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June 7, 2019

Ms. Barbara Kunkel  
Acting Executive Secretary  
Michigan Public Service Commission  
7109 W. Saginaw Hwy.  
Lansing, MI 48917

RE: MPSC Docket No. U-20322

Dear Ms. Kunkel:

Attached herewith for filing, please find the *Initial Brief of Retail Energy Supply Association* and Certificate of Service.

If you have any questions, please feel free to contact my office. Thank you.

Very truly yours,

Fraser Trebilcock Davis & Dunlap, P.C.



Jennifer Utter Heston

JUH/ab  
Enclosures  
cc: All counsel of record

Jennifer  
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Heston

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STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the application of )  
CONSUMERS ENERGY COMPANY for )  
authority to increase its rates for the )  
distribution of natural gas and for other )  
relief )  
\_\_\_\_\_ )

Case No. U-20322

INITIAL BRIEF OF  
RETAIL ENERGY SUPPLY ASSOCIATION

NOW COMES the Retail Energy Supply Association (“RESA”)<sup>1</sup>, by and through its attorneys, Fraser Trebilcock Davis & Dunlap, P.C., and pursuant to the schedule adopted by Administrative Law Judge Jonathan F. Thoits (“ALJ”), hereby respectfully submits this Initial Brief on Consumers Energy Company’s (“Consumers”) application for authority to increase its rates for the distribution of natural gas and for other relief.

I. INTRODUCTION.

RESA is a broad and diverse group of retail energy suppliers who share the common vision that competitive retail energy markets deliver a more efficient customer-oriented outcome than a regulated utility structure. RESA members are licensed to sell natural gas to retail customers in Michigan as Alternative Gas Suppliers, including to customers in Consumers’ end use transportation (“EUT”) and gas customer choice (“GCC”) program. As a

<sup>1</sup> The comments expressed in this filing represent the position of the Retail Energy Supply Association (RESA) as an organization but may not represent the views of any particular member of the Association. Founded in 1990, RESA is a broad and diverse group of retail energy suppliers dedicated to promoting efficient, sustainable and customer-oriented competitive retail energy markets. RESA members operate throughout the United States delivering value-added electricity and natural gas service at retail to residential, commercial and industrial energy customers. More information on RESA can be found at [www.resausa.org](http://www.resausa.org).



result, RESA is keenly interested in the terms and conditions of Consumers' EUT and GCC programs.

A part of this proceeding, RESA put forth expert witness testimony by Joseph Oliker.<sup>2</sup> RESA's expert Mr. Oliker reviewed Consumers' tariffs and recommended that Consumers permit Rate General Service ("GS") GCC customers to participate in Contiguous Facilities Aggregation in the same manner as Consumers' bundled service Rate GS customers.

For the reasons discussed below, RESA requests that the Commission issue an order directing Consumers to remove the unreasonable discrimination within the Rate GS rate class by removing the provision in Consumers' tariff prohibiting GCC customers from engaging in Contiguous Facilities Aggregation. To permit Contiguous Facilities Aggregation, Consumers will need to make relatively minor modifications to its billing system to accommodate the change. Consumers finds RESA's recommendation to be reasonable and indicates that it is willing to make the necessary adjustments to permit GCC customers to engage in Contiguous Facilities Aggregation. No party opposes RESA's recommendation. For the reasons stated below, the Commission should direct Consumers to permit Rate GS GCC customer Contiguous Facilities Aggregation.

**II. THE COMMISSION SHOULD DIRECT CONSUMERS TO MAKE CONTIGUOUS FACILITIES AGGREGATION AVAILABLE TO RATE GS GCC CUSTOMERS.**

Under Consumers' existing tariff, commercial or industrial customers purchasing gas under Rate GS may engage in Contiguous Facilities Aggregation. Contiguous Facilities Aggregation permits a customer that occupies a group of buildings or parts of buildings which are exclusively used by the customer and served under the same rate schedule to have the

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<sup>2</sup> Mr. Oliker's qualifications are detailed at 4 Tr. 81-82.

quantities of gas delivered to be added for billing purposes under specified circumstances.<sup>3</sup> A key benefit of Contiguous Facilities Aggregation is that the customer pays one distribution charge for the master account and a reduced contiguous customer charge for each aggregated account, rather than Consumers' distribution charge for each account. Consumers' tariff, however, expressly prohibits GCC customers from aggregating.<sup>4</sup>

RESA supports Consumers' Contiguous Facilities Aggregation program in principle. RESA's witness Mr. Oliker finds that "efficiencies likely exist when serving multiple meters on the same or contiguous property that, in line with the cost causation principle, justify a contiguous facility aggregation program."<sup>5</sup> RESA's concern, however, is that similarly situated GCC customers are denied access to this program.

Mr. Oliker explains that the exclusion of GCC customers from Contiguous Facilities Aggregation results in material rate disparities. Mr. Oliker explained:

Suppose Customer X has two buildings on its property, both used in Customer X's operations. Building 1 receives natural gas through Meter 1 and is supplied about 15,000 MCF annually. Building 2 receives natural gas through Meter 2 and is supplied about 5,000 MCF annually.

If Customer X is a GCC customer, because of the exclusion, the two meters, although on the same property associated with the same owner, receive no contiguous facilities benefits. Utilizing Consumers' economic breakeven points, Meter 1 would be a GS-3 account and Meter 2 would be a GS-2 account.

However, if Customer X is a GCR customer, the quantities of gas supplied to the two meters could be aggregated together for purposes of determining the bill under Section C4.7, Option A, Part C. Thus, Meter 1 would be the "master account" billed under its General Service Rate Schedule, GS-3, and Meter 2 would be designated as "contiguous" to Meter 1 and would pay the contiguous customer charge and distribution charge in effect for the master account.

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<sup>3</sup> 4 Tr. 83.

<sup>4</sup> *Id.*

<sup>5</sup> 4 Tr. 84.

Below provides the resulting rate disparity on an annual basis utilizing the General Service Rates proposed in this proceeding:

	GCC Customer		GCR Customer	
<i>Meter 1</i>				
Customer Charge	(\$533.73 x 12)	\$6,405	(\$533.73 x 12)	\$6,405
Distribution Charge – 15,000 MCF	(\$1.7869 x 15,000)	\$26,804	(\$1.7869 x 15,000)	\$26,804
<i>Meter 2</i>				
Customer Charge	(\$45.12 x 12)	\$541	(\$80 x 12)	\$960
Distribution Charge – 5,000 MCF	(\$2.3732 x 5,000)	\$11,866	(\$1.7869 x 5,000)	\$8,935
		\$45,616		\$43,104
Total 20,000 MCF	<b>Cost per MCF</b>	<b>\$2.28</b>		<b>\$2.16</b>

In this example, Customer X would pay an additional \$0.12 per MCF for distribution service if it was a GCC customer compared to if it was a GCR customer. While the actual dollar amount of the harm to each GCC customer varies by usage and the number of meters, any disparity in distribution service rates is unreasonable.<sup>6</sup>

No party disputed Mr. Oliker’s rate analysis.

Consumers’ explanation for the rate disparity does not justify the discrimination. Consumers explained that the reason why GCC customers are not allowed to aggregate accounts is because Consumers’ “billing system is not currently configured to bill for the aggregation of GCC customers.”<sup>7</sup> Consumers’ billing system is not a reasonable justification for the rate discrimination.

RESA recommends that the Commission remedy the rate discrimination by eliminating the prohibition on GCC customer aggregation. Further, Mr. Oliker testified, “RESA

<sup>6</sup> 4 Tr. 84-85 (internal citation omitted).

<sup>7</sup> 4 Tr. 86, citing Consumers’ discovery response admitted into evidence as Exhibit RES-1 (JOL-1).

recommends that the Commission direct Consumers to update Consumers' billing system to accommodate the Contiguous Facility Aggregation of GCC customers."<sup>8</sup> Consumers estimates that the cost to remedy this disparity would be approximately \$60,000 – \$84,000.<sup>9</sup> Consumers estimates that approximately 2,406 GCC customers with 6,256 contiguous accounts could be eligible to aggregate.<sup>10</sup> Thus the cost to remedy the rate disparity is modest and the billing system changes would permit many GCC customers to participate. In the alternative, RESA recommends that the Commission eliminate the discrimination by prohibiting Rate GS GCR customers from being eligible for Contiguous Facilities Aggregation.<sup>11</sup>

In her rebuttal testimony, Consumers' witness Ms. Laura M. Collins testified in support of RESA's recommendation that GCC customers be permitted to participation in Contiguous Facilities Aggregation.<sup>12</sup> Ms. Collins testified that RESA's recommendation that Consumers change its billing system and modify its tariff to allow Rate GS GCC customers to aggregate contiguous accounts "is a reasonable recommendation."<sup>13</sup> Consumers requests 90 days from the date of the Commission order in this case to implement the billing system changes.<sup>14</sup> Ms. Collins also notes that Consumers will need to communicate with eligible customers and recontract with those customers who wish to participate.<sup>15</sup> RESA has no objection to Consumers' proposed 90-day time line to make Contiguous Facilities Aggregation available to

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<sup>8</sup> 4 Tr. 86.

<sup>9</sup> See, Consumers' response to discovery request U20322-RESA-CE-224, admitted into evidence as Exhibit RES-2 (JOL-2).

<sup>10</sup> See, Consumers' response to discovery request U20322-RESA-CE-228, admitted into evidence as Exhibit RES-3 (JOL-3).

<sup>11</sup> 4 Tr. 87.

<sup>12</sup> 6 Tr. 1075-76.

<sup>13</sup> 6 Tr. 1075, ln 21.

<sup>14</sup> 6 Tr. 1076.

<sup>15</sup> *Id.*

Rate GS GCC customers. No party opposes RESA's recommendation and Consumers' proposed implementation of that recommendation.

**III. CONCLUSION AND PRAYER FOR RELIEF.**

For all the reasons explained in this Initial Brief, RESA respectfully requests that the Honorable Administrative Law Judge issue a proposal for decision recommending that the Commission direct Consumers to make Contiguous Facilities Aggregation available to Rate GS GCC customers as described herein.

*Respectfully submitted,*

FRASER TREBILCOCK DAVIS & DUNLAP, P.C.  
ATTORNEYS FOR RETAIL ENERGY SUPPLY ASSOCIATION



Date: June 7, 2019

By: \_\_\_\_\_

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**STATE OF MICHIGAN**  
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CONSUMERS ENERGY COMPANY for )  
authority to increase its rates for the )  
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\_\_\_\_\_ )

Case No. U-20322

**CERTIFICATE OF SERVICE**

Michelle M. Houck hereby certifies that on the 7<sup>th</sup> day of June, 2019, she served the *Initial Brief of Retail Energy Supply Association* and this Certificate of Service on the persons identified on the attached service list via electronic mail.

*Michelle M. Houck*

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Houck**

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