

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the application of)	
CONSUMERS ENERGY COMPANY for)	
accounting approval to continue deferral and)	Case No. U-13224
amortization of certain tax-related assets)	
associated with transmission facilities.)	
_____)	

At the December 20, 2001 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. Laura Chappelle, Chairman
Hon. David A. Svanda, Commissioner
Hon. Robert B. Nelson, Commissioner

ORDER APPROVING APPLICATION

On December 12, 2001, Consumers Energy Company (Consumers) filed an application for accounting approval to continue deferral and amortization of certain tax-related assets associated with transmission facilities.

Consumers states that in October 2001 it entered into an agreement for the sale of its transmission facilities to Trans-Elect, Inc., an independent transmission company. It states that actual transfer of ownership will require certain regulatory approvals.

Consumers states that it currently has an asset recorded on its books in accordance with Statement of Financial Accounting Standard 109 (FAS 109) for federal income tax benefits previously flowed through to customers associated with the transmission facilities and a

corresponding deferred tax liability.¹ It states that the amount of the previously flowed through benefits relates to accelerated tax versus book depreciation deductions and shorter tax versus book depreciation lives. Consumers states that the FAS 109 asset would be reduced over approximately twenty years if the transmission facilities were not sold and the current FAS 109 amortization continued.

Consumers requests accounting authority to (i) continue deferral of the FAS 109 asset subsequent to the time the sale of the transmission facilities is completed, (ii) record a deferred income tax benefit when the FAS 109 deferred tax liability is extinguished upon completion of the sale of the transmission facilities, and (iii) reduce the FAS 109 asset through tax expense over a twenty year period beginning at the time the transmission asset sale is completed.

Consumers states that if the requested approvals are not granted it will be required to record income tax expense significantly earlier than if it had not sold the transmission facilities. It requests approval of specific accounting journal entries involving accounts 285 (Accumulated Deferred Tax Liabilities–FAS 109), 411 (Provision for Deferred Income Taxes-Credit), 410 (Provision for Deferred Income Taxes) and 192 (Regulatory Asset-FAS 109).

The Commission has reviewed Consumers’ application and finds that the requested accounting treatment is reasonable and in the public interest, and should be approved.

Public Act 141 of 2000 (Act 141) requires an electric utility to either join a Federal Energy Regulatory Commission (FERC) approved regional transmission organization (RTO) or to divest itself of its transmission assets. In its December 4, 2000 order in Case No.U-12726, the Commission granted certain approvals to Consumers related to the proposed transfer of its transmission

¹Consumers calculates that the balance of the previously flowed through tax benefits in the FAS 109 asset will approximate \$21.8 million as of December 31, 2001.

facilities to an affiliate, and subsequent sale to an independent third-party purchaser subject to certain conditions. The Commission concluded that Consumers' proposal was fully consistent with the statute if it complied with those conditions. First, the purchaser would cap transmission rates through December 2005. Second, it must agree to join a FERC-approved RTO by December 15, 2001. Third, it will comply with Section 10v of Act 141. Finally, 50% of the net premium over book value would be allocated to reduce stranded costs. The Commission believes that Trans-Elect has committed to the first three conditions. The Commission will reduce stranded costs in accordance with the fourth condition of accordance with the December 4, 2000 order in Case No. U-12726.

Granting the approvals requested in the current application will allow Consumers to reduce the transmission-facility related FAS 109 asset associated with previously flowed-through tax benefits over a time period that approximates the time period over which the reduction would have occurred in the absence of the sale of transmission facilities. Requiring Consumers to record income tax expense related to the previously flowed through benefits associated with transmission facilities significantly earlier than if it had not sold the transmission facilities as a result of compliance with Act 141 would be an unintended consequence. The accounting approvals requested by Consumers provide a reasonable alternative.

Finally, because approval of the relief requested by Consumers will not increase rates or charges for any customer, the Commission finds that ex parte approval of the application is appropriate.

The Commission FINDS that:

a. Jurisdiction is pursuant to 1909 PA 106, as amended, MCL 460.551 et seq.; 1919 PA 419, as amended, MCL 460.51 et seq.; 1939 PA 3, as amended, MCL 460.1 et seq.; 1969 PA 306, as

amended, MCL 24.201 et seq.; and the Commission's Rules of Practice and Procedure, as amended, 1992 AACRS, R 460.17101 et seq.

b. The proposal to continue deferral and subsequent amortization of the FAS 109 transmission-related asset subsequent to the sale of transmission facilities to an independent transmission owner, as proposed by Consumers Energy Company in its application, and to record a deferred income tax credit when the deferred tax liability is extinguished should be approved.

c. The proposal to record income tax expense and reduce the FAS 109 transmission-related asset over a twenty-year period beginning at the time the transmission asset sale is completed, as proposed by Consumers Energy Company in its application, should be approved.

d. The accounting journal entries proposed by Consumers Energy Company should be approved.

e. Ex parte approval is appropriate.

THEREFORE IT IS ORDERED that:

A. The accounting requests made by Consumers Energy Company in its application are approved.

B. The accounting transactions proposed by Consumers Energy Company's application are approved.

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.

MICHIGAN PUBLIC SERVICE COMMISSION

/s/ Laura Chappelle
Chairman

(S E A L)

/s/ David A. Svanda
Commissioner

/s/ Robert B. Nelson
Commissioner

By its action of December 20, 2001.

/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 20, 2001 approving the accounting requests and accounting transactions proposed by Consumers Energy Company, as set forth in the order.”