

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 approval of a gas cost recovery plan, 5-year) Case No. U-15451
forecast, and monthly gas cost recovery factors)
for the 12-month period ending March 31, 2009.)
_____)

At the August 11, 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 28, 2007, Michigan Consolidated Gas Company (Mich Con) filed an application pursuant to 1982 PA 304 (Act 304), MCL 460.6h *et seq.*, for approval of a gas cost recovery (GCR) plan for the 12-month period ending March 31, 2009, and for approval of GCR factors for that period.

A prehearing conference was held on February 5, 2008 before Administrative Law Judge Daniel E. Nickerson, Jr. (ALJ). Mich Con, the Commission Staff (Staff), Attorney General Michael A. Cox, the Residential Ratepayer Consortium, and the Michigan Community Action Agency Association (MCAAA) participated in the proceeding.

Subsequently, the parties submitted a partial settlement agreement that resolved the majority of the issues in this case. On August 26, 2008, the Commission issued an order approving the partial settlement agreement. The settlement agreement did not resolve certain issues raised by the

MCAAA concerning the effects of Mich Con's accounting and gas storage methods on the cost of gas. After issuance of the August 26 order, Mich Con, the Staff, and the MCAAA submitted briefs and reply briefs on the issues raised by the MCAAA. The ALJ issued a Proposal for Decision on September 12, 2008. On April 16, 2009, the Commission issued an order rejecting the MCAAA's proposals and requests for certain studies and investigations into Mich Con's accounting methods for gas storage.

On May 18, 2009, the MCAAA filed a petition for rehearing. On May 21 and June 2, 2009 respectively, the Staff and Mich Con filed answers to the petition.

The MCAAA asserts that the Commission's various sources of authority, including its regulatory reviews of utility accounting practices, rates, and Act 304 proceedings should be conducted in a "consistent, harmonious, [and] mutually supportive basis." The MCAAA adds that the Commission approved a preliminary accounting study in a recent settlement agreement in a GCR plan case. As such, the MCAAA asserts that the Commission should reconsider its order and refer the MCAAA's proposals to an appropriate proceeding.

The MCAAA reiterates its arguments that Mich Con's objections to its proposed study lack merit and argues that there is no evidence in the record to show that a change in accounting methods would necessarily harm ratepayers. The MCAAA adds that the Commission should reconsider its proposal to establish an emergency gas reserve to mitigate gas price volatility at times when gas prices are rising precipitously.

The Staff and Mich Con argue that the Commission should deny the MCAAA's petition for rehearing on grounds that the petition does not meet the standards under Rule 403, 1999 AC, R 460.17403. According to Mich Con and the Staff, the Commission rejected the MCAAA's arguments regarding Mich Con's accounting and issues concerning gas storage. The Staff notes

that because parties to a GCR settlement are free to engage in efforts that are outside the scope of a GCR proceeding, it does not follow that the Commission can order such efforts in the context of a contested GCR case.

Mich Con adds that the need for an in-depth investigation of Mich Con's gas storage accounting is not supported by the evidence in the record. Mich Con notes that the MCAAA's arguments could not be adopted by the Commission because they were contrary to generally accepted accounting principles, did not differentiate between operational and calendar years, did not reflect Mich Con's operational storage cycling, and did not differentiate between injected base and native base gas. The Staff adds that the MCAAA's reliance on a preliminary study that was part of a GCR settlement agreement is misplaced.

Findings of Fact and Conclusions of Law

Rule 403 of the Commission's Rules of Practice and Procedure 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. As the Commission has often stated, a petition for rehearing is not merely another opportunity for a party to argue a position or to express disagreement with the Commission's decision. 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 reopening and rehearing of a previously issued Commission order does not operate as a form of appeal to the Commission.

The Commission finds that the MCAAA's petition for rehearing should be denied because the basis for the petition is simply that the MCAAA disagrees with the Commission's findings and disposition of the case. The MCAAA alleges no legal error, newly discovered evidence, or

unintended consequences resulting from the order. The Commission finds that the petition should be denied.

THEREFORE, IT IS ORDERED that the petition for rehearing filed by the Michigan Community Action Agency Association 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

Monica Martinez, Commissioner

Steven A. Transeth, Commissioner

By its action of August 11, 2009.

Mary Jo Kunkle, Executive Secretary