

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the application of)
LEE 8 STORAGE PARTNERSHIP for approval)
of gas storage service rates and authority to)
construct and operate a gas transmission line)
in Calhoun County.)
_____)

Case No. U-10602

At the September 27, 1994 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. John G. Strand, Chairman
Hon. Ronald E. Russell, Commissioner
Hon. John L. O'Donnell, Commissioner

ORDER APPROVING SETTLEMENT AGREEMENT

On May 19, 1994, Lee 8 Storage Partnership (the Partnership) filed an application, pursuant to the provisions of 1929 PA 9, as amended, for a certificate of public convenience and necessity to construct and operate a 12.5 mile gas transmission pipeline in Calhoun County and for approval of market-based gas storage service rates. The pipeline would connect the proposed Lee 8 Storage Field to an interstate pipeline owned by Panhandle Eastern Pipe Line Company (Panhandle).

Pursuant to due notice, a prehearing conference was held on July 7, 1994 before Administrative Law Judge James N. Rigas. The Partnership, the Commission Staff, and Michigan Gas Utilities (MGU) participated in the proceedings.

Subsequently, the parties submitted a settlement agreement resolving all issues in this case.

According to the terms of the settlement agreement, attached as Exhibit A, the Partnership should receive a certificate of public convenience and necessity to construct and operate the proposed gas transmission line. The settlement agreement goes on to state that the Partnership should be authorized to charge a market-based storage rate within a flexible range of \$0.25 to \$1.75 per thousand cubic feet based upon 100-day firm storage service. This rate includes both storage charges and transmission charges to and from the point of interconnection with Panhandle's pipeline. The parties agree that, with less than one percent of all storage in Michigan, the Partnership would not have market power to control rates but would have to charge market-responsive storage rates. Finally, the settlement agreement states that MGU, an affiliate of one of the Partnership's general partners, will have the burden of showing in a general rate case or gas cost recovery proceeding that every transaction between MGU and the partnership for gas storage services is the result of arm's length bargaining, and is reasonable and prudent for MGU's ratepayers.

The Commission FINDS that:

- a. Jurisdiction is pursuant to 1929 PA 9, as amended, MCL 483.101 et seq.; 1919 PA 419, as amended, MCL 460.51 et seq.; 1939 PA 3, as amended, MCL 460.1 et seq.; 1969 PA 165, MCL 483.151 et seq.; 1970 PA 127, MCL 691.1201 et seq.; 1969 PA 306, as amended, MCL 24.201 et seq.; and the Commission's Rules of Practice and Procedure, R 460.17101 et seq.
- b. The settlement agreement is reasonable and in the public interest, and should be approved.
- c. When constructed and operated in accordance with the terms of the settlement agreement, the proposed pipeline will serve the public convenience and necessity, will meet the

requirements of the Michigan Gas Safety Code, and will not significantly affect the environment.

THEREFORE, IT IS ORDERED that:

A. The settlement agreement, attached as Exhibit A, is approved.

B. A certificate of public convenience and necessity is granted authorizing Lee 8 Storage Partnership to construct its proposed 12.5 mile gas transmission pipeline in Calhoun County.

C. Lee 8 Storage Partnership is authorized to implement a market-based storage service rate within a flexible range of \$0.25 to \$1.75 per thousand cubic feet based upon 100-day firm storage service, like that found on Attachment A to the settlement agreement.

D. If in the future the proposed pipeline is operated as a common carrier for third party gas, Lee 8 Storage Partnership shall come before the Commission to seek non-discriminatory gas transportation rates and to assess any related effects upon its then-effective storage rates.

E. Lee 8 Storage Partnership shall, within 30 days, prepare and submit to the Commission for approval and filing tariff sheets incorporating the market-based storage rates authorized by this order.

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/ John G. Strand
Chairman

(S E A L)

/s/ Ronald E. Russell
Commissioner

/s/ John L. O'Donnell
Commissioner

By its action of September 27, 1994.

/s/ Dorothy Wideman
Its Executive Secretary

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the application of Lee 8 Storage Partnership for approval of gas storage service rates and authority to construct and operate a gas transmission line in Calhoun County, Michigan.)
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Case No. U-10602

SETTLEMENT AGREEMENT

Lee 8 Storage Partnership filed its application, prefiled testimony and exhibits with the Michigan Public Service Commission (Commission) on May 19, 1994, seeking authority to construct and operate a 12.5 mile gas transmission pipeline in Calhoun County from the planned Lee 8 Storage Field to an interconnection with Panhandle Eastern Pipe Line Company's interstate gas pipeline which traverses Calhoun County, Michigan and requesting approval of a market-based storage service rate within a flexible range from zero to \$1.75 per Mcf based on 100 day firm storage service.

On June 6, 1994, the Commission issued a Notice of Hearing in the captioned case. Pursuant to the Commission's Notice of Hearing, Lee 8 Storage Partnership gave notice by publishing a Notice of Hearing in *Michigan Oil and Gas News* and in a local newspaper serving the area of the proposed gas transmission line. Affidavits of Publication were filed with the Commission at the prehearing conference held in the Commission's Lansing, Michigan offices on July 7, 1994.

At the prehearing conference, pursuant to the Commission's Rule 307 (1992 MR 3, R 460.17307), the Michigan Public Service Commission Staff (Staff) filed its appearance.

Following the prehearing conference, Staff and Lee 8 Storage Partnership representatives met on July 21, 1994 in a formally scheduled settlement conference. In response to issues raised by Staff, Lee 8 Storage Partnership submitted supplemental testimony and exhibits on August 8, 1994. Thereafter, a second settlement conference was held on August 15, 1994.

MCL 24.278; MSA 3.560 (178) and Rule 333 of the Commission's Rules of Practice and Procedure (1992 MR 3, R 460.17333) permit disposition of a contested case by stipulation or agreed settlement. The parties hereby stipulate and agree to resolve this case as follows:

1. The parties stipulate that the prefiled supplemental testimony and exhibits of William F. Peters and Charles F. Hauska should be bound into the record of the instant proceeding together with the originally prefiled testimony and exhibits of those same witnesses.

2. In substance, Mr. Hauska's supplemental testimony and exhibits address the potential environmental impact of the proposed construction project in greater detail than had been offered in the original filing and delineate the progress made by Lee 8 Storage Partnership since the original filing date in obtaining environmental permits and approvals from the appropriate governmental agencies. Based upon Mr. Hauska's expanded testimony, the parties agree that if Lee 8 Storage Partnership proceeds with construction in conformity to the conditions outlined in the permits and approvals for the project, then the construction should not have a major adverse impact upon the environment in Michigan.

3. In substance, Mr. Peters' supplemental testimony and exhibits modified the proposed market-based tariff to include a flexible range of rates and computed, as a point of reference, that a comparable cost-based rate would be \$1.0133 per Mcf at a 100% load factor. Staff does not take any position with respect to the reasonableness of that cost-based rate, which was included to make the record more complete but is

not sought as part of the tariff. The parties believe that the proposed storage project will constitute less than one percent of the total storage capacity available in the state of Michigan; therefore, Lee 8 Storage Partnership will lack control sufficient to give it the ability to exercise market power in setting rates; instead, it is anticipated that market forces in a competitive environment will govern the rates which Lee 8 Storage Partnership will be able to charge for its storage services. The parties agree that any flexible market-based tariff which may be approved by the Commission should contain both floor and ceiling prices.

4. A market-based flexible gas storage rate of from \$0.25 to \$1.75 per Mcf based upon effective rates for 100 day firm storage service as described more fully in the proposed tariff delineated in Attachment A should be approved. Lee 8 Storage Partnership agrees to comply with the filing and reporting procedures imposed by the Commission via its March 24, 1981 Order in Case No. U-6300, or any subsequent orders.

5. A certificate of public convenience and necessity should be granted to Lee 8 Storage Partnership authorizing the construction and operation of the proposed 12.5 mile gas transmission pipeline in Calhoun County, Michigan connecting the proposed Lee 8 Storage Field to the interstate gas pipeline owned and operated by Panhandle Eastern Pipe Line Company traversing Calhoun County, Michigan. As described in Lee 8 Storage Partnership's prefiled testimony and exhibits, the 12.5 mile gas transmission pipeline is an integral part of the Lee 8 Storage Field; consequently, the market-based rate sought in this proceeding would include both storage and transportation to and from the point of interconnection with Panhandle Eastern Pipe Line Company's interstate gas pipeline which traverses Calhoun County, Michigan.

6. As proposed, the 12.5 mile gas transmission pipeline will exist solely to move gas from the Lee 8 Storage Field to Panhandle Eastern Pipe Line Company's interstate pipeline which traverses Calhoun County, Michigan. However, if at some

future time the gas transmission line is to be operated as a common carrier for third party gas, Lee 8 Storage Partnership agrees to come before the Commission to establish non-discriminatory gas transportation rates for use of the proposed gas transmission pipeline and to assess any related effects upon the storage rates.

7. In the context of this Agreement, the parties agree that the map route and type of construction proposed by Lee 8 Storage Partnership for its pipeline are reasonable and appropriate. The Staff agrees that the proposed pipeline will meet the requirements of Act 9 with respect to serving the convenience and necessities of the public. The Staff has also determined that, if constructed, tested and operated as proposed, Lee 8 Storage Partnership's proposed pipeline will meet the requirements of the Michigan Gas Safety Code.

8. Michigan Gas Utilities (MGU) is affiliated with MG Ventures Storage, Inc., one of the partners in the Lee 8 Storage Partnership. Accordingly, MGU explicitly acknowledges that if MGU enters into any storage arrangements in the Lee 8 Storage Field, the burden shall be upon MGU in a general rate case or gas cost recovery proceeding to establish to the Commission by a preponderance of evidence that any transactions were at arms-length (i.e., under similar terms and prices as any two unrelated parties would reach under then prevailing conditions for the acquisition of gas storage services) and that the transactions were reasonable and prudent within the meaning of those terms attributed under 1982 PA 304, MCL 460.6h, as amended. The parties agree not to oppose MGU's late-filed petition to intervene in this proceeding.

9. Jurisdiction of the Commission to hear and rule upon this matter is predicated upon 1929 PA 9, as amended, MCL 483.101 et seq.; 1919 PA 419, as amended, MCL 460.51 et seq.; 1939 PA 3, as amended, MCL 460.1 et seq.; 1969 PA 165, as amended, MCL 483.151 et seq.; 1970 PA 127, as amended, MCL 691.1201 et seq.; 1969 PA 306, as amended, MCL 24.201 et seq.; and the Commission's Rules of Practice and Procedure, R 460.17101 et seq.

10. The parties agree that the public interest will be adequately protected without the time and expense involved in a public hearing.

11. The Staff hereby certifies to the Commission that, subject to the provisions of this Agreement, the issuance of an order authorizing the construction and operation of the Lee 8 Storage Partnership's proposed pipeline is reasonable and in the public interest and will serve the public convenience and necessity.

12. The parties agree not to appeal or otherwise contest any Commission order approving this Settlement Agreement without modification.

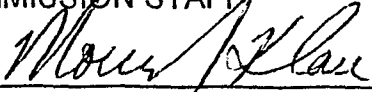
13. This Settlement Agreement has been made for the sole and express purpose of reaching a compromise among the positions of the signatories without prejudice to their rights to take new and/or different positions in other proceedings. All offers of settlement and discussions relating to this Settlement Agreement shall be considered privileged under ME 408. If the Commission approves this Settlement Agreement without modification, neither the parties to this Settlement Agreement nor the Commission shall make any reference to or use of 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 or use may be made to enforce the Settlement Agreement and Commission order.

14. This Settlement Agreement is not severable. Each provision of the Settlement Agreement is dependent upon all other provisions of the Settlement Agreement. Failure to comply with any provision of the Settlement Agreement constitutes failure to comply with the entire Settlement Agreement. If the Commission rejects or modifies this Settlement Agreement or any provision of the Settlement Agreement, the Settlement Agreement shall be withdrawn and shall not constitute any part of the record of this proceeding or be used for any other purpose.

15. All signatories hereto agree to waive Section 81 of the Administrative Procedures Act of 1969 [MCLA 24.281; MSA 3.5601(181)] if the Commission approves the Settlement Agreement without modification.


MICHIGAN PUBLIC SERVICE
COMMISSION STAFF

Dated: ~~August~~ ^{September} 1, 1994

By: 
Morris J. Klau (P-34415)
Attorney for Michigan Public Service
Commission Staff

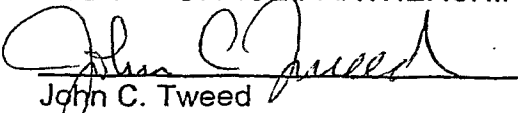
MICHIGAN GAS UTILITIES

Dated: August , 1994

By: 
John E. Palincsar (P-35369)
Attorney for Michigan Gas Utilities

LEE 8 STORAGE PARTNERSHIP

Dated: August 30, 1994

By: 
John C. Tweed
Attorney for Lee 8 Storage Partnership

Lee 8 Storage Partnership
Underground Natural Gas Storage Tariff

Original Sheet No. 1.00

Availability:

Underground natural gas storage service will be made available to all customers desiring service to the extent that:

- a) the Partnership has determined that sufficient, uncommitted storage capacity is available to provide the service requested by the customer; and
- b) the Partnership and the customer have executed a contract for storage service under this rate schedule.

Characteristics of Service:

Any conditions of service not covered by this tariff shall be provided for in the contract between the Partnership and the customer.

Market-Based Rate:

As negotiated between the Partnership and the customer. Maximum effective rate for 100-day firm storage service is \$1.75 per Mcf. The minimum effective rate for 100-day firm storage service is \$0.25 per Mcf.

Fuel:

As specified in the contract between the Partnership and the customer, the Partnership shall retain not more than 1.00% of volumes delivered by the customer to the Partnership for storage, and not more than 1.00% of volumes withdrawn from storage by the Partnership for the customer.