

STATE OF MICHIGAN  
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the application of )	
<b>CONSUMERS ENERGY COMPANY</b> for a )	
financing order approving the securitization of )	Case No. U-13715
certain of its qualified costs. )	
_____ )	

At the March 16, 2004 meeting of the Michigan Public Service Commission in Lansing,  
Michigan.

PRESENT: Hon. J. Peter Lark, Chair  
          Hon. Robert B. Nelson, Commissioner  
          Hon. Laura Chappelle, Commissioner

**ORDER DENYING SECOND REHEARING**

On January 16, 2004, Consumers Energy Company (Consumers) filed a second petition for rehearing of the Commission's June 2, 2003 order, which authorized Consumers to issue up to \$554,323,000 of securitization bonds pursuant to the Customer Choice and Electricity Reliability Act, 2000 PA 141 and 2000 PA 142, which amended 1939 PA 3, MCL 460.1 et seq. Its first petition for rehearing resulted in the Commission's December 18, 2003 order remanding the case for an evidentiary hearing.

On February 6, 2004, answers to the second petition for rehearing were filed by Attorney General Michael A. Cox (Attorney General) and the Association of Businesses Advocating Tariff Equity (ABATE).

Consumers' second petition for rehearing asserts that the Commission erred when it held that:

(1) the company's authorized overall rate of return, rather than the expected interest rate for the bonds, should be used as the discount rate for calculating net present value for purpose of MCL 460.10i(2)(d); and (2) the grant of the application should be conditioned on an agreement by Consumers to refrain from granting dividends in amounts that exceed the company's earnings.

The Commission notes that the Rules of Practice and Procedure do not include provisions for a second petition for rehearing. As noted by the Attorney General and ABATE, the issues raised were also raised in the first petition for rehearing. Moreover, Consumers does not seek a determination of these issues until after the remand proceedings are completed. There are no rights at risk, as the Commission specifically held that it was not limiting the scope of the issues on remand, and Consumers is permitted to raise any issue on appeal related to earlier Commission orders in this case.

The Commission therefore concludes that the second petition for rehearing should be denied, without prejudice to Consumers' right to raise these issues during the remand proceeding.

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, 1999 AC, R 460.17101 et seq.

b. Consumers second petition for rehearing should be denied.

THEREFORE, IT IS ORDERED that the second petition for rehearing filed by Consumers Energy Company of the Commission's June 2, 2003 order 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  
issuance and notice of this order, pursuant to MCL 462.26.

MICHIGAN PUBLIC SERVICE COMMISSION

/s/ J. Peter Lark  
Chair

( S E A L )

/s/ Robert B. Nelson  
Commissioner

/s/ Laura Chappelle  
Commissioner

By its action of March 16, 2004.

/s/ Mary Jo Kunkle  
Its Executive Secretary

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MICHIGAN PUBLIC SERVICE COMMISSION

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Chair

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Commissioner

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Commissioner

By its action of March 16, 2004.

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Its Executive Secretary

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Case No. U-13715

Suggested Minute:

“Adopt and issue order dated March 16, 2004 denying Consumers Energy Company’s second petition for rehearing of the Commission’s June 2, 2003 order, as set forth in the order.”