

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter of the application of)	
CONSUMERS ENERGY COMPANY for)	
a reconciliation of power supply costs and)	Case No. U-10973-R
revenues for 1996.)	
_____)	

At the December 16, 1999 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. John G. Strand, Chairman
Hon. David A. Svanda, Commissioner
Hon. Robert B. Nelson, Commissioner

OPINION AND ORDER

On August 31, 1999, the Commission issued an order reconciling the 1996 power supply cost recovery (PSCR) costs with revenues for Consumers Energy Company (Consumers). On September 30, 1999, Consumers filed a petition for rehearing of that portion of the order that required Consumers to credit ratepayers with 80% of the 1996 wheeling revenues it received in excess of the threshold amount assumed in Consumers' base rates.

Consumers again argues that the Commission did not continue the revenue sharing mechanism in the company's last rate case, Case No. U-10685. Additionally, the company argues that regardless of the Commission's intent in Case No. U-10685, the introduction of the Rate DA program and later introduction of the retail open access program provide support for termination of the 80/20 sharing mechanism for

transmission revenues. It argues that those programs tend to increase booked transmission revenues and decrease other revenues. The effect of these retail access programs, argues Consumers, was not considered in Case No. U-10685.

On October 21, 1999, Attorney General Jennifer M. Granholm (Attorney General) filed a response to Consumers' petition. The Attorney General argues that Consumers has not met the standard for granting rehearing. Moreover, the Attorney General argues, Commission silence on an issue can never rescind an established ratemaking standard. In her view, to rescind or modify a ratemaking standard without an explanation of the reason for the change would constitute arbitrary and capricious decision-making.

Rule 403 of the Commission's Rules of Practice and Procedure, 1992 AACRS, R 460.17403, provides that a petition for rehearing may be based on claims of error, newly discovered evidence, facts or circumstances arising after the hearing, or unintended consequences resulting from compliance with the order. A petition for rehearing is not merely another opportunity for a party to argue a position or to express disagreement with the Commission's decision. Unless a party can show the decision to be incorrect or improper because of errors, newly discovered evidence, or unintended consequences of the decision, the Commission will not grant a rehearing.

The Commission finds that Consumers has not met the standard for granting its petition for rehearing. The Commission's August 31, 1999 order considered and rejected Consumers' arguments that the May 10, 1994 order in Case No. U-10685 reversed the Commission's prior determination that transmission revenues should be subject to an 80/20 sharing mechanism. See, August 31, 1999 order, pp. 44-47. Although Consumers' arguments concerning the effect of Rate DA and the retail access programs were

not raised before the August 31, 1999 order, they have little relevance to the treatment of wheeling revenues for 1996, the issue in Case No. U-10973-R. Therefore, the Commission concludes that Consumers' petition for rehearing should be denied.

The Commission FINDS that:

- a. Jurisdiction is pursuant to 1909 PA 106, as amended, MCL 460.551 et seq.; MSA 22.151 et seq.; 1919 PA 419, as amended, MCL 460.51 et seq.; MSA 22.1 et seq.; 1939 PA 3, as amended, MCL 460.1 et seq.; MSA 22.13(1) et seq.; 1982 PA 304, as amended, MCL 460.6h et seq.; MSA 22.13(6h) et seq.; 1969 PA 306, as amended, MCL 24.201 et seq.; MSA 3.560(101) et seq.; and the Commission's Rules of Practice and Procedure, as amended, 1992 AACCS, R 460.17101 et seq.
- b. Consumers' petition for rehearing of the August 31, 1999 order should be denied.

THEREFORE, IT IS ORDERED that the petition for rehearing filed by Consumers Energy Company is denied.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26; MSA 22.45.

MICHIGAN PUBLIC SERVICE COMMISSION

(S E A L)

/s/ John G. Strand _____
Chairman

By its action of December 16, 1999.

/s/ David A. Svanda
Commissioner

/s/ Dorothy Wideman
Its Executive Secretary

/s/ Robert B. Nelson
Commissioner

The Commission FINDS that:

- a. Jurisdiction is pursuant to 1909 PA 106, as amended, MCL 460.551 et seq.; MSA 22.151 et seq.; 1919 PA 419, as amended, MCL 460.51 et seq.; MSA 22.1 et seq.; 1939 PA 3, as amended, MCL 460.1 et seq.; MSA 22.13(1) et seq.; 1982 PA 304, as amended, MCL 460.6h et seq.; MSA 22.13(6h) et seq.; 1969 PA 306, as amended, MCL 24.201 et seq.; MSA 3.560(101) et seq.; and the Commission's Rules of Practice and Procedure, as amended, 1992 AACCS, R 460.17101 et seq.
- b. Consumers' petition for rehearing of the August 31, 1999 order should be denied.

THEREFORE, IT IS ORDERED that the petition for rehearing filed by Consumers Energy Company is denied.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26; MSA 22.45.

MICHIGAN PUBLIC SERVICE COMMISSION

Chairman

By its action of December 16, 1999.

Commissioner

Its Executive Secretary

Commissioner

In the matter of the application of)
CONSUMERS ENERGY COMPANY for)
a reconciliation of power supply costs and)
revenues for 1996.)
_____)

Case No. U-10973-R

Suggested Minute:

“Adopt and issue order dated December 16, 1999 denying the petition for rehearing filed by Consumers Energy Company, as set forth in the order.”