



A CMS Energy Company

General Offices:
One Energy Plaza
Jackson, MI 49201
Tel: (517) 788-0550
Fax: (517) 768-3644
*Washington Office:
1730 Rhode Island Ave. N.W.
Suite 1007
Washington, DC 20036
Tel: (202) 778-3340
Fax: (202) 778-3355
Writer's Direct Dial Number: (517) 788-1661
Writer's E-mail Address: james.roush@cmsenergy.com

LEGAL DEPARTMENT
CATHERINE M REYNOLDS
Senior Vice President
and General Counsel
MELISSA M GLEESPEN
Vice President and
Corporate Secretary
H Richard Chambers
Eric V Luoma
Shelley J Ruckman
Kimberly C Wilson
Assistant General
Counsel
Ashley L Bancroft
Robert W Beach
Don A D'Amato
Gary A Gensch, Jr.
Kelly M Hall
Gary L Kelterborn
Chantez P Knowles
Mary Jo Lawrie
Jason M Milstone
Rhonda M Morris
Deborah A Moss*
Mirce Michael Nestor
Jeffrey D Pintar
James D W Roush
Scott J Sinkwitz
Adam C Smith
Janee M Thayer
Bret A Totoraitis
Anne M Uitvlugt
Attorney

March 15, 2016

Honorable Kimberly D. Bose,
Secretary
Federal Energy Regulatory Commission
Dockets Room, Room 1A
888 First Street, N.E.
Washington, DC 20426

RE: Consumers Energy Company, Docket No. ER16-_____
Informational Filing of Attachment O Formula Rate

Dear Secretary Bose,

Pursuant to the Federal Energy Regulatory Commission's ("Commission") Orders in Docket Nos. EL12-35 and ER13-2379¹ and the Formula Rate Protocols² ("Protocols") in Attachment O of the Midcontinent Independent System Operator, Inc.'s ("MISO") Open Access Transmission, Energy and Operating Reserve Markets Tariff ("Tariff"), Consumers Energy Company ("Consumers Energy") submits this informational filing ("Informational Filing") regarding Consumers Energy's potential future transmission revenue requirement under Attachment O. For reasons discussed below, Consumers Energy is not currently collecting any of this revenue requirement because it, as of this filing, owns no assets currently classified as transmission. As such, it is unclear whether this Informational Filing is required under the

¹ *Midwest Indep. Transmission Sys. Operator, Inc.*, 139 FERC ¶ 61,127 (2012), *order on investigation*, 143 FERC ¶ 61,149 (2013); and *Midwest Indep. Transmission Sys. Operator, Inc.*, 146 FERC ¶ 61,212 (2014), *reh'g denied*, 150 FERC ¶ 61,024 (2015) (collectively, "Formula Rate Orders").

² The Protocols are at <https://www.misoenergy.org/Library/Tariff/Pages/Tariff.aspx>.

Formula Rate Orders or the Protocols. That said, in the interests of good faith transparency, Consumers Energy makes this filing.

I. Background

The Protocols require each Transmission Owner to make an “Annual Update” to its transmission revenue requirement by June 1 of each year, and to provide this update to MISO.³ The updated revenue requirement applies to transmission services provided from June 1 through May 31 of the subsequent year (“Rate Year”).⁴ The Transmission Owner then holds an “Open Meeting” by September 1 of the Rate Year.⁵ Interested stakeholders may then serve reasonable information and document requests on the Transmission Owner until December 1 of the Rate Year.⁶ If a stakeholder believes that Transmission Owner applied the formula rate incorrectly, it may serve an “Informal Challenge” by January 31 of the Rate Year.⁷ The Transmission Owner must respond to the Informal Challenge no later than February 28 of the Rate Year.⁸ Next, the Transmission Owner files its Informational Filing with the Commission by March 15.⁹ Finally, a stakeholder may serve a “Formal Challenge” by April 15 of the Rate Year.¹⁰ This cycle begins again when the Transmission Owner develops a new Annual Update for the next Rate Year.

The Protocols do not expressly address whether, or how, a new Transmission Owner that begins providing transmission service in the middle of a Rate Year must comply with this

³ See generally Protocols at II.

⁴ Protocols at II(A).

⁵ Protocols at II(E).

⁶ Protocols at III(A).

⁷ Protocols at IV(A).

⁸ Protocols at IV(B).

⁹ Protocols at VI(A).

¹⁰ Protocols at IV(G). Formal Challenges “shall be filed in the same docket as the Transmission Owner’s Informational Filing” and the Transmission Owner “shall respond to the Formal Challenge by the deadline established by FERC.” *Id.*

process. That said, the Commission addressed this issue in general terms in Docket No. EL15-35-002:

“However, while we note that neither the formula rate protocols nor our prior orders in these proceedings specifically address how the protocols will be applied to initial rates established under the MISO formula rate process (e.g., for a transmission owner newly joining MISO or an existing transmission owner proposing to switch from a historical to forward-looking formula rate), we expect that all formula rate updates, including initial rates calculated by a transmission owner under Attachment O of the Tariff after January 1, 2014, will be subject to review and challenge procedures consistent with our determinations in these proceedings.”¹¹

Consumers Energy, as of this Informational Filing, does not own any assets classified as transmission and thus is not collecting any revenue for transmission service. In 2002, Consumers Energy sold its facilities classified as transmission and therefore was not a Transmission Owner at MISO. Recently, Consumers Energy received an order (“Reclassification Order”) from the Commission reclassifying a small set of distribution assets to transmission under Order No. 888’s Seven Factor Test.¹² After receiving the Reclassification Order, Consumers Energy subsequently applied to join MISO as a Transmission Owner, which the MISO Board of Directors approved on August 27, 2015.

The Commission set the effective date of the Reclassification Order as the “first day of the next quarter after the Commission issues an order to approve the amended Schedule Nos. 7, 8, and 9 and Consumers’ entry into the Michigan Joint Zone.”¹³ In practice, this language requires the Commission to approve two filings before the effective date is established: (a)

¹¹ *Mid. Ind. Sys. Oper., Inc.*, 150 FERC ¶ 61,024 at P 16 (2015).

¹² *See generally Consumers Energy Company*, 151 FERC ¶ 61,033 (2015).

¹³ *Id.* at Ordering Paragraph C.

amendments to MISO Tariff Schedules Nos. 7, 8, and 9, and (b) amendments to the two agreements (“Joint Zone Agreements”) governing the Michigan Joint Zone.¹⁴

The Commission approved the necessary amendments to Schedules Nos. 7, 8, and 9 in a delegated letter order on September 21, 2015 in Docket No. ER15-1877.¹⁵ In addition, MISO also recently filed the necessary amendments to the Joint Zone Agreements in Docket No. ER16-844. MISO requested that the Commission issue an order approving these amendments by March 31, 2016 so that the Reclassification Order would be effective on April 1, 2016.¹⁶ This request is still pending at the Commission.

As such, the earliest that the Reclassification Order could be effective is April 1, 2016. Correspondingly, Consumers Energy does not, as of this Informational Filing, own any facilities classified as transmission and is not collecting any of its transmission revenue requirement.

Because Consumers Energy is not currently collecting any revenue under Attachment O, it is unclear whether this Informational Filing is required. That said, because it is possible that Consumers Energy may collect transmission revenue during the current Rate Year, Consumers Energy has acted in good faith regarding the review process in the Protocols during the past Rate Year. Specifically, Consumers Energy has, among other things, done the following:

1. Provided its formula rate calculation (“Rate Calculation”) to MISO for review;
2. Requested that MISO post Consumers Energy’s Rate Calculation, and the associated workpapers, on Consumers Energy’s OASIS webpage, which MISO did;
3. Requested that MISO post discovery questions from Michigan Electric Transmission Company, LLC (“METC”) on Consumers Energy’s OASIS webpage, which MISO did;
4. Requested that MISO post Consumers Energy’s timely answers to METC’s discovery questions on Consumers Energy’s OASIS webpage, which MISO did; and

¹⁴ These two agreements are the Second Revised Michigan Joint Zone Revenue Allocation Agreement and the Second Amended and Restated Settlement Agreement.

¹⁵ *Mid. Ind. Sys. Op., Inc.*, Docket No. ER15-1877, Letter Order (September 21, 2015).

¹⁶ If the Commission issues this order after March 31, 2016, then the Reclassification Order will not be effective until July 1, 2016. In this situation, Consumers Energy will not collect any transmission revenue during the current Rate Year (i.e., June 1, 2015 to May 31, 2016) and this Informational Filing will be moot.

5. Timely responded on February 26, 2016 to METC's Informal Challenge dated February 1, 2016, and requested that MISO post both documents on Consumers Energy's OASIS webpage.¹⁷

In similar good faith, Consumers Energy now submits this Informational Filing.

II. Description of the Formula Rate Calculation and Supporting Workpapers

This Informational Filing contains Consumers Energy's application of the formula rate in Attachment O that will apply upon the effective date of the Reclassification Order.¹⁸ The expected transmission revenue requirement is based on historical cost data for calendar year 2014 as reported in Consumers Energy's 2014 FERC Form No. 1, as supplemented with proxy FERC Form No. 1 pages pursuant to the Reclassification Order and discussed below in more detail. If the Commission approves the amendments to the Joint Zone Agreements in Docket No. ER16-844 by March 31, 2016, then the revenue requirement reflected in this Informational Filing will be in effect only from April 1, 2016 to May 31, 2016 – i.e., two months.¹⁹

The Protocols require the following in an Informational Filing:

“This Informational Filing must include the information that is reasonably necessary to determine: (1) that input data under the formula rate are properly recorded in any underlying workpapers; (2) that the Transmission Owner has properly applied the formula rate and these procedures; (3) the accuracy of data and the consistency with the formula rate of the Actual Transmission Revenue Requirement and rates under review; and (4) the extent of accounting changes that affect formula rate inputs. The Informational Filing must also describe any corrections or adjustments made during that period, and must describe all aspects of the formula rate or its inputs that are the subject of an ongoing dispute under the Informal or Formal Challenge procedures.”²⁰

¹⁷ In accordance with the Protocols, all of these documents, as well as the Rate Calculation's supporting workpapers, are available on Consumers Energy's OASIS page: <http://www.oasis.oati.com/CETO/index.html>.

¹⁸ Unlike certain other Transmission Owners, who have filed to modify the template Attachment O formula rate, Consumers Energy used the template Attachment O formula rate without modification.

¹⁹ Consumers Energy will, consistent with the Protocols, update its transmission revenue requirement based on 2015 data by June 1, 2016.

²⁰ Protocols at § VI(A).

In compliance with these requirements, Consumers Energy attaches the following documents in support:

1. **Exhibit A** - Attachment O formula rate calculation (native Excel file);
2. **Exhibit B** - Workpaper No. 1 (native Excel file);
3. **Exhibit C** - Workpaper No. 2;
4. **Exhibit D** - Proxy 2014 FERC Form No. 1 pages;
5. **Exhibit E** - Email dated July 24, 2015 from MISO approving of Consumers Energy's Rate Calculation;
6. **Exhibit F** – METC's Informal Challenge; and
7. **Exhibit G** – Consumers Energy's Response to METC's Informal Challenge.

Consistent with the template formula rate in Attachment O, the majority of the inputs into the Rate Calculation come from Consumers Energy's 2014 FERC Form No. 1. The only exception is the use of the proxy 2014 FERC Form No. 1 pages created pursuant to the Reclassification Order. The Commission approved, in the Reclassification Order, the use of proxy FERC Form No. 1 data for purposes of calculating Consumers Energy's revenue requirement under Attachment O.²¹

Consumers Energy requested permission to use proxy data because the MISO Tariff required a full calendar year of historical transmission data on its FERC Form No. 1 to populate the formula rate template. Because the assets to be reclassified will be accounted for as distribution until the effective date of the Reclassification Order, Consumers Energy does not have such data.²² The Commission granted Consumers Energy's request to use proxy data, stating that Consumers Energy could use "proxy FERC Form No. 1 data until the necessary historical data to populate Attachment O is available."²³ As the Reclassification Order is not yet effective, Consumers Energy has not accounted for its to-be-reclassified assets as transmission

²¹ *Id.* at PP 17, 19 and Ordering Paragraph B.

²² See generally Consumers Energy's Application filed in Docket No. ER15-910 at 14-16 for a discussion of the reasons why Consumers Energy requested to use proxy FERC Form No. 1 data.

²³ Reclassification Order at P 17.

for a full calendar year. As such, Consumers Energy is using proxy FERC Form No. 1 data to calculate its transmission revenue requirement reflected in this Informational Filing. This proxy data is identified on the pages attached to this Informational Filing as **Exhibit D**, and are pages 206-207, 219, 227, 321-322, 336, 354, and 450.1.²⁴

In addition to using proxy pages, Consumers Energy used two workpapers to support the Rate Calculation. Workpaper No. 1 describes an adjustment made FERC Form No. 1 data reflected on page 2, line 28 of the Rate Calculation. This line lists certain prepayments reflected in Uniform System of Account No. 165. Consistent with guidance from Commission Staff, Consumers Energy has excluded prepaid taxes from the prepayments reflected on page 2, line 28 of the Rate Calculation.²⁵ Workpaper No. 1 reflects this exclusion by subtracting prepaid taxes on page 263 of Consumers Energy's 2014 FERC Form No. 1 from the prepayments on page 111.

Workpaper No. 2, which is proxy page 450.1, shows the portion of the data on proxy page 227, line 9, associated with the assets to-be-reclassified under the Reclassification Order. Proxy page 227, line 9, shows materials and supplies associated with Consumers Energy's distribution plant before the effective date of the Reclassification Order. A portion of these values is for the assets to be reclassified in the Reclassification Order. To show this portion, Consumers Energy developed Workpaper No. 2 to show the materials and supplies associated with the to-be-reclassified assets. Instead of using all of the data on proxy page 227, line 8, on page 2, line 27, of the Rate Calculation, Consumers Energy only used the much smaller amount

²⁴ The proxy data in these proxy pages has been highlighted in **Exhibit D**. Proxy page 322 is not used in the Rate Calculation, and is provided because it shows the distribution accounts on that page which are different because of changes to the transmission accounts on page 321. Also, note that while page 206 itself has no proxy data, it is provided to provide context for the data on proxy page 207. Finally, note that proxy page 450.1 is not in **Exhibit D** because it is Workpaper No. 2, which is **Exhibit C**.

²⁵ Prior to Consumers Energy's reclassification filing, Consumers Energy had a conference call with Commission Staff on January 16, 2015 to discuss the upcoming filing. As part of this meeting, Commission Staff suggested that Consumers Energy should exclude prepaid taxes from its prepayments reflected in the Rate Calculation.

shown on Workpaper No. 2 because that is what is associated with Consumers Energy's to-be-reclassified assets.

Consumers Energy notes that METC served an Informal Challenge on Consumers Energy's Rate Calculation on February 1, 2016.²⁶ As background, METC owns transmission facilities on Consumers Energy's real property pursuant to an Amended and Restated Easement Agreement ("Easement Agreement"). In exchange for the rights granted to METC in the Easement Agreement, METC pays Consumers Energy approximately \$10 million per year.

METC in this Informal Challenge asserted that "property that contains transmission facilities whether owned by CE or by a third party and similarly rental payments received by CE for property used for Transmission Facilities should be credited through Attachment O."²⁷ METC also asserted that "CE should credit METC's annual rental payments received under the Amended and Restated Easement Agreement to reduce the revenue requirement calculated under CE's Attachment O as those payments are received for use of property that contains Transmission Facilities."²⁸ METC's basis for this assertion is Note R of the Rate Calculation, which states that a credit should be provided on page 4, line 34, of the Rate Calculation for "income related only to transmission facilities, such as pole attachments, rentals and special use."

Consumers Energy responded on February 26, 2016, declining to adopt METC's requested remedies for two reasons.²⁹ First, METC's challenge is premature, and METC lacks standing, because Consumers Energy is not yet collecting any transmission revenue under Attachment O (i.e., no rate is in effect for METC to challenge).³⁰ Second, even if Consumers Energy begins collecting revenue under Attachment O in the current Rate Year, METC's

²⁶ **Exhibit F** is METC's Informal Challenge.

²⁷ **Exhibit F** at 2.

²⁸ *Id.*

²⁹ **Exhibit G** is Consumers Energy's response to METC's Informal Challenge.

³⁰ **Exhibit G** at 1-2.

interpretation of Note R is faulty.³¹ The fundamental purpose of the formula rate in Attachment O is to calculate a revenue requirement for a Transmission Owner's transmission facilities; it is not to calculate a revenue requirement for, or provide a credit for, facilities that have no reasonable nexus to the Transmission Owner's transmission facilities. METC's easement rights, and the associated income, have no such nexus because they are not related to Consumers Energy's transmission facilities. METC's payment does not, for example, allow METC to attach facilities to Consumers Energy's to-be-reclassified transmission poles. In addition, the land covered by the Easement Agreement is used by Consumers Energy for distribution purposes. Given its rejection, Consumers Energy made no changes to the Rate Calculation based on METC's Informal Challenge.

In addition, Consumers Energy is not aware of any accounting changes that affect these rates. In addition, Consumers Energy notes that it, while putting together this Informational Filing, discovered one minor error in its calculation that changes the net revenue requirement on page 1, line 7, of the Rate Calculation by \$27 (i.e., from \$9,163,880 to \$9,163,853). Page 2, line 27, of the Rate Calculation incorrectly uses the January 1, 2014 proxy data shown on Workpaper No. 2 (i.e., \$5,387) instead of the correct December 31, 2014 proxy data (i.e., \$5,167).³² Consumers Energy has corrected this inadvertent error in the Rate Calculation attached as **Exhibit A**. Besides this limited correction, the Rate Calculation contains accurate data to the best of Consumers Energy's knowledge.

³¹ **Exhibit G** at 2-3.

³² Workpaper No. 2 describes the January 1, 2014 data as "for 2013" because that value at the end of 2013 and the beginning of 2014 are the same.

V. Communications

Communications regarding this filing are to be sent to:

Steven L. Gaarde
Executive Director Transmission and Regulatory Strategies
Consumers Energy Company
1945 Parnall Road
Jackson, Michigan 49201
Phone: (517) 788-1096
Fax: (517) 788-5882
steven.gaarde@cmsenergy.com

James D. W. Roush
Attorney III
Consumers Energy Company
One Energy Plaza
Jackson, Michigan 49201
Phone: (517) 788-1661
Fax: (517) 768-3644
james.roush@cmsenergy.com

VI. Notice

Pursuant to the Protocols, Consumers Energy will notify MISO of this filing and provide the docket number for posting on the MISO website and OASIS, as well as notification via MISO's email exploder list within five days.³³

VII. Conclusion

Please contact the undersigned if you have any questions regarding this Informational Filing.

Respectfully submitted,

CONSUMERS ENERGY COMPANY

By

James D. W. Roush Attorney III
Consumers Energy Company
One Energy Plaza
Jackson, Michigan 49201
(517) 788-1661
james.roush@cmsenergy.com

cc: Michael Gard, MISO (MGard@misoenergy.org) (email only)
Heidi Roy, MISO (hroy@misoenergy.org) (email only)
Steven Gaarde, Consumers Energy (email only)
Kevin Van Oirschot, Consumers Energy (email only)
Daniel Alfred, Consumers Energy (email only)
James Anderson, Consumers Energy (email only)
Bruce Bugbee, Consumers Energy (email only)
Donald Lynd, Consumers Energy (email only)

³³ Protocols at § VI(A).