

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the application of)	
CMS ENERGY CORPORATION , a)	
Michigan corporation, for certification)	Case No. U-13210
pursuant to Section 33(a)(2) of the Public)	
Utility Holding Company Act of 1935.)	
_____)	

At the January 22, 2002 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

OPINION AND ORDER

On December 4, 2001, CMS Energy Corporation (CMS) filed an application requesting certification pursuant to Section 33(a)(2) of the Public Utility Holding Company Act of 1935 (PUHCA), 15 USC 79z-5b. CMS is an international energy corporation. Its principal subsidiary is Consumers Energy Company (Consumers), a combination electric and gas utility located entirely in the state of Michigan.

In the February 22, 2001 order in Case No. U-12718, the Commission granted CMS's request for certification pursuant to 15 USC 79z-5b for up to \$600 million in additional CMS equity for international investments in calendar year 2001. Pursuant to that order, CMS states that it did not make any equity investments in international projects in 2001. CMS has recently announced that

it intends to refocus its future business growth primarily in North America. However, CMS desires to continue pursuing several potential investment opportunities in foreign utility companies throughout the world. In this application, CMS seeks a Commission certification that will permit the company to pursue additional equity investments in foreign utility companies in calendar year 2002, not to exceed \$150 million. CMS agrees to provide the Commission with 30 days' notice of all investments in increments of \$50 million. CMS states that the \$150 million of total international investment requested for 2002 represents less than one percent of CMS's September 30, 2001 total assets.

CMS represents that it is an intrastate holding company exempt from registration as a holding company under Section 3(a)(1) of PUHCA. It further represents that its foreign investment subsidiaries are or will be foreign utility companies that are exempt from regulation under PUHCA if every state commission having jurisdiction over the electric or gas rates of an affiliated public utility company certifies that the state commission has the authority and resources to protect the utility's ratepayers and that the commission intends to exercise that authority. Michigan is the only state where a CMS subsidiary, Consumers, provides retail electric or gas service. Therefore, Michigan is the only state from which certification is needed. CMS requests that the Commission grant that certification with respect to Consumers.

CMS states that any investments will remain separate from Consumers and will not have any effect on Consumers' day-to-day utility services or rates and will not have a material detrimental effect on the financial viability, capital structure, or cost of capital of CMS or Consumers. It says that no utility assets of Consumers or assets of any Consumers subsidiary will be pledged or encumbered for this investment. It commits that CMS and its affiliates will not seek recovery of the direct or indirect costs of the investment from Michigan ratepayers and that the proposed

transaction will have no effect on the tax revenues of Michigan political subdivisions in which any structure, facility, or equipment of CMS or its subsidiaries is located. CMS will make available books and records reasonably necessary for the Commission to determine that Michigan ratepayers are not being adversely affected. It acknowledges that a grant of certification is not approval of any transaction or a finding that any transaction is reasonable.

After a review of the application, the Commission finds that it is appropriate to renew the previous authority granted in Case No. U-12718, and to grant certification to CMS for up to \$150 million in additional equity for international investments in calendar year 2002. The Commission also finds that ex parte approval is appropriate. The Commission grants the requested certification while reserving the right to prospectively revoke it, as PUHCA permits, and on condition that CMS and Consumers not seek to recover from Michigan ratepayers any direct or indirect costs of any investment in foreign utilities. Furthermore, the granting of the certification is not approval or endorsement of any transaction. Finally, each time CMS and its affiliates have cumulatively invested another \$50 million or more in foreign utility investments, CMS shall provide the Commission with written notice within 30 days.

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.; 15 USC 79z-5b; and the Commission's Rules of Practice and Procedure, as amended, 1992 AACRS, R 460.17101 et seq.

b. With respect to the potential transactions described in CMS's application, the Commission has the authority and resources to protect ratepayers subject to its jurisdiction and intends to exercise that authority.

c. Ex parte approval is appropriate.

THEREFORE, IT IS ORDERED that:

A. The certification requested by CMS Energy Corporation pursuant to 15 USC 79z-5b is granted. With respect to the potential transactions described in the application, the Commission has the authority and resources to protect ratepayers subject to its jurisdiction and intends to exercise that authority.

B. Each time CMS Energy Corporation and its affiliates have cumulatively invested another \$50 million or more in foreign utility investments, CMS Energy Corporation shall provide the Commission with written notice within 30 days.

C. CMS Energy Corporation shall make available books and records necessary for the Commission to determine that ratepayers are not being adversely affected.

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 January 22, 2002.

/s/ Dorothy Wideman
Its Executive Secretary

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Suggested Minute:

“Adopt and issue order dated January 22, 2002 granting the request of CMS Energy Corporation for certification pursuant to Section 33(a)(2) of the Public Utility Holding Company Act of 1935, as set forth in the order.”