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May 11, 2023

Ms. Lisa Felice, Executive Secretary
Michigan Public Service Commission
7109 W. Saginaw Hwy.
Lansing, MI 48917

RE: MPSC Docket No. U-21387

Dear Ms. Felice:

Attached herewith for filing in the above-referenced matter, please find the Objections of Retail Energy Supply Association.

If you have any questions with the attached, please do not hesitate to contact me.

Very truly yours,

Fraser Trebilcock Davis & Dunlap, P.C.



Jennifer Utter Heston

JUH/dah
Encl.

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the application of)
CONSUMERS ENERGY COMPANY) Case No. U-21387
for approval of a voluntary)
Renewable Natural Gas Program.)

OBJECTIONS OF
RETAIL ENERGY SUPPLY ASSOCIATION

On April 3, 2023, Consumers Energy Company ("Consumers") filed an application in this proceeding seeking ex parte approval of a new voluntary Renewable Natural Gas ("RNG") program.1 The Retail Energy Supply Association ("RESA")2, by and through its attorneys, Fraser, Trebilcock, Davis & Dunlap, P.C., hereby submits the below objections to that application.

RESA consists of alternative gas suppliers who participate in both the Gas Customer Choice and End-Use Transportation programs offered by Consumers. 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.

1 Consumers' retail gas business is subject to the jurisdiction of the Commission pursuant to various statutory provisions of 1909 PA 300, as amended, MCL 462.2 et seq.; 1919 PA 419, as amended, MCL 460.54 et seq.; 1939 PA 3, as amended, MCL 460.1 et seq.; and 1982 PA 304, as amended, MCL 460.6h(1) et seq. Pursuant to these statutory provisions, the Commission has the power and jurisdiction to regulate Consumers' retail natural gas rates, terms and conditions of service.

2 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.



For its RNG program proposal, Consumers will allow bundled-service customers to replace up to 100% of their natural gas usage with RNG. According to Consumers, the customer can choose a desired subscription level as a percentage of the customer's monthly usage. The customer will be charged a subscription fee in dollars per Mcf that will be added to the customer's monthly utility bill. The subscription charge will be based upon Consumers' total cost of service of the RNG assets supplying the program, plus program administration costs and corporate overheads. Residential and small and medium business customers can participate on a month-to-month basis, whereas large commercial and industrial customers will need to enroll for a term of 3, 5 or 10 years.

RESA recognizes that changing customer expectations means that energy suppliers must innovate to meet those new expectations. Customers are demanding more customer-centric value added services to help them achieve their environmental, service, and governance sustainability goals. Alternative gas suppliers have long provided added value to the gas supply customer experience.

More and more, however, regulated utilities are entering the competitive landscape. Consumers' proposed RNG program is the latest example of this encroachment. RESA recognizes that when it is possible for companies to compete fairly and on a level playing field to provide products and services, it is in the customer's best interest to have competition. RESA is concerned, however, about the increasing reach by monopoly utilities into competitive markets.

While RESA supports competition, it is imperative that utility regulators do not permit utilities to use their status as monopoly providers to the detriment of full and fair competition among all providers of natural gas supply service. Utilities have exclusive rights to serve

customers in specified geographical areas and function as the supplier of last resort. As a result, utilities have access to capital at a cost that is de-risked that competitive providers do not have access to. Under the proposed RNG program, Consumers will utilize its capital to acquire and/or develop RNG assets in competition with alternative gas suppliers. Consumers' proposals to separately account for the RNG program and to exclude all RNG assets, expenses, and revenue requirements from the general gas rate case do not address the inherent inequity of a monopoly utility utilizing its ratepayer-supported access to capital to compete with alternative, non-utility providers. Allowing the utility to utilize its utility attributes to provide a competitive service is anti-competitive and will harm competition.

Access to capital at a de-risked cost is not the only inherent inequity of allowing a utility to compete with alternative providers. Consumers also enjoys inherent advantages in marketing its RNG product as compared to alternative suppliers. Utilities have the distinction of controlling the consolidated billing function. As such, utilities have access to customer lists and customer data that alternative suppliers do not. The utility also has the ability to communicate with customers through bill messages utilizing a billing system paid for by utility customers. It is also likely that the utility will utilize its website and social media to advertise the proposed RNG program. Consumers does not explain how the costs of these benefits will be fairly and fully allocated to the RNG program.

Regulated utility activities should be separate from customer energy supply services business activities that are already available in the competitive market or are capable of being provided by a competitor, such as the provision of voluntary RNG subscription services. Utilities should be required to unbundle competitive business activities in a manner that provides for separation of personnel, information flow, functions and operations.

Consumers' application in this proceeding does not explain how approval of Consumers' proposal to provide a competitive service will not adversely affect competition. Consumers should not be permitted to provide competitive services at all, but when a utility seeks approval to provide a competitive service, the Commission should, at a minimum, require the utility to demonstrate that approval will not harm competition. As the proponent of the program, the burden is on the utility to make this demonstration. As filed, Consumers' application is devoid of evidence of no competitive harm.

WHEREFORE, RESA hereby respectfully requests that the Commission not approve Consumers' RNG program proposal because the proposed program will harm competition in the provision of RNG subscription services.

Respectfully submitted,

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

Date: May 11, 2023

By: _____



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