

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the complaint of )  
MICHIGAN GAS EXCHANGE, L.L.C., n/k/a )  
MICHIGAN ENERGY EXCHANGE, L.L.C., against )  
MICHIGAN CONSOLIDATED GAS COMPANY )  
regarding the application of the early termination )  
damage provisions of their supplier aggregation )  
agreement. )  
\_\_\_\_\_ )

Case No. U-12506

At the February 5, 2001 meeting of the Michigan Public Service Commission in Lansing,  
Michigan.

PRESENT: Hon. Laura Chappelle, Chairman  
Hon. David A. Svanda, Commissioner  
Hon. Robert B. Nelson, Commissioner

**ORDER APPROVING SETTLEMENT AGREEMENT**

On June 28, 2000, Michigan Gas Exchange, L.L.C., n/k/a Michigan Energy Exchange, L.L.C. (MEE), filed a complaint against Michigan Consolidated Gas Company (Mich Con) alleging that Mich Con was improperly applying the early termination damage provisions contained in Section 4 of the March 17, 2000 supplier aggregation agreement signed by Mich Con and MEE. The complaint asserted, among other things, that Mich Con failed to account for the effect that certain of the utility's Customer Choice Program tariffs have on the imposition of early termination damages. On August 2, 2000, Mich Con filed an answer to the complaint, as well as a motion to

dismiss. Moreover, Mich Con filed a claim for breach of contract against MEE before the American Arbitration Association (AAA).

Pursuant to due notice, a prehearing conference was held on September 26, 2000 before Administrative Law Judge George Schankler (ALJ). MEE, Mich Con, and the Commission Staff participated in the proceedings. In the course of the prehearing conference, the ALJ denied Mich Con's motion to dismiss.

Subsequently, the parties submitted a settlement agreement resolving all issues in this case.

According to the terms of the settlement agreement, attached as Exhibit A, the parties agree that (1) MEE should waive and release all claims against Mich Con that form the basis of the related disputes currently before this Commission and the AAA, (2) Mich Con should likewise waive and release all of its claims against MEE, and (3) the present case should be dismissed with prejudice and without the assessment of any costs or attorney fees.

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 settlement agreement is reasonable and in the public interest, and should be approved.
- c. MEE's June 28, 2000 complaint should be dismissed with prejudice and without costs or attorney fees.

THEREFORE, IT IS ORDERED that:

A. The settlement agreement, attached as Exhibit A, is approved.

B. The June 28, 2000 complaint filed by Michigan Gas Exchange, L.L.C., n/k/a Michigan Energy Exchange, L.L.C., against Michigan Consolidated Gas Company is dismissed with prejudice and without the imposition of costs or attorney fees.

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/ Laura Chappelle  
Chairman

( S E A L )

/s/ David A. Svanda  
Commissioner

/s/ Robert B. Nelson  
Commissioner

By its action of February 5, 2001.

/s/ Dorothy Wideman  
Its Executive Secretary

THEREFORE, IT IS ORDERED that:

A. The settlement agreement, attached as Exhibit A, is approved.

B. The June 28, 2000 complaint filed by Michigan Gas Exchange, L.L.C., n/k/a Michigan Energy Exchange, L.L.C., against Michigan Consolidated Gas Company is dismissed with prejudice and without the imposition of costs or attorney fees.

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

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Chairman

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Commissioner

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Commissioner

By its action of February 5, 2001.

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Its Executive Secretary

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Suggested Minute:

“Adopt and issue order dated February 5, 2001 approving the settlement agreement and dismissing the complaint filed by Michigan Gas Exchange, L.L.C., n/k/a Michigan Energy Exchange, L.L.C., against Michigan Consolidated Gas Company, as set forth in the order.”