

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter of the application of)	
CONSUMERS ENERGY COMPANY for)	
accounting and ratemaking approval of)	Case No. U-11509
depreciation practices for gas utility plant.)	
_____)	

At the March 22, 1999 meeting of the Michigan Public Service Commission in Lansing, Michigan.

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

ORDER DENYING REHEARING

On August 29, 1997, Consumers Energy Company (Consumers) filed an application seeking accounting and ratemaking approval of various depreciation practices and accrual rates for its gas utility plant. According to Consumers, a depreciation study indicated that revisions to its existing depreciation formulas and accrual rates were needed to reflect changes in the net salvage factors and mortality characteristics of several classes of assets. Consumers also asserted that the Commission should recognize and approve an earlier decision by the utility to increase the capitalization minimum for new plant assets from \$500 to \$1,000. Finally, the utility sought permission to continue the application of amortization accounting¹ to several of its general plant accounts.

¹Amortization accounting is a vintage year amortization methodology under which retirements of individual items are not recorded. Rather, the retirement of an asset is recorded on Consumers' books when that item's vintage year group reaches its average service life.

According to Attorney General Jennifer M. Granholm (Attorney General), the Commission Staff (Staff), and Ward Lake Drilling, Inc., d/b/a Ward Lake Energy, the utility's depreciation study overestimated the cost of removal for many of Consumers' assets. These parties further asserted that the depreciation methodology Consumers proposed using for its general plant accounts was flawed. They therefore disputed several of the conclusions reached (as well as the depreciation rates developed) as a result of the utility's depreciation study.

On December 7, 1998, the Commission issued an order in this case (the December 7 order) adopting in part and rejecting in part the requests included in Consumers' application, and establishing new depreciation rates and formulas for Consumers' gas utility plant.

On January 6, 1999, the Attorney General filed a petition for rehearing in which she claimed that two of the conclusions reached by the Commission in the December 7 order were erroneous. The first was the Commission's decision not to adjust the historical net salvage ratios for certain accounts by applying the Handy-Whitman Index (HWI). The second was the Commission's finding that it was appropriate to use the estimated current cost of plugging a well to help establish the net salvage value for Account 352.4, Underground Storage Plant -- Well Equipment. On January 27, 1999, Consumers filed a response to the Attorney General's petition.

Rule 403 of the Commission's Rules of Practice and Procedure, 1992 AACS, 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 Attorney General begins her argument by noting that witnesses for the Staff and the Attorney General proposed using the HWI to remove the effect of inflation on the net salvage values initially computed for Accounts 355, 369, 376, 378, 381, 382, and 383. According to her, testimony offered by those witnesses conclusively shows that (1) future levels of inflation “are not likely to match the historic levels of inflation which are inherent in the original cost/current cost ratios” used by the utility to calculate its net salvage ratios and depreciation rates, (2) the utility’s continued use of “a historical method to project future net salvage costs” for assets in those accounts will have the effect of including future inflation in those assets’ projected costs of removal, and (3) application of the HWI-based adjustments proposed by the Staff and the Attorney General could eliminate the problem. Attorney General’s petition, pp. 6-7. She therefore contends that the Commission erred in rejecting the proposed application of the HWI to those seven accounts.

The Attorney General goes on to assert that the Commission erred in adopting the utility’s proposed net salvage ratio for Account 352.4. She contends that although Consumers relied on historical figures for salvage and cost of removal when estimating new salvage value percentages for most other classes of assets, the utility departed from its historical net salvage ratio method when dealing with this account. Instead, the Attorney General notes, the utility estimated the average cost of plugging a well as of December 31, 1996² and used that estimate to develop a proxy for Account 352.4’s net salvage ratio. According to her, the utility’s use of a proxy-based methodology is less reliable than the historical cost-based methodology recommended by the Attorney General’s witness, and thus should have been rejected.

²The Commission’s January 7, 1994 order in Case No. U-10380 directed Consumers to file its application in this case no later than September 1, 1997 proposing new depreciation rates and formulas based on year-end 1996 data.

Finally, the Attorney General contends that the Commission's rulings on the two above-mentioned issues are inconsistent. Specifically, she points to the Commission's statements on page 15 of the December 7 order to the effect that (1) use of the HWI-based adjustments proposed by the Staff and the Attorney General would represent a substantial change in the long-standing methodology used to establish depreciation rates, (2) in such situations, the Commission generally imposes a heavy burden to demonstrate both the necessity and the efficacy of the proposed change, and (3) the Staff and the Attorney General failed to meet that burden in this case. According to the Attorney General, this conflicts with the Commission's decision to approve a substantial change in the methodology used for Account 352.4 where, she claims, the Commission failed to impose such a heavy burden of proof when considering Consumers' proposal.

In its response, Consumers argues that the Attorney General's claims regarding both the HWI-based adjustment and Account 352.4's net salvage ratio are nothing more than "reiterations of arguments which the Commission did not find persuasive when raised previously in this case." Consumers' response, p. 3. Rather than identifying any error, the utility contends, the Attorney General's first two arguments merely express disagreement with the Commission's decisions.

As for the Attorney General's third argument in support of rehearing, Consumers asserts that no inconsistency was created by imposing a heavy burden of proof on parties advocating application of the HWI-based adjustment to Accounts 355, 369, 376, 378, 381, 382, and 383 while not imposing a comparable burden on the party proposing to use a proxy-based methodology to establish the net salvage ratio for Account 352.4. According to Consumers, the two situations are distinguishable. In the first instance, the proposed use of the HWI-based adjustment was a substantial change in methodology. In the second, Consumers was merely proposing to use the same method to estimate removal costs for Account 352.4 as had been approved by the Commission in

the utility's preceding depreciation rate case. Consumers therefore asserts that the Commission must reject the Attorney General's request for rehearing.

The Commission agrees with the utility and finds that the petition for rehearing should be rejected. As noted by Consumers, the Attorney General's first two claims of error merely repeat arguments previously submitted in her brief, reply brief, and exceptions. These arguments were fully considered and dealt with by the Commission in its December 7 order. As a result, the Attorney General's first two claims of error fail to support rehearing.

The Attorney General's third argument also must be rejected. Notwithstanding her assertions to the contrary, the Commission's decision to impose a heavy burden of proof on parties advocating use of the HWI to adjust net salvage ratios for various accounts is not inconsistent with its treatment of Account 352.4, and thus is not in error. The proposed application of the HWI-based adjustment represents a substantial change in methodology for each of those seven accounts. In contrast, Consumers' proposed use of a proxy-based methodology to estimate removal costs for Account 352.4 is the same approach that was used in the utility's previous gas depreciation rate case. See, 3 Tr. 285. Moreover, it appears consistent with the methodology adopted by the Commission's May 7, 1991 order in Case No. U-9493 for use in establishing net salvage values for Consumers' electric fossil generation plant accounts. Thus, it is entirely proper for the Commission to apply a different burden of proof when reviewing each of these proposals.

For all of these reasons, the Commission concludes that the Attorney General's petition for rehearing should be denied.

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 AACRS, R 460.17101 et seq.

b. The Attorney General's petition for rehearing should be denied.

THEREFORE, IT IS ORDERED that the petition for rehearing filed on January 6, 1999 by Attorney General Jennifer M. Granholm 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/ David A. Svanda
Commissioner

By its action of March 22, 1999.

/s/ Dorothy Wideman
Its Executive Secretary

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 AACRS, R 460.17101 et seq.
- b. The Attorney General's petition for rehearing should be denied.

THEREFORE, IT IS ORDERED that the petition for rehearing filed on January 6, 1999 by Attorney General Jennifer M. Granholm 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

By its action of March 22, 1999.

Its Executive Secretary

In the matter of the application of)
CONSUMERS ENERGY COMPANY for)
accounting and ratemaking approval of)
depreciation practices for gas utility plant.)
_____)

Case No. U-11509

Suggested Minute:

“Adopt and issue order dated March 22, 1999 denying the petition for rehearing filed by Attorney General Jennifer M. Granholm, as set forth in the order.”