

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-15893
SEMCO ENERGY, INC. , 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 SEMCO Energy, Inc. (SEMCO) to file with the Commission an energy optimization plan (EOP) for establishing an energy optimization program to meet the requirements of Act 295. The plan 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, SEMCO filed with the Commission an application, with supporting testimony and exhibits, requesting approval of its EOP for both its MPSC division and its Battle Creek division.

On March 13, 2009, Administrative Law Judge James A. Rigas conducted a prehearing conference. SEMCO 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 Exhibit A, the parties agree that SEMCO 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 SEMCO 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 SEMCO 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 SEMCO'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 Exhibit A is approved.
- B. SEMCO Energy, Inc.'s energy optimization plan and surcharges, as modified by the settlement agreement, are approved.
- C. Within 30 days, SEMCO Energy, Inc. shall file with the Commission tariff sheets substantially similar to those contained in Attachment C 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

Orjiakor N. Isiogu, Chairman

Monica Martinez, Commissioner

Steven A. Transeth, Commissioner

By its action of May 26, 2009.

Mary Jo Kunkle, Executive Secretary

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * *

In the matter of the Commission’s own motion,)	Case No. U-15893
Regarding the regulatory reviews, revisions,)	(Energy Optimization)
Determinations, and/or approvals for SEMCO)	
Energy, Inc. to fully comply with Public Acts)	
<u>286 and 295 of 2008</u>)	

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, SEMCO Energy Inc., (“SEMCO” 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 18, 2008, the Company filed, on behalf of its SEMCO Energy Gas Company MPSC and Battle Creek Divisions 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 MPSC and Battle Creek service areas. Further, the Company was directed to publish the Notice of Hearing in daily newspapers of general circulation throughout its service area. On March 4, 2009, the Company electronically filed its affidavit of mailing and proof of publication.

4. On March 4, 2009, the Company jointly filed for its MPSC and Battle Creek Divisions its (i) application and (ii) supporting testimony and exhibits of John R. Alger.

5. On March 13, 2009, Administrative Law Judge (“ALJ”) James N. Rigas conducted a prehearing conference. The Company and Staff participated in the proceedings. There were no intervenors.

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

a. The Company’s energy optimization proposal for its MPSC and Battle Creek Divisions, 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. Each annual amount shall be paid in equal monthly installments over the applicable calendar year, with the initial payment in 2009 to be made in the calendar month immediately following the selection by the Commission of the independent energy optimization program administrator.

c. Effective for bills rendered on and after July 1, 2009, the Company shall charge the energy optimization surcharges as calculated on Attachment B, as applicable, and set forth on the tariff sheets attached hereto as Attachment C. Such surcharges for 2011 will be adjusted through the reconciliation process as described in 6(d). 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.

e. The proposed tariff sheets attached hereto as Exhibit C are reasonable and should be approved.

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

8. 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.

9. 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-15893 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.

10. 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.

11. 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.

SEMCO ENERGY, INC.

Dated: May 4, 2009

By: _____

One of its Attorneys
Sherri A. Wellman (P38989)
Ronald W. Bloomberg (P30011)
MILLER, CANFIELD, PADDOCK AND STONE, P.L.C.
One Michigan Avenue, Suite 900
Lansing, MI 48933

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

LALIB:179099.1\129584-00031

SEMCO Energy, Inc.
Case No. U-15893
Settlement Agreement

Attachment A

1 **SEMCO ENERGY, Inc.**
 2 2009-2011 Energy Optimization Plan
 3 Calculation of Alternative Compliance Payment

Revised Exhibit A-1 (JRA-1)
 Page 1 of 1
 Case No. U-15893
 March 4, 2009

4
 5 Combined MPSC & BC

Rate Class	Total Revenue	Alternative Payment %	Alternative Payment \$
2007	2007	2009	2009
Residential	\$ 280,546,902	0.75%	\$ 2,104,102
GS-1	\$ 48,669,026	0.75%	\$ 365,018
GS-2	\$ 39,698,088	0.75%	\$ 297,736
GS-3	\$ 49,073,032	0.75%	\$ 368,048
TR-1	\$ 3,367,116	0.75%	\$ 25,253
TR-2	\$ 4,378,743	0.75%	\$ 32,841
TR-3	\$ 3,416,931	0.75%	\$ 25,627
Total 2007	\$ 429,149,838		\$ 3,218,624
2008	2008	2010	2010
Residential	\$ 308,311,015	1.00%	\$ 3,083,110
GS-1	\$ 52,639,388	1.00%	\$ 526,394
GS-2	\$ 46,178,120	1.00%	\$ 461,781
GS-3	\$ 61,721,535	1.00%	\$ 617,215
TR-1	\$ 3,169,920	1.00%	\$ 31,699
TR-2	\$ 5,036,043	1.00%	\$ 50,360
TR-3	\$ 2,818,478	1.00%	\$ 28,185
Total 2008	\$ 479,874,500		\$ 4,798,745
2009	2009 (Estimated)	2011	2011
Residential	\$ 266,724,676	1.50%	\$ 4,000,870
GS-1	\$ 44,467,935	1.50%	\$ 667,019
GS-2	\$ 39,458,724	1.50%	\$ 591,881
GS-3	\$ 49,552,551	1.50%	\$ 743,288
TR-1	\$ 2,924,183	1.50%	\$ 43,863
TR-2	\$ 4,603,605	1.50%	\$ 69,054
TR-3	\$ 3,119,265	1.50%	\$ 46,789
Total 2009	\$ 410,850,939		\$ 6,162,764
<u>Total 2009-2011</u>			<u>Total 2009-2011</u>
Residential			\$ 9,188,082
GS-1			\$ 1,558,431
GS-2			\$ 1,351,398
GS-3			\$ 1,728,551
TR-1			\$ 100,815
TR-2			\$ 152,255
TR-3			\$ 100,601
Total			\$ 14,180,133

SEMCO Energy, Inc.
Case No. U-15893
Settlement Agreement

Attachment B

1 **SEMCO ENERGY, Inc.**
 2 2009-2011 Energy Optimization Plan
 3 Calculation of Customer Surcharge

Revised Exhibit A-2 (JRA-2)
 Page 1 of 1
 Case No. U-15893
 March 4, 2009

4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44

Combined MPSC & BC	Total 2009-2011 Alternative Payment \$	July 2009 to December 2011 GCR Plan Volumes	Residential Volumetric Surcharge
Residential	\$ 9,188,082	60,461,787	<u>\$ 0.1520</u> per Dth/Mcf
		July 2009 to Dec 2011 GCR Plan Average Customers	Non-Residential Monthly Surcharge
GS-1	\$ 1,558,431	21,552	<u>\$ 2.41</u> per Meter
GS-2	\$ 1,351,398	3,232	<u>\$ 13.94</u> per Meter
GS-3	\$ 1,728,551	872	<u>\$ 66.09</u> per Meter
TR-1	\$ 100,815	110	<u>\$ 30.56</u> per Meter
TR-2	\$ 152,255	54	<u>\$ 93.98</u> per Meter
TR-3	\$ 100,601	17	<u>\$ 197.26</u> per Meter
Total	<u>\$ 14,180,133</u>		

SEMCO Energy, Inc.
Case No. U-15893
Settlement Agreement

Attachment C

**SECTION D
GAS SALES SERVICE
SURCHARGES**

Energy Optimization Program Clause – This clause permits, pursuant to Section 91(3) of 2008 PA 295, collection of the energy optimization alternative compliance payments made by the utility in compliance with Section 91(1). This charge is to be on a volumetric basis for Residential customers and on a per meter basis for all other metered customers.

Energy Optimization
Surcharge

<u>Rate Class</u>	<u>Amount</u>	<u>Order No.</u>
Residential	\$0.1520 per Dth	U-15893
GS-1	\$2.41 per Month	U-15893
GS-2	\$13.94 per Month	U-15893
GS-3	\$66.09 per Month	U-15893

Effective for bills rendered on
and after .
Issued under authority of the
Michigan Public Service Commission
In Case No. U-15893.

**SECTION D
GAS SALES SERVICE
SURCHARGES**

Energy Optimization Program Clause – This clause permits, pursuant to Section 91(3) of 2008 PA 295, collection of the energy optimization alternative compliance payments made by the utility in compliance with Section 91(1). This charge is to be on a volumetric basis for Residential customers and on a per meter basis for all other metered customers.

Energy Optimization
Surcharge

<u>Rate Class</u>	<u>Amount</u>	<u>Order No.</u>
Residential	\$0.1520 per Mcf	U-15893
GS-1	\$2.41 per Month	U-15893
GS-2	\$13.94 per Month	U-15893
GS-3	\$66.09 per Month	U-15893

Effective for bills rendered on
and after .
Issued under authority of the
Michigan Public Service Commission
In Case No. U-15893.

Continued From Sheet No. F-11.00

Minimum Charge

The minimum charge shall be the sum of the customer charge included in the rate and the Energy Optimization Surcharge.

Due Date and Late Payment Charge

The due date of a residential customer's bill shall be 21 days from the date of transmittal. The due date of a nonresidential customer's bill shall be 21 days from the date of mailing. A 2% residential or 3% nonresidential late payment charge, not compounded, of the unpaid portion of the bill, net of taxes, shall be assessed to any bill that is delinquent.

Term and Form of Contract

Service under this rate shall require authorization in a manner specified by the Company.

Continued From Sheet No. F-11.00

Minimum Charge

The minimum charge shall be the sum of the customer charge included in the rate and the Energy Optimization Surcharge.

Due Date and Late Payment Charge

The due date of a residential customer's bill shall be 21 days from the date of transmittal. The due date of a nonresidential customer's bill shall be 21 days from the date of mailing. A 2% residential or 3% nonresidential late payment charge, not compounded, of the unpaid portion of the bill, net of taxes, shall be assessed to any bill that is delinquent.

Term and Form of Contract

Service under this rate shall require authorization in a manner specified by the Company.

SECTION E
TRANSPORTATION SERVICE
SURCHARGES

Energy Optimization Program Clause – This clause permits, pursuant to Section 91(3) of 2008 PA 295, collection of the energy optimization alternative compliance payments made by the utility in compliance with Section 91(1). This charge is to be on a volumetric basis for Residential customers and on a per meter basis for all other metered customers.

<u>Rate Class</u>	<u>Energy Optimization Surcharge</u>	<u>Order No.</u>
TR-1	\$30.56 per Month	U-15893
TR-2	\$93.98 per Month	U-15893
TR-3	\$197.26 per Month	U-15893

SECTION E
TRANSPORTATION SERVICE
SURCHARGES

Energy Optimization Program Clause – This clause permits, pursuant to Section 91(3) of 2008 PA 295, collection of the energy optimization alternative compliance payments made by the utility in compliance with Section 91(1). This charge is to be on a volumetric basis for Residential customers and on a per meter basis for all other metered customers.

Rate Class	Energy Optimization Surcharge	Order No.
TR-1	\$30.56 per Month	U-15893
TR-2	\$93.98 per Month	U-15893
TR-3	\$197.26 per Month	U-15893

Effective for bills rendered on
and after .
Issued under authority of the
Michigan Public Service Commission
In Case No. U-15893.