

December 15, 2023

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-21490 – 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 Redacted 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-21148 and U-21308). This case has been designated as a paperless case and is therefore being filed in PDF.

The confidential Application and confidential materials of Company witnesses **Stacy H. Baker, Kendra K. Grob, Kirkland D. Harrington, Yong F. Keyes, Steven Q. McLean, Heidi J. Myers, and S. Austin Smith** are being filed under seal with the Michigan Public Service Commission.

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. Also provided to the Michigan Public Service Commission is Consumers Energy Company's Part II – Financial Information materials in the above docket via a secure link.

Digital copies of the public rate case filing, workpapers of Consumers Energy Company's witnesses, and Consumers Energy Company's Part II – Financial Information and Part III – Supplemental Data materials are being provided to the MPSC Staff and parties to Case Nos. U-21148 and U-21308 concurrently with this filing via a secure link and this link will be made available to any parties to this Case No. U-21490 who were not parties to Case Nos. U-21148 or U-21308.

Sincerely,

 Digitally signed by  
Theresa A.G. Staley  
Date: 2023.12.13  
17:08:35 -05'00'

Theresa A.G. Staley

Phone: 517-788-0677

Email: [theresa.staley@cmsenergy.com](mailto:theresa.staley@cmsenergy.com)

cc: Mike Byrne, Executive Director, MPSC Staff  
Bill Stosik, MPSC Staff  
Paul Proudfoot, MPSC Staff  
Bob Nichols, MPSC Staff  
Julie Baldwin, MPSC Staff  
Parties to Case Nos. U-21148 and U-21308

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-21490

**APPLICATION**  
**REDACTED VERSION**

Consumers Energy Company (“Consumers Energy” or the “Company”) respectfully requests the Michigan Public Service Commission (“MPSC” or the “Commission”) to 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 August 30, 2023, in Case No. U-21308, the Commission issued an Order Approving Settlement Agreement which approved 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, 2025, 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 \$136 million for the 12-month period ending September 30, 2025. [REDACTED]

[REDACTED]

[REDACTED]

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, clean, reliable, and efficient service, and to comply with environmental and legal requirements;
- (ii.) Ongoing investments in enhanced technology to provide improved operational efficiencies and increased customer satisfaction; and
- (iii.) The Operation and Maintenance (“O&M”) expenses necessary to, among other things, support long-term investments and improve customer interactions.

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. Consumers Energy’s ongoing investment in its transmission system, compression and storage system, and distribution system, and the investment required to maintain compliance with pipeline integrity requirements, are part of Consumers Energy’s capital investment plan to maintain and improve utility infrastructure,

enhance safety of aging distribution assets, and ensure continued customer safety and a reliable system so 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 investments needed for the supply and delivery of natural gas, the Company is presenting the newest version of 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, continuing to evolve how the Company operates in accordance with the Gas Pipeline industry standard American Petroleum Institute Recommended Practice 1173, and developing a strategic framework in response to the decarbonization goals of the Company's natural gas customers and future carbon policy relevant to the utility.

8. The Natural Gas Delivery Plan is built around four objectives: providing customers with safe, reliable, affordable, and clean natural gas service. 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 its 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, Material Conditions Program, Compression and Storage Program, Well Rehabilitation Program, Regulatory Compliance Programs, and Capacity/Deliverability Programs. 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 deliver natural gas safely and reliably to customers.

Enhanced technology investments are also ongoing at the Company. Continually improving on customer service and internal operations will require significant Information Technology upgrades as outlined in the Digital Three-Year Plan. The Company's investments and O&M spending presented in the Digital Three-Year Plan address the new digital capabilities and foundational technology required to realize the outcomes of the Natural Gas Delivery Plan, as well as those that enable residential and business programs that engage customers and adapt with their needs and behaviors. Without these new digital capabilities, the Company will be limited in its ability to achieve key outcomes of these plans, including: the ability to provide customers with the data, technology, and tools needed to interact with the Company; improvements in system monitoring via high resolution system visibility; and investments in risk modeling and predictive technologies to help avoid reactive events on the Company's system.

Consumers Energy has continued its commitment to reducing fugitive methane emissions from the delivery system, while also better understanding the emissions from the natural gas upstream suppliers and end-use customers. Consumers Energy plans to achieve its system methane reductions and net-zero methane emissions goals by 2030, which is the first step in achieving greater gas system decarbonization. The Company's infrastructure investments will help reduce emissions. Consumers Energy is also investigating and launching voluntary programs to help customers meet their emissions goals.

9. The Company strives to keep O&M costs at a reasonable level. Contributors to the Company's O&M expense include the effects of inflation, upgrades to the Company's system, 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 are necessary 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 and mitigate cost increases. Specifics regarding the Company's requests are described in the direct testimony and exhibits which are being filed in support of this Application.

10. In order to carry out its operational and customer-related goals, it is important that the financial health of Consumers Energy be sufficient to maintain adequate service quality and reliability, and to ensure the ability of the utility to access capital markets at reasonable terms so needed investments can be made. The investments that Consumers Energy plans to make in the next five years are not only necessary to provide safe, reliable natural gas utility service; they also will create other economic benefits, including Michigan jobs and tax base. To maintain its financial health and support these investments, Consumers Energy requests that rates be established in this case based on an authorized return on common equity of 10.25% and reflect an overall rate of return on total rate base of 6.20% on an after-tax basis. The Company also requests that the Commission recognize for ratemaking purposes that the Company needs an equity ratio of at least 51.50%. Consumers Energy submits that the requested returns reasonably balance the interests of customers and investors.

11. Without a rate increase, Consumers Energy's gas revenues and 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 two ratemaking mechanisms: continuation of a Defined Benefit ("DB") Pension/Other Post-Employment Benefits ("OPEB") Volatility Mechanism and an Uncollectible Deferral/Refund Mechanism. DB Pension and OPEB expenses are sensitive to changes in asset returns or other assumptions which creates significant potential for large variability in future expenses. Customers will continue to benefit from a mechanism that eliminates the risk of future volatility in expense. This mechanism would continue allowing the Company to defer annually the difference between the DB Pension/OPEB expense included in rates versus the actual annual DB Pension/OPEB expense recorded by the Company. If the Company's actual annual DB Pension/OPEB expense is less than the expense approved in rates, this difference would be recognized as a regulatory liability and be amortized over 10 years starting the following January. Similarly, if actual annual DB Pension/OPEB expense is greater than the expense approved in rates, the Company proposes that this difference would continue to be recognized as a regulatory asset and be amortized in the same manner. Any amortization of these regulatory assets or liabilities would be included in future general rate cases.

The Company is also proposing an Uncollectible Deferral/Refund Mechanism which would allow the Company to defer the difference between uncollectible accounts expense included in rates versus the actual expense recorded by the Company. The Company further proposes that any deferred amounts be considered for collection or refund in a future rate case. This mechanism is necessary due to the greater than normal uncertainty around uncollectible expense. Further

details supporting the Company's proposals regarding these mechanisms are described in the direct testimony and exhibits which are being filed in support of this Application.

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

13. 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.

14. 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.

15. Consistent with the Cost-of-Service Study ("COSS") methodologies approved by the Commission in prior cases, the Commission's rate case filing requirements established in Case No. U-18238, and the terms of the settlement agreement in Case No. U-21308, Consumers Energy is sponsoring two primary versions of the COSS (Version I and II) and two additional COSS (utilizing revisions to elements of COSS Version II). Consumers Energy supports the use of COSS Version II, without the revisions prepared in compliance of the settlement agreement in Case No. U-21308. These COSS are discussed in testimony which is being filed in support of this Application. The Company has designed rates based on COSS Version II so that the revenue recovered from each customer class reflects the costs for that customer class.

16. Public Act 341 of 2016, MCL 460.6a(5), specifies a 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.

17. 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 DB Pension/OPEB Volatility and Uncollectible Deferral/Refund Mechanisms.

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

18. 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.

19. 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 \$136 million annually above the level established in Case No. U-21308 based on a projected 12-month test year ending September 30, 2025. [REDACTED]

[REDACTED]

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 10.25%;

C. Approve the DB Pension/OPEB Volatility Mechanism proposed by the Company in this case;

D. Approve the Uncollectible Deferral/Refund Mechanism proposed by the Company in this case;

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

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

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

Respectfully submitted,

CONSUMERS ENERGY COMPANY



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

Kelly M. Hall

Deputy General Counsel and Vice  
President, Rates and Regulation

Dated: December 15, 2023



\_\_\_\_\_  
Bret A. Totoraitis (P72654)  
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STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the application of )  
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for authority to increase its rates for the )  
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\_\_\_\_\_ )

Case No. U-21490

**VERIFICATION**

Kelly M. Hall states that she is Deputy General Counsel and Vice President, Rates and Regulation of Consumers Energy Company; that she has executed the foregoing Application for and on behalf of Consumers Energy Company; that she has read the foregoing Application and is familiar with the contents thereof; that the facts contained therein are true, to the best of her knowledge and belief; and that she is duly authorized to execute such Application on behalf of Consumers Energy Company.



Dated: December 15, 2023

By:

\_\_\_\_\_  
Kelly M. Hall  
Deputy General Counsel and Vice President,  
Rates and Regulation

# **ATTACHMENT A**

Summary of Present and Proposed Revenue by Rate Schedule

Total Revenue

Case No. U-21490

Line No.	(a) Description	(b)	(c)	(d)	(e)
		Present Revenue	Proposed Revenue	Difference Revenue	Percent
		\$000	\$000	\$000	%
Residential Service					
1	Single Family Dwelling A	\$ 1,639,012	\$ 1,735,840	\$ 96,828	5.9
2	Multifamily Dwelling A-1	59,782	60,545	763	1.3
3	Total Residential Service	1,698,794	1,796,385	97,591	5.7
General Service					
4	Small Service GS-1	273,724	297,497	23,774	8.7
5	Medium Service GS-2	219,511	237,016	17,504	8.0
6	Large Service GS-3	58,441	61,905	3,464	5.9
7	Outdoor Lighting GL	6	5	(1)	(12.2)
8	Total General Service	551,682	596,423	44,741	8.1
9	Total Gas Sales <sup>(1)</sup>	2,250,477	2,392,808	142,332	6.3
Transportation					
10	Small Transport ST	38,958	35,835	(3,123)	(8.0)
11	Large Transport LT	30,893	27,387	(3,506)	(11.3)
12	Extremely Large Transport XLT	34,996	33,897	(1,099)	(3.1)
13	Extra Extremely Large Transport XXL	14,708	15,816	1,108	7.5
14	Total Transportation	119,556	112,935	(6,621)	(5.5)
15	Total Service (Delivery & Fuel)	<u>\$ 2,370,032</u>	<u>\$ 2,505,743</u>	<u>\$ 135,711</u>	<u>5.7</u>
16	Additional Late Payment Charge Revenue	0	322	322	
17	Revenue Increase/(Decrease) Due to Rounding	0	1	1	
18	Revenue (Sufficiency)/Deficiency	<u>\$ 2,370,032</u>	<u>\$ 2,506,066</u>	<u>\$ 136,034</u>	5.7
19	[REDACTED]				
20	[REDACTED]				

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	\$ 13.60	\$ 18.60
2	Income Assistance - RIA Program	\$/Mth	\$ (13.60)	\$ (18.60)
3	Income Assistance - LIAC Pilot	\$/Mth	\$ (30.27)	\$ (30.27)
4	Distribution Charge	\$/Mcf	\$ 5.2191	\$ 5.2165
Multifamily Dwelling A-1				
5	Customer Charge	\$/Mth	\$ 13.60	\$ 18.60
6	Excess Peak Charge	\$/Mcf	\$ 0.0828	\$ 0.1132
7	Distribution Charge	\$/Mcf	\$ 5.2191	\$ 5.2165
General Service				
Small Service GS-1				
8	Customer Charge - Principal	\$/Mth	\$ 16.00	\$ 19.00
9	Customer Charge - Contiguous	\$/Mth	\$ 14.00	\$ 14.00
10	Distribution Charge	\$/Mcf	\$ 4.5946	\$ 5.2517
Medium Service GS-2				
11	Customer Charge - Principal	\$/Mth	\$ 132.13	\$ 148.68
12	Customer Charge - Contiguous	\$/Mth	\$ 40.00	\$ 40.00
13	Distribution Charge	\$/Mcf	\$ 3.2016	\$ 3.6955
Large Service GS-3				
14	Customer Charge - Principal	\$/Mth	\$ 384.31	\$ 648.61
15	Customer Charge - Contiguous	\$/Mth	\$ 80.00	\$ 80.00
16	Distribution Charge	\$/Mcf	\$ 2.8990	\$ 3.0956
Outdoor Lighting GL				
17	Single Mantle	\$/Lum.	\$ 9.00	\$ 8.00
18	Multiple Mantle	\$/Lum.	\$ 15.00	\$ 13.00
Transportation				
Small Transport ST				
19	Customer Charge - Principal	\$/Mth	\$ 898.12	\$ 1,031.67
20	Customer Charge - Contiguous	\$/Mth	\$ 60.00	\$ 60.00
21	Distribution Charge	\$/Mcf	\$ 1.7140	\$ 1.4877
Large Transport LT				
22	Customer Charge - Principal	\$/Mth	\$ 3,494.14	\$ 2,989.58
23	Customer Charge - Contiguous	\$/Mth	\$ 60.00	\$ 60.00
24	Distribution Charge	\$/Mcf	\$ 1.4025	\$ 1.2528
Extremely Large Transport XLT				
25	Customer Charge - Principal	\$/Mth	\$ 17,693.61	\$ 7,242.72
26	Customer Charge - Contiguous	\$/Mth	\$ 60.00	\$ 60.00
27	Remote Meter Charge	\$/Mth	\$ 70.00	\$ 70.00
28	Distribution Charge	\$/Mcf	\$ 1.0617	\$ 1.1507
Extra Extremely Large Transport XXLTL				
29	Customer Charge - Principal	\$/Mth	\$ 46,354.57	\$ 62,677.74
30	Remote Meter Charge	\$/Mth	\$ 70.00	\$ 70.00
31	Distribution Charge	\$/Mcf	\$ 0.6157	\$ 0.6401

Line No.	(a) Description	(b) Units	(c) Present	(d) Proposed
	Authorized Tolerance Level (ST, LT, XLT, XXLT) <sup>(2)</sup>			
32	2.0% ATL	\$/Mcf	\$ (0.0606)	\$ (0.0966)
33	4.0% ATL	\$/Mcf	\$ (0.0420)	\$ (0.0669)
33	6.5% ATL	\$/Mcf	\$ (0.0186)	\$ (0.0297)
34	7.5% ATL	\$/Mcf	\$ (0.0093)	\$ (0.0149)
34	8.5% ATL	\$/Mcf	\$ -	\$ -
35	9.5% ATL	\$/Mcf	\$ 0.0093	\$ 0.0149
35	10.5% ATL	\$/Mcf	\$ 0.0019	\$ 0.0297
	Customer Attachment Program			
36	Discount Rate	%	7.06	7.37
37	Carrying Cost Rate	%	8.77	9.16
	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	%	2.33	2.45
	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 XXLT and the 4.0% ATL credit is subtracted to get a credit of \$(0.0297)

**Proposed Notice of Hearing  
MPSC Case No. U-21490**

**STATE OF MICHIGAN  
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION**

**NOTICE OF HEARING  
FOR THE NATURAL GAS CUSTOMERS OF  
CONSUMERS ENERGY COMPANY**

**CASE NO. U-21490**

- 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 A DECREASE IN NATURAL GAS DISTRIBUTION COSTS OF APPROXIMATELY \$0.24 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 call or write Consumers Energy Company, One Energy Plaza, Jackson, Michigan 49201, (800) 477-5050 for a free copy of its application. Any person may review the application at the offices of Consumers Energy Company.
- The first public hearing in this matter will be held:

**DATE/TIME:** \_\_\_\_\_, 2024, at 9:00 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 15, 2023 application,

which seeks Commission approval to: 1) adjust its retail natural gas rates to provide additional revenue of up to \$136 million annually for the 12-month test period ending September 30, 2025; 2) adjust the Company's existing retail natural gas rates to produce a return on common equity of not less than 10.25%; 3) continue the Defined Benefit Pension/Other Post-Employment Benefits Volatility Mechanism to annually reconcile the difference between the Defined Benefit Pension/Other Post-Employment Benefits expense included by the Commission in rates versus the actual annual expense recorded; 4) implement a Uncollectible Deferral/Refund Mechanism that would allow the Company to defer the difference between uncollectible accounts expense approved by the Commission in rates versus the actual expense recorded; 5) modify its rates, rules, and regulations; and 6) grant certain accounting authorizations as described in the Company's filing. The revenue request is associated with investments in the natural gas system for the safe and reliable delivery of natural gas to customers.

All documents filed in this case shall be submitted electronically through the Commission's E-Dockets Website at: [michigan.gov/mpscedockets](https://michigan.gov/mpscedockets). 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 [mpscedockets@michigan.gov](mailto:mpscedockets@michigan.gov). If you require assistance prior to e-filing, contact Commission staff at (517) 284-8090 or by e-mail at [mpscedockets@michigan.gov](mailto:mpscedockets@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 \_\_\_\_\_, 2024. (Interested persons may elect to file using the traditional paper format.) The proof of service shall indicate service upon Consumers Energy Company Legal Department - MPSC Regulatory, One Energy Plaza, Jackson, Michigan 49201.

Any person wishing 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 will become public information, available on the Michigan Public Service Commission's Web site, 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 792.10422 and R 792.10432. Requests for further information on adjournment should be directed to (517) 241-6060.

A copy of Consumers Energy's request may be reviewed on the Commission's website at [michigan.gov/mpscedockets](https://michigan.gov/mpscedockets), and at the office of Consumers Energy Company, One Energy Plaza, Jackson, MI. 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, Mich Admin Code, R 792.10401 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.**

January \_\_, 2024

**Proposed Protective Order**  
**MPSC Case No. U-21490**



STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the application of )  
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distribution of natural gas and for other relief. )  
\_\_\_\_\_ )

Case No. U-21490

**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:

## Case No. U-21490 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-21490 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-21490.” 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-21490.” 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 Michigan Attorney General shall promptly 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-21490 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 promptly 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-21490

**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-21490, 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

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-21490

**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 15, 2023, she served an electronic copy of **Consumers Energy Company’s Redacted Application, a Proposed Notice of Hearing, a Proposed Protective Order, and the public 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 provided the public versions of (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; (iv) Workpapers in PDF format of Consumers Energy’s witnesses; and (v) Consumers Energy Company’s Part II and Part III Standard Filing requirements via secure file sharing link at the email addresses listed in Attachment 1.



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

Subscribed and sworn to before me this 15<sup>th</sup> day of December, 2023.



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

**ATTACHMENT 1 TO CASE NO. U-21490**  
**(Including Parties to Case Nos. U-21148 and U-21308)**

<b>Party</b>	<b>Mailing Address</b>	<b>Email Address</b>
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<b>Counsel for Retail Energy Supply Association (“RESA”)</b>		
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\* Receives Confidential Materials

**ATTACHMENT 1 TO CASE NO. U-21490**  
**(Including Parties to Case Nos. U-21148 and U-21308)**

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