

STATE OF MICHIGAN  
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter, on the Commission's own motion,	)	
to establish a licensing procedure for alternative	)	Case No. U-13694
gas suppliers, pursuant to MCL 460.9b.	)	
_____	)	

At the February 5, 2003 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**

Public Act 634 of 2002 requires the Commission to "issue orders establishing a licensing procedure for all alternative gas suppliers participating in any natural gas customer choice program approved by the commission." MCL 460.9b(1). The Commission Staff (Staff) developed a proposed licensing procedure, and revised it in response to comments received from current gas suppliers. The Staff's proposal, as revised, is attached to this order as Exhibit A. After reviewing that proposal, the Commission concludes that a further opportunity for comment is appropriate before the Commission adopts a procedure.

The Commission FINDS that:

- a. Jurisdiction is pursuant to 1909 PA 300, as amended, MCL 462.2 et seq.; 1919 PA 419, as amended, MCL 460.51 et seq.; 1939 PA 3, as amended, MCL 460.1 et seq.; 1969 PA 306, as

amended, MCL 24.201 et seq.; and the Commission's Rules of Practice and Procedure, as amended, 1992 AACRS, R 460.17101 et seq.

b. Interested parties should have an opportunity to comment on the Staff's proposed gas supplier licensing procedure.

THEREFORE, IT IS ORDERED that any interested party may file comments on the Commission Staff's proposed gas supplier licensing procedure, attached as Exhibit A, on or before February 21, 2003.

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

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, 2003.

/s/ Dorothy Wideman  
Its Executive Secretary

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Commissioner

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Commissioner

By its action of February 5, 2003.

\_\_\_\_\_  
Its Executive Secretary

**Implementing the 2002 PA 634 Licensing Procedure  
Michigan Alternative Natural Gas Supplier Program  
Michigan Public Service Commission**

Michigan PA 634 of 2002, effective on December 23, 2002, requires that persons selling natural gas at unregulated retail rates in Michigan must obtain a license from the Michigan Public Service Commission (Commission). The law requires the Commission to establish a licensing procedure.

Sec. 9b of the Act outlines supplier licensing. Generally, the Commission must issue orders establishing a procedure. All Suppliers shall be licensed. The Commission shall require suppliers to collect and remit all applicable taxes to the state and local units of government unless a natural gas utility is doing so on behalf of the supplier. Finally, there is a broad mandate that the Commission shall assure that alternative gas suppliers have "the necessary financial, managerial, and technical capabilities and require the supplier to maintain records that the commission considers necessary."

### **Establishing the licensing process**

The Commission must issue an order to establish the licensing procedure.

### **Who must be licensed?**

All Suppliers delivering to retail customers under a utility retail choice program must be licensed. This includes existing and new alternative gas suppliers.

### **Do Suppliers of transportation gas need to be licensed?**

No, transportation gas customers are outside the retail choice program.

### **Streamlined process for existing suppliers is recommended**

It is recommended that there be a presumption of financial, managerial, and technical capabilities of existing Alternative Gas Suppliers. Existing suppliers would be obligated to submit an application for the Commission established process. They must provide Application Part I information, including the affidavit letter committing to abide by the licensing process and the Terms and Conditions agreement. However, the staff review would not require information related to financial, managerial, or technical capabilities. Existing suppliers would not have to file this information; staff would presume adequate capabilities in these areas.

**Implementing the 2002 PA 634 Licensing Procedure  
Michigan Alternative Natural Gas Supplier Program  
Michigan Public Service Commission**

**Licensing process should be similar to the Alternative Electric Supplier Licensing**

1. Suppliers submit to a Commission staff review. The staff review process time is variable, depending on initial application contents, additional information requirements, and necessary meetings with applicant to validate proprietary documentation.
2. Staff reviews the Application and Terms and Conditions Agreement submission, consults with any needed experts and the applicant, and makes a recommendation to the Commission. This recommendation is for approval or non-approval of the license.
3. Commission then either issues an ex parte order approving the issuance of a license if it is satisfied that applicant has met licensing criteria through the staff review, or schedules the matter for a contested hearing to provide applicant an opportunity to present a more thorough review of their credentials, in the event applicant has not sufficiently demonstrated capability through the staff assessment.
4. Applicant or other party has the right to appeal the Commission Order.

**The Application**

The format of the application generally follows the established process for that of Alternative Electric Suppliers (AES). However, in the AES process, staff has generally met with suppliers to review confidential information and has mandated a bond or letter of credit in the amount of \$100,000 for all suppliers who are not rated BBB or better by a major financial rating service. For the Alternative Gas Supplier application process, it is recommended these items are included explicitly in the initial application. This should make the process transparent for all parties and may facilitate the review process.

The AES licensing process falls under 2000 PA 141, and PA 141 explicitly includes a bond requirement. 2002 PA 634 does not require a bond or letter of credit for the Alternative Gas Suppliers, but requires the Commission assure alternative gas suppliers have the necessary financial capability. So, while not explicitly required, staff may request a bond or letter of credit from applicants who have not demonstrated financial capability. The amount should be similar for all suppliers, and it is recommended that the \$100,000 required for AES is sufficient for gas suppliers. This bond or letter of credit is in addition to any tariff requirements or requirements placed on suppliers by utilities.

**APPLICATION AND TERMS AND CONDITIONS AGREEMENT**  
**Michigan Alternative Natural Gas Supplier Program**  
**Michigan Public Service Commission**

Michigan Public Act 634 of 2002, effective on December 23, 2002 requires that persons selling natural gas at unregulated retail rates in Michigan must obtain a license from the Michigan Public Service Commission (Commission). The law requires the Commission to establish a procedure for licensing. This application represents the first step in the Commission's procedure for obtaining a license. Part I of the Application is the initial application for a license. Once the Part I review is complete, the applicant and staff will jointly determine an appropriate time and place to review the confidential information of Part II in the application.

Failure to provide accurate information on this form, to furnish any required supporting information including required affidavits, or to comply with the Terms and Conditions may result in denial or revocation of a license.

**PART I: Information required in initial application. This information will remain on record at the Commission.**

1. Applicant's business name and type of legal entity (corporate, type of partnership, etc).
2. Contact agent, telephone number, fax, and email address for application process and staff contact.
3. Provide business name, address and telephone number.
4. Toll-free telephone number, email address, and website for 24-hour contact for customers.
5. If principal place of business is outside Michigan, provide Michigan office address.
6. Specify type of provider (utility, utility affiliate, marketer).
7. Business affiliation (utility affiliation, other).
8. FERC authorization type(s) and number(s), if required.
9. Has the applicant or any agent of the applicant within the past three years committed any violations of law or business ethics in connection with provision of energy or energy-related products and services anywhere in the United States that resulted in a conviction or acceptance of a penalty for said behavior?  
If the answer is yes, explain the violations in an attachment to this application. Subsequent violations must be disclosed within 30 days.
10. Experience as a supplier of retail energy, including natural gas or electricity. This should outline any failures to serve customers by the applicant or any predecessor or affiliate entity.
11. A separate legal affidavit, signed by a corporate officer with proper authority, which shall attest to the competence of the company's employees to market natural gas as a Michigan Alternative Gas Supplier and shall state that applicant will abide by the Commission rules, terms, and conditions for Alternative Gas Suppliers.

**PART II: Additional information for Commission Staff review. This should not be included with application and will not be included in record files at the Commission.**

12. Two years of audited financial documents of applicant or controlling company.
13. Line of credit or bond in the amount of \$100,000 will be required for applicants w/o demonstrated financial capability.
14. Resumes or Bios of individuals chiefly responsible for operations.
15. Overview of business plan including risk management strategy or policy.

**APPLICATION AND TERMS AND CONDITIONS AGREEMENT**

**Michigan Alternative Natural Gas Supplier Program**

Michigan Public Service Commission

**PART III - COMPLIANCE COMMITMENT**

By signing this application and providing the affidavit letter required in item 11 of this application, the applicant and its representatives (1) certify that the information provided herein is accurate and complete and (2) agree to abide by the provisions of this agreement including the Terms and Conditions for a Michigan alternative natural gas supplier.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Name:

Title:

Upon approval of this application through an order issued by the MPSC, applicant will be licensed as an alternative gas supplier under Michigan PA 634 of 2002. Submit the completed and signed forms along with the signed affidavits and any necessary supporting documentation to:

Alternative Gas Supplier Program  
Competitive Energy Division  
Michigan Public Service Commission  
P.O. Box 30221  
Lansing, Michigan 48909

**APPLICATION, SUBMISSION, AND LICENSE PROCESS:**

The application may be downloaded in PDF or Word format. Responses to Part I may be attached or the Part I items may be reformatted by expanding the application and inserting responses. The compliance commitment must be signed and dated as indicated.

Staff will contact you via email or phone to acknowledge receipt of application. Staff will review the application and contact you regarding any clarifications or needed additional materials. Once the initial application materials are complete, Staff will meet with principals of applicant to cover and discuss Application Part II information. The Part II information is regarded as sensitive or confidential and will not be archived at the Commission but is relevant to the viability of the applicant to reliably serve natural gas to Michigan retail customers.

Upon completion of the application process, Staff will make a recommendation to the Commission regarding the license. Granting of the license is by Commission order.

Commission Staff contacts:

Jack Mason	517 241-6172 (primary contact)
Mary Jo Kunkle	517 241-3322 (alternate contact)

## APPLICATION AND TERMS AND CONDITIONS AGREEMENT

### Michigan Alternative Natural Gas Supplier Program

Michigan Public Service Commission

#### Attachment A: Terms and Conditions

- 1) **Supplier contact information.** Supplier will notify staff of any change in the supplier's name, corporate structure, Michigan address, telephone number, and contact person or agent.
- 2) **Michigan office.** A supplier shall maintain a Michigan office. A supplier representative, toll-free telephone number, email address, and website must be made available at all times to enable customers to contact or make inquiry with the supplier.
- 3) **FERC authorization.** Suppliers must obtain any authorizations required by the Federal Energy Regulatory Commission, including any authorization required by the FERC to become a natural gas retail marketer. A supplier must notify Commission staff within 30 days of any FERC determination regarding supplier's provision of natural gas to retail customers.
- 4) **Business practices and ethics disclosure.** Suppliers must follow all state and federal laws, as well as Commission policies and practices that may be established. Violations of law or business ethics by the supplier or an agent of the supplier in connection with provision of energy or energy related products or services anywhere in the United States must be disclosed to the Commission staff within 30 days of any conviction or penalty.
- 5) **Product/Service disclosures.** A supplier shall conform to all customer disclosure requirements set by the Commission under authority of 2002 PA 634.
- 6) **Product/Service marketing and contract practices.** Suppliers must follow all state and federal laws, as well as Commission policies and practices that may be established, to insure fair and truthful representation of natural gas and other services provided in a Michigan natural gas customer choice program.
- 7) **Customer enrollment and services.** Enrollment of customers in the Michigan retail access program must strictly follow the procedures authorized by the Commission. Slamming (unauthorized switching) or cramming (unauthorized adding of additional services not requested by the customer) as outlined in subsections (2) and (4) of 2002 PA 634 constitute serious offenses in the enrollment process. Suppliers shall not include or add services without authorization as outlined in that Act, and shall conform to all state and federal laws and regulations regarding the retail sale of products and services.
- 8) **Physical termination of service to customer.** Termination must comply with all rules or procedures authorized by the Commission.
- 9) **Utility tariffs and rules of service.** Suppliers must comply with utility tariffs and rules of service established and authorized by the Commission or FERC which are applicable to the supplier or its retail customers.
- 10) **Customer confidentiality.** All information obtained by the supplier from a customer (or potential customer) or through customer authorization concerning that customer is to be held in strict confidence. Customer information may be released only with customer's approval, and such approval shall not be commingled with other offers, contracts, or approvals.
- 11) **Customer data requests.** A Customer shall have the right to obtain its own billing and natural gas consumption data that is in possession of the supplier.
- 12) **Associated broker, aggregator, or marketer.** Suppliers relying on the services of brokers, aggregators, or marketers must pledge a best faith effort to hold them in compliance with provisions of this agreement. Suppliers shall supply the Commission staff with the address, telephone number, name of a contact and business affiliation of any brokers, aggregators, or marketers used by the supplier.
- 13) **State taxes, fees and revenue collection.** Suppliers will be required to collect and remit all applicable state taxes, fees, and charges levied on energy suppliers as a class of business providers, including those fees and charges established by the Commission to implement and enforce this program, unless the natural gas utility is doing so on behalf of supplier.
- 14) **Reporting.** Alternative gas suppliers may be obligated to report statistical data regarding their retail sales and wholesale transactions to the Commission. Books and records must be made available so that the Commission Staff can verify the accuracy of the statistical data reports.