

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter, on the Commission’s own motion,	)	
regarding the regulatory reviews, revisions,	)	
determinations, and/or approvals necessary for	)	Case No. U-15805
<b>CONSUMERS ENERGY COMPANY</b> to fully comply	)	
with Public Acts 286 and 295 of 2008.	)	

In the matter, on the Commission’s own motion,	)	
regarding the regulatory reviews, revisions,	)	
determinations, and/or approvals necessary for	)	Case No. U-15889
<b>CONSUMERS ENERGY COMPANY</b> to fully comply	)	
with Public Acts 286 and 295 of 2008.	)	

At the December 16, 2009 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. Orjiakor N. Isiogu, Chairman  
Hon. Monica Martinez, Commissioner  
Hon. Steven A. Transeth, Commissioner

**ORDER**

History of Proceedings

On June 22, 2009, Consumers Energy Company (Consumers) filed a petition for rehearing of the Commission’s May 26, 2009 order (May 26 order) in Case Nos. U-15805 and U-15889, which approved Consumers’ renewable energy plan (REP) and energy optimization plan (EOP).

Consumers requested authority to decrease certain EOP surcharges to address unintended, harmful consequences caused by the May 26 order and requested authority to more equitably distribute

EOP surcharges for primary service electric customers and self-directed program primary customers.

On June 26, 2009, the Commission issued an *ex parte* order (June 26 order) approving the company's proposed surcharge reductions for certain EO customers. On August 8, 2009, the Commission issued an order reopening the record and setting an expedited schedule to address the remaining issues in Consumers' petition for rehearing.<sup>1</sup> In the interests of time, the Commission determined that it would dispense with the proposal for decision and read the record.

An evidentiary hearing on the reopened record was held on November 12, 2009 before Administrative Law Judge Sharon L. Feldman. Consumers and the Commission Staff (Staff) each presented one witness. Consumers, the Staff, and the Association of Businesses Advocating Tariff Equity (ABATE) filed briefs on November 30, 2009. The record in this case consists of 20 pages of testimony and one exhibit admitted into evidence.

Consumers originally divided its primary customers into two categories: small primary (customers using 5,000 kilowatt-hours (kWh) or less per month who were to be assessed \$2.99 per meter per month) and large primary (those using greater than 5,000 kWh per month who were to be assessed \$422.23 per meter per month). In its testimony on rehearing, Consumers proposed offsetting the surcharge reductions approved in the June 26 order by increases in the EO surcharges for two categories of primary customers.<sup>2</sup> For those primary customers using above 50,000 kWh per month, Consumers proposed to increase the surcharges from \$422.23 to \$529.08,

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<sup>1</sup>Consumers initially requested modifications to the REP surcharges; however, the company withdrew its request to modify the REP surcharges on October 26, 2009. The other parties also withdrew their testimony on REP surcharge modifications.

<sup>2</sup>In the June 26 order, the Commission approved an increase in the number of usage categories, from two to five, with reduced per meter charges for each category except for customers using over 50,000 kWh per month.

resulting in increases for this customer group of between 0.2% and 1.6% above the currently approved surcharge levels. For self-directed primary customers above 50,000 kWh per month, Consumers proposed to increase the surcharge from \$22.49 to \$28.18, resulting in increases for this customer group of not more than 0.1% above the current approved surcharge levels. *See* Exhibit A-48.

Consumers notes that the EO surcharge increases requested for EO electric primary customers averaging above 50,000 kWh per month were designed in conjunction with the surcharge reduction for customers using greater than 5,000 kWh per month but less than 50,000 kWh per month which the Commission approved on June 26, 2009. Consumers adds that the EO surcharge increase for the primary customers using more than 50,000 kWh per month, combined with the EO surcharge decreases for the smaller electric primary customer subclasses, is revenue neutral within this primary customer class. Consumers adds that after the increase, the surcharges still fall below the statutory cap contained in Section 89(3) of 2008 PA 295 (Act 295).

Consumers also proposed bill adjustments for those customers who paid the higher surcharge in the June billing month before the monthly surcharge reduction was approved by the Commission in the June 26 order. Consumers states that upon authorization from the Commission, the company will issue bill credits for the amount of the June surcharge billings of those active customers averaging between 5,000 kWh and 50,000 kWh in excess of the approved modified surcharge.<sup>3</sup>

The Staff supported Consumers' proposal to adjust the EO surcharges for certain primary customers. The Staff also recommended that the Commission authorize Consumers to issue

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<sup>3</sup>Consumers had also requested authority to collect the difference between the June surcharge and the proposed increased surcharge for customers averaging over 50,000 kWh per month, for all months in which they paid the lower surcharge. Consumers withdrew this request in its brief.

billing credits for those primary customers who paid a higher surcharge in the June billing month, before the surcharge reduction was approved for these customers in the June 26 order.

ABATE argues that Consumers' proposed increases mean that any primary customer using 50,001 or more kWh per month will have its surcharge increased by \$106.85 per meter per month while a customer with usage of 49,999 kWh per month will see a decrease of \$308.72 per meter per month. According to ABATE, "The structure proposed is inherently unfair and should be rejected." ABATE's brief, p. 3. ABATE adds that for some large industrial customers with several locations and meters, the additional surcharge will be a significant additional cost of doing business in Michigan.

#### Findings of Fact and Conclusions of Law

The Commission finds that Consumers' proposed adjustments to EO surcharges for primary customers and for self-directed primary customers using above 50,000 kWh per month are reasonable and should be approved. The concerns raised by ABATE are not completely unfounded in the sense that some of the break points in the usage amounts appear inequitable; however, Section 89 of 2008 PA 295, MCL 460.1089(2), requires that EO plan costs "shall be recovered . . . from residential electric customers by volumetric charges, from all other metered electric customers by per-meter charges, and from unmetered electric customers by an appropriate charge, applied to utility bills as an itemized charge." Thus, the Commission is constrained by the requirement that EOP costs be collected from all customers and the mandate that these costs be collected through a per-meter charge, rather than a volumetric charge, for primary customers. The Commission adds that the surcharge increase approved here does not exceed the cap set forth in Section 89(3) of Act 295.

THEREFORE, IT IS ORDERED that:

A. The energy optimization plan surcharge revisions proposed by Consumers Energy Company are approved effective for bills rendered on and after the January billing month.

B. Consumers Energy Company is authorized to issue bill credits for the amount of the June 2009 surcharge billings of those active customers averaging between 5,000 kWh and 50,000 kWh in excess of the approved modified surcharge.

C. Within 30 days of the date of this order, Consumers Energy Company shall submit a tariff sheet substantially similar to that attached to this order as Exhibit A.

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, under MCL 462.26.

MICHIGAN PUBLIC SERVICE COMMISSION

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Orjiakor N. Isiogu, Chairman

By its action of December 16, 2009.

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Monica Martinez, Commissioner

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Mary Jo Kunkle, Executive Secretary

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Steven A. Transeth, Commissioner

**SURCHARGES**

<b>Rate Schedule</b>	<b>Renewable Energy Plan Surcharge (Case No. U-15805) Effective for September</b>	<b>Energy Optimization Electric Program Surcharge (Case No. U-15805) Effective for June</b>	<b>Energy Optimization Self- Directed Customer Surcharge (Case No. U-15805) Effective for June<sup>(2)</sup></b>
	<b><u>2009 Bill Month</u></b>	<b><u>2009 Bill Month</u></b>	<b><u>2009 Bill Month</u></b>
	Residential Rates (1)	\$ 2.50/billing meter	\$0.001430/kWh
Rate GS and GSD			
Tier 1: 0 – 1,250 kWh/mo.			
Commercial	\$ 3.70/billing meter	\$ 0.96/billing meter	\$ 0.05/billing meter
Industrial	\$ 4.00/billing meter	\$ 0.96/billing meter	\$ 0.05/billing meter
Tier 2: 1,251 – 5,000 kWh/mo.			
Commercial	\$ 14.00/billing meter	\$ 5.38/billing meter	\$ 0.29/billing meter
Industrial	\$ 15.00/billing meter	\$ 5.38/billing meter	\$ 0.29/billing meter
Tier 3: 5,001 – 30,000 kWh/mo.			
Commercial	\$ 16.58/billing meter	\$ 32.27/billing meter	\$ 1.72/billing meter
Industrial	\$140.00/billing meter	\$ 32.27/billing meter	\$ 1.72/billing meter
Tier 4: 30,001 – 50,000 kWh/mo.			
Commercial	\$ 16.58/billing meter	\$ 32.27/billing meter	\$ 1.72/billing meter
Industrial	\$140.00/billing meter	\$ 32.27/billing meter	\$ 1.72/billing meter
Tier 5: > 50,000 kWh/mo.			
Commercial	\$ 16.58/billing meter	\$ 32.27/billing meter	\$ 1.72/billing meter
Industrial	\$140.00/billing meter	\$ 32.27/billing meter	\$ 1.72/billing meter
Rate GP and GPD			
Tier 1: 0 – 5,000 kWh/mo.	\$ 15.00/billing meter	\$ 2.99/billing meter	\$ 0.16/billing meter
Tier 2: 5,001 – 10,000 kWh/mo.	\$187.50/billing meter	\$ 22.84/billing meter	\$ 1.21/billing meter
Tier 3: 10,001 – 30,000 kWh/mo.	\$187.50/billing meter	\$ 57.04/billing meter	\$ 3.04/billing meter
Tier 4: 30,001 – 50,000 kWh/mo.	\$187.50/billing meter	\$113.51/billing meter	\$ 6.05/billing meter
Tier 5: > 50,000 kWh/mo.	\$187.50/billing meter	<u>\$529.08</u> /billing meter	<u>\$28.18</u> /billing meter
Rate E-1	NA	NA	NA
Rate GSG-1, GSG-2	NA	NA	NA
Rate GML			
Tier 1: 0 – 1,250 kWh/mo.	\$ 3.00/billing meter	NA	NA
Tier 2: 1,251 – 5,000 kWh/mo.	\$ 9.00/billing meter	NA	NA
Tier 3: >5,000 kWh/mo.	\$ 15.00/billing meter	NA	NA
Rate GUL	\$ 0.64/luminaire	NA	NA
Rate GU			
Tier 1: 0 – 1,250 kWh/mo.	\$ 1.00/billed account	NA	NA
Tier 2: 1,251 – 5,000 kWh/mo.	\$ 7.00/billed account	NA	NA
Tier 3: >5,000 kWh/mo.	\$ 13.00/billed account	NA	NA
Rate PA	NA	NA	NA
Rate ROA-R, ROA-S, ROA-P	NA	As in Delivery Rate Schedule	As in Delivery Rate Schedule

All Surcharges shall be applied on a monthly basis. The customer's consumption will be reviewed annually in the January bill month. Following the annual review, the customer may be subsequently moved to the Surcharge level for their applicable rate for the next billing period based on the customer's average consumption for the previous year. In situations where no historical consumption is available, the monthly Surcharge level will be based on the lowest consumption category for the secondary rate schedules or the lowest consumption category for primary rate schedules. No retroactive adjustment will be made due to the application of the REP or EO Surcharges associated with increases or decreases in consumption.

(1) Customers taking the Municipal Pumping Service Provision shall be excluded from the Renewable Energy Plan Surcharge.

(2) An eligible customer who files and implements a self-directed plan in compliance with Rule C12 is required to pay the Energy Optimization Self-Directed Program Surcharge.

Issued by  
**J. G. Russell,**  
President and Chief Operating Officer,  
Jackson, Michigan

Effective for bills rendered on  
and after  
  
Issued under authority of the  
Michigan Public Service Commission  
dated  
in Case No. U-15805