

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter of the application of)	
MICHIGAN CONSOLIDATED GAS COMPANY for)	
a certificate of public convenience and necessity)	Case No. U-13777
to provide natural gas service in Section 23 of)	
Fruitport Township, Muskegon County.)	
_____)	

At the February 12, 2004 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. J. Peter Lark, Chair
Hon. Robert B. Nelson, Commissioner
Hon. Laura Chappelle, Commissioner

ORDER APPROVING SETTLEMENT AGREEMENT

On November 26, 2003, Michigan Consolidated Gas Company (Mich Con) filed an application, pursuant to 1929 PA 69, as amended, MCL 460.501 et seq., requesting a certificate of public convenience and necessity to extend its facilities and provide natural gas service in Section 23 of Fruitport Township, Muskegon County.

Pursuant to due notice, a prehearing conference was held on January 21, 2004 before Administrative Law Judge Mark E. Cummins. Mich Con, Aquila, Inc., d/b/a Aquila Networks - MGU, and the Commission Staff participated in the proceedings.

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) Mich Con currently holds a non-exclusive franchise to provide gas service in Section 23 of

Fruitport Township, (2) the provision of gas service by Mich Con to customers in the Still Water Springs Condominium Subdivision located in Section 23 of Fruitport Township as described in the application will serve the public convenience and necessity, and (3) the requested certificate of public convenience and necessity should be granted as described in the settlement agreement.

The Commission FINDS that:

a. Jurisdiction is pursuant to 1929 PA 69, as amended, MCL 460.501 et seq.; 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, 1999 AC, R 460.17101 et seq.

b. The settlement agreement is reasonable and in the public interest, and should be approved.

THEREFORE, IT IS ORDERED that:

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

B. Michigan Consolidated Gas Company is granted a certificate of public convenience and necessity to extend its facilities and provide natural gas service to customers in the Still Water Springs Condominium Subdivision located in Section 23 of Fruitport Township, Muskegon County, provided that: (1) construction and maintenance of these facilities complies with the Michigan Gas Safety Standards and applicable Commission rules, and no newly-constructed lines cross another utility's gas mains or service lines or parallel another utility's mains or service lines within a street or right-of-way, (2) before constructing any additional extension of a main within the township, Michigan Consolidated Gas Company gives 30 days' written notice to the Commission Staff, identifying the location of the proposed extension and providing a copy of its customer attachment program worksheet, if applicable, and (3) Michigan Consolidated Gas

Company updates, on a quarterly basis, the description of “territory served” in the schedule of rates governing the sale of natural gas, thus including all new areas served.

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 issuance and notice of this order, pursuant to MCL 462.26.

MICHIGAN PUBLIC SERVICE COMMISSION

/s/ J. Peter Lark

Chair

(S E A L)

/s/ Robert B. Nelson

Commissioner

/s/ Laura Chappelle

Commissioner

By its action of February 12, 2004.

/s/ Mary Jo Kunkle

Its Executive Secretary

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MICHIGAN PUBLIC SERVICE COMMISSION

Chair

Commissioner

Commissioner

By its action of February 12, 2004.

Its Executive Secretary

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the application of)
MICHIGAN CONSOLIDATED GAS)
COMPANY for a certificate of public)
convenience and necessity to provide)
natural gas service in Section 23 of)
Fruitport Township, Muskegon County.)
_____)

Case No. U-13777

SETTLEMENT AGREEMENT

On November 26, 2003, Michigan Consolidated Gas Company ("MichCon") filed an Application in Case No. U-13777 requesting issuance of a Certificate of Public Convenience and Necessity ("Certificate") pursuant to MCL 460.501 et seq., MSA 22.141 et seq. ("Act 69") to render natural gas service in a portion of Section 23 of Fruitport Township, Muskegon County, Michigan. MichCon proposes to serve Still Water Springs Condominiums, a new subdivision under construction, located in an area bounded by Mt. Garfield Road to the south, Kendra Road to the east and north and Sheridan Road to the west. The area excludes addresses on the north side of Mt. Garfield Road.

Pursuant to the Notice of Hearing, a prehearing conference was held before Administrative Law Judge Mark E. Cummins on January 21, 2004. At the prehearing conference, the Commission Staff ("Staff") entered its appearance. Aquila Networks-MGU ("Aquila") appeared and participated in the proceeding.

At the prehearing conference the parties submitted this Settlement Agreement ("Agreement"). This Agreement recognizes that MichCon will provide natural gas service in the Still Water Springs Condominium Subdivision, in accordance with Section 78 of the

Administrative Procedures Act of 1969, MCL 24.278, MSA 3.560(178) and Rule 333 of the Commission's Rules of Practice and Procedure, R 460.17333.

WHEREFORE, the parties agree as follows:

1. Fruitport Township granted MichCon a non-exclusive franchise dated April 26, 1993, authorizing it to conduct a local gas business within the Township. Provision of natural gas service by MichCon to the area described in the Application will serve the public convenience and necessity.

2. Extension of service as presented in the Application will avoid duplication of facilities.

3. An Act 69 Certificate should be granted to MichCon to provide natural gas service to customers in the Still Water Springs Condominium Subdivision located in Section 23 of Fruitport Township, Muskegon County, Michigan.

4. The parties join in requesting the Commission to expeditiously issue an order approving this Agreement and issuing an Act 69 Certificate as provided in this Agreement.

5. The Staff certifies that this Agreement is reasonable and in the public interest.

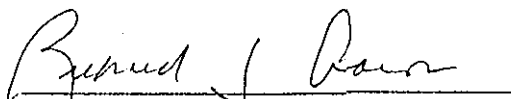
6. For the sole purpose of submitting this Agreement to the Commission the parties waive compliance with the provisions of Section 81 of the Administrative Procedures Act of 1969; MCL 24.281; MSA 3.560(181).

7. This Agreement and all offers of settlement and discussion relating to it are privileged and shall not be admissible as evidence or of any precedential value in any other proceeding except to the extent necessary to enforce the terms of the Agreement and to support the Agreement before this Commission.

8. This Agreement is conditioned upon the issuance of a final order by the Commission approving, without modification, this Agreement. If the Commission issues an Order which does not approve this Agreement in its entirety, without modification, this Agreement is void in its entirety.

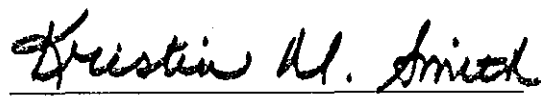
MICHIGAN CONSOLIDATED GAS COMPANY

Dated: January 21, 2004


Richard J. Aaron (P-35605)
Honigman Miller Schwartz and Cohn
222 Washington Square, Ste. 400
Lansing, MI 48933-1800
(517) 377-0701

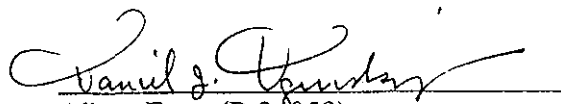
MICHIGAN PUBLIC SERVICE COMMISSION
STAFF

Dated: January 21, 2004


Kristin M. Smith (P-46323)
Assistant Attorney General
Public Service Commission
6545 Mercantile Way, Ste. 15
Lansing, MI 48911
(517) 241-6680

AQUILA INC. d/b/a
AQUILA NETWORKS-MGU

Dated: January 21, 2004


Albert Ernst (P-24059)
Daniel J. Oginsky (P-60526)
Dykema Gossett PLLC
124 W. Allegan Street, Ste. 800
Lansing, MI 48933
(517) 374-9100

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