

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter, on the Commission's own motion,)	
to require CONSUMERS ENERGY COMPANY to)	
show cause why it should not be found in violation)	
of the Consumer Standards and Billing Practices for)	Case No. U-21502
Electric and Natural Gas Service, Mich Admin)	
Code, R 460.101 <i>et seq.</i> , the Service Quality)	
and Reliability Standards for Electric Distribution)	
Systems, Mich Admin Code, R 460.701 <i>et seq.</i> , and)	
the Technical Standards for Gas Service,)	
Mich Admin Code, R 460.2301 <i>et seq.</i>)	
_____)	

At the October 24, 2023 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. Daniel C. Scripps, Chair
Hon. Katherine L. Peretick, Commissioner
Hon. Alessandra R. Carreon, Commissioner

ORDER TO SHOW CAUSE

Background

In Case No. U-20639, Consumers Energy Company (Consumers) requested a temporary waiver of meter testing requirements in the Commission's Technical Standards for Electric Service, Mich Admin Code, R 460.3101 *et seq.* (technical standards), specifically, Mich Admin Code, R 460.3604 (Rule 604), and *ex parte* approval of alternative testing procedures for advanced metering infrastructure electric meters that were being removed from service and upgraded from 3G technology to 4G technology. The Commission granted Consumers' waiver request and an

extension of the waiver in the December 19, 2019 order and February 23, 2023 order, respectively, in Case No. U-20639.

After the waiver was approved and subsequently extended, the Commission Staff (Staff) received numerous complaints that the company was estimating customer bills for multiple consecutive months. Through the investigation of those complaints, the Staff found that many 3G meters were being estimated prior to January 2023 when 3G communication ceased.¹ In multiple cases, the cause of the estimated meter reads was not related to communication issues as indicated in the waiver request; rather, the meters themselves had malfunctioned, and their meter screens were blank which did not allow customers or meter readers to perform actual meter readings. Per Consumers, the meters were testing as accurate even though no meter readings could be pulled from the malfunctioning meters. As such, customer bills were estimated based on historical usage and no true-up could occur given the inability to pull actual meter data from the malfunctioning meters.

On April 17, 2023, the Staff met with Consumers after requesting additional information regarding the number of malfunctioning meters and how long Consumers was aware of the issue. Consumers confirmed that it was made aware of a battery contamination issue affecting 3G and 4G meters as far back as 2020, and that over 900,000 meters could potentially be affected by this issue. However, Consumers again asserted that these meters would test as accurate since the meters could accurately measure kilowatt-hours, but the meters could not record or store the usage data. Despite awareness, Consumers failed to raise this issue when applying for the meter testing waiver and extension in Case No. U-20639 discussed above.

¹ On January 27, 2023, Consumers contacted the Staff to self-report a violation of the meter estimation rule and provided a Regulatory Corrective Action Plan.

After the April 17, 2023 meeting, the Staff again requested additional information from Consumers. In response, the Staff discovered a discrepancy between the number of meter failures reported in Case No. U-17990 (Consumers' 2016 electric rate case) and the number reported in response to the Staff's inquiry. Consumers responded that the discrepancy was due to the fact that the majority of meter failures in 2021 and 2022 were no longer under warranty with the manufacturer and therefore were not sent back for repair; thus, they were not captured in the company's Smart Grid Metrics Report.

The Staff also raised concerns regarding potential violations of the Commission's Consumer Standards and Billing Practices for Electric and Natural Gas Service, Mich Admin Code, R 460.101 *et seq.* (billing rules), the Commission's technical standards, and the Commission's Service Quality and Reliability Standards for Electric Distribution Systems, Mich Admin Code, R 460.701 *et seq.* (service quality rules).²

For these reasons, on July 7, 2023, the Commission issued an order in Case No. U-21458 (July 7 order) opening an investigation into Consumers' electric meter malfunctions, electric estimated billing practices, and delays in new electric and gas service issues and requiring Consumers to file a report in that docket. On August 4, 2023, Consumers submitted the required report (Consumers' report) and on September 29, 2023, the Staff filed its response to Consumers' report containing the Staff's recommendations (Staff's response). *See*, Case No. U-21458, filings #U-21458-0003, -0004.

² On March 24, 2023, the Commission issued an order in Case No. U-20630 formally adopting revisions to the technical standards. Similarly, in Case No. U-20629 formally adopting revisions to the service quality rules. The Staff's concerns pertain to both the rules prior to the revisions (former rules) and after the revisions (current rules).

In its report, Consumers acknowledges that its recent performance has not met the Commission's expectations and notes that it "takes this situation seriously and began executing a robust plan to correct the root causes of these problems before the Commission's Order in [Case No. U-21458]" and that its "plan has already resulted in significant estimated meter read reductions and 90% delivery of new service installations within 15 business days." Consumers' report, pp. 1-2.

With respect to 3G to 4G meter conversion and accompanying consecutive billing estimates, the company contends that it has made significant progress and that the remaining 3G meter replacements were targeted to be complete by August 31, 2023, and that "[a]s of July 31, 2023, there are 1,003 customers who have received greater than two consecutive estimates." *Id.*, p. 3. In that regard, Consumers indicates that it is continuing to meet twice daily to reduce the estimated billings and to develop a plan to ensure estimated billings remain low.

Regarding the contaminated battery issue, Consumers confirms that it was notified of this issue on April 30, 2021. However, the company notes that "[t]he existence of the battery contamination defect did not necessarily mean that all contaminated meters would actually fail or that customers would receive an estimated bill." *Id.* Because the failure rate was projected at 0.015%, "the Company did not anticipate this condition would result in significant estimated meter reads and therefore planned to replace the meters as they failed within the annual meter purchase plan." *Id.* Consumers further states that a firmware upgrade was developed to prevent future failures in the 4G meters with the battery contamination issue but that the firmware is not effective in meters that have already failed. In sum, the company states that both the 3G and 4G meters with battery issues and failures would be replaced by August 31, 2023. *See*, Consumers' report, pp. 4-5.

In addition, Consumers provided detailed responses to the Commission's request in the July 7 order. *See*, Consumers' report, pp. 7-70. Consumers reiterates that its procedures have improved and that its countermeasures will result in continued improved performance.

In its response, the Staff examined the data submitted by Consumers. The Staff notes that the company acknowledged "deficiencies that occurred in transitioning meters from 3G to 4G, including meter malfunctioning and the need for estimated billing" as well as "an ongoing pattern of customers experiencing delays in new service installations for both electric and natural gas service in excess of what is allowed under the rules." Staff's response, p. 26. The Staff also avers that, while many aspects have been corrected or improved, the vast problems should not have existed in the first place. The Staff further states that:

[i]t is extremely hard for customers to have faith in the Company when they do not have a functioning meter, do not receive actual reads, and cannot get hooked up for new service in an acceptable timeframe, and can be especially frustrating since customers do not have the flexibility to seek service elsewhere.

Id.

The Staff also makes several recommendations in its response. First, the Staff recommends that Consumers be required to disclose any issue that may affect the granting of a waiver request within its application for a waiver. The Staff also avers that:

ratepayers should not be held responsible for the Company's lack of meter reading, delayed replacements of malfunctioning meters, inability to replace all 3G meters with 4G meters prior to the 3G cellular network phase out, and the higher costs of expediting equipment needed for both electric and natural gas new services. Additionally, it is Staff's opinion that ratepayers should not be held accountable for the additional costs [Consumers] incurred by the escalated timetable to fulfill its obligation to customers.

Staff's response, p. 24. As such, the Staff recommends that any request for recovery of estimation credits and any costs related to expediting equipment needed for both electric and natural gas new services be disallowed by the Commission in a future rate case. The Staff also recommends that

the Commission require Consumers to provide a report semi-annually for two years demonstrating its performance relating to consecutive meter reading, new electric and gas service installations, and electric meter failures.” *Id.*

The Staff further recommends that the Commission take enforcement actions against Consumers for its failure to comply with the Commission’s billing rules, service quality rules, and the Technical Standards for Gas Service, Mich Admin Code, R 460.2301 *et seq.*³ See, Staff’s response, p. 25. The Staff also notes that “[t]his is the second Commission Investigation focusing on [Consumers’] estimated billing practices and Staff recommends enforcement that exceeds the enforcement in Case No. U-18002.” Staff’s response, p. 25.

With respect to Consumers’ current site readiness process, the Staff recommends that Consumers require a picture response from either the builder or customer to confirm that the site is in ready state prior to sending an installation crew. Finally, concerning Consumers’ communication with staking technicians, the Staff recommends that Consumers “have direct and proactive communication with staking technicians to ensure that a project is staked on time, to resolve any problems in advance and ensure the site is ready once an installation crew arrives.” Staff’s response, p. 26.

Discussion

The Commission has reviewed the company’s report and the Staff’s response in Case No. U-21458 and finds that an evidentiary/show cause hearing is appropriate and necessary to examine the issue of Consumers’ alleged rule violations and to obtain accurate information regarding the nature and extent of potential rule violations as noted by the Staff’s response.

³ Specifically, the Staff notes potential violations of Rule 13(5); Rule 14; Mich Admin Code, R 460.702(v); and Mich Admin Code, R 460.2371(7).

Towards this end, Consumers is directed to file testimony in the instant docket (Case No. U-21502) no later than November 14, 2023, describing its consecutive estimated billings issues and its failure to provide actual meter readings in compliance with the billing rules as well as testimony regarding new service installation completion issues. The company shall also file testimony in this docket no later than November 14, 2023, to show cause why it should not be considered to have violated any provision of the billing rules and the service quality rules as noted in the Staff's response.

Consumers shall cooperate fully in this show cause matter and the ongoing investigation in Case No. U-21458. The Staff shall continue its investigation into potential rule violations and audit the reliability of the information provided by Consumers and is not limited to specific dates or issues in its ongoing review.

A prehearing conference has been scheduled to take place before Administrative Law Judge Christopher S. Saunders at 10:00 a.m. (Eastern time) on December 4, 2023, and will be held virtually via Microsoft Teams.

THEREFORE, IT IS ORDERED that:

A. Consumers Energy Company shall file testimony regarding its consecutive estimated billings issues, its failure to provide actual meter readings in compliance with the billing rules, and new service installation completion issues, and shall show cause by November 14, 2023, why the company should not be found in violation of the Commission's Consumer Standards and Billing Practices for Electric and Natural Gas Service, Mich Admin Code, R 460.101 *et seq.*, the Commission's Service Quality and Reliability Standards for Electric Distribution Systems, Mich Admin Code, R 460.701 *et seq.*, and the Commission's Technical Standards for Gas Service, Mich Admin Code, R 460.2301 *et seq.*

B. The Commission Staff shall continue its investigation into potential rule violations and audit the reliability of the information provided by Consumers Energy Company. The Commission Staff shall provide testimony regarding its findings in this investigation.

C. A prehearing conference on this show cause matter has been scheduled to take place at 10:00 a.m. (Eastern time) on December 4, 2023, virtually via Microsoft teams.

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

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26. To comply with the Michigan Rules of Court's requirement to notify the Commission of an appeal, appellants shall send required notices to both the Commission's Executive Secretary and to the Commission's Legal Counsel.

Electronic notifications should be sent to the Executive Secretary at mpscedockets@michigan.gov and to the Michigan Department of Attorney General - Public Service Division at pungpl@michigan.gov. In lieu of electronic submissions, paper copies of such notifications may be sent to the Executive Secretary and the Attorney General - Public Service Division at 7109 W. Saginaw Hwy., Lansing, MI 48917.

MICHIGAN PUBLIC SERVICE COMMISSION

Daniel C. Scripps, Chair

Katherine L. Peretick, Commissioner

Alessandra R. Carreon, Commissioner

By its action of October 24, 2023.

Lisa Felice, Executive Secretary


PROOF OF SERVICE

STATE OF MICHIGAN)

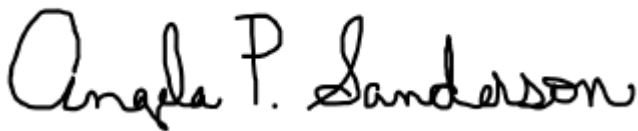
Case No. U-21502

County of Ingham)

Brianna Brown being duly sworn, deposes and says that on October 24, 2023 A.D. she electronically notified the attached list of this **Commission Order via e-mail transmission**, to the persons as shown on the attached service list (Listserv Distribution List).


Brianna Brown

Subscribed and sworn to before me
this 24th day of October 2023.



Angela P. Sanderson
Notary Public, Shiawassee County, Michigan
As acting in Eaton County
My Commission Expires: May 21, 2024

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Santana Energy

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Superior Energy Company

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Thumb Electric Cooperative

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Upper Peninsula Power Company

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Village of Clinton

Volunteer Energy Services

Wabash Valley Power

Wolverine Power

Wood, Amanda

Xcel Energy

Xcel Energy