking a comprehensive gas main replacement program and transmission pipeline inspection program to help ensure continued customer safety and reliable system operation and installing remote-control valves to quickly stop the flow of gas in case of a pipeline

failure. Replacement of vintage services is also being undertaken, thus providing further demonstration of the Company's commitment to improved system safety.

Enhanced technology investments are also ongoing at the Company. The technology landscape at Consumers Energy has grown and changed significantly over the last five years and is changing faster with each new year. The pace of technology changes has increased, cyber security threats have intensified, and the Company's dependence on technology to operate a safe, reliable, affordable, and clean gas system with high levels of customer satisfaction has increased. The need for new digital capabilities to enable and make possible the Natural Gas Delivery Plan; things like updated Supervisory Control And Data Acquisition and Historian systems that capture the real-time gas system data, probabilistic risk models, work management technology supporting all work groups, and gas demand response systems make the Company's technology investments prudent and in the best interests of its customers, who want safe, reliable, and affordable gas. Specifics regarding the Company's requests are described in the direct testimony and exhibits which are being filed in support of this Application.

9. Consumers Energy requests that rates be established in this case based on an authorized return on common equity of 10.5% and reflect an overall rate of return on total rate base of 6.08% on an after-tax basis. The Company also requests an equity ratio of 52.5%. Alternatively, if the Commission elects to maintain a return on common equity of 9.9%, the Company requests an equity ratio of 53.94%. Consumers Energy submits that the requested returns reasonably and appropriately balance interests of customers and investors.

10. The Company strives to keep O&M costs at a reasonable level. Compared to current rate levels, the Company's overall O&M expenses are projected to increase. Contributors to O&M expense increases include the effects of inflation, service upgrades to the

Company's system, and increased costs associated with efforts related to improving customer experience and the Company's Natural Gas Delivery Plan. As the Company continues to invest in its technology assets, utilize cloud solutions, and increase cyber security requirements, O&M expenses have increased in order to operate, support, secure, and maintain the technology systems in place. In addition, the Company is requesting rate recovery for a portion of incentive compensation costs that the Company incurs to attract and retain a talented workforce. Increases in revenue requirements have been offset, in part, by Company efforts to control O&M expenses, to improve productivity, and to reduce safety incidents. The Company has also included the revenues from Customer Programs, which are value added products and services, as an offset to its O&M expense. Specifics regarding the Company's requests are described in the direct testimony and exhibits which are being filed in support of this Application.

11. Without a rate increase, Consumers Energy's gas revenues and gas overall rate of return will be below a just and reasonable level. Without rate relief, Consumers Energy's retail natural gas rates will be so low as to deprive Consumers Energy of a reasonable return on the Company's property, and to amount to confiscation and deprivation of the Company's property, contrary to the Company's rights under the Constitutions of the United States and the State of Michigan.

12. Consumers Energy is requesting approval of a Gas Revenue Decoupling Mechanism. This mechanism protects customers and the Company from the variability of revenues attributable to factors which are, in general, largely driven by factors beyond the Company's control. The proposed Gas Revenue Decoupling Mechanism compares the total nonfuel rate case revenues approved by the Commission in the most recent case ("authorized revenue level"), to the total weather-adjusted nonfuel revenue generated through actual sales for

the period of time under evaluation (excluding customer charges). The amount of the actual weather-adjusted revenue shortfall or surplus compared to the authorized revenue level would then be allocated to customers on the various rate schedules based on the level of nonfuel revenue as approved in the most recent rate case, such that the Company would collect its authorized revenue level. The Company proposes the mechanism be effective following the end of the test year if the Company's proposed test year sales are adopted and with a final order in the current case if the Company's test year sales are not adopted and stay in place until rates are changed in the next gas rate case. The Company proposes that the revenues be reconciled on an annual basis. The Company believes the proposed methodology will be administratively efficient while effectively decoupling revenues from sales volumes. The mechanism being proposed is the same mechanism currently in place which was approved by the Commission in Case No. U-20322. Further details supporting the Company's proposals regarding this mechanism are described in the direct testimony and exhibits which are being filed in support of this Application.

13. As requested in the Statewide Energy Assessment and included as part of the Company's Natural Gas Delivery Plan, Consumers Energy is requesting approval to initiate Gas Demand Response pilots that will incentivize residential and commercial and industrial customers to reduce their gas consumption during times of peak system demand or abnormal system conditions. These pilots could add a voluntary tool that can be called upon to balance the Company's available system capacity and customer load requirements, ultimately minimizing system constraints and downstream customer impacts in support of providing system resilience.

### **III. RATE DESIGN, TARIFF, AND OTHER PROPOSALS**

14. Consumers Energy is proposing use of a cost-based rate design by customer class. The Company proposes to allocate the required gas revenue increase among rate classes as set forth on Attachment A to this Application. A comparison of present and proposed rates is set forth on Attachment B to this Application.

15. As part of this filing, Consumers Energy has enhanced its classification of costs and revised certain cost allocation methodologies in order to improve its cost-of-service study. The expansion of cost classification provides valuable information to the Company regarding the nature of the costs incurred, which helps guide the rate design. Regarding the allocation of costs, the Company is proposing to use a customer allocator for the customer-related portion of the Company's distribution main. In support of its cost-of-service proposal, the Company is presenting a minimum size study with additional support and analysis demonstrating the proper cost allocation among customer classes. This is discussed in further detail in the direct testimony and exhibits which are being filed in support of this Application.

16. In addition to seeking authority to increase the level of rates and charges, Consumers Energy is proposing various revisions to its gas rules, regulations, and tariffs. Reference to Consumers Energy's direct testimony and exhibits provides additional details on the relief being sought.

17. Following the enactment of 2016 PA 341, MCL 460.6a(5) specifies a new 10-month timeframe for processing rate cases. In Case No. U-18238, the Commission established new standard rate case filing forms and instructions based on the 10-month statutory rate case processing timeframe. As directed, the Company has provided the information related to these requirements.

18. In addition to other relief described in this Application, Consumers Energy is seeking Commission approval of certain accounting requests. The Company requests accounting approval for use of regulatory assets or regulatory liabilities, as needed, for the Gas Revenue Decoupling Mechanism. Additionally, Consumers Energy is requesting approval to defer the revenue requirement of any capital spending for new business and asset relocation above what is included in rates should the Commission not approve the full amount of capital spending requested for new business and asset relocation. The Company requests approval to recognize regulatory assets, as needed, to record these deferred amounts.

#### **IV. TESTIMONY, EXHIBITS, AND RESERVATION OF RIGHT TO AMEND**

19. Concurrently with the filing of this Application, Consumers Energy is filing written direct testimony and exhibits in support of natural gas rate relief and the other relief it is seeking in this case. Reference to this material will provide additional details regarding the proposals and relief being sought. The relief described in the direct testimony and exhibits should be considered as if specifically requested in this Application. Consumers Energy reserves the right to revise, amend, or otherwise change the relief it is requesting in any way appropriate depending upon the duration and progress of hearings in this proceeding, the issuance of orders that have an impact upon this case, or the occurrence of other material events.

20. In addition to the issues described above, it is possible that other pending or to-be-filed proceedings or other events may have impacts upon the rate adjustments requested in this filing. These impacts will be evaluated for materiality and may need to be considered in the results of this proceeding.

**V. REQUEST FOR RELIEF**

WHEREFORE, Consumers Energy Company respectfully requests that the Michigan Public Service Commission:

A. Authorize Consumers Energy to adjust its retail natural gas rates so as to provide additional revenue of approximately \$245 million annually above the level established in Case No. U-20322 based on a projected 12-month test year ending September 30, 2021;

B. Authorize Consumers Energy to adjust its existing retail natural gas rates so as to produce a rate of return on common equity of not less than 10.5%;

C. Approve the Gas Revenue Decoupling Mechanism proposed by the Company in this case;

D. Grant the accounting authorizations described in the accompanying direct testimony;

E. Approve the modifications to the rates, rules, and regulations as are described in the direct testimony and exhibits that accompany this Application; and

F. Grant Consumers Energy such other and further relief as is just and reasonable.

Respectfully submitted,

CONSUMERS ENERGY COMPANY

*Michael A. Torrey*

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

Michael A. Torrey

Vice President, Rates and Regulation

Dated: December 16, 2019

*Anne M. Uitvlugt*

\_\_\_\_\_  
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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-20650

**VERIFICATION**

Michael A. Torrey, states that he is Vice President, Rates and Regulation, of Consumers Energy Company; that he has executed the foregoing Application for and on behalf of Consumers Energy Company; that he has read the foregoing Application and is familiar with the contents thereof; that the facts contained therein are true, to the best of his knowledge and belief; and that he is duly authorized to execute such Application on behalf of Consumers Energy Company.

Dated: December 16, 2019

By: Michael A. Torrey  
Michael A. Torrey  
Vice President, Rates and Regulation

# ATTACHMENT A

## Summary of Present and Proposed Revenue by Rate Schedule

Total Revenue

Case No. U-20650

Line No.	(a) Description	(b) Present Revenue \$000	(c) Proposed Revenue \$000	(d) Difference Revenue \$000	(e) Percent %
Residential Service					
1	Single Family Dwelling A	\$ 1,181,710	\$ 1,399,628	\$ 217,918	18.4
2	Multifamily Dwelling A-1	40,004	47,543	7,538	18.8
3	Total Residential Service	1,221,715	1,447,171	225,456	18.5
General Service					
4	Small Service GS-1	191,156	196,872	5,717	3.0
5	Medium Service GS-2	143,268	147,057	3,789	2.6
6	Large Service GS-3	42,734	43,778	1,043	2.4
7	Outdoor Lighting GL	4	4	(1)	(13.4)
8	Total General Service	377,161	387,710	10,549	2.8
9	Total Gas Sales <sup>(1)</sup>	1,598,876	1,834,881	236,005	14.8
Transportation					
10	Small Transport ST	28,935	32,336	3,401	11.8
11	Large Transport LT	19,922	22,271	2,349	11.8
12	Extremely Large Transport XLT	18,498	20,679	2,181	11.8
13	Extra Extremely Large Transport XXL	7,211	7,360	149	2.1
14	Total Transportation	74,567	82,646	8,080	10.8
15	Total Service (Delivery & Fuel)	<u>\$ 1,673,443</u>	<u>\$ 1,917,528</u>	<u>\$ 244,085</u>	<u>14.6</u>
16	Additional Late Payment Charge Revenue			659	
17	Revenue Increase/(Decrease) Due to Rounding			1	
18	Total Revenue (Sufficiency)/Deficiency			<u>\$ 244,744</u>	

## Notes

<sup>(1)</sup> Includes aggregate billed transportation accounts.

# ATTACHMENT B

Line No.	(a) Description	(b) Units	(c) Present	(d) Proposed
Residential Class				
Single Family Dwelling A				
1	Customer Charge	\$/Mth	\$ 11.75	\$ 13.75
2	Income Assistance - RIA Program	\$/Mth	\$ (11.75)	\$ (13.75)
3	Income Assistance - LIAC Pilot	\$/Mth	\$ (30.27)	\$ (30.27)
4	Distribution Charge	\$/Mcf	\$ 3.6139	\$ 4.7816
Multifamily Dwelling A-1				
5	Customer Charge	\$/Mth	\$ 11.75	\$ 13.75
6	Excess Peak Charge	\$/Mcf	\$ 0.0715	\$ 0.0837
7	Distribution Charge	\$/Mcf	\$ 3.6139	\$ 4.7816
General Service				
Small Service GS-1				
8	Customer Charge - Master	\$/Mth	\$ 14.00	\$ 20.18
9	Customer Charge - Contiguous	\$/Mth	\$ 14.00	\$ 14.00
10	Distribution Charge	\$/Mcf	\$ 3.2637	\$ 3.1539
Medium Service GS-2				
11	Customer Charge - Master	\$/Mth	\$ 81.86	\$ 58.83
12	Customer Charge - Contiguous	\$/Mth	\$ 40.00	\$ 40.00
13	Distribution Charge	\$/Mcf	\$ 2.4491	\$ 2.6901
Large Service GS-3				
14	Customer Charge - Master	\$/Mth	\$ 482.55	\$ 738.71
15	Customer Charge - Contiguous	\$/Mth	\$ 80.00	\$ 80.00
16	Distribution Charge	\$/Mcf	\$ 1.9682	\$ 1.8742
Outdoor Lighting GL				
17	Single Mantle	\$/Lum.	\$ 6.00	\$ 5.00
18	Multiple Mantle	\$/Lum.	\$ 10.00	\$ 9.00
Transportation				
Small Transport ST				
19	Customer Charge - Master	\$/Mth	\$ 500.00	\$ 852.95
20	Customer Charge - Contiguous	\$/Mth	\$ 60.00	\$ 60.00
21	Distribution Charge	\$/Mcf	\$ 1.1487	\$ 1.1858
Large Transport LT				
22	Customer Charge - Master	\$/Mth	\$ 2,351.35	\$ 1,569.90
23	Customer Charge - Contiguous	\$/Mth	\$ 60.00	\$ 60.00
24	Distribution Charge	\$/Mcf	\$ 0.9265	\$ 1.0997
Extremely Large Transport XLT				
25	Customer Charge - Master	\$/Mth	\$ 8,794.20	\$ 14,859.43
26	Customer Charge - Contiguous	\$/Mth	\$ 60.00	\$ 60.00
27	Remote Meter Charge	\$/Mth	\$ 70.00	\$ 70.00
28	Distribution Charge	\$/Mcf	\$ 0.7719	\$ 0.7808
Extra Extremely Large Transport XXL				
29	Customer Charge - Master	\$/Mth	\$ 40,096.32	\$ 53,440.30
30	Remote Meter Charge	\$/Mth	\$ 70.00	\$ 70.00
31	Distribution Charge	\$/Mcf	\$ 0.4350	\$ 0.4332

Line No.	(a) Description	(b) Units	(c) Present	(d) Proposed
	Authorized Tolerance Level (ST, LT, XLT, XXL) <sup>(2)</sup>			
32	2.0% ATL	\$/Mcf	\$ -	\$ (0.0663)
33	4.0% ATL	\$/Mcf	\$ (0.0703)	\$ (0.0459)
33	6.5% ATL	\$/Mcf	\$ (0.0312)	\$ (0.0204)
34	7.5% ATL	\$/Mcf	\$ (0.0156)	\$ (0.0102)
34	8.5% ATL	\$/Mcf	\$ -	\$ -
35	9.5% ATL	\$/Mcf	\$ 0.0156	\$ 0.0102
35	10.5% ATL	\$/Mcf	\$ 0.0312	\$ 0.0204
	Customer Attachment Program			
36	Discount Rate	%	7.17	7.40
37	Carrying Cost Rate	%	8.92	9.27
	Other Transportation			
38	Authorized Gas Use Charge	\$/Mcf	\$ 1.00	\$ 1.00
39	Unauthorized Gas Use Charge	\$/Mcf	\$ 10.00	\$ 10.00
40	Load Balancing Charge	\$/MMBtu	\$ 0.25	\$ 0.25
41	EUT Gas In Kind	%	2.24	2.12
	Non-Transmitting Gas Meter - Automated Meter Reading (AMR) Provision			
42	One Time Charge Prior to AMR Install	\$/Customer	\$ 109.94	\$ 109.94
43	One Time Charge After AMR Install	\$/Customer	\$ 177.53	\$ 177.53
44	Monthly Charge	\$/Customer	\$ 6.03	\$ 6.03

Notes

<sup>(1)</sup> Excludes Outdoor Lighting GL

<sup>(2)</sup> Only the 2.0% ATL adjustment is available to XXL and the 4.0% ATL adjustment is subtracted to get a credit of \$(0.0204)

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\_\_\_\_\_ )

Case No. U-20650

**PROOF OF SERVICE**

STATE OF MICHIGAN )  
 ) SS  
COUNTY OF JACKSON )

Melissa K. Harris, being first duly sworn, deposes and says that she is employed in the Legal Department of Consumers Energy Company; that on December 16, 2019, she served an electronic copy of **Consumers Energy Company’s Application, a Proposed Notice of Hearing, a Proposed Protective Order, and the Testimony and Exhibits of Consumers Energy Company’s Witnesses** upon the persons listed in Attachment 1 hereto, at the e-mail addresses listed therein. She further states that she mailed electronic disks containing: (i) Consumers Energy Company’s Application, a Proposed Notice of Hearing, a Proposed Protective Order, and the Testimony and Exhibits of Consumers Energy Company’s witnesses in PDF format; (ii) exhibits in Excel format that were filed in Excel format; (iii) tariff changes in Word format that were filed in Word format; and (iv) Workpapers in PDF format of Consumers Energy’s witnesses to all of the addresses listed in Attachment 1 by depositing the same in the United States mail in the City of Jackson, Michigan with first-class postage thereon fully paid.



\_\_\_\_\_  
Melissa K. Harris

Subscribed and sworn to before me this 16<sup>th</sup> day of December, 2019.



\_\_\_\_\_  
Crystal L. Chacon, Notary Public  
State of Michigan, County of Ingham  
My Commission Expires: 05/25/24  
Acting in the County of Jackson

**ATTACHMENT 1 TO CASE NO. U-20650**  
**(Including Parties to Case Nos. U-18424 and U-20322)**

**Counsel for the Michigan Public  
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**ATTACHMENT 1 TO CASE NO. U-20650**  
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**Proposed Notice of Hearing  
MPSC Case No. U-20650**

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

NOTICE OF HEARING  
FOR THE NATURAL GAS CUSTOMERS OF  
CONSUMERS ENERGY COMPANY  
CASE NO. U-20650

- Consumers Energy Company is requesting approval from the Michigan Public Service Commission to increase its rates for the distribution of natural gas and for other relief.
- **A TYPICAL RESIDENTIAL CUSTOMER WHO USES 93 Mcf (THOUSAND CUBIC FEET) OF NATURAL GAS PER YEAR MAY SEE AN INCREASE IN NATURAL GAS DISTRIBUTION COSTS OF APPROXIMATELY \$133 PER YEAR IF THE MICHIGAN PUBLIC SERVICE COMMISSION APPROVES THE REQUEST.**
- The information below describes how a person may participate in this case.
- You may contact Consumers Energy Company, One Energy Plaza, Jackson, Michigan 49201, (800) 477-5050 for a free copy of its application. Any person may review the documents at the offices of Consumers Energy Company.
- A public hearing will be held:

**DATE/TIME:** \_\_\_\_\_, 2019, at \_\_\_\_\_ a.m.

This hearing will be a prehearing conference to set future hearing dates and decide other procedural matters.

**BEFORE:** Administrative Law Judge \_\_\_\_\_

**LOCATION:** Michigan Public Service Commission  
7109 West Saginaw Highway  
Lansing, Michigan

**PARTICIPATION:** Any interested person may attend and participate. The hearing site is accessible, including handicapped parking. Persons needing any accommodation to participate should contact the Commission's Executive Secretary at (517) 284-8090 in advance to request mobility, visual, hearing or other assistance.

The Michigan Public Service Commission (Commission) will hold a public hearing to consider Consumers Energy Company's (Consumers Energy) December 16, 2019 application, which seeks Commission approval to: 1) adjust its retail natural gas rates to provide additional revenue of approximately \$245 million annually for the 12-month test period ending September 30, 2021; 2) adjust the Company's existing retail natural gas rates to produce a return on common equity of not less than 10.5%; 3) implement a Gas Revenue Decoupling Mechanism to annually reconcile non-fuel rate revenues approved by the Commission in the most recent case to non-fuel rate revenues generated through actual sales during the period of time under evaluation; 4) modify its rates, rules, and regulations; and 5) grant certain accounting authorizations as described in the Company's filing.

All documents filed in this case shall be submitted electronically through the Commission's E-Dockets website at: [michigan.gov/mpscdockets](http://michigan.gov/mpscdockets). Requirements and instructions for filing can be found in the User Manual on the E-Dockets help page. Documents may also be submitted, in Word or PDF format, as an attachment to an email sent to: [mpscdockets@michigan.gov](mailto:mpscdockets@michigan.gov). If you require assistance prior to e-filing, contact Commission staff at (517) 241-6180 or by email at: [mpscdockets@michigan.gov](mailto:mpscdockets@michigan.gov).

Any person wishing to intervene and become a party to the case shall electronically file a petition to intervene with this Commission by \_\_\_\_\_, 2019. (Interested persons may elect to file using the traditional paper format.) The proof of service shall indicate service upon Consumers Energy's Legal Department – Regulatory Group, One Energy Plaza, Jackson, Michigan 49201.

Any person wishing to appear at the hearing to make a statement of position without becoming a party to the case may participate by filing an appearance. To file an appearance, the individual must attend the hearing and advise the presiding administrative law judge of his or her wish to make a statement of position. All information submitted to the Commission in this matter becomes public information: available on the Michigan Public Service Commission's website, and subject to disclosure. Please do not include information you wish to remain private.

Requests for adjournment must be made pursuant to the Commission's Rules of Practice and Procedure R 460.17315 and R 460.17335. Requests for further information on adjournment should be directed to (517) 241-6060.

A copy of Consumers Energy's application may be reviewed on the Commission's website at: [michigan.gov/mpscdockets](http://michigan.gov/mpscdockets), and at the office of Consumers Energy Company. For more information on how to participate in a case, you may contact the Commission at the above address or by telephone at (517) 241-6180.

Jurisdiction is pursuant to 1909 PA 300, as amended, MCL 462.2 et seq.; 1919 PA 419, as amended, MCL 460.54 et seq.; 1939 PA 3, as amended, MCL 460.1 et seq.; 1969 PA 306, as amended, MCL 24.201 et seq.; 1982 PA 304, as amended, MCL 460.6h et seq.; and the Commission's Rules of Practice and Procedure, as amended, 1999 AC, R 460.17101 et seq.

**CONSUMERS ENERGY COMPANY HAS REQUESTED THE INCREASES AND OTHER PROPOSALS DESCRIBED IN THIS NOTICE. THE MICHIGAN PUBLIC SERVICE COMMISSION MAY GRANT OR DENY THE REQUESTED INCREASES AND OTHER PROPOSALS IN WHOLE OR IN PART, MAY GRANT LESSER OR GREATER INCREASES THAN THOSE REQUESTED, AND MAY AUTHORIZE A LESSER OR GREATER RATE FOR ANY CLASS OF SERVICE THAN THAT REQUESTED.**

\_\_\_\_\_, 2019

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-20650

**PROTECTIVE ORDER**

This Protective Order governs the use and disposition of Protected Material that Consumers Energy Company (“Applicant”) or any other Party discloses to another Party during the course of this proceeding. The Applicant or other Party disclosing Protected Material is referred to as the “Disclosing Party”; the recipient is the “Receiving Party” (defined further below). The intent of this Protective Order is to protect non-public, confidential information and materials so designated by the Applicant or by any other party, which information and materials contain confidential, proprietary, or commercially sensitive information. This Protective Order defines “Protected Material” and describes the manner in which Protected Material is to be identified and treated. Accordingly, it is ordered:

**I. “Protected Material” And Other Definitions**

A. For the purposes of this Protective Order, “Protected Material” consists of trade secrets or confidential, proprietary, or commercially sensitive information provided in Disclosing Party’s discovery or audit responses, any witness’ related exhibit and testimony, and any arguments of counsel describing or relying upon the Protected Material. Subject to challenge under Paragraph IV.A, Protected Material shall consist of non-public confidential information and materials including, but not limited to, the following information disclosed during the course of this case if it is marked as required by this Protective Order:

1. Trade secrets or confidential, proprietary, or commercially sensitive information provided in response to discovery, in response to an order issued by the presiding hearing officer or the Michigan Public Service Commission (“MPSC” or the “Commission”), in testimony or exhibits filed later in this case, or in arguments of counsel;
2. To the extent permitted, information obtained under license from a third-party licensor, to which the Disclosing Party or witnesses engaged by the Disclosing Party is a licensee, that is subject to any confidentiality or non-transferability clause. This information includes reports; analyses; models (including related inputs and outputs); trade secrets; and confidential, proprietary, or commercially sensitive information that the Disclosing Party or one of its witnesses receives as a licensee and is authorized by the third-party licensor to disclose consistent with the terms and conditions of this Protective Order; and
3. Information that could identify the bidders and bids, including the winning bid, in a competitive solicitation for a power purchase agreement or in a competitively bid engineering, procurement, or construction contract at any stage of the selection process (i.e., before the Disclosing Party has entered into a power purchase agreement or selected a contractor).

B. The information subject to this Protective Order does not include:

1. Information that is or has become available to the public through no fault of the Receiving Party or Reviewing Representative and no breach of this Protective Order, or information that is otherwise lawfully known by the Receiving Party without any obligation to hold it in confidence;
2. Information received from a third party free to disclose the information without restriction;
3. Information that is approved for release by written authorization of the Disclosing Party, but only to the extent of the authorization;
4. Information that is required by law or regulation to be disclosed, but only to the extent of the required disclosure; or
5. Information that is disclosed in response to a valid, non-appealable order of a court of competent jurisdiction or governmental body, but only to the extent the order requires.

C. “Party” refers to the Applicant, MPSC Staff (“Staff”), Michigan Attorney General, or any other person, company, organization, or association that is granted intervention

in Case No. U-20650 under the Commission's Rules of Practice and Procedure, Mich Admin Code, R 792.10401 et al.

D. "Receiving Party" means any Party to this proceeding who requests or receives access to Protected Material, subject to the requirement that each Reviewing Representative sign a Nondisclosure Certificate attached to this Protective Order as Attachment 1.

E. "Reviewing Representative" means a person who has signed a Nondisclosure Certificate and who is:

1. An attorney who has entered an appearance in this proceeding for a Receiving Party;
2. An attorney, paralegal, or other employee associated, for the purpose of this case, with an attorney described in Paragraph I.E.1;
3. An expert or employee of an expert retained by a Receiving Party to advise, prepare for, or testify in this proceeding; or
4. An employee or other representative of a Receiving Party with significant responsibility in this case.

A Reviewing Representative is responsible for assuring that persons under his or her supervision and control comply with this Protective Order.

F. "Nondisclosure Certificate" means the certificate attached to this Protective Order as Attachment 1, which is signed by a Reviewing Representative who has been granted access to Protected Material and agreed to be bound by the terms of this Protective Order.

## **II. Access To And Use Of Protected Material**

A. This Protective Order governs the use of all Protected Material that is marked as required by Paragraph III.A and made available for review by the Disclosing Party to any Receiving Party or Reviewing Representative. This Protective Order protects: (i) the Protected Material; (ii) any copy or reproduction of the Protected Material made by any person; and

(iii) any memorandum, handwritten notes, or any other form of information that copies, contains, or discloses Protected Material. All Protected Material in the possession of a Receiving Party shall be maintained in a secure place. Access to Protected Material shall be limited to persons authorized to have access subject to the provisions of this Protective Order.

B. Protected Material shall be used and disclosed by the Receiving Party solely in accordance with the terms and conditions of this Protective Order. A Receiving Party may authorize access to, and use of, Protected Material by a Reviewing Representative identified by the Receiving Party, subject to Paragraphs III and V below, only as necessary to analyze the Protected Material; make or respond to discovery; present evidence; prepare testimony, argument, briefs, or other filings; prepare for cross-examination; consider strategy; and evaluate settlement. These individuals shall not release or disclose the content of Protected Material to any other person or use the information for any other purpose.

C. The Disclosing Party retains the right to object to any designated Reviewing Representative if the Disclosing Party has reason to believe that there is an unacceptable risk of misuse of confidential information. If a Disclosing Party objects to a Reviewing Representative, the Disclosing Party and the Receiving Party will attempt to reach an agreement to accommodate that Receiving Party's request to review Protected Material. If no agreement is reached, then either the Disclosing Party or the Receiving Party may submit the dispute to the presiding hearing officer. If the Disclosing Party notifies a Receiving Party of an objection to a Reviewing Representative, then the Protected Material shall not be provided to that Reviewing Representative until the objection is resolved by agreement or by the presiding hearing officer.

D. Before reviewing any Protected Material, including copies, reproductions, and copies of notes of Protected Material, a Receiving Party and Reviewing Representative shall sign

a copy of the Nondisclosure Certificate (Attachment 1 to this Protective Order) agreeing to be bound by the terms of this Protective Order. The Reviewing Representative shall also provide a copy of the executed Nondisclosure Certificate to the Disclosing Party.

E. Even if no longer engaged in this proceeding, every person who has signed a Nondisclosure Certificate continues to be bound by the provisions of this Protective Order. The obligations under this Protective Order are not extinguished or nullified by entry of a final order in this case and are enforceable by the MPSC or a court of competent jurisdiction. To the extent Protected Material is not returned to a Disclosing Party, it remains subject to this Protective Order.

F. Members of the Commission, Commission staff assigned to assist the Commission with its deliberations, and the presiding hearing officer shall have access to all Protected Material that is submitted to the Commission under seal without the need to sign the Nondisclosure Certificate.

G. A Party retains the right to seek further restrictions on the dissemination of Protected Material to persons who have or may subsequently seek to intervene in this MPSC proceeding.

H. Nothing in this Protective Order precludes a Party from asserting a timely evidentiary objection to the proposed admission of Protected Material into the evidentiary record for this case.

### **III. Procedures**

A. The Disclosing Party shall mark any information that it considers confidential as “CONFIDENTIAL: SUBJECT TO THE PROTECTIVE ORDER ISSUED IN CASE NO. U-20650.” If the Receiving Party or a Reviewing Representative makes copies of any

Protected Material, they shall conspicuously mark the copies as Protected Material. Notes of Protected Material shall also be conspicuously marked as Protected Material by the person making the notes.

B. If a Receiving Party wants to quote, refer to, or otherwise use Protected Material in pleadings, pre-filed testimony, exhibits, cross-examination, briefs, oral argument, comments, or in some other form in this proceeding (including administrative or judicial appeals), the Receiving Party shall do so consistent with procedures that will maintain the confidentiality of the Protected Material. For purposes of this Protective Order, the following procedures apply:

1. Written submissions using Protected Material shall be filed in a sealed record to be maintained by the MPSC's Docket Section, or by a court of competent jurisdiction, in envelopes clearly marked on the outside, "CONFIDENTIAL – SUBJECT TO THE PROTECTIVE ORDER ISSUED IN CASE NO. U-20650." Simultaneously, identical documents and materials, with the Protected Material redacted, shall be filed and disclosed the same way that evidence or briefs are usually filed;
2. Oral testimony, examination of witnesses, or argument about Protected Material shall be conducted on a separate record to be maintained by the MPSC's Docket Section or by a court of competent jurisdiction. These separate record proceedings shall be closed to all persons except those furnishing the Protected Material and persons otherwise subject to this Protective Order. The Receiving Party presenting the Protected Material during the course of the proceeding shall give the presiding officer or court sufficient notice to allow the presiding officer or court an opportunity to take measures to protect the confidentiality of the Protected Material; and
3. Copies of the documents filed with the MPSC or a court of competent jurisdiction, which contain Protected Material, including the portions of the exhibits, transcripts, or briefs that refer to Protected Material, must be sealed and maintained in the MPSC's or court's files with a copy of the Protective Order attached.

C. It is intended that the Protected Material subject to this Protective Order should be shielded from disclosure by a Receiving Party. If any person files a request under the Freedom of Information Act with the MPSC or the Michigan Attorney General seeking access to

documents subject to this Protective Order, the MPSC's Executive Secretary, Staff, or the Attorney General shall immediately notify the Disclosing Party, and the Disclosing Party may take whatever legal actions it deems appropriate to protect the Protected Material from disclosure. In light of Section 5 of the Freedom of Information Act, MCL 15.235, the notice must be given at least five (5) business days before the MPSC, Staff, and/or the Michigan Attorney General grant the request in full or in part.

#### **IV. Termination Of Protected Status**

A. A Receiving Party reserves the right to challenge whether a document or information is Protected Material and whether this information can be withheld under this Protective Order. In response to a motion, the Commission or the presiding hearing officer in this case may revoke a document's protected status after notice and hearing. If the presiding hearing officer revokes a document's protected status, then the document loses its protected status after 14 days unless a Party files an application for leave to appeal the ruling to the Commission within that time period. Any Party opposing the application for leave to appeal shall file an answer with the Commission no more than 14 days after the filing and service of the appeal. If an application is filed, then the information will continue to be protected from disclosure until either the time for appeal of the Commission's final order resolving the issue has expired under MCL 462.26 or, if the order is appealed, until judicial review is completed and the time to take further appeals has expired.

B. If a document's protected status is challenged under Paragraph IV.A, the Receiving Party challenging the protected status of the document shall explicitly state its reason for challenging the confidential designation. The Disclosing Party bears the burden of proving that the document should continue to be protected from disclosure.

**V. Retention Of Documents**

Protected Material remains the property of the Disclosing Party and only remains available to the Receiving Party until the time expires for petitions for rehearing of a final MPSC order in Case No. U-20650 or until the MPSC has ruled on all petitions for rehearing in this case (if any). However, an attorney for a Receiving Party who has signed a Nondisclosure Certificate and who is representing the Receiving Party in an appeal from an MPSC final order in this case may retain copies of Protected Material until either the time for appeal of the Commission's final order resolving the issue has expired under MCL 462.26 or, if the order is appealed, until judicial review is completed and the time to take further appeals has expired. On or before the time specified by the preceding sentences, the Receiving Party shall return to the Disclosing Party all Protected Material in its possession or in the possession of its Reviewing Representatives-including all copies and notes of Protected Material-or certify in writing to the Disclosing Party that the Protected Material has been destroyed.

**VI. Limitations and Disclosures**

The provisions of this Protective Order do not apply to a particular document, or portion of a document, described in Paragraph II.A if a Receiving Party can demonstrate that it has been previously disclosed by the Disclosing Party on a non-confidential basis or meets the criteria set forth in Paragraphs I.B.1 through I.B.5. A Receiving Party intending to disclose information taken directly from materials identified as Protected Material must-before actually disclosing the information-do one of the following: (i) contact the Disclosing Party's counsel of record and obtain written permission to disclose the information, or (ii) challenge the confidential nature of the Protected Material and obtain a ruling under Paragraph IV that the information is not confidential and may be disclosed in or on the public record.

**VII. Remedies**

If a Receiving Party violates this Protective Order by improperly disclosing or using Protected Material, the Receiving Party shall take all necessary steps to remedy the improper disclosure or use. This includes immediately notifying the MPSC, the presiding hearing officer, and the Disclosing Party, in writing, of the identity of the person known or reasonably suspected to have obtained the Protected Material. A Party or person that violates this Protective Order remains subject to this paragraph regardless of whether the Disclosing Party could have discovered the violation earlier than it was discovered. This paragraph applies to both inadvertent and intentional violations. Nothing in this Protective Order limits the Disclosing Party's rights and remedies, at law or in equity, against a Party or person using Protected Material in a manner not authorized by this Protective Order, including the right to obtain injunctive relief in a court of competent jurisdiction to prevent violations of this Protective Order.

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Administrative Law Judge

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-20650

**NONDISCLOSURE CERTIFICATE**

By signing this Nondisclosure Certificate, I acknowledge that access to Protected Material is provided to me under the terms and restrictions of the Protective Order issued in Case No. U-20650, that I have been given a copy of and have read the Protective Order, and that I agree to be bound by the terms of the Protective Order. I understand that the substance of the Protected Material (as defined in the Protective Order), any notes from Protected Material, or any other form of information that copies or discloses Protected Material, shall be maintained as confidential and shall not be disclosed to anyone other than in accordance with the Protective Order.

Reviewing Representative

Date: \_\_\_\_\_

\_\_\_\_\_  
Title:  
Representing:

\_\_\_\_\_  
Printed Name