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January 27, 2016

Ms. Mary Jo Kunkle
Executive Secretary
Michigan Public Service Commission
7109 West Saginaw Highway
Lansing, MI 48917

RE: Case No. U-18027 – In the Matter of the Application of Consumers Energy Company for approval of a Power Purchase Agreement Amendment

Dear Ms. Kunkle:

Enclosed for electronic filing is “**Consumers Energy Company’s Application**” in the above-captioned case. This is a paperless filing and is therefore being filed only in a PDF format.

Sincerely,

Robert W. Beach

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the application of)
CONSUMERS ENERGY COMPANY)
for approval of power purchase)
agreement amendments)

Case No. U-18027

APPLICATION

Consumers Energy Company (“Consumers Energy” or the “Company”) requests the Michigan Public Service Commission (“MPSC” or the “Commission”) to grant approval, pursuant to Section 6j(13)(b) of 1982 Public Act 304 (“Act 304”) and other applicable law, of amendments to the Company’s Power Purchase Agreements (“PPAs”) with Hillman Power Company, L.L.C. (“Hillman”), Thornapple Association, Inc. (“Thornapple”), and White’s Bridge Hydro Company (“White’s Bridge”). In support of this request, Consumers Energy states as follows:

1. Consumers Energy is, among other things, engaged as a public utility in the business of generating, purchasing, distributing, and selling electric energy to approximately 1.8 million retail customers in the State of Michigan. The retail electric system of Consumers Energy is operated as a single utility system, within which uniform rates are charged.

2. Consumers Energy’s retail electric business is subject to the jurisdiction of the Commission pursuant to certain provisions of 1939 PA 3, as amended by various acts, including 1982 PA 304 and 2000 PA 141, MCL 460.1 *et seq.*; 1909 PA 106, as amended, MCL 460.551 *et seq.*; 1909 PA 300, as amended, MCL 462.2 *et seq.*; and 2008 PA 286, MCL 460.4a *et seq.*

3. Consumers Energy and Hillman entered into a long-term PPA, dated February 1, 1984, and subsequently amended on November 21, 1988, which provided for Hillman to supply and sell electric capacity and energy to Consumers Energy, and Consumers Energy to purchase

and accept from Hillman, all electric capacity and energy which Hillman has available from the Hillman Generating Plant until the end of calendar year 2015. The PPA further provides that the agreement can continue on a year-to-year basis until terminated by mutual consent of the parties or by either party giving the other at least one year's written notice of its desire to terminate the PPA at the expiration of the initial term or at the expiration of any yearly term thereafter. The PPA between Consumers Energy and Hillman was approved by the Commission in MPSC Case No. U-7990.

4. In December of 2014, Consumers Energy exercised the PPA termination provision by providing notice to Hillman of its intent to terminate the PPA between the parties at the end of calendar year 2015. Subsequent to the issuance of Consumers Energy's notice of intent to terminate the PPA, Consumers Energy and Hillman commenced negotiations with the intent of reaching a new PPA which would provide for Hillman to supply and sell electric capacity and energy to Consumers Energy, and Consumers Energy to purchase and accept from Hillman all electric capacity and energy which Hillman has available from the Hillman Generating Plant. However, the negotiations between Consumers Energy and Hillman were unable to result in a mutually acceptable PPA.

5. On December 14, 2015, Consumers Energy and Hillman therefore amended their existing PPA by executing a document titled "Amendment No. 2 to Power Purchase Agreement between Consumers Energy Company and Hillman Power Company, L.L.C." to extend the term of that agreement until May 31, 2017. See Attachment A to this Application. The PPA Amendment is consistent with the existing terms of the PPA which allows for the agreement to be extended on a year-to-year basis. Furthermore, the Amendment allows the expiration of the PPA to align with the planning year concept currently defined by the Midcontinent Independent

System Operator, Inc. (“MISO”) and also allows the Commission sufficient time to perform the investigation into the continuing appropriateness of the Commission’s current regulatory implementation of the Public Utility Regulatory Policies Act of 1978 (“PURPA”), which is occurring in MPSC Case No. U-17973.

6. In addition to the Company’s PPA with Hillman, Consumers Energy also entered into long-term PPAs with Thornapple, dated March 1, 1984, and White’s Bridge, dated December 15, 1983 and subsequently amended March 1, 1986, December 1, 1986, July 1, 1987, and June 7, 2011. Those PPAs provided for Thornapple and White’s Bridge to supply and sell electric capacity and energy to Consumers Energy, and Consumers Energy to purchase and accept from Thornapple and White’s Bridge all electric capacity and energy which Thornapple and White’s Bridge have available from the Thornapple and White’s Bridge generating plants until the end of calendar year 2016. Consumers Energy’s PPAs with Thornapple and White’s Bridge were approved by the Commission in MPSC Case No. U-8866.

7. For reasons similar to those discussed above with respect to Consumers Energy’s PPA with Hillman, Consumers Energy has also amended its PPAs with Thornapple and White’s Bridge to extend the terms of those agreements until May 31, 2017. See Attachments B and C to this Application. The Amendments allow the expiration of the PPAs to align with the planning year concept as defined by MISO and also allow the Commission sufficient time to perform the investigation into the continuing appropriateness of the Commission’s current regulatory implementation of PURPA, which is occurring in MPSC Case No. U-17973.

8. In conjunction with this Application, Consumers Energy is filing copies of the recently executed PPA Amendments as Attachments. Because the term of the Hillman PPA Amendment is for a period in excess of six months, and because the Thornapple and White’s

Bridge PPA Amendments concern matters at issue in MPSC Case No. U-17973, Consumers Energy is requesting Commission approval of the PPA Amendments pursuant to Section 6j(13)(b) of Act 304 and all other applicable law.

9. Since the Company only seeks to extend its PPAs with Hillman, Thornapple, and White's Bridge, approval of the relief requested in this Application will not increase rates or charges for any customer beyond the levels which were previously approved by the Commission. Consumers Energy therefore respectfully requests the Commission approve the relief requested in this Application on an *ex parte* basis without the time and expense of a public hearing. Furthermore, *ex parte* approval would be consistent with the manner in which the Commission originally approved the PPA between Hillman and Consumers Energy in MPSC Case No. U-7990. See MPSC Case No. U-7990, Order Approving Application, August 28, 1984.

WHEREFORE, Consumers Energy Company respectfully requests the Commission to grant the following relief:

(A) Grant approval of the Amendments to the Power Purchase Agreements with Hillman Power Company, L.L.C., Thornapple Association, Inc., and White's Bridge Hydro Company pursuant to MCL 460.6j(13)(b) and specifically indicate that the Commission approves the recovery by Consumers Energy Company of the payments under the Power Purchase Agreements, as amended, for (i) the kilowatt hours delivered by Hillman Power Company, L.L.C. to Consumers Energy Company after December 31, 2015, and (ii) the kilowatt hours delivered by Thornapple Association, Inc., and White's Bridge Hydro Company to Consumers Energy Company after December 31, 2016, for the purposes of Act 304 of 1982, Act 81 of 1987, and all other applicable law;

(B) In the event that the Commission does not approve the Amendments to the Power Purchase Agreements with Hillman Power Company, L.L.C., Thornapple Association, Inc., and White's Bridge Hydro Company, specifically indicate that the Commission does not approve the recovery by Consumers Energy Company of the payments under the Power Purchase Agreements, as amended, for (i) the kilowatt hours delivered by Hillman Power Company LL.C. after December 31, 2015 and (ii) the kilowatt hours delivered by Thornapple Association, Inc., and White's Bridge Hydro Company to Consumers Energy Company after December 31, 2016, for the purposes of Public Act 304 of 1982, Public Act 81 of 1987, and all other applicable law;

(C) Determine that the relief requested herein should be granted *ex parte* without the time and expense of a public hearing; and

(D) Grant Consumers Energy such other and further relief as may be lawful and appropriate.

Respectfully submitted,

CONSUMERS ENERGY COMPANY

Dated: January 27, 2016

By: _____
Timothy J. Sparks, Vice President
Energy Supply Operations

Robert W. Beach (P73112)
Anne M. Uitvlugt (P71641)
Attorneys for Consumers Energy Company
One Energy Plaza
Jackson, Michigan 49201
(517) 788-1846

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the application of)
CONSUMERS ENERGY COMPANY)
for approval of a power purchase)
agreement amendment)

Case No. U-18027

VERIFICATION

STATE OF MICHIGAN)
) SS
COUNTY OF JACKSON)

Timothy J. Sparks, being first duly sworn, deposes and says that he is Vice President, Energy Supply Operations of Consumers Energy Company; that he has executed the foregoing Application for and on behalf of Consumers Energy Company; that he has read the foregoing Application and is familiar with the contents thereof; that the facts contained therein are true, to the best of his knowledge and belief; and that he is duly authorized to execute such Application on behalf of Consumers Energy Company.

Timothy J. Sparks, Vice President
Energy Supply Operations

Subscribed and sworn to before me this 27th day of January, 2016.

Samantha O'Rourke, Notary Public
State of Michigan, County of Jackson
My Commission Expires: 10/30/21
Acting in the County of Jackson

ATTACHMENT A

AMENDMENT NO. 2 TO
POWER PURCHASE AGREEMENT
BETWEEN
CONSUMERS ENERGY COMPANY
AND
HILLMAN POWER COMPANY, L.L.C.

THIS AMENDMENT NO. 2, made and entered into as of the 14 day of December, 2015, is between Consumers Energy Company, f/k/a Consumers Power Company, a Michigan corporation, herein called "Consumers," and Hillman Power Company, L.L.C., a Delaware limited liability company with offices located at One North Lexington Avenue, White Plains, New York 10601, herein called "Seller." Consumers and Seller are herein sometimes referred to individually as "Party" and collectively as "Parties" where appropriate.

WITNESSETH:

WHEREAS, Consumers and Hillman Energy, Inc. entered into a Power Purchase Agreement dated as of February 1, 1984, whereunder Hillman Energy, Inc. agreed to supply and sell to Consumers, and Consumers agreed to purchase and accept from Hillman Energy, Inc., electric energy which Hillman Energy, Inc. may have available from the Hillman Generating Plant ("Power Purchase Agreement"); and

WHEREAS, by assignment dated July 18, 1986, Hillman Energy, Inc. assigned the Power Purchase Agreement to Hillman Limited Partners; and

WHEREAS, the Power Purchase Agreement was amended by Amendment No. 1 to the Power Purchase Agreement, dated as of November 21, 1988 (together with the Power Purchase Agreement, the "Power Purchase Agreement"); and

WHEREAS, by assignment dated December 16, 1996, Hillman Limited Partners assigned the Power Purchase Agreement to Hillman Power Company; and

WHEREAS, effective July 7, 1997, Hillman Power Company ultimately merged into Seller pursuant to the mergers of (i) Hillman Power Company with and into its wholly-owned subsidiary Hillman Power Corporation of Delaware ("Hillman-Delaware"), and (ii) Hillman-Delaware with and into its wholly-owned subsidiary Hillman Power Company, L.L.C.; and

WHEREAS, ^{computershare} Computershare Trust Company of Canada (the "Bank"), ^{YN B} has certain rights and obligations in regard to the Power Purchase Agreement as defined in the

"Acknowledgment and Consent Agreement" entered into as of April 28, 2010 among Seller, Consumers and the Bank; and ^{Computershare in the}

WHEREAS, the Parties desire to further amend the Power Purchase Agreement as hereinafter provided;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein set forth, the Parties hereto agree as follows:

1. The last sentence of Section 12, Term, of the Power Purchase Agreement is hereby amended to read as follows:

"The initial term of this Agreement shall be the period commencing on the Commercial Operation Date of the Hillman Generating Plant and continuing until 11:59:59 p.m. Eastern Standard Time on May 31, 2017; however, notwithstanding the foregoing, in the event that the Michigan Public Service Commission issues an order (the 'Order') denying recovery by Consumers of the payments made by Consumers to Seller under this Agreement for kilowatthours delivered by Seller to Consumers after December 31, 2015, then Consumers shall have the option, within ten (10) days following such Order, to terminate this Agreement upon written notice to Seller; the effective date of such termination shall be no earlier than the second business day after the date of such notice."

2. ^{Computershare in the} Provided that this Amendment No. 2 is executed by both Parties and consented to by the Bank prior to January 1, 2016, Consumers' Notice of Termination of Power Purchase Agreement, dated December 18, 2014, is hereby withdrawn. In the event that this Amendment No. 2 is not executed by both Parties and not consented to by the ^{Computershare in the} Bank prior to January 1, 2016, then this Amendment No. 2 shall be rendered void ab initio.

3. This Amendment No. 2 shall be submitted by Consumers to the Michigan Public Service Commission for approval of the payments under the Agreement for kilowatthours delivered by Seller to Consumers after December 31, 2015 for purposes of Act 304, Act 81 and all other applicable law.

4. Subject to Section 2 above, this Amendment No. 2 shall be effective as of the date first entered above.

5. This Amendment No. 2 may be executed and delivered in counterparts, including by a facsimile or an electronic transmission thereof, each of which shall be

deemed an original. Any document generated by the Parties with respect to this Amendment No. 2, including this Amendment No. 2, may be imaged and stored electronically and introduced as evidence in any proceeding as if original business records. Neither Party will object to the admissibility of such images as evidence in any proceeding on account of having been stored electronically.

6. Except as hereinabove modified and supplemented, all the terms and conditions of the Power Purchase Agreement shall remain in full force and effect.

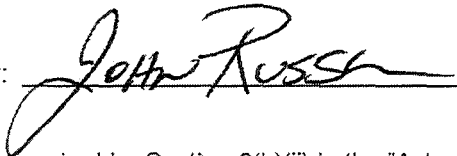
7. This Amendment No. 2 shall inure to the benefit of and be binding upon the successors and assigns of the respective parties.

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 2 as of the date first written above.

APPROVED AS TO FORM

CONSUMERS ENERGY COMPANY

By:



HILLMAN POWER COMPANY, L.L.C.

By:

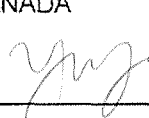

Jonathan G. Maurer
Managing Director

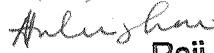
As required by Section 3(b)(ii) in the "Acknowledgment and Consent Agreement," the Bank *Computershare* hereby consents to this amendment. *4/11/12*



COMPUTERSHARE TRUST COMPANY
OF CANADA

By:


Yana Nedyalkova
Corporate Trust Officer


Raji Sivalingam
Associate Trust Officer

ATTACHMENT B

AMENDMENT NO. 1 TO
POWER PURCHASE AGREEMENT
BETWEEN
CONSUMERS ENERGY COMPANY
AND
THORNAPPLE ASSOCIATION, INC.

THIS AMENDMENT NO. 1 , made and entered into as of the 16th day of December, 2015, is between Consumers Energy Company, f/k/a Consumers Power Company, a Michigan corporation, herein called "Consumers," and Thornapple Association, Inc., a Michigan non-profit corporation, herein called "Seller." Consumers and Seller are herein sometimes referred to individually as "Party" and collectively as "Parties" where appropriate.

WITNESSETH:

WHEREAS, Consumers and Seller entered into an Agreement dated as of March 15, 1984, whereunder Seller agreed to supply and sell to Consumers, and Consumers agreed to purchase and accept from Seller, electric energy which Seller may have available from the Ada Hydro Plant ("Agreement"); and

WHEREAS, the Parties desire to amend the Agreement as hereinafter provided;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein set forth, the Parties hereto agree as follows:

1. Section 12, Term, of the Agreement is deleted in its entirety and replaced with the following:

"12. Term

This Agreement shall be and remain in force beginning with March 15, 1984 and continuing through 11:59:59 p.m. Eastern Standard Time on May 31, 2017. Notwithstanding the foregoing, in the event that the Michigan Public Service Commission issues an order (the "Order") denying recovery by Consumers of the payments made by Consumers to Seller under this Agreement for kilowatthours delivered by Seller to Consumers after December 31, 2016, then Consumers shall have the option, within ten (10) days following such Order, to terminate this Agreement upon written notice to Seller; the effective date of such termination shall be no earlier than the later of (i) the second business day after the date of such notice, and (ii) December 31, 2016."

2. Exhibit B to the Agreement is amended to add "2017" at the bottom of the column titled "Energy Supply Failure Year" and "0.0" at the bottom of the column titled "Percent Refund."

3. In the event that this Amendment No. 1 is not executed by both Parties prior to January 1, 2016, then this Amendment No. 1 shall be rendered void ab initio.

4. This Amendment No. 1 shall be submitted by Consumers to the Michigan Public Service Commission for approval of the payments under the Agreement for kilowatthours delivered by Seller to Consumers after December 31, 2016 for purposes of Act 304, Act 81 and all other applicable law.

5. Subject to Section 3 above, this Amendment No. 1 shall be effective as of the date first entered above.

6. This Amendment No. 1 may be executed and delivered in counterparts, including by a facsimile or an electronic transmission thereof, each of which shall be deemed an original. Any document generated by the Parties with respect to this Amendment No. 1, including this Amendment No. 1, may be imaged and stored electronically and introduced as evidence in any proceeding as if original business records. Neither Party will object to the admissibility of such images as evidence in any proceeding on account of having been stored electronically.

7. Except as hereinabove modified and supplemented, all the terms and conditions of the Agreement shall remain in full force and effect.

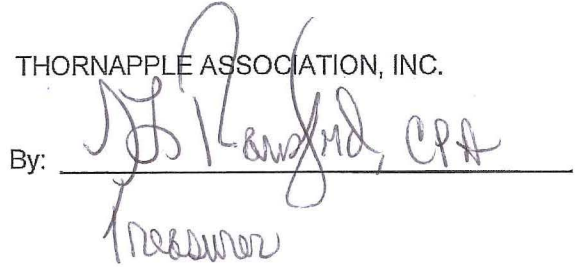
8. This Amendment No. 1 shall inure to the benefit of and be binding upon the successors and assigns of the respective parties.


IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 1 as of the date first written above.

CONSUMERS ENERGY COMPANY

By: 

THORNAPPLE ASSOCIATION, INC.

By: 
Treasurer

Review and Approval		
Contracts	MTD	12-14-15
Legal	KCW	12-11-15
Risk		12/11/15

ATTACHMENT C

AMENDMENT NO. 1 TO
AMENDED AND RESTATED
POWER PURCHASE AGREEMENT
BETWEEN
CONSUMERS ENERGY COMPANY
AND
WHITE'S BRIDGE HYDRO COMPANY

THIS AMENDMENT NO. 1, made and entered into as of the 28TH day of December, 2015, is between Consumers Energy Company, f/k/a Consumers Power Company, a Michigan corporation, herein called "Consumers," and White's Bridge Hydro Company, a Michigan corporation, herein called "Seller." Consumers and Seller are herein sometimes referred to individually as "Party" and collectively as "Parties" where appropriate.

WITNESSETH:

WHEREAS, Consumers and Seller entered into a Power Purchase Agreement dated as of December 15, 1983, whereunder Seller agreed to supply and sell to Consumers, and Consumers agreed to purchase and accept from Seller, electric energy which Seller may have available from the White's Bridge Hydro Plant; and

WHEREAS, the Parties amended said Power Purchase Agreement dated December 15, 1983 on March 1, 1986, December 1, 1986, and July 1, 1987 (together with the Power Purchase Agreement, the "Amended Power Purchase Agreement"); and

WHEREAS, the Amended Power Purchase Agreement was amended and restated by the Parties through an Amended and Restated Power Purchase Agreement dated as of June 7, 2011 (the "AR PPA"); and

WHEREAS, the Parties desire to amend the AR PPA as hereinafter provided;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein set forth, the Parties hereto agree as follows:

1. Section 12, Term, of the AR PPA is deleted in its entirety and replaced with the following:

"12. Term

This Agreement shall be and remain in force beginning with the Commercial Operation Date and continuing through 11:59:59 p.m. Eastern Standard Time

on May 31, 2017. Notwithstanding the foregoing, in the event that the Michigan Public Service Commission issues an order (the "Order") denying recovery by Consumers of the payments made by Consumers to Seller under this Agreement for kilowatthours delivered by Seller to Consumers after December 31, 2016, then Consumers shall have the option, within ten (10) days following such Order, to terminate this Agreement upon written notice to Seller; the effective date of such termination shall be no earlier than the later of (i) the second business day after the date of such notice, and (ii) December 31, 2016."

2. Exhibit B to the AR PPA is amended to add "2017" at the bottom of the column titled "Energy Supply Failure Year" and "0.0" at the bottom of the column titled "Percent Refund."

3. In the event that this Amendment No. 1 is not executed by both Parties prior to January 1, 2016, then this Amendment No. 1 shall be rendered void ab initio.

4. This Amendment No. 1 shall be submitted by Consumers to the Michigan Public Service Commission for approval of the payments under the Agreement for kilowatthours delivered by Seller to Consumers after December 31, 2016 for purposes of Act 304, Act 81 and all other applicable law.

5. Subject to Section 3 above, this Amendment No. 1 shall be effective as of the date first entered above.

6. This Amendment No. 1 may be executed and delivered in counterparts, including by a facsimile or an electronic transmission thereof, each of which shall be deemed an original. Any document generated by the Parties with respect to this Amendment No. 1, including this Amendment No. 1, may be imaged and stored electronically and introduced as evidence in any proceeding as if original business records. Neither Party will object to the admissibility of such images as evidence in any proceeding on account of having been stored electronically.

7. Except as hereinabove modified and supplemented, all the terms and conditions of the AR PPA shall remain in full force and effect.

8. This Amendment No. 1 shall inure to the benefit of and be binding upon the successors and assigns of the respective parties.


IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 1 as of the date first written above.

CONSUMERS ENERGY COMPANY

By: 

WHITE'S BRIDGE HYDRO COMPANY

By: 

Review and Approval		
Contracts	MTD	12-14-15
Legal	KW	12-11-15
Risk		12/11/15