

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the application of)	
MICHIGAN CONSOLIDATED GAS COMPANY)	Case No. U-13898
for authority to increase its rates and other relief.)	
_____)	

At the March 5, 2009 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. Orjiakor N. Isiogu, Chairman
Hon. Monica Martinez, Commissioner
Hon. Steven A. Transeth, Commissioner

ORDER DENYING REHEARING

On December 23, 2008, the Commission issued an order approving an application filed by Michigan Consolidated Gas Company (Mich Con) for reconciliation of its uncollectibles expense true-up mechanism (UETM) computation and proposed surcharge and approving its report regarding its safety and training (S&T) related expenditures for 2007. The UETM was authorized in the Commission’s April 28, 2005 order (April 28 order) in this docket. In the April 28 order, the Commission also approved \$6,914,000 above the test year amount for additional S&T related expenses, subject to a refund to customers of any funds not expended. April 28 order, pp. 70-75.

On January 22, 2009, Attorney General Michael A. Cox (Attorney General) filed a petition for rehearing in which he argues that the Commission’s December 23, 2008 order was in error. The Attorney General contends that the statement by the Commission directing Mich Con to, “submit a decoupling proposal in its next rate case [that] will facilitate the speedy transition to

decoupled rates,” was erroneous because the Commission “ruled on the issue of decoupling that was never raised or discussed by any of the parties in any brief or in any testimony.” Attorney General’s petition for rehearing, p. 2. The Attorney General claims that the Commission’s directive raises due process concerns and that it violates the plain language of Section 89(6) of 2008 PA 295, MCL 460.1089(6). The Attorney General contends that the Commission lacks authority under MCL 460.6 to decouple natural gas rates unless the spending requirements of Section 89(6) are met.

In response, the Commission Staff (Staff) argues that the Attorney General’s petition for rehearing should be denied because the Commission properly interpreted its authority under MCL 460.1089(6) when it ordered Mich Con to submit a decoupling proposal in its next rate case. The Staff adds that the Commission did not order rate decoupling without proper notice and record evidence and that the Commission’s statement that its general ratemaking authority under MCL 460.6 permits it to order decoupling as part of rate design is correct. The Staff observes that there was no testimony or briefing on decoupling in this case and the Commission has not issued a decision ordering Mich Con to decouple its rates. The Staff further notes that when Mich Con files its next rate case, notice on the issue of rate decoupling will be given, testimony on the subject will be filed, and all parties will have an opportunity to contest the issue.

Rule 403 of the Commission’s Rules of Practice and Procedure, 1999 AC, R 460.17403, provides that a petition for rehearing may be based on claims of error, newly discovered evidence, facts or circumstances arising after the hearing, or unintended consequences resulting from compliance with the order. Unless a party can show the decision to be incorrect or improper because of errors, newly discovered evidence, or unintended consequences of the decision, the Commission will not grant rehearing.

The Commission finds that the Attorney General's petition for rehearing should be denied because the basis for the petition is a claim of error that is not, in fact, error. As the Staff points out, the Commission did not order Mich Con to decouple its rates; it simply directed Mich Con to submit a decoupling proposal in its next general rate case where the issue may be fully contested by the parties. If the Attorney General wishes to raise the argument that the Commission lacks authority under MCL 460.6 to decouple Mich Con's rates, he may do so as part of that case.

THEREFORE, IT IS ORDERED that Attorney General Michael A. Cox's petition for rehearing is denied.

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, under MCL 462.26.

MICHIGAN PUBLIC SERVICE COMMISSION

Orjiakor N. Isiogu, Chairman

By its action of March 5, 2009.

Monica Martinez, Commissioner

Mary Jo Kunkle, Executive Secretary

Steven A. Transeth, Commissioner