

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of UNIVERSAL GAS AND)	
ELECTRIC CORPORATION 's request for a)	
declaratory ruling regarding the need to provide a)	Case No. U-15182
30-day unconditional contract cancellation period)	
to customers that purchase more than 20,000 Ccf)	
of natural gas annually.)	

_____)	
)	
In the matter, on the Commission's own motion,)	
to investigate the gas customer choice tariffs of)	
Michigan Consolidated Gas Company, Consumers)	Case No. U-15215
Energy Company, Michigan Gas Utilities)	
Corporation, and SEMCO Energy Gas Company.)	

At the May 22, 2007 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. J. Peter Lark, Chairman
Hon. Laura Chappelle, Commissioner
Hon. Monica Martinez, Commissioner

ORDER

On January 18, 2007, Universal Gas and Electric Corporation (Universal) filed a petition requesting that the Commission issue a declaratory ruling that Universal is neither required to provide a 30-day unconditional contract cancellation period to its commercial and industrial customers that purchase more than 20,000 Ccf¹ (Large Volume Customers) of natural gas annually nor required to include notice of such 30-day cancellation period within its Large Volume

¹ 1 Ccf =100 cubic feet.

Customer contracts. Universal argued that the Commission has only required alternative gas suppliers (AGS) to provide an unconditional 30-day right of cancellation to residential and small commercial customers, but has not historically afforded that same right of cancellation to Large Volume Customers. According to Universal, Consumers Energy Company (Consumers) and Michigan Consolidated Gas Company (Mich Con) currently interpret their respective tariffs to require AGSs to include the 30-day unconditional right of cancellation in all customer contracts. Universal stated that an ambiguity exists in both tariffs as to whether Universal has to include notice of the 30-day cancellation provision in all of its customer contracts.

On January 19, 2007, Consumers and Mich Con filed notices of appearance.

In an order issued on February 14, 2007, the Commission found that it would be in the public interest to open an investigation into the gas customer choice tariffs of Mich Con, Consumers, SEMCO Energy Gas Company (SEMCO), and Michigan Gas Utilities Corporation (MGUC) and to consolidate the investigatory docket, designated as Case No. U-15215, with Universal's request for a declaratory ruling. Further, the Commission found that it would be in the public interest to invite all interested persons to file comments in the joint proceedings.

By the March 14, 2007 deadline established in the February 14 order, comments were filed by Mich Con, Consumers, SEMCO, MGUC, and Lakeshore Energy Services. In addition, Constellation NewEnergy-Gas Division, Cornerstone Energy, Direct Energy Services, Integrys Energy Services, Interstate Gas Supply, My Choice Energy, MxEnergy, and Volunteer Energy Services filed joint comments.

On April 24, 2007, the Commission Staff (Staff) hosted a collaborative meeting that was attended by representatives of all parties that submitted written comments. During the collaborative proceeding, the parties: (1) acknowledged that there could be differing interpretations of the

Commission's October 13, 2000 order in Case No. U-12550, which established the terms of a generic customer choice tariff, and (2) engaged in discussions led by the Staff regarding customer protections for small commercial customers. A general consensus was reached by the participants that there should be a 30-day cancellation notice to all customers that have 200 thousand cubic feet (Mcf) or less annual aggregated usage.

On May 4, 2007, the Staff filed a report of the consensus agreement reached by the collaborators.² In so doing, the Staff recommended that the Commission adopt the consensus collaborative position on the 30-day cancellation period for small commercial customers.

The Commission FINDS that:

a. Jurisdiction is pursuant to 1909 PA 106, as amended, MCL 460.551 *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 consensus collaborative position on the 30-day cancellation period for small commercial customers should be adopted.

THEREFORE, IT IS ORDERED that:

A. The consensus collaborative position on the 30-day cancellation period for small commercial customers, set forth in Attachment 1, is adopted.

B. Within 30 days, Consumers Energy Company, Michigan Consolidated Gas Company, SEMCO Energy Gas Company, and Michigan Gas Utilities Corporation shall file tariffs sheets that conform to those included in Exhibit A of Attachment 1.

²The May 4, 2007 report and the revised tariff sheets of Mich Con, Consumers, SEMCO, and MGUC are attached to this order as Exhibit A.

C. The dockets in these proceedings are closed.

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.

MICHIGAN PUBLIC SERVICE COMMISSION

/s/ J. Peter Lark
Chairman

(S E A L)

/s/ Laura Chappelle
Commissioner

/s/ Monica Martinez
Commissioner

By its action of May 22, 2007.

/s/ Mary Jo Kunkle
Its Executive Secretary

C. The dockets in these proceedings are closed.

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.

MICHIGAN PUBLIC SERVICE COMMISSION

Chairman

Commissioner

Commissioner

By its action of May 22, 2007.

Its Executive Secretary

Staff Report and Recommendation
To the
Michigan Public Service Commission

Regarding
Consolidated Case Nos. U-15182 and U-15215
Gas Customer Choice Tariffs

Prepared by
Michigan Public Service Commission
Regulated Energy Staff

May 4, 2007

Summary

On January 18, 2007 Universal Gas & Electric Corporation (Universal) filed a petition requesting that the Commission issue a declaratory ruling that Universal is neither required to provide a 30-day unconditional contract cancellation period to its commercial and industrial customers that purchased more than 20,000 Ccf (Large Volume Customers) of natural gas annually nor required to include notice of such 30-day cancellation period within its Large Volume Customer Contracts. On February 14, 2007, the Commission issued an order in Consolidated Case Nos. U-15182 and U-15215 finding that it is in the public interest to open an investigation into customer choice tariffs of Mich Con, Consumers, SEMCO Energy Gas Company (SEMCO) and Michigan Gas Utilities Corporation (MGU) and to invite all interested persons to file comments addressing issues raised by Universal by March 14, 2007. Comments were received from Consumers Energy Company (Consumers), Michigan Consolidated Gas Company (MichCon), SEMCO Energy Gas Company (SEMCO), Michigan Gas Utilities Corporation (MGU), Lakeshore Energy Services, and consolidated comments from Constellation NewEnergy-Gas Division, Cornerstone Energy, Direct Energy Services, Integrys Energy Services, Interstate Gas Supply, My Choice Energy, MxEnergy, and Volunteer Energy Services. These comments were varied as to whom the 30-day cancellation requirement applied too..

In Case No. U-12550, the Commission established uniform terms and conditions for the provision of voluntary gas customer choice programs offered in Michigan to facilitate the expansion of gas customer choice to all customers within the state. Pursuant to an August 4, 2000 order, the Staff held collaborative meetings and issued its report and recommendations. After receiving and reviewing additional comments, the Commission issued an order on October 13, 2000 that adopted the Staff's report, with some modifications. On September 27, 2001 the Commission Staff issued its second report concerning mid-sized LDC's gas customer choice tariffs, rate sheets, gas supplier agreement and supplier/marketer registration form. These items were the result of a collaborative process that included the Commission Staff, Michigan's gas utilities, the Attorney General, gas marketers and several other interested parties. The Commission noted that many of the marketers and supplier participants did not agree with all of Staff's recommendations. The Commission issued a final order on November 20, 2001 in this case.

The 30-day right to cancel provision, which is referred to by Universal in its request, may need clarification because there appears to be a difference of opinion when one reads the Commission order in U-12550 and the utility tariff provisions related to the 30-day unconditional right of cancellation applying to the commercial and industrial class of gas choice customers. The adopted Gas Customer Choice Tariff's for the four Michigan utilities, state that a Supplier's contract with a customer must include a statement that an account holder, or person who signed the contract on behalf of the account holder, has 30 days to cancel the contract. Within the section "Solicitation Requirements" it is not limited to residential customers as the language applies to all gas

customer choice customers and requires that all gas choice suppliers contracts include all of the provisions set forth in the tariff. The tariff could be read to apply to all residential, commercial and industrial gas customer choice supplier contracts.

Collaborative Meeting

A meeting was held on April 24, 2007, at the Commission's offices, to discuss the issue raised by Universal on the 30-day cancellation tariff requirements being applied to all commercial and industrial customers. This Staff report reviews the issue raised by Universal and identifies areas of discussion where a consensus was reached by the parties. All parties who submitted comments were represented at this meeting including Commission Staff. The parties first acknowledged that there may be a difference in the reading of the Commission order in U-12550 and the utility tariffs. Staff initiated a discussion on customer protection for the small commercial customer, who may be similar to a residential customer and thus not have the ability to review a contract as would a larger commercial or industrial customer. There was an issue raised by an AGS on who was a commercial customer, each meter for example in an apartment complex or the owner. The parties agreed that it was the aggregate of all the meters. A question was raised on how the AGS can get customer consumption data on a timely basis, to determine if the customer they desire to enroll would be under or over some base level, if it was used for commercial customers on the 30-day cancellation requirement. The utilities stated that the customer's usage information is either included on the customer's bill or the monthly usage could be annualized. There was a discussion on if a base level was set for the small commercial customer, who would police it to determine if the customer met the annual usage amount. The parties further discussed the enrollment contracts and how the process could work if some base was set for small commercial customers requiring a 30-day cancellation period. The AGS will be responsible for determining if the 30 day threshold is met.

After these issues were discussed Staff initiated a discussion on a small commercial customer protection base of 200Mcf annual usage for the required 30-day cancellation period. A general consensus was reached by Consumers, MichCon, SEMCO, MGU, and all alternative gas suppliers (AGS) to provide the 30-day cancellation notice to all customers who exhibit 200Mcf of annual aggregated usage and below. The AGSs agreed to police the 30-day enrollment period. AGS's will consult with individual utilities to determine the method to be used in submitting enrollments in order to provide for the 30-day cancellation period. In some instances this enforcement may result in the AGS's holding the enrollment for thirty days. This will ensure that the residential and small commercial customer will be afforded this consumer protection of 30-day unconditional right of cancellation. The suppliers agreed if a customer disputed their minimum base usage that the suppliers would grant them the 30-day cancellation period.

MichCon volunteered to provide the parties draft tariff language incorporating the 200Mcf annual usage requirement for the 30-day cancellation period. The four utilities

have agreed to file revised company tariff sheets. A proposed company tariff sheet is attached as Exhibit A on this report. The utilities will file in this case docket to incorporate the same tariff language on their respective tariffs to address this collaborative condition of the 30-day unconditional cancellation period. If the Commission issues an order in this docket approving the proposed tariff changes, the utilities will file the new tariff sheets within 30 days of the order.

Staff Recommendation

Staff recommends the Commission adopt the consensus collaborative position on the 30-day cancellation period for the small commercial customer. With an aggregated historical consumption base set at a higher than normal residential usage level, 200Mcf, it will provide the small commercial customer consumer protection just like the residential customer. Staff believes that this class of small commercial customer may not be as knowledgeable of contracts as the larger commercial class of customer and Staff believes the base level of usage agreed to by the parties will benefit the small commercial customer needs for consumer protections.

Exhibit A

G3.C (H3.C) Solicitation Requirements

A Supplier must provide a copy of the contract to the customer, including all terms and conditions. The contract must contain all provisions set forth in Section G2.E (H2.E). However, nonresidential customer contracts with a 12-month historical usage exceeding 200 Mcf (including contracts containing aggregated volumes exceeding 200 Mcf), **as determined by the Supplier**, do not need to include a 30 day cancellation provision as provided in subsection 9 of Section G2.E (H2.E).

Continued From Sheet No. G-7.00

- B. Suppliers who are soliciting customers must:
- 1) Clearly identify the Supplier on whose behalf they are soliciting
 - 2) Not represent themselves as an employee or agent of the Company
 - 3) Affirmatively indicate if they are a marketing affiliate of the Company that the affiliate is a separate entity and is not regulated by the Michigan Public Service Commission
 - 4) Submit marketing materials to the Commission Staff for review at least five (5) business days prior to using the materials
- C. A Supplier must provide a copy of the contract to the customer, including all terms and conditions. The contract must contain all provisions as set forth in Section G2.E. **However, nonresidential customer contracts with a 12-month historical usage exceeding 200 Mcf (including contracts containing aggregated volumes exceeding 200 Mcf), as determined by the Supplier, do not need to include a 30 day cancellation provision as provided in subsection 9 of Section G2.E.**

G4. SUPPLIER REGISTRATION AND CODE OF CONDUCT

- A. A Supplier is required to register with the Michigan Public Service Commission and provide the following information prior to any solicitation:
- 1) The name of the Supplier's company/corporation or owner's name and type of organization
 - 2) The Supplier's mailing address
 - 3) The Supplier's principal place of business address
 - 4) The name and address of the registered agent in Michigan and a working phone number during normal business hours
 - 5) The Supplier's toll-free number available for customer inquiries and concerns
 - 6) Prices and associated terms and conditions for commodity sales to residential customers updated on a monthly basis
 - 7) Name, address and phone number of person designated to receive and respond to Commission requests
- B. As a condition of registration as a Supplier, a Supplier must agree to abide by a code of conduct that provides:
- 1) The Supplier will issue accurate and understandable marketing materials. The Supplier will refrain from engaging in communications or practices that are fraudulent, deceptive or misleading. The Supplier will maintain sufficient documentation to support any claims made to customers in advertising, marketing, promoting or representing the sale of gas supply or related services. The Supplier will provide this documentation to the Commission, upon request. Marketing materials for residential customers must contain the average price per ccf, the period of time over which the price is valid, the term of the contract, the Supplier's name and telephone number, the area which the Supplier serves and the types of customers that the Supplier serves. If the Supplier does not offer a fixed price, the marketing materials must contain a clear explanation of the mechanism used to determine the price and an example of how the mechanism would be implemented over a relevant time period and for relevant usages. Marketing materials will clearly identify optional services.

Continued On Sheet No. G-9.00