

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the ASSOCIATION OF)	
BUSINESSES ADVOCATING TARIFF EQUITY'S)	
formal complaint for the reduction of Consumers)	Case No. U-11560
Energy Company's rates for the sale of electricity.)	
_____)	

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 December 6, 1999, the Association of Businesses Advocating Tariff Equity (ABATE) and Consumers Energy Company filed a joint motion for a temporary suspension of proceedings in this docket to facilitate work on comprehensive electric industry restructuring legislation. On December 9, 1999, the Commission issued an order providing other parties an opportunity to file comments by December 14, 1999 and suspending the proceedings until the Commission ruled on the joint motion.

On December 14, 1999, Attorney General Jennifer M. Granholm (Attorney General), the Michigan Petroleum Association and Michigan Association of Convenience Stores, and the Michigan Community Action Agency Association filed responses in opposition to the motion. They argue that there is no connection between the continuation of this case and proposed legislation restructuring the electric

industry, and therefore no reason exists to suspend this case. They also argue that a suspension of the case will prejudice their interests and delay the reduction in rates that they allege is warranted. Finally, they argue that Section 6a of 1939 PA 3, MCL 460.6a; MSA 22.13(6a), requires the Commission to expedite a final decision on the complaint.

The Commission concludes that it should grant the joint motion to suspend the proceedings for up to 120 days. This decision is not based on any decision about the merits of the legislative proposal on which ABATE and Consumers have been working. That proposal may or may not be introduced and, if introduced, is subject to amendment. Rather, the Commission grants the motion because ABATE, which commenced this case with the filing of a complaint, has determined that a suspension will serve its interests and may promote a legislative resolution to restructuring the electric industry. The insistence of four intervenors that the proceedings should continue is not entitled to more weight than ABATE's decision that a suspension is appropriate.

The Commission does not agree that Section 6a requires the Commission to complete this proceeding in nine months or to expedite it. That section applies to "petitions" and "applications" and more particularly, in context, to petitions and applications filed by utilities.¹ The Legislature could have included complaints within the scope of Section 6a, but did not. The omission must be viewed as intentional.

For these reasons, the Commission grants the motion for a suspension of up to 120 days. Because the Commission has authority to control its dockets, the Commission reserves the right to order a resumption of proceedings at any time if it concludes that the circumstances so warrant.

¹The Attorney General's citation to a filing in Circuit Court on behalf of the Commission as an admission that ABATE's complaint is a petition within the meaning of Section 6a is inapt and taken out of context.

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.; 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. The joint motion for suspension of the proceedings should be granted.

THEREFORE, IT IS ORDERED that:

- A. The joint motion of the Association of Businesses Advocating Tariff Equity and Consumers Energy Company to suspend the proceedings for up to 120 days is granted.
- B. All further proceedings on the complaint of the Association of Businesses Advocating Tariff Equity are suspended for up to 120 days, subject to the Commission's authority to order an earlier resumption.

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

MICHIGAN PUBLIC SERVICE COMMISSION

/s/ John G. Strand

Chairman

(S E A L)

/s/ David A. Svanda

Commissioner

/s/ Robert B. Nelson

Commissioner

By its action of December 16, 1999.

/s/ Dorothy Wideman

Its Executive Secretary

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MICHIGAN PUBLIC SERVICE COMMISSION

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Suggested Minute:

“Adopt and issue order dated December 16, 1999 granting the joint motion of the Association of Businesses Advocating Tariff Equity and Consumers Energy Company to suspend further proceedings in this case for up to 120 days, as set forth in the order.”