

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter, on the Commission's own motion,)
of the implementation of the market-based rate)
provision of the gas customer choice program)
approved for CONSUMERS ENERGY COMPANY)
in Case No. U-11599.)
_____)

Case No. U-12887

At the March 29, 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

OPINION AND ORDER

On December 19, 1997, the Commission issued an order in Case No. U-11599 approving an application by Consumers Energy Company (Consumers) for authority to implement a three-year experimental pilot program for gas customer choice. The experimental program commenced April 1, 1998 and ends in March 2001. The Commission approved the suspension of Consumers' gas cost recovery clause from April 1, 1998 through March 31, 2001, and approved a fixed gas commodity charge of \$2.8364 per thousand cubic feet (Mcf) for sales customers who chose not to select another gas supplier. The Commission established a market-based rate for customers who chose to purchase gas from another supplier and then subsequently returned to Consumers' sales supply.

During 2000, the wholesale price of natural gas increased to record levels, and those high prices continued through the 2000-2001 heating season. When the Commission approved the gas customer choice program, it was not anticipated that the price of natural gas would reach those levels. Nevertheless, the fixed gas commodity charge of \$2.8364 per Mcf insulated customers who chose not to participate in the experimental program from those cost increases. On the other hand, customers who chose to participate in the experimental gas customer choice program and then returned to Consumers' service have not been insulated from those increases. The Commission has been informed that, during the November 2000 through March 2001 billing months, the market-based rates for those customers ranged from \$6.0890 per Mcf to as much as \$10.1907 per Mcf. (The Commission has also been informed that more than 3,000 of Consumers' customers paid market-based rates during the 2000-2001 heating season.)

Thomas Mossman is one of those customers, and he filed a complaint in Case No. U-12837 about the market-based rates. He alleges that he signed up for service with Eastcoast Gas, Inc., and that when it went out of business, he was returned to Consumers' sales service. He denies that he was informed at any time that he might be required to pay market-based rates to Consumers if he chose an alternative supplier that later went out of business. He asks the Commission to rule that he is required to pay Consumers only the rate it charged its customers who did not choose an alternative supplier.

The experimental gas customer choice tariff has created an unintended and unforeseen hardship for customers subject to market-based rates during the 2000-2001 winter heating season. In charging market-based rates, Consumers apparently implemented the approved tariff provision and acted appropriately. However, the fact that the tariff was properly implemented is of little comfort to the customers who paid market-based rates.

The program was an experiment, a fact recognized by the Court of Appeals in its decision in Residential Ratepayer Consortium v Public Service Commission, 239 Mich App 1; 607 NW2d 391 (1999), upholding the Commission's order establishing the experimental program. The Court of Appeals also recognized that an evaluation of experimental programs must, by their very nature, await results.

The Commission is faced with a situation in which some customers have been affected by an unintended result of the program--paying market-based rates during the recent winter season that were significantly higher than rates experienced by customers who did not choose to participate in the experimental program and that were significantly higher than envisioned when the program was approved. The Commission concludes that a contested case should be commenced for the purpose of determining what, if any, action should be taken to mitigate the effect of market-based rates on customers who returned to Consumers' sales service during the gas customer choice program. Mr. Mossman may participate in the case without filing a petition for leave to intervene. Other customers in the same situation may participate by filing a statement of position or may seek to intervene by filing a petition for leave to intervene, but without the need to file a complaint. The remedy, if any, for such customers will be determined in this docket, and the remedy, if any, will be applied to all similarly situated customers. Consumers shall provide complete information on when and how many customers were billed market-based rates and shall quantify the amounts collected. Consumers and other parties may offer suggested remedies.

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. A contested case should be commenced for the purpose of determining what, if any, action should be taken to mitigate the effect of market-based rates on customers who returned to Consumers' sales service during the gas customer choice program.

THEREFORE, IT IS ORDERED that a contested case shall commence for the purpose of determining what, if any, action should be taken to mitigate the effect of market-based rates on customers who returned to Consumers Energy Company's sales service during the gas customer choice program.

The Commission reserves jurisdiction and may issue further orders as necessary.

MICHIGAN PUBLIC SERVICE COMMISSION

(S E A L)

/s/ Laura Chappelle
Chairman

By its action of March 29, 2001.

/s/ David A. Svanda
Commissioner

/s/ Dorothy Wideman
Its Executive Secretary

/s/ Robert B. Nelson
Commissioner

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b. A contested case should be commenced for the purpose of determining what, if any, action should be taken to mitigate the effect of market-based rates on customers who returned to Consumers' sales service during the gas customer choice program.

THEREFORE, IT IS ORDERED that a contested case shall commence for the purpose of determining what, if any, action should be taken to mitigate the effect of market-based rates on customers who returned to Consumers Energy Company's sales service during the gas customer choice program.

The Commission reserves jurisdiction and may issue further orders as necessary.

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Suggested Minute:

“Adopt and issue order dated March 29, 2001 commencing a contested case for the purpose of determining what, if any, action should be taken to mitigate the effect of market-based rates on customers who returned to Consumers Energy Company's sales service during the gas customer choice program, as set forth in the order.”