

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the ASSOCIATION OF)
BUSINESSES ADVOCATING TARIFF EQUITY's)
formal complaint for the reduction of Consumers)
Energy Company's rates for the sale of electricity.)
_____)

Case No. U-11560

At the June 19, 2000 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 October 14, 1997, the Association of Businesses Advocating Tariff Equity (ABATE) filed a complaint about the electric rates of Consumers Energy Company (Consumers). The record closed on May 16, 2000, and the parties are briefing the case. On June 5, 2000, Public Act 141 of 2000 took effect. Subsection 10d(1) provides:

Unless otherwise reduced by the commission under subsection (4) [for the effects of securitization], the commission shall establish the residential rates for each electric utility with 1,000,000 or more retail customers in this state as of May 1, 2000 that will result in a 5% rate reduction from the rates that were authorized or in effect on May 1, 2000. Notwithstanding any other provision of law or commission order, rates for each electric utility with 1,000,000 or more retail customers established under this subsection become effective on the effective date of the amendatory act that added this section and remain in effect until December 31,

2003 and all other electric retail rates of an electric utility with 1,000,000 or more retail customers authorized or in effect as of May 1, 2000 shall remain in effect until December 31, 2003, unless otherwise reduced by the commission under subsection (4).

MCL 460.10d(1); MSA 22.13(10d)(1).

On June 5, 2000, the Commission issued an order in Case No. U-12464 implementing the rate reduction for residential customers and requiring Consumers to file tariff sheets. With that reduction, all of the retail rates now in effect may not be changed until at least December 31, 2003 except to reflect the effects of securitization. The implementation of any rate adjustment as a result of action on ABATE's complaint would be inconsistent with subsection 10d(1). Therefore, ABATE's complaint must be dismissed.¹

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 AACRS, R 460.17101 et seq.
- b. ABATE's complaint should be dismissed with prejudice.

¹ On November 4, 1999, the Michigan Environmental Council (MEC) and the Public Interest Research Group in Michigan (PIRGIM) filed an application for leave to appeal and motion for immediate consideration regarding testimony stricken by the Administrative Law Judge in this proceeding. Although the testimony sought to address issues that may have been outside the jurisdiction of the Commission prior to June 5, 2000, the new law gives the Commission specific authority to require environmental disclosures (subsection 10r (3)) and creates an energy efficiency fund (subsection 10d(6)) as advocated by these parties. They are encouraged to participate in Case No. U-12487 and any subsequent proceedings involving the energy efficiency fund.

THEREFORE, IT IS ORDERED that the complaint of the Association of Businesses Advocating Tariff Equity is dismissed with prejudice.

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/ John G. Strand
Chairman

(S E A L)

/s/ David A. Svanda
Commissioner

/s/ Robert B. Nelson
Commissioner

By its action of June 19, 2000.

/s/ Dorothy Wideman
Its Executive Secretary

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MICHIGAN PUBLIC SERVICE COMMISSION

Chairman

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Suggested Minute:

“Adopt and issue order dated June 19, 2000 dismissing the complaint of the Association of Businesses Advocating Tariff Equity about Consumers Energy Company's electric rates, as set forth in the order.”