Executive Summary of
Timothy J Sparks, Consumers Energy
Written Testimony

- Consumers Energy (CE) is the principal subsidiary of CMS Energy and is Michigan's largest energy provider serving 6.7 million of the state's 10 million residents.

- Named a 2017 top performer for Michigan companies by Newsweek in its annual "Green Rankings", CE has taken numerous steps to reduce our environmental footprint to leave the planet better than we found it, including meeting a state Renewable Portfolio Standard of 15% by the end of 2020.
    - We believe it is possible to increase renewable generation while still keeping costs low for customers.

- Enacted over 40 years ago, PURPA is simply outdated and forcing our customers to pay well above market prices for energy, including renewable energy. H.R. 4476 modernizes PURPA to better reflect today's market conditions.

- H.R. 4476 provides recourse to challenge whether a QF is actually in violation of PURPAs "one mile" rule.

- Second, the bill recognizes the existence of non-discriminatory access to markets in those parts of the country with organized Regional Transmission Organizations by reducing the size of a covered QF to 2.5 megawatts (MW) from 20 MW.
    - Two of CE's current PURPA-based contracts are with facilities that are already connected to MISO's transmission system.
    - Over the next 5 years, CE customers are estimated to pay approximately $21 million annually above market for power from existing contracted PURPA facilities; $18 million of this $21 million will be paid to QFs above 2.5 MW.
    - Over the next 5 years, CE customers could pay as much as $35 million annually above market rates to existing and potential new PURPA QFs above 2.5 MW.

- The third provision in the legislation would allow greater flexibility for state utility commissions to suspend the mandatory purchase obligation should they find additional electrical capacity is not needed.
    - This language supports activities in Michigan, and recent legislation passed by the Michigan Legislature that requires regulated utilities file an Integrated Resource Plan with the MPSC on a regular basis beginning no later than April 20, 2019.

- Between the years 2006-2015, CE customers paid $300 million above market for electricity from qualifying PURPA generators less than 20 MW. The 40 year old law desperately needs updating and H.R. 4476 accomplishes this in a modest but important way.

Written Testimony of Timothy J. Sparks

Vice President of Electric Grid Integration
Consumers Energy, a CMS Energy Company

Hearing on "Legislation Addressing LNG Exports and PURPA Modernization"
Testimony on "H.R. 4476, the PURPA Modernization Act of 2017"

Before the Committee on Energy and Commerce
Subcommittee on Energy
United States House of Representatives

January 19, 2018

Chairman Upton, Ranking Member Rush, Representative Walberg, and distinguished members of the Subcommittee, thank you for the opportunity to testify regarding H.R. 4476, the “PURPA Modernization Act of 2017.”

My name is Tim Sparks and I am the Vice President of Electric Grid Integration for Consumers Energy, referred to throughout this testimony as “CE.”

CE is the principal subsidiary of CMS Energy and is Michigan’s largest energy provider – serving natural gas and/or electricity to 6.7 million of the state’s 10 million residents in all 68 Lower Peninsula counties. CE has a workforce consisting of approximately 15,000 employees and contractors and owns approximately 5,885 megawatts of generating capacity. We started in Jackson, Michigan in 1886 and are headquartered there today. Our corporate purpose guides our actions – World Class Performance Delivering Hometown Service – and we measure our success through a triple bottom line: People, Planet, and Prosperity.

As Vice President of Electric Grid Integration, my responsibilities include, in part, overall oversight of CE’s long-term and short-term electric supply planning, investments and strategy. My role directly impacts our commitment to the Planet as it relates to investing in clean and renewable energy. While proud of the success we’ve seen in this area, we recognize our work is far from done.

CE and parent company CMS Energy have taken several recent actions to leave our planet better than we found it, and just last month, we were honored as the top performer for Michigan companies by Newsweek in its annual “Green Rankings.” Recent activities include:

- Closing seven coal-fired power plants in 2016 – a higher percentage of our coal generation than any other investor-owned utility in the U.S.
- Obtaining over 10 percent of the electricity our Michigan customers use from renewable sources such as wind, solar and hydroelectric power – and working toward increasing this to 15 percent by 2021.
- Opening two solar power plants in Grand Rapids and Kalamazoo; CMS Energy will install another in Lansing in 2018.
- Helping Michigan homes and businesses save over $1 billion on bills through energy efficiency since 2009.
- Reducing water used to generate electricity by 17 percent in 2017 – and expecting to reach a 20 percent reduction by 2018, saving over 100 million gallons of water per year.
- Committing to a cumulative waste reduction goal of one million cubic yards of landfill space avoided by 2019 – a goal we met two years early (in 2017).

In addition to our commitment to increase renewable generation and sustainability, we are also committed to keeping costs low for our customers – not only as a direct benefit for customers, but also to attract new business and grow Michigan's economy. We believe it is possible to do both, and H.R. 4476 will help make that possible.

Enacted 40 years ago, the Public Utility Regulatory Policies Act of 1978 (PURPA) mandates that electric utilities purchase power from certain qualifying generating facilities (QFs) at forecasted prices set by the state public service commission at inception of the contract term, in hopes of promoting increased energy conservation, efficiency and the growth of renewable energy. Now, four decades later, America's energy landscape looks nothing like it did in the 1970s. The transformation of the energy industry has been revolutionary and includes:

- open access to electric transmission for power producers and standardized interconnection standards for smaller generators;
- various state and federal policies that have augmented energy efficiency practices and renewable energy development; and
- drastically lowered costs for clean and renewable energy.

Simply put, the 1978 PURPA law is outdated and forcing our customers to pay well above market prices for energy, including renewable energy, that they could otherwise get at a much lower rate. This is why Consumers Energy is supportive of H.R. 4476. The narrowly crafted bill does what it says it will do – modernize PURPA in a modest but important way.

First, the bill provides clarification to stop abuses of the "one-mile" rule. FERC regulations provide that for purposes of calculating a QF's net capacity, generating facilities are considered together as a single QF if they are located within one mile of each other, use the same energy resource and are owned by the same persons or their affiliates. H.R. 4476 provides recourse for a challenge to be pursued should QFs not properly adhere to the criteria for purposes of calculating capacity. Thus far in Michigan, we have not seen the egregious circumvention of this provision by certain small power producers as other utilities around the nation have experienced. Should the existing regulation remain intact, the opportunity to violate the intent of the PURPA one-mile rule will always exist, and our customers have no recourse to challenge this "gaming of the system."

Second, the bill recognizes the existence of non-discriminatory access to markets in those parts of the country with organized Regional Transmission Organizations by reducing the size of a covered QF to 2.5 megawatts (MW) from 20 MW. Organized in 2001, the Midcontinent Independent System Operator (MISO) manages the electric transmission reliability and grid functions for 15 states, including Michigan, and the Canadian province of Manitoba. CE has been a member since 2002. Most importantly, MISO assures unbiased, open access to the electric transmission system under its jurisdiction. Many of the QFs with which we were obligated to contract over 30 years ago now have the option to interconnect to the MISO transmission system as an independent power producer. Two of CE's current PURPA-based contracts are with facilities that are already connected to MISO's transmission system; one facility is owned by a privately held group of companies that operate 58 projects in 15 states and two countries, the other facility is owned by an investor-owned group of international companies with annual revenue in excess of €66 billion euro. Clearly, these power producers should not be considered "small power producers" under PURPA. Unless the existing law is changed in accordance with H.R. 4476, CE's customers will continue to be burdened with paying above-market rates to facilities like these.

While this option to connect to the transmission system operated by MISO did not exist in 1978, it does exist now. However, many of these QFs receive a much greater financial benefit by producing power as a PURPA facility under today's law, and thus do not avail themselves of the opportunity to participate in the competitive market. This is costing our customers money. Over the next five years, CE's customers are estimated to pay approximately $21 million annually above market for power from contracted PURPA facilities; $18 million of this $21 million will be paid to QFs above 2.5 MW.

This increased cost to our customers is formulated by the state-calculated avoided cost rate and applied to the QF's output. The avoided cost rate is the incremental costs to an electric utility of electric energy or capacity (or both) which, but for the purchase from a QF, the utility would generate itself or purchase from another source. Following a lengthy and complicated stakeholder process, the Michigan Public Service Commission (MPSC) recently announced a new avoided cost rate for CE. While we appreciate their steadfastness in doing their due diligence as mandated by federal law, the rate still remains well above market. This is illustrated by the dramatic increase in requests CE is receiving from new independent generators looking to interconnect to our electric system as potential PURPA QFs.

From 2012 through 2016, we averaged 197 applications per year for PURPA-eligible facilities to access the grid. In 2017, we received 683 applications. All of these applicants represent facilities at less than 20 MW. Some, but not all of these applicants, have indicated they will be seeking PURPA supply contracts with us. This inflow of PURPA contracts means that in one year we have received enough interest from PURPA contracts to expand to five times the installed capacity of contracts that we have in place from the last 40 years. Combined with existing PURPA contracts, these potential new QFs, greater than 2.5 MW, could wind up costing CE customers an estimated $35 million annually above market over the next five years.

The third provision in the legislation recognizes the critical role state public service commissions play in keeping energy costs low for customers. The bill would further support state commissions in this role by allowing greater flexibility to suspend the mandatory purchase obligation should they find additional electrical capacity is not needed by the utility's customers as determined by integrated resource plans or a competitive resource procurement program that provides an opportunity for QFs to participate in wholesale markets. This language supports activities in Michigan, and recent legislation passed by the Michigan Legislature that requires regulated utilities file an Integrated Resource Plan with the MPSC on a regular basis beginning no later than April 20, 2019.

I want to be clear on one thing – CE is not advocating for less renewables in our energy mix. In fact, since 2005, we have increased our renewable portfolio from 3% to 10% in 2015 and will meet the state's requirement of expanding our renewable generation to 15% by the end of 2020. These increases in competitively bid renewable generation will be and have been accomplished through renewable contracts and company-developed assets, unaided by any expansion of PURPA QFs.

In closing, the current PURPA law must be updated. Certain QFs from which we're required by law to purchase capacity and energy do have access to the MISO market, thereby running afoul of PURPA's intent and our customers are paying the price. CE customers between the years 2006-2015 paid $300 million above market for electricity from qualifying PURPA generators less than 20 MW. This 40 year law has succeeded in its mission – to promote the growth of renewable energy – but desperately needs updating.

Supported not only by Consumers Energy, but also by the Edison Electric Institute, the National Rural Electric Cooperative Association, and the American Public Power Association, along with a number of other businesses across the nation, we strongly urge the passage of H.R. 4476.