

Testimony by David W. Joos
to the U.S. House Energy and Commerce Committee,
Subcommittee on Energy and the Environment
June 12, 2009

Good morning. My name is David Joos, president and chief executive officer of CMS Energy Corporation, headquartered in Jackson, Michigan. Our principal subsidiary, Consumers Energy, provides service to 1.8 million electric customers and 1.7 million gas customers in Michigan's Lower Peninsula.

Thank you for this opportunity to testify on The Future of the Grid: Proposals for Reforming National Transmission Policy. This hearing is timely. The electric industry in the United States is on the verge of major transformation. Like all change, this represents a mix of potential benefits and significant risks.

Background

Consumers Energy offers a unique perspective on the issue this subcommittee is examining. We are one of the few electric utilities who developed, owned, and operated electric transmission facilities for a century, but are no longer transmission owners. In 2002, in response to prompting by the FERC through Order 2000 and new state energy policy, we sold our transmission system to an independent entity: TransElect, LLC. That system is now owned by ITC Holdings Corporation. Once we sold our system, our perspective shifted from a transmission-owning utility company to a transmission-dependent one. So you could say we see the issues from both sides of the street.

Our long experience gives us an appreciation of the importance of a robust transmission system. Further, we are keenly aware of the difficulties in building or expanding a transmission system. Our last attempt at developing a major interstate line was in the early 1990s when we proposed building a new transmission line from southwest Michigan to northern Indiana, connecting Consumers Energy's transmission system with Public Service Indiana's system. This proposed new line offered a new route for bringing electric power in and out of Michigan. However, local "not in my backyard" opposition delayed and ultimately led to the cancellation of the project despite anticipated benefits to the state as a whole.

An upside from this experience was the subsequent passage of siting legislation by the Michigan Legislature to address just such a situation. This legislation put in place a stringent needs analysis at the state regulatory level for proposals designed to protect and enhance essential infrastructure. That process continues to function well today.

To be clear, Consumers Energy is supportive of the development of new transmission infrastructure if:

1. The benefits exceed the costs by a reasonable margin.
2. The proposed project is superior to reasonable alternatives.
3. The costs are fairly allocated to the recipients of the benefits.

Allow me to expand upon these principles in the context of the planning, cost allocation, and siting of new transmission projects, as well as protecting customers from unjustified costs.

Planning

With regard to planning, a thoughtful, objective process must be utilized. This needs to demonstrate not only that the margin by which benefits exceed costs is reasonable, but also that other viable alternatives have been fully considered before a project moves forward. These alternatives could include local generation, distribution and alternative transmission projects.

We believe this planning should be conducted by an independent planning authority such as a Regional Transmission Organization, or a group of RTOs across a larger geographical area, rather than left to an individual transmission owner or a single state. The logic of this approach should be readily apparent. An RTO is charged to be independent and not have a vested interest in the outcome.

Transmission owners, even “independent” companies who do not also own generation or distribution assets, are clearly not objective parties to the process. In fact, independent transmission companies have a vested interest in transmission solutions in lieu of other alternatives. Capital investment in transmission is their growth vehicle. Further, overly generous FERC policies designed to incent investment in new transmission have created

a rush to develop projects for investment opportunity even when they don't represent optimum or even cost-effective solutions for customers.

We had a recent example of this in Michigan, with the proposed AEP-ITC Great Lakes 765 kV loop. This 700-mile, \$3.2 billion project would have added an additional \$640 million in annual transmission costs. The Midwest ISO's analysis concluded that Michigan customers stood to benefit by \$5 million a year in reduced generation costs. However, this \$5 million is before considering Michigan's share of the \$640 million of annual transmission cost, which resulted in this project failing to meet the Midwest ISO benefit/cost test. Further, the MISO identified that most of the benefits of the proposed Great Lakes 765 kV loop could be realized for a small fraction of the cost through a few 345 kV upgrades. Nevertheless, the proposed 765 kV loop continues to be included in massive high voltage infrastructure proposals by transmission developers.

Another example of the perverse incentive to build regardless of the benefit can be illustrated by an ITC transmission proposal to construct an underground 14-mile line at a cost of \$150 million in southeastern Michigan to resolve an alleged reliability problem. Consumers Energy and Detroit Edison challenged the prudence of ITC's solution. Detroit Edison proposed two solutions that would resolve ITC's alleged problem at a fraction of the cost: \$2.5 to \$5 million. Consumers Energy argued that reasonable and less expensive alternative overhead routes had not been considered in the development of ITC's proposal. The Michigan Public Service Commission ruled that ITC had not provided sufficient evidence that the quantifiable and non-quantifiable benefits of the line

would justify its construction. The moral of the tale is that the Certificate of Need process in Michigan works. In this case, it protected the customer from \$30 million in unjustified annual costs. This stringent review process needs to be replicated at the Federal Energy Regulatory Commission level.

Cost allocations

The RTO planning process needs to ensure that costs are not only prudent but are allocated fairly among the beneficiaries, whether that's the generator or the ultimate customer. Cost allocation should be a result of the planning process. Once a decision is made to go forward with a project, it should be determined through the planning process who benefits and, therefore, who pays. Bottom line, customers should not pay for something that does not benefit them. Customers in states like Michigan that are developing generation and transmission to serve the needs of the state should not be charged additional costs for transmission that is remote and does not provide demonstrable benefits to the customers.

For example, utilities and independent developers are planning significant new investment in renewable generation in the state, principally wind generation. There is viable wind in Michigan's "Thumb" as well as in several areas along the Lake Michigan shoreline. We will need new transmission infrastructure to interconnect this power to the existing grid, and welcome proposals to develop it. Michigan customers will benefit from these projects, which are needed to comply with new state renewable portfolio requirements, and Michigan customers should bear the costs associated with the optimum

solution to this need.

At the same time, transmission developers have proposed massive high voltage projects such as the “Green Power Express” to bring wind energy from the Dakotas to as far east as Chicago. It and projects like it have been likened in scale to the interstate highway system developed in the 1950s. The estimated cost of the “Green Power Express” is \$10 billion to \$12 billion.

The notion of harnessing vast quantities of wind energy on the Great Plains and transporting it over 3,000 miles of transmission lines to population centers in the Midwest and East is, without economic analysis, exciting and appealing on many levels. Perhaps it makes economic sense for customers in some of those locations. However, the Brattle Group study that has been used to tout the benefits of power from the wind-rich Dakotas makes it clear that the cost of the massive transmission investment is not included in its analysis, nor is the cost of the combustion-turbine back-up power needed for an intermittent energy source such as wind power. Including these necessary costs about doubles the cost of power on a delivered basis.

Similar to the conclusion of ten Governors of Northeast and Mid-Atlantic states, in Michigan we have analyzed that our wind resources can be developed at a lower cost to customers than the cost of wind power imported from the Dakotas once the cost of transmission is included. In addition to the cost savings, Michigan will benefit from the jobs and tax base associated with in-state wind development.

Siting

Siting, as discussed above, is potentially the most contentious issue and requires maximum transparency in the process. Any federal backstop provision must be judiciously applied, allowing for adequate local input and ensuring that reasonable alternatives are evaluated. Michigan's law offers a good model for consideration.

Protect Customers

Since Consumers Energy sold its transmission system, our customers' transmission costs have escalated significantly without demonstrable benefit. Transmission reliability in Michigan is excellent today, but it is not much different than it was a decade ago. Nor does Michigan suffer from significant transmission congestion issues.

Transmission rates in our service territory are today about four times what they were in 2001. The Administrative and General costs included in our rates have increased by a startling 461% just since 2003. Current proposals to further upgrade and expand the system would double rates again over the next decade, and this does not include the costs of interstate projects that some would have allocated to customers across the Eastern U.S.

There is no doubt that some additional investment in the Michigan transmission system has been needed, as well as additional attention to the operation and maintenance of the system. However, the increase in transmission cost to Michigan customers is not

justified, and portends to continue to increase dramatically if strong oversight is not in place. We don't believe that FERC's ratemaking process, for example, provides for sufficient prudency review of transmission rates in states where independent ownership limits the ratemaking review of state regulators.

In summary, while we are supportive of legislation to facilitate the siting of needed new transmission, we believe strongly that an objective, thoughtful process is needed to assure that the new investment is justified. Planning should be independent, benefits of projects must exceed costs and be superior to reasonable alternatives, and costs should be allocated to the benefit recipients. Further, state regulatory oversight of proposed intrastate projects should be preserved.

Thank you for your attention.