



A CMS Energy Company

General Offices:
One Energy Plaza
Jackson, MI 49201
Tel: (517) 788-0550
Fax: (517) 768-3644

*Washington Office:
1730 Rhode Island Ave. N.W.
Suite 1007
Washington, DC 20036
Tel: (202) 778-3340
Fax: (202) 778-3355

Writer's Direct Dial Number: (517) 788-1661
Writer's Email Address: james.roush@cmsenergy.com

LEGAL DEPARTMENT
CATHERINE M REYNOLDS
Senior Vice President
and General Counsel
Ashley L Bancroft
Robert W Beach
Don A D'Amato
Robert A. Farr
Gary A Gensch, Jr.
Gary L Kelterborn
Chantez P Knowles
Mary Jo Lawrie
Jason M Milstone
Rhonda M Morris
Deborah A Moss*
Mirče Michael Nestor
Michael C. Rampe
James D W Roush
Scott J Sinkwitz
Adam C Smith
Theresa A G Staley
Janae M Thayer
Anne M Uitvlugt
Aaron L Vorce
Attorney

MELISSA M GLEESPEN
Vice President, Corporate
Secretary and Chief
Compliance Officer

SHAUN M JOHNSON
Vice President and Deputy
General Counsel

Bret A Totoraitis
Kelly M Hall
Eric V Luoma
Assistant General Counsel

May 25, 2018

VIA E-FILING

Honorable Kimberly D. Bose,
Secretary
Federal Energy Regulatory Commission
Dockets Room, Room 1A
888 First Street, N.E.
Washington, DC 20426

**RE: Hydroelectric Project No. 10808 (Edenville)
Response to Boyce Hydro Power, LLC Letter Dated May 15, 2018**

Dear Ms. Bose,

Boyce Hydro Power, LLC (“Boyce”) on March 15, 2018 filed a letter about access by the public to the east side of the Edenville Project through a Consumers Energy Company (“Consumers Energy”)-owned access road.¹ Consumers Energy filed a response on April 10, 2018 stating that the public did not have a right to use its access road, as its entrance has a locked gate.² Boyce on May 18, 2018 filed a response stating that Consumers Energy restricts “only vehicular access” – but not other forms of access, such as foot traffic – and that Boyce may need to “structure an agreement with Consumers Energy to formalize the public access...”³ Consumers Energy responds here to these statements.

First, Boyce’s statement that Consumers Energy restricts “only vehicular access” is inaccurate. The public has no legal right to use Consumers Energy’s access road, regardless of whether it is vehicular access, non-motorized access, or foot traffic. Second, Boyce is correct that, if it desires to permit public access over Consumers Energy’s property, it will need to come to some written agreement with Consumers Energy. No such agreement exists today, however. As such, Consumers Energy requests that the Federal Energy Regulatory Commission not approve any recreation plan that includes public access over Consumers Energy’s road in the absence of Boyce securing the appropriate written agreement from Consumers Energy on this issue.

¹ Accession No. 20180319-5039. This access road provides Consumers Energy with access to its distribution substation that is east of the Project. This substation serves both Boyce and numerous other customers of Consumers Energy as part of its broader distribution network.

² Accession No. 20180410-5092.

³ Accession No. 20180518-5124.

If you have any questions, please contact me at (517) 788-1661.

Sincerely,

James D. W. Roush
Attorney III
Consumers Energy Company

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