

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the filing by	)	
<b>CONSUMERS ENERGY COMPANY</b>	)	
of the experimental gas customer choice	)	Case No. U-12034
earnings sharing mechanism calculations	)	
for the 1998-1999 plan year.	)	
_____	)	

At the May 3, 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 December 19, 1997, the Commission issued an order in Case No. U-11599 approving an expanded gas customer choice program for Consumers Energy Company (Consumers). Part of that program was an earnings sharing mechanism, which provides for refunds if the utility's earnings exceed certain levels. Among other things, the order stated:

Consumers also proposes to file an exhibit similar to Attachment F to its application, along with any necessary workpapers supporting its calculation, not later than July 1 of 1999, 2000, and 2001, respectively, identifying the amount, if any, to be refunded to customers under the revenue sharing mechanism. It proposes that parties be given 30 days to request a hearing regarding the calculations and that the scope of any hearing be limited to the filing's accuracy and conformance to Attachment F.

December 19, 1997 order, Case No. U-11599, pp. 6-7.

In accordance with that order, Consumers filed its Attachment F calculation in this docket on July 1, 1999 with an affidavit and workpapers. The calculation shows that, for the program year ended March 31, 1999, a refund is not required.

On July 29, 1999, the Commission Staff (Staff) filed comments. It says that it reviewed the filing and disagrees with certain aspects, but acknowledges that even if its position were adopted, the result would be earnings below the threshold for a refund. It therefore did not request a hearing.

On July 29, 1999, the Residential Ratepayer Consortium filed a request for a hearing, stating that the filing does not contain sufficient detail to confirm its accuracy and that the RRC would use the hearing to audit the accuracy of the filing and its conformance to Attachment F. On July 30, 1999, Attorney General Jennifer M. Granholm filed a request for a hearing.

On August 11, 1999, Consumers filed a response stating that the Commission approved its application in Case No. U-11599, which had proposed that the scope of the hearing, if granted, would be limited to the accuracy of the filing and its conformance to Attachment F. It notes that it could have proposed that a hearing be required for every Attachment F filing, but did not, and that the Commission could have required a hearing on every filing, but did not. Further, it says that the Attachment F calculation was designed to be, and is, simple and straightforward. It says that neither the Attorney General nor the RRC has alleged that any issue exists about the accuracy of the calculation. It says that it would be a waste to conduct a hearing simply for the sake of holding a hearing.

The Commission intended that a hearing would be held if one were requested within 30 days. However, the Commission also intended that the hearing would be limited in scope and the parties requesting the hearing would have the burden of demonstrating that the company's calculations

and filing are inconsistent with the methodology approved by the Commission. Therefore, a hearing will be held, limited in scope to the accuracy and conformance to Attachment F of the calculations contained in Consumers' filing, as well as insuring that the starting points are appropriate (for instance, that the gas net operating income was correctly stated and that the calculations are consistent with the earnings calculated in a traditional rate case). Parties intending to raise issues at the hearing shall make a filing ten days prior to the hearing that fully explains the issue or issues that will be raised at the hearing and how they would affect the calculations in Consumers' filing. The Administrative Law Judge assigned to the case should ensure that the record strictly conforms to the limited scope of the proceeding outlined in this order.

The Commission FINDS that:

- a. Jurisdiction is pursuant to 1909 PA 300, as amended, MCL 462.2 et seq.; MSA 22.21 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 AACCS, R 460.17101 et seq.
- b. The requests for a hearing are granted.

THEREFORE, IT IS ORDERED that a hearing shall be held on the Attachment F calculations filed by Consumers Energy Company.

The Commission reserves jurisdiction and may issue further orders as necessary.

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 May 3, 2000.

/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 May 3, 2000 requiring a hearing on Consumers Energy Company’s calculation of shareable earnings under its gas customer choice program, as set forth in the order.”