

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the complaint of)
PHILLIP BOUYER, DOROTHY HARDY, BOUYER)
FUNERAL HOME, and the estate of **TERRY L.**)
HARDY against **MICHIGAN CONSOLIDATED**)
GAS COMPANY.)
_____)

Case No. U-11443

At the July 24, 1998 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. John G. Strand, Chairman
Hon. John C. Shea, Commissioner
Hon. David A. Svanda, Commissioner

ORDER DENYING REHEARING

On May 11, 1998, the Commission issued an order dismissing the complaint filed against Michigan Consolidated Gas Company (Mich Con) by Philip Bouyer, Dorothy Hardy, Bouyer Funeral Home, and the estate of Terry L. Hardy.

On June 15, 1998, Philip Bouyer filed a document that the Commission will treat as a petition for rehearing of the May 11, 1998 order dismissing this case. In the petition, Mr. Bouyer indicates that a breakdown in communication between himself and counsel for Mich Con resulted in Mr. Bouyer's failure to file exceptions to the Proposal for Decision. Mr. Bouyer essentially contends that because that failure was not his fault, the Commission should rescind its May 11, 1998 order.

On July 6, 1998, Mich Con filed a response to the petition for rehearing, in which it requests that the Commission find that Mr. Bouyer's petition fails to meet the standard for granting rehearing found in Rule 403.

Rule 403 of the Commission's Rules of Practice and Procedure, 1992 AACCS, R 460.17403, provides that a petition for rehearing may be based on claims of error, newly discovered evidence, facts or circumstances arising after the hearing, or unintended consequences resulting from compliance with the order. A petition for rehearing is not merely another opportunity for a party to argue a position or to express disagreement with the Commission's decision. Unless a party can show the decision to be incorrect or improper because of errors, newly discovered evidence, or unintended consequences of the decision, the Commission will not grant a rehearing.

The Commission finds that Mr. Bouyer's untimely petition for rehearing fails to meet the above standard for granting rehearing. In the Commission's view, Mr. Bouyer had ample time (more than 45 days) to prepare timely exceptions. Moreover, there is nothing in the petition for rehearing that leads the Commission to believe that its earlier determination on the merits was erroneous.

The Commission FINDS that:

- a. Jurisdiction is pursuant to 1909 PA 300, as amended, MCL 462.2 et seq.; MSA 22.21 et seq.; 1919 PA 419, as amended, MCL 460.51 et seq.; MSA 22.1 et seq.; 1939 PA 3, as amended, MCL 460.1 et seq.; MSA 22.13(1) et seq.; 1969 PA 306, as amended, MCL 24.201 et seq.; MSA 3.560(101) et seq.; and the Commission's Rules of Practice and Procedure, as amended, 1992 AACCS, R 460.17101 et seq.
- b. The petition for rehearing filed by Philip Bouyer should be denied.

THEREFORE, IT IS ORDERED that the petition for rehearing filed by Philip Bouyer is denied.

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; MSA 22.45.

MICHIGAN PUBLIC SERVICE COMMISSION

/s/ John G. Strand
Chairman

(S E A L)

/s/ John C. Shea
Commissioner

/s/ David A. Svanda
Commissioner

By its action of July 24, 1998.

/s/ Dorothy Wideman
Its Executive Secretary

THEREFORE, IT IS ORDERED that the petition for rehearing filed by Philip Bouyer is denied.

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; MSA 22.45.

MICHIGAN PUBLIC SERVICE COMMISSION

Chairman

Commissioner

Commissioner

By its action of July 24, 1998.

Its Executive Secretary

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Suggested Minute:

“Adopt and issue order dated July 24, 1998 denying the petition for rehearing filed by Phillip Bouyer, as set forth in the order.”