

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

\* \* \* \* \*

In the matter of the Commission’s own motion,	)	
regarding the regulatory reviews, revisions,	)	
determinations, and/or approvals necessary for	)	Case No. U-15891
<b>MICHIGAN GAS UTILITIES CORPORATION</b> to	)	
fully comply with Public Acts 286 and 295 of 2008.	)	
_____	)	

At the May 26, 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 APPROVING SETTLEMENT AGREEMENT**

On October 21, 2008, the Commission opened this docket to address the regulatory issues created by the passage of Public Act 286 of 2008, an amendment to the “Customer Choice and Electricity Reliability Act,” 2000 PA 141; MCL 460.10 *et seq.*, and Public Act 295 of 2008, the “Clean, Renewable and Efficient Energy Act,” MCL 460.1001 *et seq.* (Act 295). In the order, the Commission required Michigan Gas Utilities Corporation (MGU) to file with the Commission an energy optimization plan (EOP) for establishing an energy optimization program to meet the requirements of Act 295. The EOP was to be filed within 90 days after the Commission issued a temporary order pursuant to Section 191 of Act 295. The Commission issued a temporary order in Case No. U-15800 on December 4, 2008.

On March 4, 2009, MGU filed with the Commission an application, with supporting testimony and exhibits, in this docket for approval of its EOP.

On March 13, 2009, Administrative Law Judge James A. Rigas conducted a prehearing conference. MGU and the Commission Staff participated in the proceeding. Subsequently, the parties submitted a settlement agreement resolving all the issues in this case.

Under the terms of the settlement agreement, attached as Attachment A, the parties agree that MGU shall pay to the independent energy optimization program administrator, selected by the Commission, the amounts shown on Attachment A to the settlement agreement. The estimated amounts for 2011 shall be adjusted to reflect actual 2009 revenues. The parties agree that MGU shall collect energy optimization surcharges shown on Attachment B to the settlement agreement effective for bills issued on or after July 1, 2009. The parties further agree that MGU shall file its first energy optimization reconciliation by March 31, 2010, covering the period from July 1 through December 31, 2009, and subsequently shall annually file reconciliations for the previous calendar year's revenues and costs.

The Commission finds that MGU's EOP, as modified by the settlement agreement, is reasonable and prudent, meets the requirements of Act 295, and should be approved.

THEREFORE, IT IS ORDERED, that:

- A. The settlement agreement attached as Attachment A is approved.
- B. Michigan Gas Utilities Corporation's energy optimization plan and surcharges, as modified by the settlement agreement, are approved.
- C. Within 30 days, Michigan Gas Utilities Corporation shall file with the Commission tariff sheets substantially similar to those contained in Attachment B to the settlement agreement.

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

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Orjiakor N. Isiogu, Chairman

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Monica Martinez, Commissioner

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Steven A. Transeth, Commissioner

By its action of May 26, 2009.

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Mary Jo Kunkle, Executive Secretary

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter, on the Commission’s own motion, )
regarding the regulatory reviews, revisions, )
determinations, and/or approvals necessary for )
MICHIGAN GAS UTILITIES CORPORATION to )
fully comply with Public Acts 286 and 295 of 2008 )

Case No. U-15891
(Energy Optimization)

SETTLEMENT AGREEMENT

Pursuant to MCL 24.278 and Rule 333 of the Rules of Practice and Procedure before the Michigan Public Service Commission (“Commission”), R 460.17333, Michigan Gas Utilities Corporation (“MGUC” or the “Company”) and the Commission Staff (“Staff”) agree as follows:

- 1. On October 21, 2008, the Commission issued, among other orders, its Order Opening Docket in this matter as the proceeding in which the Company would establish its compliance with and obtain regulatory approvals required by Public Acts 286 and 295 of 2008.
2. On December 16, 2008, the Company filed its notice of intent to meet the energy optimization requirements of Subpart B of Act 295 by opting to use the independent energy optimization program administrator as provided in MCL 460.1091(1).
3. On February 13, 2009, the Commission’s Executive Secretary issued the Notice of Hearing in this proceeding directing the Company to mail a copy of the Notice of Hearing to all cities, incorporated villages, townships and counties in its service area. Further, the Company was directed to publish the Notice of Hearing in daily newspapers of general circulation throughout its service area. On March 9, 2009, the Company electronically filed its affidavit of mailing and proof of publication.

4. On March 4, 2009, the Company filed its (i) application and (ii) supporting testimony and exhibits of David J. Tyler

5. On March 13, 2009, Administrative Law Judge James N. Rigas conducted a prehearing conference. The Company and Staff participated in the proceedings.

6. On April 17, 2009, an evidentiary hearing was held at which the prefiled testimony of David J. Tyler was bound into the record and the prefiled exhibits were admitted into evidence by stipulation of the parties.

7. The parties have participated in settlement discussions and agree as follows:

a. The Company's energy optimization proposal, as modified by this settlement agreement, meets the requirements of Act 295, is reasonable and in the public interest, and should be approved by the Commission.

b. The Company shall pay to the independent energy optimization program administrator selected by the Commission the amounts as calculated on Attachment A hereto, provided, however, that the estimated payments for 2011 shall be adjusted to reflect actual revenues for calendar year 2009.

c. Effective for bills rendered on and after July 1, 2009 through and including December 31, 2011, the Company shall charge the energy optimization surcharges, as applicable, set forth on the tariff sheets attached hereto as Attachment B. If the Commission has not issued an order by December 31, 2011 authorizing a new energy optimization surcharge, the Company shall continue to charge the then current surcharge until issuance of a Commission order revising or terminating same.

d. The Company's first energy optimization reconciliation shall be filed by March 31, 2010 for the July 2009 through December 2009 surcharge period. Subsequent reconciliations

shall be filed by March 31 of each calendar year for the preceding calendar year's revenues and costs. The Company shall file with the Commission an application, including supporting testimony and exhibits: (1) reconciling for the period covered, the revenue billed; with (a) actual costs, i.e. payments made to the program administrator, for purposes of determining interest on any over-recoveries and under-recoveries; and (b) the levelized revenue requirements, for purposes of determining revised energy optimization surcharges; (2) calculating revenue over-recovery or under-recovery in total and by each major customer class; (3) including interest at the Company's short-term borrowing rate on any over-recoveries and under-recoveries; and (4) if appropriate, proposing revised energy optimization surcharges, which shall include an amount designed to true-up such reconciliation amounts.

8. All of the signatories to this settlement agreement are of the opinion that this settlement agreement is reasonable, prudent and will aid in the expeditious conclusion of this case.

9. This settlement agreement is entered into for the sole and express purpose of reaching a compromise among the parties. All offers of settlement and discussions relating to this settlement are considered privileged under MRE 408. If the Commission approves this settlement agreement without modification, neither the parties to the settlement nor the Commission shall make any reference to, or use this settlement agreement or the order approving it, as a reason, authority, rationale or example for taking any action or position or making any subsequent decision in any other case or proceeding; provided, however, such references may be made to enforce or implement the provisions of this settlement agreement and the order approving it.

10. Pursuant to Rule 333(6) of the Commission's Rules of Practice and Procedure, R 460.17333(6) the parties agree any order approving this settlement agreement shall not establish precedent for future proceedings and shall not be used as such. This settlement agreement is based on the facts and circumstances of this case and is intended as the final disposition of Case No. U-15891 only. If the Commission approves this settlement agreement, without modification, the undersigned parties agree not to appeal, challenge or otherwise contest the Commission order approving this settlement agreement only.

11. This settlement agreement is not severable. Each provision of this settlement agreement is dependent upon all other provisions of this settlement agreement. Failure to comply with any provision of this settlement agreement constitutes failure to comply with the entire settlement agreement. If the Commission rejects or modifies this settlement agreement or any provision of this settlement agreement, this settlement agreement shall be deemed to be withdrawn, shall not constitute any part of the record in this proceeding or be used for any other purpose, and shall not operate to prejudice the pre-negotiation positions of any party.

12. The parties agree to waive Section 81 of the Administrative Procedures Act of 1969 (MCL 24.281), as it applies to the issues in this proceeding, if the Commission approves this settlement agreement without modification.

MICHIGAN GAS UTILITIES CORPORATION

Dated: May 4, 2009

By: \_\_\_\_\_

One of its Attorneys

Sherri A. Wellman (P38989)

Ronald W. Bloomberg (P30011)

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One Michigan Avenue, Suite 900

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MICHIGAN PUBLIC SERVICE COMMISSION STAFF

Dated: May 4, 2009

By: \_\_\_\_\_

Patricia S. Barone (P29560)

Assistant Attorney General

6545 Mercantile Way, Suite 15

Lansing, MI 48911

# MICHIGAN GAS UTILITIES CORPORATION

## Computation of Energy Optimization Surcharges Levelized Over the Three Year Period

Case No.: U-15891  
Settlement Agreement  
Attachment A

Rate Class	Historical	0.75% Of	Historical	1.00% Of	Projected	1.00% Of	Volumes In Mcf			Volumetric Surcharge (1) <i>(spread over 30 months)</i>
	2007 Total Revenues	Revenues	2008 Total Revenues	Revenues	2009 Total Revenues	Revenues	2007 (1)	2008	2009	
<b>Residential</b>										
Residential	\$ 136,612,027	\$ 1,024,590	\$ 164,159,360	\$ 1,641,594	\$ 138,821,400	\$ 1,388,214	13,580,499	14,172,800	13,351,317	
Multi-Family	2,603,712	19,528	3,024,309	30,243	2,460,335	24,603	290,347	285,768	272,054	
Aggregated Transport (2)	54,758	411	68,382	684	55,998	560	5,340	5,443	6,058	
Customer CHOICE (2)	1,253	9	305,796	3,058	1,915,376	19,154	115	24,819	211,053	
Total	139,271,750	1,044,538	167,557,847	1,675,578	143,253,109	1,432,531	13,876,301	14,488,830	13,840,482	<b>\$ 0.1239</b> per Mcf
<b>Small General Service</b>										
Small General Service	52,633,874	394,754	61,763,049	617,630	51,429,656	514,297	13,271	13,215	12,795	
Aggregated Transport	555,390	4,165	665,783	6,658	1,050,843	10,508	304	352	420	
Customer CHOICE	56,856	426	232,259	2,323	1,333,496	13,335	14	99	466	
Total	53,246,120	399,346	62,661,091	626,611	53,813,995	538,140	13,589	13,666	13,681	<b>\$ 3.82</b> per meter
<b>Large General Service</b>										
Large General Service	4,534,867	34,012	5,672,027	56,720	4,670,436	46,704	52	56	54	
Aggregated Transport	30,553	229	43,102	431	58,787	588	3	4	5	
Customer CHOICE	14,470	109	74,037	740	-	-	2	5	-	
Total	4,579,890	34,349	5,789,166	57,892	4,729,223	47,292	57	65	59	<b>\$ 77.09</b> per meter
<b>Commercial Lighting</b>	50,542	379	59,268	593	15,590	156	8	8	8	<b>\$ 4.70</b> per contract
<b>Special Contracts</b>	112,040	840	130,940	1,309	118,383	1,184	1	1	1	<b>\$ 111.12</b> per contract
<b>Transportation</b>										
TR-1	2,613,505	19,601	2,455,904	24,559	2,768,412	27,684	135	133	117	<b>\$ 18.66</b> per meter
TR-2	2,807,298	21,055	2,463,168	24,632	2,697,756	26,978	51	50	42	<b>\$ 50.81</b> per meter
TR-3	1,681,590	12,612	1,615,838	16,158	1,478,234	14,782	15	16	7	<b>\$ 114.61</b> per meter
Total	7,102,393	53,268	6,534,910	65,349	6,944,402	69,444				
<b>Grand Total</b>	<b>\$ 204,362,735</b>	<b>\$ 1,532,721</b>	<b>\$ 242,733,222</b>	<b>\$ 2,427,332</b>	<b>\$ 208,874,702</b>	<b>\$ 2,088,747</b>				

Notes: (1) In the determination of the surcharge, only volumes for July through December 2007 were utilized, resulting in a percentage of 37.47%. For 2008 & 2009, 100% of the volumes were utilized.  
(2) Amounts increased to include average CHOICE Supplier's commodity costs, as a proxy for gas costs.

MICHIGAN GAS UTILITIES CORPORATION  
M.P.S.C. No. 2 – GAS  
([Energy Optimization filing](#))

[First Revised](#) Sheet No. D-1.00  
[Replaces Original Sheet No. D-1.00](#)

## SECTION D RATE SCHEDULES

### D1. GENERAL TERMS AND CONDITIONS OF THE TARIFF

- (1) Controlled service.

All rates are subject to all provisions in Rule C2. of the Rules and Regulations of the Company which are applicable to priority of service hereunder.

- (2) Territory served.

All rates apply in the territory served by the Company, comprising the cities, villages and townships in all Districts in the applicable Rules and Regulations of the Company except where specifically noted.

### D2. SUPPLEMENTAL CHARGES

Each Rate Schedule may be subject to [supplemental charges under](#) Rule C11, Customer Attachment Program, and [Energy Optimization \(“EO”\) surcharges required by Public Act 295, as detailed below:](#)

[ENERGY OPTIMIZATION Surcharge – This charge permits, pursuant to Section 91\(4\) of 2008 PA 295, the adjustment of rates, to allow for recovery of the payments made by the Company in compliance with Section 91\(1\) of 2008 PA 295.](#)

<u>Customer Class</u>	<u>EO Surcharge</u>
<u>Residential</u>	<u>\$0.1239 Per Mcf</u>
<u>Multi-Family</u>	<u>\$0.1239 Per Mcf</u>
<u>Small General Service</u>	<u>\$ 3.82 per meter, per month</u>
<u>Large General Service</u>	<u>\$ 77.09 per meter, per month</u>
<u>Commercial Lighting</u>	<u>\$ 4.70 per contract, per month</u>
<u>Special Contracts</u>	<u>\$ 111.12 per month</u>
<u>Transportation -</u>	
<u>TR-1</u>	<u>\$ 18.66 per meter, per month</u>
<u>TR-2</u>	<u>\$ 50.81 per meter, per month</u>
<u>TR-3</u>	<u>\$ 114.61 per meter, per month</u>

Continued on Sheet No. D2.00

Issued:  
By J F Schott  
VP Regulatory Affairs  
Green Bay, Wisconsin

Effective for Service  
On and After:  
Issued Under Authority of  
Michigan Public Service Commission  
Dated:  
In Case No: [U-15891](#)

Continued from Sheet No. D-14.00

## D8. GAS LIGHTING RATE

### AVAILABILITY

Subject to limitations and restrictions contained in orders of the Michigan Public Service Commission in effect from time to time and in the Rules and Regulations of the Company.

<u>Rate Schedule</u>	<u>Distribution Factor</u>
Residential -	\$1.5333 per Mcf
Commercial -	\$1.1500 per Mcf
Street Lights -	(In accordance with the terms of the service agreement)

### Gas Cost Recovery Charge

The monthly gas cost recovery charge as set forth on Sheet No. D-2.00.

### Supplemental Charges

**This rate is subject to the Supplemental Charges set forth on Sheet No. D-1.00.**

### RULES AND REGULATIONS

Service under this rate schedule shall be subject to the Standard Rules and Regulations of the Company plus the following condition:

No additional gas burning devices may be attached to the service connection for light(s) served under this rate.

### SPECIAL TAXES

- (1) In municipalities which levy special taxes, license fees, or street rentals against the Company, and which levy has been successfully maintained, the standard of rates shall be increased within the limits of such municipalities so as to offset such special charges and thereby prevent the customers in other localities from being compelled to share any portion of such local increase.
- (2) Bills shall be increased to offset any new or increased special tax or excise imposed by any governmental authority upon the Company's production, transmission or sale of gas.

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By J F Schott  
VP Regulatory Affairs  
Green Bay, Wisconsin

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