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**CONSUMERS ENERGY COMPANY'S RESPONSE TO MICHIGAN ELECTRIC  
TRANSMISSION COMPANY, LLC'S INFORMAL CHALLENGE TO CONSUMERS  
ENERGY COMPANY'S ATTACHMENT O CALCULATION**

Consumers Energy Company ("Consumers Energy") disagrees with Michigan Electric Transmission Company, LLC's ("METC") Informal Challenge ("Challenge") dated February 1, 2016. This Challenge questions Consumers Energy's calculation of its transmission revenue requirement under the Midcontinent Independent System Operator, Inc.'s ("MISO") Attachment O. Consumers Energy disagrees for two primary reasons: (a) METC's Challenge is premature and without standing, and (b) METC's interpretation of Note R of Attachment O is without merit. Consumers Energy denies both of METC's requested remedies.

*A. METC's Challenge Is Premature And METC Lacks Standing*

METC's Challenge is premature and METC lacks standing to assert the Challenge. METC's Challenge asserts that Consumers Energy has not calculated its transmission revenue requirement correctly. METC overlooks, however, that Consumers Energy has not yet even begun collecting any of this revenue requirement.

As METC is aware, Consumers Energy in 2015 applied to the Federal Energy Regulatory Commission ("FERC" or "Commission"), under Order No. 888's Seven Factor Test, to reclassify a small set of facilities from local distribution to transmission.<sup>1</sup> The Commission granted Consumers Energy's request, but conditioned the effective date of the reclassification on its approval of two filings by Consumers Energy and/or MISO: (a) certain amendments to MISO Schedules Nos. 7, 8, and 9, and (b) certain amendments to two agreements governing the Michigan Joint Zone, the MISO pricing zone in which Consumers Energy is located.<sup>2</sup> While the Commission has approved the amendments to MISO Schedules Nos. 7, 8, and 9,<sup>3</sup> it has not yet approved amendments filed in Docket No. ER16-844 to two agreements governing the Michigan Joint Zone. As such, the reclassification is not yet effective and all of the facilities to be reclassified are still classified as "State-jurisdictional local distribution" under the Commission's order in Docket No. EL98-21.

Given this fact, Consumers Energy owns no facilities classified as transmission and has collected none of its transmission revenue requirement. No rate is in effect for METC to challenge. Further, the Formula Rate Protocols in Attachment O do not permit challenges to future transmission rates; it only permits challenges to rates already in effect. METC's Challenge

<sup>1</sup> See generally *Consumers Energy Company*, Docket No. ER15-910.

<sup>2</sup> *Consumers Energy Company*, 151 FERC ¶ 61,033 at Ordering Paragraph C (2015).

<sup>3</sup> See generally *Mid. Ind. Sys. Op., Inc.*, Letter Order, Docket No. ER15-1877 (2015).

is therefore premature. For the same reasons, METC lacks standing to assert the Challenge; METC has not yet been harmed.

The very earliest that Consumers Energy may, in the future, begin collecting any of its transmission revenue requirement is April 1, 2016. But even this date is speculative because it is subject to the Commission issuing an order before that date approving the amendments to the two agreements governing the Michigan Joint Zone.<sup>4</sup>

As such, METC's Challenge is premature and METC lacks standing; Consumers Energy has not yet begun collecting any of its transmission revenue requirements and therefore no rate is being charged to challenge.

*B. METC's Interpretation Of Note R Is Faulty*

Even if Consumers Energy was collecting any rates under Attachment O, METC's Challenge relies on a faulty interpretation of Note R<sup>5</sup> of the Attachment O formula rate.

The fundamental purpose of the formula rate in Attachment O is to calculate a revenue requirement to recover the cost of a company's transmission facilities. Attachment O's purpose is not to calculate a revenue requirement for facilities that have no reasonable nexus to the company's transmission facilities for which it seeks to recover its costs.

Note R relates to a revenue credit for income that, if present, has the effect of reducing the transmission revenue requirement for transmission facilities for which recovery is sought. Note R states that it "Includes income related only to transmission facilities, such as pole attachments, rentals and special use." Given Attachment O's fundamental purpose, Note R only applies to income related to use of Consumers Energy's future transmission facilities – i.e., the facilities for which it sought reclassification. For example, if a telecommunications company attaches its equipment to a Consumers Energy's transmission pole, and paid for this right, then a credit would be appropriate under Note R. In fact, Consumers Energy's Attachment O calculation will, when it goes into effect, include a credit of \$748 for existing pole attachments to the facilities to be reclassified.

Note R does not, however, require a credit for facilities that have no reasonable nexus with Consumers Energy's future transmission facilities. The income received by Consumers Energy from METC under the Amended and Restated Easement Agreement ("Easement Agreement") has no such nexus. That payment does not, for example, allow METC to attach its transmission facilities to Consumers Energy's poles to be reclassified.

Further, the land covered by the Easement Agreement (which is known as the "Premises" in the Easement Agreement) is used by Consumers Energy for distribution purposes (e.g., for Consumers Energy's 46 kV network). Consumers Energy has therefore properly accounted for

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<sup>4</sup> Even if the Commission does issue an order before April 1, 2016, the Challenge could only apply, under the Attachment O Formula Rate Protocols, to rates collected between April 1, 2016 and May 31, 2016 – i.e., two months. After that point, Consumers Energy is required under the Attachment O Formula Rate Protocols to submit a new calculation of its transmission revenue requirement to MISO. If METC wishes to challenge the rates in place for the Rate Year of June 1, 2016 to May 31, 2017 – assuming such rates are collected during that Rate Year – it will have to wait until January 2017 to submit an Informal Challenge.

<sup>5</sup> Note R is on page 4 of 5, line 34, of the FERC Form 1 Generic Rate Formula Template, which is the rate formula used by Consumers Energy. Line 34 states: "ACCOUNT 454 (RENT FROM ELECTRIC PROPERTY) (NOTE R)."

the costs associated with the Premises, and METC's payment under the Easement Agreement, in distribution accounts.

As such, Consumers Energy denies both of METC's requested remedies as premature and without merit. If METC would like to discuss this matter, Consumers Energy appoints Steven L. Gaarde as its senior representative in accordance with Section IV (B) of the Attachment O Formula Rate Protocols.

Sincerely,



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