STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the application of **CONSUMERS POWER COMPANY** for authority to increase its rates for the sale of natural gas and for other relief.	)))))	Case No. U-10755

At the March 11, 1996 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. John G. Strand, Chairman
Hon. John C. Shea, Commissioner
Hon. David A. Svanda, Commissioner

OPINION AND ORDER

I.

HISTORY OF PROCEEDINGS

Consumers Power Company (Consumers) is a public utility engaged in purchasing, producing, storing, transporting, distributing, and selling natural gas. It serves more than 1.4 million gas customers in Michigan with an integrated system subject to a uniform rate structure. Its last general gas rate case was decided by the December 7, 1989 order in Cases Nos. U-8678, U-8924, and U-9197 (Case No. U-8678), which reduced rates by $28.4 million and established tariff rates for transportation service.

On December 29, 1994, Consumers filed an application, with supporting testimony and exhibits, seeking authority to increase its gas rates by $21.4 million.

At a prehearing conference on February 9, 1995, Administrative Law Judge Robert E. Hollenshead (ALJ) granted leave to intervene to the Association of Businesses Advocating Tariff Equity (ABATE); Chevron U.S.A., Inc.; Ward Lake Drilling, Inc., d/b/a Ward Lake Energy, and Wolverine Gas & Oil Company, Inc. (Ward Lake/Wolverine); the Coalition of Michigan End-Users for Tariff Relief (Coalition); The Dow Chemical Company; and Attorney General Frank J. Kelley (Attorney General). The Commission Staff (Staff) also participated.

The ALJ conducted evidentiary hearings from April 24 through August 15, 1995.[1] The record consists of 5,756 transcript pages and 193 exhibits, most of which were admitted into evidence. Consumers, ABATE, the Coalition, Ward Lake/Wolverine, the Attorney General, and the Staff filed briefs and reply briefs.[2]

On November 7, 1995, the ALJ issued a Proposal for Decision (PFD), in which he recommended a rate decrease of $11.6 million. Consumers, ABATE, the Coalition, and Ward Lake/Wolverine filed exceptions. The same parties and the Attorney General filed replies to exceptions.

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[1]On May 8, 1995, the Staff filed an application for leave to appeal from a protective order issued by the ALJ on April 24, 1995. The application is now moot.

[2]Chevron U.S.A. was represented by the same counsel as Ward Lake/Wolverine and joined in the initial brief filed by that counsel. However, Chevron U.S.A. did not join in the reply brief or any subsequent pleadings filed on behalf of those parties.

II.

TEST YEAR

In each rate proceeding, the Commission must identify an appropriate test year as a basis for evaluating the utility's rate base, capital costs, revenues, and expenses to determine whether existing rates should be altered. This methodology begins with booked amounts for a historical year, which are adjusted for known and measurable changes that are reasonably expected to occur prior to and during the projected test year.

For its historical period, Consumers used 13-month average balances for the year ended September 30, 1994. Its projected test year is calendar year 1996. None of the parties objected. The Commission accepts 1996 as the test year.

III.

RATE BASE

A utility's rate base is the investment upon which a utility is given an opportunity to earn its authorized rate of return. It is equal to the capital invested in plant, less accumulated depreciation, plus working capital. Working capital is commonly defined as current assets less current liabilities.[3]

The ALJ's recommended rate base is as follows:

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[3]Current assets include cash, accounts receivable, and gas inventory in storage, among other things. Current liabilities include accounts payable, dividends payable, accrued taxes, and accrued interest, among other things. For ratemaking purposes, deferred debits and credits are also reflected in working capital.

Net plant	$831,450,000
Working capital	113,725,000
Rate base	$945,175,000

PFD, p. 16.

Natural Gas Vehicle Public Refueling Stations

The ALJ recommended that capital expenditures for public refueling stations serving natural gas vehicles be removed from rate base. PFD, pp. 6-8. The ALJ also excluded all sales volumes, revenues, and expenses related to public refueling stations. Id., pp. 39, 42, 77. The effect on rate base was a $2,981,000 reduction in gross plant (before depreciation adjustments).

In its exceptions, Consumers argues that public policy mandates the use of alternative fuel vehicles and supports the development of public refueling stations. It says that the Energy Policy Act of 1992 increased the need for an alternative fuel infrastructure to serve the vehicle fleets of both federal and state agencies. It further argues that if the Commission finds that the utility's natural gas vehicle program does not benefit customers or the state, then it should also find that all plant investment, throughput, revenues, and expenses related to the program will be treated as non-jurisdictional in the future.

In reply, the Staff argues that Consumers' investment in public refueling stations is not necessary to serve ratepayers, that the program is promotional in nature, that the investment and expenses should be booked below the line, and that there are no legal or regulatory requirements for subsidizing alternative vehicle fuels. The Staff contends that Consumers failed to show that it is reasonable for ratepayers to assume the costs, potential benefits, and risks of the program. The Staff says that the Commission should not grant Consumers' alternative request to find that the program is non-jurisdictional, but instead should direct Consumers to account for the revenues and expenses as a promotional practice.

The Commission agrees with the ALJ that neither federal law nor public policy requires Consumers' rates to fund or subsidize public refueling stations. The Commission also agrees that the expenditures are promotional in nature and should be treated as such. Therefore, the program's capital expenditures should be excluded from rate base.

CWIP

The net plant component of the rate base in the PFD includes $12,968,000 for construction work in progress (CWIP). Exhibit S-118, Schedule B-2, p. 1. ABATE argues that CWIP should be removed from rate base. It claims that it is inappropriate to allow Consumers to recover a return on forecasted capital expenditures that may not be closed to plant until after the 1996 test year. Consumers responds that normal ratemaking procedures allow a recovery on CWIP for capital projects that are in progress during the test year. It says that using a projected test year means that it is necessary to estimate CWIP.

The Commission agrees with Consumers that recognizing CWIP in rate base is an appropriate ratemaking procedure. Because the CWIP balance in Exhibit S-118 appears to be reasonable, the Commission finds that it should be included in rate base.

Ray Storage Field

In October 1990, an unusual loss in the pressure of the Ray Storage Field prompted Consumers to investigate a history of discrepancies between metered gas inventory and field pressure surveys. The investigation eventually revealed a leakage of gas through the four main isolation valves that connect the field to the transmission system. This analysis was confirmed in a June 1992 study by Dowdle & Associates, a consulting firm retained by Consumers. The effect of the leakage was that gas moved from the field into the system without being metered as storage withdrawals. The consulting firm estimated that the leakage from 1979 through 1991 was between 3,758 and 4,034 million cubic feet (MMcf). 7 Tr. 1204-1206.

Consumers said that the failure to meter those volumes as they left the field meant that it did not recover the cost of the gas in gas cost recovery (GCR) proceedings. Consumers estimated a $7,545,141 loss for 2,854 MMcf in Exhibit A-80. (Inventory shortages since 1990 have been recovered in GCR proceedings.) It proposed to record the loss as a deferred expense and to amortize the deferral over a ten-year period beginning in 1996. The Staff accepted Consumers' proposal for a ten-year amortization of the deferral, but it proposed that the amortization begin in 1993, which is when the loss was realized and recorded in Consumers' books. The Staff's approach reduces the $7,545,141 deferred debit by $2,641,000 to account for amortization prior to the test year. Exhibit S-118, Schedule B-3, line 10.

The ALJ rejected any recovery for the field leakage and removed the entire deferred debit from working capital. He found that Consumers was responsible for not detecting the leakage sooner and that recovery of the loss in rates would be retroactive ratemaking. PFD, pp. 11-12.

In its exceptions, Consumers claims that the Ray Field gas loss did occur and has not been recovered in rates. It says that it could not have detected the leakage earlier, given that the discrepancies in readings prior to 1990 were within the expected tolerances of the measurement devices. It contends that amortizing the loss would not be retroactive ratemaking because Account 823 of the Uniform System of Accounts expressly recognizes that an amortization is a current cost for inventory adjustments related to underground storage.

ABATE points out that Consumers retained physical possession of the gas up to the time that it passed through customers' meters and was compensated for the gas when it billed those customers. ABATE argues that Consumers misapplies Account 823 to this situation, which does not involve the actual escape of gas into the air, but rather an inaccurate measurement that may have understated the cost of lost and unaccounted for gas. Moreover, ABATE argues, determining what Consumers' rates would have been if that cost had been accurate in prior rate cases is speculative and is retroactive ratemaking. ABATE further argues that even if Account 823 supports amortizing the loss, the accounting treatment should not dictate the ratemaking treatment.

ABATE, the Coalition, and Ward Lake/Wolverine contend that Consumers should have detected the leakage well before 1990. Referring to the chronological record of gas losses in Exhibit A-65, they say that the 1990 loss that prompted the investigation is comparable to losses during the 1980s.

Ward Lake/Wolverine say that the lost volumes would have been accounted for as gas inventory in prior rate cases, so that they would have been included in rate base as working capital and would have earned a return based on the cost of capital. Thus, they conclude, Consumers did not incur a material loss through an understatement of its rates.

The Commission finds that the ALJ's recommendation to withhold rate recognition for the Ray Field loss is reasonable. None of the parties dispute that the gas at issue did not physically leave Consumers' system until it passed through customers' meters. The dispute concerns a lapse in measuring gas withdrawals from storage, which resulted in an overstatement of inventory volumes. As argued by several intervenors, the metering discrepancy went undetected for over a decade and should have been investigated by Consumers well before

1990. Consumers should be responsible for failing to be more prompt in detecting the malfunctioning of its equipment that allowed gas to leave the field without being metered.

Declared Common Dividends

The ALJ accepted the Staff's proposal to reduce working capital by $2,254,000 for common dividends that are declared, but not yet paid. PFD, pp. 13-14.

Consumers argues that a dividend payable is different from an account payable related to an ordinary business expense. It says that a dividend payable represents funds that are being held temporarily before their distribution to shareholders. It says that the dividend has no effect on income, is not deductible for tax purposes, and is a form of investor-supplied capital. Unlike the June 26, 1985 order in Michigan Consolidated Gas Company (Mich Con), Case No. U-7895, at page 9, which was cited by the ALJ, Consumers says that there is no allegation in this case that the portion of retained earnings earmarked for dividends will be double counted (by ignoring their effect in the projected capital structure).

The Staff contends that a dividend payable represents a liability in the same sense as an account payable.

Consistent with its decision in Case No. U-7895, supra, the Commission finds that the common dividend payable should be treated as a reduction to working capital. There is no reason to distinguish the Commission's analysis in Case No. U-7895, nor is there any justification for abandoning the policy underlying that decision. As argued by the Staff, a common dividend payable is little different from other current liabilities because it acts as a restraint on the availability of the utility's current funds.

Summary

The Commission finds that rate base is $945,175,000.

IV.

COST OF CAPITAL

To calculate Consumers' revenue requirement, it is necessary to determine the rate of return to be applied to the utility rate base. The rate of return is computed as the weighted average cost of the utility's capital, which requires a determination of the percentage of its capital structure attributable to each source of capital, as well as the cost of each source.

Capital Structure

Alan M. Wright, Consumers' Senior Vice President and Chief Financial Officer, proposed a capital structure based upon Consumers' projected actual 1996 capitalization. His capital structure had a common equity ratio of 36% on a financial reporting basis.[4] Exhibit A-83. Brian L. Ballinger, a Senior Economist in the Commission's Technical Services Division, used Consumers' proposed structure as a starting point for the Staff's analysis, but he made a number of adjustments, particularly with respect to common equity. Exhibit S-120, Schedule D-1.

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[4]The ratio is the percentage of the company's capital that is attributable to common equity. When capital ratios are expressed on a financial basis, they classify capital leases as a form of long-term debt and exclude deferred tax items and some interest-bearing obligations.

As shown in the PFD at page 37, the ALJ recommended the following capital structure:

	Amount ($000)	% Permanent Capital	%Total Capital
Long-term debt	$2,082,283	51.47%	41.15%
MIPS[5]	96,950	2.39	1.92
Preferred stock	354,690	8.77	7.01
Common equity	1,511,917	37.37	29.88
Total permanent capital	$4,045,840	100.00%	
Short-term debt	254,655		5.03
Customer deposits	13,002		0.26
JDITC	132,236		2.61
Deferred tax credits	4,053		0.08
Deferred income taxes	610,739		12.07
TOTAL CAPITAL	$5,060,525		100.00%

This recommendation incorporated the following findings by the ALJ with respect to common equity: (1) that common equity should be reduced by $100 million to reverse Consumers' write-up of the book value of its holdings in CMS Enterprises preferred stock, (2) that common equity should be further reduced by $15,862,000 to reverse Consumers' write-up for an increase in the market value in its holdings in CMS Energy Corporation stock pursuant to Statement of Financial Accounting Standards No. (SFAS) 115, (3) that the Staff's proposed elimination of approximately $16 million in common equity to reflect Consumers' recovery of abandoned Midland plant under SFAS 90 should be rejected, and (4) that

[5]Monthly income preferred securities (MIPS) are a hybrid form of security that has characteristics of both debt and preferred equity. The ALJ treated MIPS as equivalent to long-term debt for purposes of Consumers' capital structure. PFD, pp. 25-26. In its replies to exceptions, Consumers advises that federal legislation making MIPS interest payments non-deductible for tax purposes is under consideration. However, the outcome was unclear as of the close of the record in this case.

common equity should be projected with the assumption that Consumers suspended its common dividend in 1995. PFD, pp. 18-25.

a. Common equity

Consumers raises two exceptions regarding common equity. The Staff raises one issue.

Consumers first argues that the ALJ should not have relied on the Commission's May 10, 1994 order in Case No. U-10335 (Consumers' base electric rate case), at pages 30-33, as the reason for excluding $100 million of common equity related to Consumers' holdings in the preferred stock of its affiliate, CMS Enterprises.[6] According to Consumers, its evidence in this case addressed the Commission's stated concerns that the revaluation of the preferred stock did not benefit ratepayers or improve utility operations. Mr. Wright testified that the present value to Consumers of the increase in future cash flows of dividends and principal repayment is $93 million. He further testified that financial ratings agencies regard the revaluation as improving Consumers' credit rating, thereby reducing its borrowing costs.

In reply, the Staff and ABATE argue that Consumers' evidence presents nothing new for the Commission to consider if it intends to revisit its prior ruling. ABATE argues that the revaluation of the preferred stock resulted from a decision to defer the cash flow until after the 1996 test year, thereby harming ratepayers by withholding the cash from utility operations until then.

[6]As described in that order, the CMS Enterprises preferred stock was issued to Consumers as part of a corporate reorganization in 1987. The issue originally consisted of ten shares with a value of $150 million and was to be redeemed in five annual installments, beginning in 1991. In 1991, the terms of the stock were amended so that the annual redemptions were deferred until 1997 and the dividend increased. To record the 1991 amendments on its books, Consumers revalued the stock and increased its paid-in capital by $100 million.

In its order in Case No. U-10335, the Commission excluded the $100 million revaluation from common equity on the basis of its finding that there was no showing of tangible benefits to ratepayers. The record in this case does not persuade the Commission that it should decide the issue differently. Although Mr. Wright said that the revaluation would improve Consumers' credit rating, it remains unclear how the revaluation contributed to Consumers' financial health or its standing in investors' perception. The issuance and subsequent amendment of the preferred stock are part of an arrangement instituted by a holding company for dealings between two of its affiliates. The arrangement is not materially different from a plan to make a cash infusion in utility operations at a future time.

Moreover, it is unlikely that investors view planned transfers of capital among affiliates of a holding company as having much effect on the holding company's overall prospects. Although Consumers maintained that its financial integrity stands on a separate footing from CMS Energy, it has provided little assurance that the payment obligations and other terms of the preferred stock cannot or will not be revised again as in the past. Because the 1991 amendment resulted in a deferral of the cash flow benefits, it is reasonable to defer recognition of the transaction in Consumers' capital structure until the actual receipt of the benefits.

Consumers also argues that the accounting treatment prescribed by SFAS 115 dictates that the increase in the current market value of its CMS Energy stock be recognized in its common equity. Consumers says that the ALJ contradicted generally accepted accounting principles in reaching an opposite conclusion. It says that one basis for the ALJ's conclusion is that a utility's capital structure should reflect only funds that are actually expended for utility operations, which it says confuses what is properly included in rate base with what is properly included as capital.

The Staff argues that accounting standards should not be applied to impose additional costs on ratepayers. It says that changes in the market value of securities should be recognized only when the holdings are liquidated.

The Commission finds that Consumers' proposal to increase common equity by $15,862,000 pursuant to SFAS 115 should be rejected. The increase in the market value of securities does not reflect any material change in Consumers' capital investment. Moreover, fluctuations in market value can be expected to occur on an ongoing basis. The change in market value should not be reflected in the capital structure for ratemaking purposes.

The Staff argues that, contrary to the ALJ's recommendation, the accounting effects of SFAS 90 on the unamortized balance of the Midland rate recovery should be reflected in Consumers' capital structure. The rate recovery refers to the May 7, 1991 order in Case No. U-7830 Step 3B that authorized a return of, but not on, $346,677,000 of abandoned Midland plant that was to be amortized over ten years. Consumers booked the Step 3B recovery as a regulatory asset and recorded an additional $63.5 million write-down of the asset to reflect the net present value of the recovery, as required by SFAS 90. The Staff says that reversing the effects of the write-down in this case would mean a $16 million increase in common equity, with an associated decrease in deferred taxes.

Consumers argues that it is appropriate to exclude the accounting effects of SFAS 90 because the standard addresses a timing difference that does not affect the utility's cash or operations. Consumers explains that the $63.5 million write-down will be recovered entirely over the ten-year amortization period in the form of accretion income. By adding back the unrecovered $16 million balance of the write-down, it explains, it merely restores common equity to the level that would have been originally recorded on its books if the write-down had not been required by SFAS 90.

The Commission finds that accounting for the Midland regulatory asset as prescribed by SFAS 90 is reasonable for ratemaking purposes (i.e., to include the effects of SFAS 90). Because the Commission's decision in Step 3B permitted Consumers to amortize the Midland recovery over ten years without a return, it would be inappropriate to alter the required accounting treatment by including the entire amount of the unamortized balance in common equity. The treatment required by SFAS 90 recognizes the effect of the time interval over which the recovery is collected from ratepayers. Therefore, the Commission accepts the adjustments proposed by the Staff to reflect the effects of SFAS 90 on common equity and deferred taxes.[7]

Consumers and the Staff agree that it is reasonable to project the common equity balance by reflecting a planned increase of about $125 million of new equity in 1995. The Staff reached this outcome by assuming that Consumers' common dividend was suspended in 1995. Consumers' alternative scenario, which is not materially different in outcome, assumes that CMS Energy makes a 1995 cash infusion of $125 million as an investment in Consumers and that Consumers pays 1995 dividends in amounts that are consistent with its usual rate of dividend payout. Both Consumers and the Staff also agree that the scenario used for ratemaking purposes should be the same as the one used in Case No. U-10685, Consumers' contemporaneous electric general rate case. Because the Commission's February 5, 1996 order in Case No. U-10685 assumes an equity infusion as the basis for projecting common

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[7]The actual amount of the reduction in common equity associated with SFAS 90 is $16,336,000. See Exhibits S-120, Schedule D-1, p. 2, and A-159, pp. 1-2.

equity, the same approach will be used to project common equity in this case.[8] However, it is less important whether the new equity is achieved through a dividend suspension or a cash infusion, so long as the end result is that Consumers' common equity increases by $125 million.

Based on these findings, the Commission finds that common equity is $1,495,581,000.[9]

b. Other sources of capital

Consumers argues that the ALJ erred in summarily adopting the Staff's proposed amounts for job development investment tax credits (JDITC), deferred investment tax credits, and deferred income taxes. It says that the Staff's projections were based on a simple average of the changes in balances from the beginning of 1992 through September 1994. Consumers claims that the Staff should have used a full year of data for 1994 to reflect cyclical changes. Consumers further argues that simple interpolation is misleading in the absence of an attempt to analyze reasons for year-to-year changes. It says that if the Staff had looked more closely at this issue, it would have discovered a number of nonrecurring items that will not have any

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[8]The procedural conditions announced in Case No. U-10335 and repeated in Case No. U-10685 for equity infusions by CMS Energy will continue to apply in full to the rates authorized in this case. Those conditions require, among other things, that Consumers and CMS Energy verify that the infusion has been made by the fourteenth day after the rate order has been issued. In light of indications that Consumers may have suspended its 1995 common dividend, it may comply by showing that the investment of an equivalent amount of equity has been effected through infusions, dividend suspensions, or a combination of both, in an affidavit submitted no later than the fourteenth day after this order is issued. All other conditions set forth at pages 35-36 of the May 10, 1994 order in Case No. U-10335 and repeated in the Case No. U-10685 order remain in force.

[9]The $1,511,917,000 common equity balance shown in the PFD at page 37 appears to incorporate the Staff's calculation based on an assumed equity infusion. After eliminating the $16,336,000 attributable to the proposed SFAS 90 adjustment, the common equity balance becomes $1,495,581,000.

prospective effect. Consumers claims that compensating for those items reduces JDITC to $129,273,000, deferred investment tax credits to $3,735,000, and deferred income taxes to $560,275,000.

The Staff responds that Consumers' attempt to modify the Staff's projections in the rebuttal phase was tardy and deprived the Staff of an opportunity to make a meaningful response.

The Commission finds that the Staff's approach to projecting deferred tax items is preferable to Consumers'. Although Mr. Wright initially projected those balances on the assumption that they would not change materially from the historical year ended September 30, 1994, Consumers presented little justification for that assumption. Consumers' later proposal to modify the Staff's projections for purportedly nonrecurring items may be incomplete because it does not attempt to analyze how both recurring and nonrecurring transactions can be expected to affect test year deferred tax balances.

The Commission finds that the Staff's approach, premised on historical changes, produces reasonable projections. For deferred investment tax credits and JDITC, the Commission adopts the balances recommended in the PFD, as proposed by the Staff. To reflect the effects of SFAS 90, the Commission adopts $601,006,000 as the deferred income tax balance, as shown on Exhibit S-120, Schedule D-1, p. 3.

With respect to the other components of the capital structure, no exceptions have been taken to the PFD's recommendations, which the Commission adopts.

Costs of Capital

No exceptions were filed regarding most of the ALJ's findings for the cost rates of each capital source, as shown in the PFD at pages 26-27 and 37. The Commission accepts the ALJ's findings as follows:

Long-term debt	7.45%
MIPS	8.40
Preferred stock	7.80
Short-term debt	6.53
Customer deposits	9.00

The disputed issue pertains to common equity.

When a utility stands alone and its common stock is publicly traded, direct approaches can be applied to estimate a fair rate of return to be allowed on common equity. The process is more complicated in this case because Consumers is not publicly traded, but rather is a subsidiary of a publicly traded holding company, CMS Energy. This makes it necessary to explore indirect approaches to estimate the utility's cost of common equity. Although experts sometimes use a holding company's cost of capital as a proxy for its utility subsidiary, this approach may be inappropriate if the parent and subsidiary are subject to materially different risks and returns.

Nicholas A. Vlisides, Consumers' Director of Treasury and Assistant Treasurer, proposed a 13% rate of return on common equity. As support for this return, he used two approaches to estimate the cost of equity: (1) discounted cash flow (DCF),[10] and (2) the capital asset pricing model (CAPM).[11]

In his DCF approach, Mr. Vlisides used as inputs CMS Energy's annualized dividend of $0.84 per share and its high, low, average, and median stock prices for the third quarter of 1994 to develop a range of dividend yields from 3.63% to 4.02%. For the growth input, he averaged a composite of published forecasts for growth in dividends, earnings, and book value to develop a growth rate of 9.54%. As another estimate of growth, he calculated 8.95% based on earnings retention,[12] using projected Value Line data for 1994 through 1998. By averaging this rate with several of the published rates, he derived a third growth rate of 9.42%. Exhibit A-18. He made a 3% adjustment for flotation costs and developed a range of DCF outcomes from 12.90% to 13.40%.[13] 3 Tr. 320.

Mr. Vlisides also performed a DCF analysis for a benchmark group of seven gas or combination electric and gas utilities that he deemed comparable to Consumers, although

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[10]The DCF approach equates the market price of the stock to the expected present value of future dividends and price appreciation. The cost of common equity is the discount rate used to reduce future dividends and appreciation to present value.

[11]The CAPM approach equates the cost of common equity to the sum of the risk-free interest rate (usually the yield on government securities) and a risk-adjusted premium that is proportional to the non-diversifiable, or systematic, risk of the stock. The adjustment factor for determining non-diversifiable risk is known as the stock's beta (or ß), which is the ratio of the relative volatility of the stock to the volatility of the market as a whole.

[12]This methodology equates growth with the rate of increase in common equity due to earnings that are expected to be retained in the company instead of being paid out as dividends. Mr. Vlisides calculated it by multiplying the earnings retention ratio (1 less the dividend payout ratio) by expected earnings as a percentage of common equity.

[13]In this order, all references to Mr. Vlisides' analysis of the rate of return on common equity include his proposed 3% adjustment for flotation costs.

somewhat less risky. This produced an average outcome of 12.88% and a median outcome of 13.01%. Exhibit A-20, p. 2.

As inputs for his CAPM analysis, Mr. Vlisides used a risk-free rate of 7.60% based on forecasted yields for 30-year United States Treasury bonds. He used a market risk premium of 6.9% based on historical data provided in the 1994 Ibbotson Associates Yearbook (Ibbotson) for 1926 through 1993. For the beta, he adjusted CMS Energy's beta of .90 (as reported by Value Line) for several ratios comparing financial indicators for Consumers and CMS Energy for 1989 through 1993. Exhibit A-19. This produced a range of returns from 13.35% to 14.05%. 3 Tr. 326.

For his benchmark group, the average outcome of the CAPM analysis was 12.58%, and the median outcome was 12.81%. Exhibit A-20, p. 3.

To check his analysis, Mr. Vlisides performed an interest coverage ratio test, which indicated that a 13% return on common equity would provide a coverage of 3.3 times Consumers' costs of debt financing. Exhibit A-21. He testified that this coverage would be consistent with a bond rating of BBB+. Although Consumers' current bond ratings are BBB- [Standard and Poors (S&P)] and Baa3 (Moody's), its financial objectives are to achieve ratings of BBB+ and Baa2. 3 Tr. 331-332.

Mr. Ballinger presented the Staff's analysis. He applied the DCF and CAPM approaches, using market inputs for CMS Energy.

For his DCF analysis, Mr. Ballinger used the annualized CMS Energy dividend of $0.84 per share, an average stock price of $22.32 for the fourth quarter of 1994, and an 8.66% growth rate derived from a composite of forecasts published by Value Line and the Institutional Brokers Estimate System (I/B/E/S). To reflect future dividends, he adjusted the dividend yield by half of the growth rate. This produced a DCF outcome of 12.58%. By applying a similar approach to a representative group of nine gas utilities, Mr. Ballinger derived a DCF outcome of 11.20%. Exhibit S-120, Schedule D-5, pp. 1-7.

Mr. Ballinger's CAPM analysis relied on a 7.25% projected 1996 30-year Treasury bond yield as the risk-free rate, a 5.35% market risk premium based on Ibbotson data for 1958 through 1993, and a Value Line beta of .80 for CMS Energy,[14] producing an outcome of 11.53%. For his representative group of gas utilities, he used a beta of .59 to calculate an outcome of 10.41%. Id., p. 8.

Unlike Mr. Vlisides, Mr. Ballinger made no adjustment for flotation costs. Mr. Ballinger testified that flotation costs should be recovered only if the company plans to issue new shares. He recommended that Consumers fund its capital needs internally.

Mr. Ballinger concluded that Consumers' cost of common equity is within a range from 11.20% to 12.00%. He recommended that the Commission adopt the midpoint, 11.60%, as the authorized return on common equity.

ABATE's expert witness, Terry L. Murray, testified that Consumers' failure to complete the Midland nuclear project caused its financial risk to increase, thereby reducing its bond rating and its equity capitalization. She stated that the methodology for estimating the cost of common equity should exclude the added financial risk, so that gas ratepayers are protected from imprudence in Consumers' electric operations. To accomplish this objective, she selected a comparison group of gas utilities that were, in her view, representative of what Consumers' risks would have been if it had not undertaken the Midland project. For her group, she

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[14]The beta used by Mr. Ballinger is based on a Value Line report dated April 14, 1995 (Exhibit S-23) and is more recent than the report used by Mr. Vlisides to support a beta of .90 (Exhibit S-22).

selected 18 utilities that earned at least 90% of their revenues from gas operations and are tracked by Value Line.

Ms. Murray then applied the DCF and CAPM approaches to her comparison group. Using growth inputs based on Value Line and I/B/E/S forecasts and earnings retention, she calculated average DCF outcomes ranging from 8.51% to 9.65%. Exhibits I-139 and I-140. Using short-, intermediate-, and long-term timeframes to vary the risk-free rate (based on forecasted yields for Treasury securities) and a market risk premium based on Ibbotson data, she calculated CAPM outcomes with betas published by both S&P and Value Line.[15] This produced returns (as an average of all three timeframes) of 9.28% and 9.60%, respectively. Exhibit I-141.

Ms. Murray concluded that the cost of common equity should be 10.25%, which was at the upper end of a range of DCF outcomes for the seven larger gas utilities in her comparison group. 23 Tr. 4437-4438. As did Mr. Ballinger, she opposed an adjustment for flotation costs.

The ALJ found that Mr. Ballinger's overall approach was appropriate from an analytical standpoint and was preferable to Consumers' and ABATE's positions. The ALJ said that the inputs used in Mr. Vlisides' DCF and CAPM analyses were excessive and that he did not give adequate weight to the outcomes of his own benchmark group. Similarly, the ALJ criticized Ms. Murray for using a comparison group that did not approximate the actual risks of Consumers' gas operations, for adjusting the Value Line betas, and for reducing the cost of common equity to compensate for the Midland project. He said that Ms. Murray's approach

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[15]Before performing the CAPM calculations, she adjusted the Value Line betas to reverse a Value Line statistical practice that makes the betas tend to converge more toward one.

to Midland-related risks amounted to a collateral attack on the Commission's Step 3B determinations.

The ALJ found that Consumers' cost of common equity should not be adjusted for flotation costs, which he said should be recognized only if and when Consumers issues new shares. Relying on the Staff's position, he found that the authorized return on common equity should be 11.60%. PFD, pp. 34-37.

In its exceptions, Consumers revises its proposed return from 13.00% to 12.25% and contends that Mr. Vlisides' analysis supports at least 12.25%.

With respect to the DCF model, Consumers criticizes Mr. Ballinger for not using an updated dividend of $0.96. It also complains that Mr. Ballinger did not use all available growth forecasts and averaged the forecasts differently for CMS Energy than for his representative group. Consumers says that Mr. Vlisides used a wide variety of published forecasts, all but one projecting growth of 11% or more. It says that Mr. Vlisides' three growth inputs, including one as low as 8.95%, were conservative, given investors' expectations of significant growth in Consumers' earnings. It calculates that, even with conservative growth assumptions, the DCF outcome for Consumers is between 12.50% and 13.00%.

With respect to the CAPM model, Consumers claims that Mr. Vlisides' use of a 7.6% risk-free rate is better supported than Mr. Ballinger's proposed 7.25%. It also argues that, contrary to the ALJ's reasoning, Mr. Vlisides was correct to use CMS Energy's beta of .90 as the starting point in deriving an adjusted beta of about .85 for Consumers. It says that to start the analysis with the more recent CMS Energy beta of .80 would require two erroneous assumptions: (1) that the decline in the beta was attributable to changes in CMS Energy's risk, not the overall market's growth in earnings, and (2) that there is a direct correlation between CMS Energy's and Consumers' betas. It contends that, even using a CMS Energy beta of .80, an adjusted beta produces a CAPM outcome in excess of 13.00%.

Consumers also criticizes Mr. Ballinger's CAPM analysis for excluding the Ibbotson data prior to 1958 in calculating the market risk premium. It argues that using the entire data base reduces the likelihood that unusual events in any given year will skew the premium, which is intended to convey a long-run financial relationship.

Consumers argues that, contrary to the ALJ's findings, Mr. Vlisides did not ignore his own benchmark company outcomes, which tended to support a range between 12.50% and 13.00%. Mr. Vlisides argued that the benchmark outcomes should receive less consideration than the DCF and CAPM outcomes because a comparability approach has less theoretical validity and because the proxy utilities are less risky than Consumers. Consumers further contends that the group used by Mr. Ballinger was less risky, and less comparable to Consumers, than Mr. Vlisides' benchmark group.

According to Consumers, the risks of its electric and gas operations are equivalent. It says that the financial risks of the two operations are the same because both are part of one company that has a consolidated capital structure. Even though it did not attempt to quantify the business risks of each operation, its qualitative evaluation is that the advent of competition in the gas industry makes it comparable in risk to the electric industry.

In its exceptions, ABATE says that Ms. Murray's approach properly isolated the risks attributed to Consumer's Midland-related imprudence and removed them from the cost of common equity for gas operations. ABATE says that Ms. Murray intentionally selected a comparison group that was less risky than Consumers as a means of approximating the reduced risk of Consumers' gas operations on a stand-alone basis.

ABATE argues that Ms. Murray's adjustment of Value Line betas was appropriate because it reversed the effect of a statistical practice that lacks theoretical merit, but that inflates CAPM outcome by at least 135 basis points.

ABATE opposes an adjustment for flotation costs. It argues that flotation costs are only attributable to common stock issues and not to the entire common equity balance, which includes retained earnings and employee stock ownership plans. It also argues that allowing the adjustment for past costs is retroactive ratemaking.

ABATE challenges Consumers' claim regarding the equivalence of risk of its electric and gas operations. ABATE argues that Consumers did not undertake a study or quantitative analysis and that its witness, Mr. Wright, was unable to testify to specific instances to support his view of competitive risks on the gas side.

In response to ABATE, Consumers argues that Ms. Murray's attempts to estimate a hypothetical level of risk with a comparison group of utilities are speculative. It says that a rate of return based on less than actual risk is contrary to statutory and constitutional standards for providing the utility with an opportunity to earn a reasonable return on its prudent investment and ignores investors' expectations. It argues that the approach is a collateral attack on the Commission's Step 3B order, which rejected a similar argument. May 7, 1991 order, supra, pp. 298-299.

Consumers also criticizes Ms. Murray for adjusting the Value Line betas downward, which it characterizes as an artificial means of reducing CAPM outcomes. It criticizes her CAPM approach for using short- and intermediate-term interest rates as inputs for the risk-free rate.

The Staff says that its proposed 11.60% rate of return is higher than the current authorized returns for The Detroit Edison Company (Detroit Edison) (11.00%) and Mich Con

(11.50%). With respect to Consumers' contention that Mr. Ballinger's 7.25% risk-free rate for CAPM purposes is too low, the Staff responds that the current 30-year Treasury bond yield is about 6%.

As has long been recognized in prior Commission orders, the determination of an appropriate rate of return on common equity is not an exact science and is always subject to judgments that cannot be precisely quantified. This is particularly true when the utility is a subsidiary that has no publicly traded stock that could be used as a basis for a direct estimate. In addition to the economic and financial models that are commonly used to estimate the market return, the Commission must consider and weigh the interests of the utility and ratepayers, keeping in mind that the ultimate objective is to set just and reasonable rates. In this case, the Commission agrees with the ALJ that an 11.60% rate of return finds the most support on the record and is just, reasonable, and in the public interest. Mr. Ballinger's supporting analysis relied on accepted financial models, used appropriate inputs and assumptions that are realistic in light of current and expected market conditions, and applied sound reasoning. The arguments of Consumers to the contrary are not persuasive.

The Commission is in substantial agreement with most of the judgmental aspects of Mr. Ballinger's DCF and CAPM applications. Consumers' contention that an outdated Value Line beta should have been used in place of the most current one available on the record is particularly lacking in plausibility. Although it suggested that the recent drop in CMS Energy's beta reflects material changes in the relationship of Consumers, CMS Energy, and financial markets to each other, and not a change in Consumers' cost of capital, that suggestion is speculative. Nor is it clear that the application of CAPM theory should be altered.

In its recent order in Consumers' electric rate case, the Commission authorized a return on common equity of 12.25%. Case No. U-10685 order, supra, p. 28. The Commission views this order's determination that gas rates should be set on the basis of an 11.60% return on common equity as not inconsistent with the electric rate case which is based on the same test year. Despite Consumers' argument to the contrary and while the record does not provide a quantification comparing the risks, the Commission's judgment is that Consumers' electric business is more risky than its gas business at the present time. Even though the emergence of competition poses risks for both businesses, it is commonly accepted that competition came earlier to the gas business, that the gas industry is further along in its transition to a competitive marketplace, and that gas utilities have become more acclimated to the ensuing changes in regulation at the federal level.[16] Moreover, local gas distribution companies, unlike electric utilities, do not have the bulk of their capital invested in fixed production plant that is at risk due to the possibility of customers leaving the utility system for other suppliers.

In determining that the authorized return on common equity should be 11.60%, the Commission need not make a finding regarding the flotation cost adjustment proposed by Consumers. Because the process of setting the rate of return is one of judgment, and not a rote application of economic models or financial formulas, removing the adjustment would not have a material effect on the Commission's finding based on the present record.

Finally, the Commission is not persuaded that the return should be reduced in the manner suggested by ABATE witness Murray. She relied solely on a comparable earnings approach

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[16]In its recent proposed rulemaking related to restructuring of the electric industry, the Federal Energy Regulatory Commission acknowledged that previous restructuring of the gas industry served as a lodestar for reform of electric regulation. Notice of Proposed Rulemaking, 60 FR 17662 (April 7, 1995), IV FERC Stats. & Regs., Proposed Regulations ¶ 32,514, at pp. 82-85.

that did not attempt to estimate Consumers' cost of common equity by using its own financial data. Moreover, issues related to the abandonment of the Midland project have been litigated to conclusion in prior cases.

Cost of Capital

The Commission finds that the overall cost of capital is 7.83%, as shown below:

	Amount ($000)	% Capital	Cost Rate	Weighted Cost
Long-term debt	$2,082,283	41.36%	7.45%	3.08%
MIPS	96,950	1.92	8.40	0.16
Preferred stock	354,690	7.04	7.80	0.55
Common equity	1,495,581	29.71	11.60	3.45
Short-term debt	254,655	5.06	6.53	0.33
Customer deposits	13,002	0.26	9.00	0.02
JDITC	132,236	2.63	9.04[17]	0.24
Deferred tax credits	4,053	0.08	-0-	-0-
Deferred income taxes	601,006	11.94	-0-	-0-
TOTAL CAPITAL	$5,034,456	100.00%		7.83%[18]

[17]The rate for JDITC is the weighted average cost of permanent capital, which is calculated as follows:

	Amount	% Capital	Cost Rate	Weighted Cost
Long-term debt	$2,082,283	51.68%	7.45%	3.85%
MIPS	96,950	2.41	8.40	0.20
Preferred stock	354,690	8.80	7.80	0.69
Common equity	1,495,581	37.12	11.60	4.30
	$4,029,504	100.00%		9.04%

[18]Some percentages have been modified slightly due to rounding.

V.

THROUGHPUT

Throughput is the total sales and transportation volumes delivered to end-user customers. It is calculated in a gas rate case as a prerequisite to projecting test year revenues and is also used in rate design.

The ALJ accepted the Staff's projected test year throughput, which was based on historical year actual volumes, adjusted for known and measurable changes. The total throughput used by the Staff for the 1996 test year was 319,257 MMcf, which reflected an adjustment for weather normalization (but without adjustment for additional volumes related to the Karn 4 issue discussed below). Exhibit S-121, Schedule F-2. PFD, pp. 38-41.

Karn 4

The Karn 4 unit is a gas-fired peaking plant used in Consumers' electric operations. For its fuel supply, it takes gas transportation service from the utility's gas operations under a Rate T-2 contract. As filed, Consumers' case projected Karn 4 volumes of 2,536,964 thousand cubic feet (Mcf) based on actual usage during the historical period. It indicated that the plant's annual contract quantity (ACQ) was 3,000,000 million British thermal units (MMBtu).[19] Exhibit S-103, p. 26. Sometime before March 1995, Karn 4's ACQ was increased by 4,000,000 MMBtu to 7,000,000 MMBtu.

The ALJ rejected the Staff's proposal to increase transportation throughput by 4,000,000 Mcf to reflect the Karn 4 ACQ. He found that an increase in ACQ does not necessarily imply an increase in the customer's throughput, but only that there is a possibility of using up to the

[19]For these purposes, one MMBtu is treated as the equivalent of one Mcf.

ACQ quantity. He observed that Karn 4's ACQ in 1994 was 3,000,000 MMBtu (or 3,000,000 Mcf), even though it actually used only 1,060,000 Mcf in 1994. He concluded that an increase in ACQ does not meet the standard of a known and measurable change for purposes of projecting test year volumes. PFD, p. 40.

In its exceptions, the Staff argues that Consumers' tariff defines ACQ as the customer's annual usage based upon historical usage patterns, adjusted prospectively for known or expected changes, which provides ample evidence that the increase in ACQ for the Karn 4 plant was a "known and expected change." The Staff adds that the ACQ change enables Consumers to obtain free storage that is worth over half a million dollars.

The Coalition agrees with the Staff's position, except that it proposes an additional adjustment for all volumes and associated revenues representing the excess of 7,000,000 Mcf over the Karn 4 volumes used by Consumers to develop its test year throughput.

Consumers says that the discrepancy between Karn 4's ACQ and its projected annual usage is due to its function as a peaking unit with unpredictable patterns of usage. As such, it says, the ACQ represents Karn 4's potential maximum usage, not its expected throughput.

After considering the views of the parties expressed in the record, the Commission adopts the position stated in the PFD for the reasons stated therein and finds that the throughput should not be increased due to changes in the ACQ. However, there is an inconsistency in Consumers' position that the projected Karn 4 throughput is substantially less than its ACQ. This position is contrary to the tariff provision that requires an ACQ to be based on either historical usage or known and expected changes.[20] To foreclose the possibility that the Karn 4 ACQ has been enlarged without justification under the tariff standard, Consumers should revise it to 3,000,000 MMBtu.

Transportation Volumes

Ward Lake/Wolverine argue that Consumers' transportation volumes are too low and do not reflect the increase in gas exploration and drilling activity in Michigan, a trend that is evidenced by more than 1,189 new Antrim wells in 1992. They estimate that the trend will mean at least 180 to 190 MMcf of additional volumes transported on Consumers' system per day, although they add that this quantification is conservative. They also argue that Consumers has the burden of proof on this issue, which it did not carry.

In response, Consumers says that additional drilling does not always result in marketable production moving on Consumers' system, that any new volumes may simply displace existing end-user consumption, and that Consumers' evidentiary case made an allowance of $9.8 million for additional transmission revenues.

The ALJ rejected Ward Lake/Wolverine's position. He stated that their claim regarding potential volumes of transportation service did not meet the standard of a known and measurable change in throughput for the test year. PFD, p. 41.

[20]Consumers' tariff states that the ACQ "means the greatest quantity of gas the Company shall accept for transportation on the customer's behalf for any given year as specified in the contract. The ACQ shall be based on the customer's highest consecutive 12-month usage determined from the latest 24 months of data except that the ACQ may be adjusted for known or expected changes." M.P.S.C. No. 8 - Gas, Third Revised Sheet No. F-1.00. Under the tariff, the ACQ is used as the basis for determining how much gas a transportation customer may retain on Consumers' system without taking storage service or incurring load balancing charges.

The Commission agrees with the ALJ that no further adjustment to transportation volumes is appropriate to reflect the possibility of increased intrastate production. It is not clear on the record how much new intrastate supply will be developed, how much will be used by Consumers' customers, and whether those supplies would merely displace existing sales or transportation volumes. Moreover, the weight of the evidence on the record does not support Ward Lake/Wolverine's proposed adjustment of 180 to 190 MMcf per day. As stated in the December 7, 1989 order in Case No. U-8678, supra, p. 11, the burden of persuasion with respect to contested issues of fact generally rests on the party attempting to change the status quo. Because none of the parties are defending the status quo, i.e., existing rates based upon the Case No. U-8678 findings, "each party has the burden of persuasion with regard to each fact it is attempting to establish." Id.

Summary

The Commission finds that the test year throughput is 319,257 MMcf.

VI.

ADJUSTED NET OPERATING INCOME AND REVENUE REQUIREMENT

To determine whether there is a revenue deficiency (or sufficiency), it is necessary to project Consumers' net operating income for the test year. The utility's net operating income is its operating revenues less allowable expenses, taxes, and depreciation.

Both Consumers and the Staff used the historical year net operating income of $107,556,000 as the starting point for making adjustments to project test year net operating income. Exhibits A-9, Schedule C-1, and S-119, Schedule C-1.

The ALJ made a number of adjustments to net operating income that are not addressed in the exceptions. He found that the Staff's adjustment to remove conservation revenues and expenses from net operating income should be adopted. (The Staff's adjustment was $170,000 more than Consumers'.) This adjustment has a pre-tax, or gross, effect on the revenue requirement of negative $837,000 and an after-tax, or net, effect of negative $532,000.[21] PFD, pp. 46, 77.

With respect to operation and maintenance (O&M) expense, the ALJ made certain adjustments, as shown in the PFD at pages 51-55, 64-66, and 76-77, resulting in the following:

	Gross ($000)	Net ($000)
SFAS 106	$ (6,413)	$ (4,072)
Dues, donations, & advertising	224	142
Normalization adjustments[22]	(1,642)	(1,043)
Michigan Gas Storage Co.	(2,298)	(1,459)
Depreciation	(10,308)	(6,700)
Environmental tax	(117)	(74)
Real & personal property taxes	(3,464)	(2,200)
Real estate transfer tax	(95)	(60)
Michigan single business tax		(629)
Federal income tax		(4,592)
Executive bonuses	442	281
Net uncontested O&M adjustments		$(20,406)

The uncontested adjustments related to conservation and O&M expense are adopted by the Commission for purposes of calculating the revenue requirement.

[21]The gross adjustment translates into a net, or after-tax, revenue effect if it is divided by the revenue multiplier of 1.5747.

[22]This item excludes expenses related to the Supplemental Executive Retirement Plan and information services and technology, which are addressed later in this order.

Revenue and Cost-of-Gas Adjustment

The Staff made a revenue and cost-of-gas adjustment to reflect the difference between Consumers' test year pro forma revenues (based on current rates applied to its 319,257 MMcf throughput projection, as shown in Exhibit S-121, Schedule F-3) and its actual historical period operating revenues. The gross amount of its proposed adjustment is negative $25,869,000 (net adjustment of negative $16,428,000). Exhibits S-119, Schedule C-2, and S-121, Schedule F-3. This approach is uncontested and will be used by the Commission to calculate adjusted net operating income. The primary difference between Consumers' and the Staff's positions regarding this adjustment is the treatment of rate discounts, which is addressed below.

James River and Rate T-2 Discounts

In calculating pro forma revenues, the Staff priced transportation volumes for James River Corporation and Consumers' Rate T-2 customers at the current cost-of-service based T-1 rate of $0.4734 per Mcf. Exhibit S-121, Schedule F-3. Unlike the T-1 rate, T-2 rates are negotiated within a tariff range between $0.2367 and $0.7101 per Mcf. James River pays a special contract rate of $0.15 per Mcf. The Staff's pricing of James River and T-2 volumes effectively requires Consumers' shareholders to absorb the revenue shortfall attributable to the discounts below the T-1 rate instead of recovering them in other rates.

With respect to James River, the February 23, 1995 order approving the special contract in Case No. U-10651 indicates, at page 16, that the ratemaking consequences of the difference between the T-1 rate and the T-2 floor rate of $0.2367 per Mcf should be decided in this case and that the difference between the T-2 floor and the contract price should be the responsibility of Consumers' shareholders.

According to Consumers, there are 16 T-2 contracts that provide for discounts below the T-1 rate.

The ALJ accepted the Staff's treatment of the rate discounts. He found that Consumers should not be permitted to shift the discounts to other ratepayers because it had failed to demonstrate that it acted reasonably in offering the discounted rates and was not cooperative in providing information regarding the discounts. PFD, pp. 43, 45-46.

In its exceptions, Consumers argues that the discounts benefit other ratepayers by retaining the loads of customers with alternatives to local distribution service. Those alternatives include the capability of burning coal or oil or bypassing the utility system by a direct connection to an interstate pipeline. With respect to the T-2 contracts, Consumers explains that it set the level of the discounts by estimating each customer's future burner tip cost of its alternative, as shown in Exhibit A-182. It says that losing those revenues would have meant that the fixed costs of serving those customers would have shifted to other customers. It claims that the T-2 discount rates cover 29 billion cubic feet (Bcf) of load and produce $9.5 million in annual revenues. It contends that the variable cost of serving the discounted T-2 loads ranges from $0.03 to $0.11 per Mcf and that their contribution to fixed costs is at least $0.13 per Mcf ($0.2367 - $0.11), or about $4 million in annual revenues.

With respect to the James River contract, Consumers says that the Commission's order in Case No. U-10651, supra, p. 15, found that a special contract rate was necessary to retain the James River load, that the contract rate would cover the variable cost of serving that customer, and that the revenues would provide a contribution to fixed costs. Although the order also required shareholders to absorb the portion of the discount below the T-2 floor, Consumers says that the Commission is not precluded from revisiting this issue and that the same logic that supports shifting of the T-2 discounts applies to the entire James River discount.

Consumers argues that the ALJ ignored the load retention benefits of offering discounts by requiring shareholders to absorb all of the discounts. It also challenges the ALJ for criticizing its failure to demonstrate reasonableness and prudence without discussing its evidentiary presentation, identifying the shortcomings, or indicating what evidence would have been adequate. It argues that regulatory lag between rate cases gives it an incentive to maximize revenues by negotiating rates that are as high as possible without running the risk of losing the load. It says that, at a minimum, it should be given the opportunity either to recover the discounts by allocating them to the T-1 rate or to abolish the T-1 rate so that all transportation service is negotiable within the T-2 range.

Consumers says that the Commission should consider the incentives created by its ratemaking policies. Consumers argues that if it is unable to recover the discounts, then it would be better off not offering any discounts, losing the load, and leaving the fixed costs to be recovered from other ratepayers. It believes that a cost-of-service study would justify the discounts and asks the Commission to give it an opportunity to demonstrate this instead of adopting the ALJ's recommendation.

ABATE argues that the order in Case No. U-10651 requires that shareholders bear only the James River discount below the T-2 floor. It further contends that T-2 discounts should be recovered only to the extent that they are necessary to retain load. It says that the recoverable discounts should be spread to all other ratepayers in proportion to their class cost-of-service because all ratepayers benefit from load retention.

The Staff agrees with the ALJ's analysis. It contends that the record does not prove that the discounts were offered in a reasonable and prudent manner for the benefit of all ratepayers. It says that the record does not indicate why discounts were offered to specific T-2 customers, including Consumers' Karn 4 unit. It says that Consumers had many opportunities to meet its evidentiary burden and failed to do so, even during rebuttal, when it presented a witness who was not familiar with the provisions or circumstances of the T-2 contracts. It says that Consumers did not, and perhaps could not, produce a cost/benefit analysis showing that the discounted rates make a contribution to fixed costs, that any contribution is more than the value of alternative uses of the capacity, and that the discounted service is profitable.

The Commission finds that the record does not justify a reallocation of the revenue shortfalls to other ratepayers. There is no demonstration that the discounted rates can be justified by the cost-of-service for James River or the T-2 customers. Although Consumers claims that load retention confers a general benefit on its ratepayers, a proposition that could be true under some circumstances, Consumers presented no methodology for quantifying either the benefits or the costs for any of the contracts.

The Commission's finding is attributable in large measure to shortcomings in Consumers' evidentiary presentation, which was not adequate to demonstrate the reasonableness of its conduct in negotiating discounts. As observed by the ALJ, Consumers was recalcitrant in providing information and presented most of its testimony justifying the discounts during the rebuttal phase. Even then, its witness testified mostly in terms of its general approach to offering discounts and was not aware of the circumstances surrounding the negotiation of specific contracts. 29 Tr. 5470, 5473-5474, 5519, 5522-5531, 5537-5538, 5553, 5561-5564, 5588-5589; 30 Tr. 5632-5633. He also sponsored Exhibit A-182, a one-page summary with line items for 32 locations using transportation service at discounted rates. Each line provides only the contract date, the competitive alternative, an estimated range of costs for the alternative fuel source, the ACQ, the average price of gas, and the transportation rate. This information is not adequate for the parties to make a meaningful inquiry on the record as to the circumstances of the customer receiving the negotiated rates or for the Commission to evaluate whether the discount provided to the customer was reasonable to retain the load without sacrificing too much revenue.

This finding is also consistent with the Commission's recent orders addressing special contracts. Beginning with the March 23, 1995 order in Case No. U-10646, which approved special manufacturing contracts between Detroit Edison and the Big Three automobile manufacturers, the Commission has approved a number of negotiated arrangements for utility service. In doing so, the Commission articulated that the burden of proving the reasonableness of shifting the discounts to other ratepayers rests squarely on the utility. It characterized the burden as "substantial" and "compelling":

> "[It requires,] at a minimum, a clear, convincing, and unequivocal demonstration either (1) that the contract prices and terms are justified on the basis of the cost-of-service, or (2) that the benefits for other (non-participating) ratepayers are substantial and have a value that outweighs the costs that are not recovered from the contract customers. Either showing would require support from a cost-of-service study that identifies and quantifies all costs incurred under the contracts."

Id., p. 21.

The Commission reaffirmed this standard in approving Consumers' special manufacturing contract with General Motors Corporation in an October 25, 1995 order in Case No. U-10961, its special contract with Bundy Tubing Corporation in a December 7, 1995 order in Case No. U-10995, its special energy contracts with Dow Corning Corporation and Hemlock

Semiconductor Corporation in a December 7, 1995 order in Case No. U-10997, and its special contract with The Upjohn Company (Upjohn) in a December 15, 1995 order in Case No. U-11001.

As these orders indicate, the Commission supports the reasonable and prudent use of negotiated rate discounts as a means of meeting competitive challenges and promoting economic development, provided that adequate safeguards are put in place to protect the public interest. However, this policy does not mean that the utility's business judgment should be insulated from review or that the utility cannot be held to account for the effects on nonparticipating ratepayers. The record in this case shows that Consumers did not attempt to meet its burden of accountability.

Public utility commissions in several other states have recently approved sharing formulas for the revenue shortfalls produced by rate discounts. In the future, this approach may be an appropriate means of balancing the interests of the utility's shareholders and ratepayers in pursuing the benefits of adding or retaining load through rate discounts. The Commission would welcome an opportunity to consider similar proposals in future cases. Sharing could potentially reinforce the utility's incentive to retain loads that are at risk due to competitive alternatives under rates and terms that make economic sense. It may be a means of obtaining reasonable assurances that the utility negotiates discounts that are as low as possible without running unreasonable risks of losing throughput to the detriment of both shareholders and ratepayers.

Grands Lacs

Although there are contested issues regarding Consumers' storage and transportation arrangement with Grands Lacs Limited Partnership (Grands Lacs), none of the parties challenge its effect on the test year revenue requirement. The Commission accepts Consumers' proposal to exclude Grands Lacs storage revenues from the test year in exchange for its commitment to earmark those revenues for the development of storage capacity. Other issues related to this proposal are addressed in Section IX of this order.

T-2 Premium Revenues

Consumers proposed a $528,000 adjustment reducing transportation revenues based on its expectation that premiums from those T-2 customers paying more than the T-1 rate will come to an end. Currently, some T-2 customers pay a premium in exchange for storage service, but Consumers expects those customers to cancel their storage agreements and take service at the T-1 equivalent rate. The ALJ rejected this adjustment, finding that Consumers' analysis of the costs and benefits of continuing T-2 service at a premium rate was inaccurate.

Consumers excepts and argues that T-2 customers will no longer be willing to pay a premium in exchange for storage. The Staff agrees with Consumers' rationale, but it says that no further adjustment is required to the calculation in the PFD because the adjustment was already incorporated by the Staff's pricing of all T-2 volumes at the T-1 rate. See Exhibit S-21, Schedule F-3, line 17. The Commission agrees with the Staff's explanation of this issue.

Miscellaneous Revenues

a. Forfeited discounts

The ALJ agreed with the Staff's proposal to establish revenues from forfeited discounts by using the five-year average balance from 1990 to 1994. The Staff's approach produced an adjustment of $321,000. PFD, p. 47.

Consumers argues that forfeited discounts should be the historical year amount, adjusted for the decline in operating revenues in the test year. Its proposed adjustment is negative $109,000. It says that a five-year average is not reasonable because, contrary to the Staff's view, the amount of forfeited discounts is not under the control of the utility.[23] It adds that the health of the economy should be relatively constant from the historical year to the 1996 test year.

The Staff responds that a five-year average is a better predictor of future revenues than a single year because the amount of those revenues is beyond Consumers' control.

The Commission finds that the Staff's position regarding forfeited discounts is reasonable and should be adopted. Because they are subject to economic factors beyond the control of the utility, a five-year average is an appropriate means of normalizing the prospective effect on revenues.

b. Storage revenues

The ALJ used the Staff's proposed adjustment of $564,000 to reflect storage revenues.[24] PFD, p. 48.

ABATE calculated a higher adjustment by assuming that Consumers would provide 5.8 Bcf of interruptible storage under its market-based Rate ST at $0.48 per Mcf. This produces revenues of $2,784,000. ABATE argues that $0.48 per Mcf was the price used in

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[23]Consumers claims that forfeited discounts can better be explained by their relationship to sales and transportation revenues.

[24]Although the PFD at pages 74-75 finds that Consumers' proposed adjustment of $1,048,000 is preferable to ABATE's adjustment, the PFD computation uses the Staff's adjustment. Consumers says that its own approach contained an error. Consumers' replies to exceptions, p. 46, n. 22.

the October 28, 1993 order setting Mich Con's rates in Cases Nos. U-10149 and U-10150, and is a reasonable proxy for a market price.

Consumers responds that ABATE's projected storage rate is not supported by the evidence and that Consumers' storage service is not comparable to Mich Con's.

The Commission finds that the Staff's proposed adjustment is reasonable. As argued by Consumers, there is no reasonable basis for projecting a market-based storage rate of $0.48 per Mcf as proposed by ABATE.

c. Miscellaneous revenue adjustment

The total adjustment for miscellaneous revenues, including uncontested adjustments to revenues received from the Midland Cogeneration Venture Limited Partnership (MCV) and others, is as follows:

	($000)
Transmission line revenues	$ (26)
MCV transmission revenues	9,129
Other gas revenues	-0-
MCV storage revenues	2,563
Authorized & unauthorized gas usage charges	-0-
Forfeited discounts	321
Storage revenues	564
Total gross adjustment	$12,551

The net adjustment is $7,971,000.

Normalization Adjustments

The ALJ rejected two adjustments proposed by Consumers: a $176,000 increase in Supplemental Executive Retirement Plan expense and a $301,000 increase in information services and technology expense. In both cases, Consumers explains, the adjustments relate to accounting entries made to reduce estimated allowances for calendar year 1993 expenses to the level of actual expenditures. It explains that a countervailing adjustment was necessary for 75% of those amounts to make them correspond to the historical year ended September 30, 1994, which includes only three months from calendar year 1993. In both instances, it argues, the adjustments mirror actual expenses and are known and measurable changes to historical period amounts.

Although the Staff says that using actual expenses to correct estimates is a normal accounting practice, it faults Consumers for making the adjustment only for calendar year 1993 without a comparable adjustment for the first nine months of calendar year 1994. The Staff claims that Consumers' selective use of the adjustments is self-serving and inflates expenses. The Staff says that the expenses are recurring in nature and need not be normalized.

The Commission finds that the Staff's approach is more reasonable. Consumers has made the adjustments for only part of the historical year and has not explained why the entire period was not treated consistently. Because the items are recurring expenses, it is appropriate to exclude an adjustment that covers only part of the historical period.

Manufactured Gas Plants

Bruce W. Rasher, who is in charge of the Sites Management Section in Consumers' Environmental and Technical Services unit, identified 23 sites of former manufactured gas plants that may require investigation and remediation to comply with statutory standards for environmental cleanup.[25] According to Mr. Rasher, Consumers or its corporate predecessors

[25]See MCL 324.20101 et seq.; MSA 13A.20101 et seq.

manufactured gas at those sites from the late 1800s to the 1950s. As the use of natural gas displaced manufactured gas, Consumers discontinued the process. Mr. Rasher explained that, as owner or operator of the now-obsolete plants, Consumers will be liable for environmental cleanup costs, even if its processes for manufacturing gas and disposing of byproducts were lawful and reasonable when they occurred.

Mr. Rasher testified that the degree of progress toward cleanup varies at each of the 23 sites. He said that soil contamination has been detected at 11 sites, that Consumers has prepared work plans for remedial investigation/feasibility studies[26] for 9 of the sites, that the Department of Natural Resources[27] has approved 3 of the plans and is reviewing another, and that Consumers is preparing a remedial action plan[28] for 1 site. 5 Tr. 775; 6 Tr. 847-848, 851-852, 861-862. Although soil contamination has not yet been detected at 12 sites, it was his opinion that environmental investigations will eventually be required at those sites as well. 6 Tr. 851-853.

By using a probabilistic model that incorporated available information on required cleanup work, Mr. Rasher estimated that future investigation and remediation costs would range from $48 million to $112 million. He said that Consumers incurred $5.7 million in

[26]Mr. Rasher explained that a remedial investigation/feasibility study is conducted to define the nature and extent of the contamination and to determine the appropriate course of remedial action. 5 Tr. 775.

[27]As a result of Executive Order 1995-18, regulatory oversight of environmental cleanup has been transferred from the Department of Natural Resources to the Department of Environmental Quality.

[28]According to Mr. Rasher, a remedial action plan describes the remedial action to be undertaken to bring the site into compliance with statutory standards.

cleanup costs prior to 1995 and that the costs could conservatively be expected to exceed $4 million per year in 1996 and thereafter.

Consumers proposed to defer an estimated liability of $48 million for accounting and ratemaking purposes. It proposed that $4 million be recovered in base rates, that annual actual expenditures over $4 million be deferred and amortized over a ten-year period following a prudence review, that deferred amounts earn a carrying charge of the pre-tax authorized rate of return, and that any excess of $4 million over annual actual expenditures be carried over as an offset to future years' expenditures. It also proposed that third-party recoveries, e.g., proceeds of related tort or contribution litigation, be deferred, net of expenses, and amortized over ten years. It proposed to account for the tax effects of environmental costs with deferred tax accounting.

Susan Crimmins Devon, Supervisor of the Rates and Revenue Requirements Section in the Commission's Gas Division, testified that Consumers incurred $1.2 million in costs related to manufactured gas cleanup during the historical period. She said that the costs are booked in Account 925 "Injuries and damages" and that this account is reflected for ratemaking purposes as a five-year historical average of expenditures. She said that the Staff included $713,000 for cleanup expenses in the test year injuries and damages allowance. The Staff later revised this amount to $853,000.

Ms. Devon recommended that Consumers' proposal to recover $4 million in estimated costs be disallowed. As outlined in her testimony, the Staff proposal calls for Consumers to use deferred accounting for actual expenditures with amortization over ten years, beginning when they are incurred. Under the Staff proposal, each rate case would entail a prudence review of prior expenditures, and, once approved, the deferred balances would be included in rate base and would earn the authorized rate of return. The recommendation also provides for deferral and ten-year amortization of third-party recoveries. Ms. Devon added that rate recovery in this case should be limited to the five-year historical average cost.

Finding that Consumers should recover the costs of environmental investigation and remediation, the ALJ recommended that the Staff's proposal be adopted as the basis for recovery. He stated that deferred accounting would require Consumers' shareholders to share some of the costs by absorbing carrying charges that accrue prior to rate cases and would give Consumers an incentive to minimize its expenditures for environmental cleanup. PFD, pp. 60-61.

Consumers argues that Mr. Rasher's use of a probabilistic methodology demonstrates that environmental cleanup costs will significantly exceed the historical average in the test year and will continue to increase thereafter. It claims that no one has made an evidentiary showing to the contrary. It argues that a $4 million rate recovery will enable it to be pro-active in addressing environmental issues, an approach that it says is supported by the state's policy to revive urban areas where many of the sites are located. While it agrees with the ALJ's finding that environmental cleanup costs are recoverable in rates, it further argues that the Commission should approve a $4 million recovery in base rates now. It says that if the $4 million recovery is approved, it will accept the Staff's proposal for deferral and amortization of expenditures in excess of that amount.

The Staff opposes Consumers' request for a $4 million rate recovery of estimated costs, which it says is speculative. The Staff argues that its approach is appropriate because it normalizes expected future expenses, is consistent with past Commission decisions, provides

Consumers with incentives to contain costs, and allows a reasonable opportunity for rate recovery.

ABATE argues that Consumers should not be authorized to recover any of the environmental costs because the manufactured gas plants have not been used to provide utility service for over 40 years and do not benefit current or future ratepayers. It says that Consumers' liability is a function of its ownership of the land, not its status as a public utility. It says that ratepayers are not insurers of its environmental liability.

ABATE further argues that Consumers did not prove the nature and extent of contamination at each of the 23 sites and that its estimate of the costs is speculative. ABATE observes that Consumers has conducted only investigation studies and has not begun remedial action under an approved plan at any of the sites. ABATE argues that neither the $4 million estimate nor the $853,000 historical average are known and measurable and that both should be disallowed. It says that if a sharing approach is adopted, shareholders should absorb more than 50% of the costs.

In response, Consumers argues that the environmental cleanup costs are directly related to utility operations and that the manufactured gas plants were formerly an integral part of its gas service. It argues that environmental cleanup costs are unavoidable, are mandated by recent legislation, and do not arise out of any failure to meet standards in effect at the time the plants were in operation.

In its April 13, 1995 order in Case No. U-10630, an application by Peninsular Gas Company (Peninsular) for recovery of similar costs, the Commission found that "costs associated with the assessment and remediation of environmental contamination arising from the operation of a manufactured gas plant are unique, extraordinary costs, which may not be exclusively categorized as either utility operating costs or non-utility operating costs." Id., p. 10. The Commission concluded that, in light of Peninsular's circumstances, surcharges for 50% of estimated future assessment and investigation costs should be immediately approved, but should also be addressed again in a general rate case. It added that "the percentage of reasonable and prudent remediation costs that Peninsular may be allowed to recover from its ratepayers [after a rate case] may differ from the percentage that this order provides for recovery of costs associated with completing the remedial investigation plan." Id., p. 14.

In the order in Cases Nos. U-10149 and U-10150, supra, pp. 140-148, the Commission approved the Staff's deferred accounting approach for future environmental cleanup at Mich Con's manufactured gas sites. The approach that was approved in that case provided for the following: (1) environmental cleanup costs will be recorded in a deferred account for each vintage year and amortized over ten years,[29] (2) amortization of each vintage year's deferred balance will begin in the next calendar year,[30] (3) rate recognition of amortization expense will not occur until after a prudence review in the next rate case,[31] (4) carrying costs will be earned on balances included in rate base (at the authorized pre-tax rate of return) after the prudence review (i.e., no carrying costs can be earned prior to a rate case), and (5) tax effects will be recorded by using deferred tax accounting. The advantages of this approach are that it provides an incentive to minimize cleanup costs, protects ratepayers

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[29]The amortization period is subject to review and revision, but revisions would be prospective in effect. Id., p. 148.

[30]Recoveries from liability insurers and other third parties would also be recorded by vintage year and amortized in the same manner.

[31]The prudence review includes the utility's attempts to minimize its exposure and obtain reimbursement from third parties. Id., pp. 142-144.

from excessive costs, and allows a reasonable opportunity for rate recovery of a normalized level of expense.

The Staff's deferred cost approach in this case is consistent with the one approved for Mich Con. Moreover, Consumers has not presented any compelling reason that supports a different approach. Therefore, the Commission adopts the Staff's approach, which should provide a reasonable opportunity for Consumers to recover prudent expenditures in future proceedings. It will also provide an opportunity for the Commission to weigh competing equitable considerations that may require an apportionment of responsibility between ratepayers and shareholders. In the Commission's view, these provisions strike an appropriate balance between shareholders' and ratepayers' interests.

The Commission also finds that Consumers' proposed recovery of $4 million per year for anticipated future expenditures should be disallowed.[32] As argued by the Staff, future expenditures are difficult to project and may vary considerably from year to year. Consumers' methodology for estimating future costs is unconventional for ratemaking purposes. Because the five-year historical average cost used by the Staff is a more appropriate means of rate recovery in this case, the Commission will authorize Consumers to recover $853,000 for environmental cleanup, consistent with the Staff's proposal.

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[32]In Case No. U-10630, supra, the Commission instituted a 50/50 sharing mechanism to cover future expenditures. In that case, it was appropriate to require a preliminary form of sharing because ratepayers providing advance funding of an environmental investigation may be more exposed to the risk that the utility will be unable to satisfy its obligations to comply with environmental laws or may do so in an imprudent manner. A sharing mechanism serves to mitigate those risks. In the present case, Consumers' circumstances do not warrant advance funding by ratepayers.

The gross decrease in expense that is required to reflect the $853,000 allowance proposed by the Staff is $60,000 (net adjustment of $38,000).[33]

O&M Inflation Adjustment

Consumers projected a 1996 inflation rate of 4%. Using this projection, it escalated its Other O&M expense by ½ of its inflation projection to derive an adjustment increasing test year Other O&M expense by $7,734,000. Using lower inflation forecasts, including 3% for 1996, the Staff also escalated Other O&M expense at ½ of inflation to compute an adjustment of $6,451,000. Exhibit S-119, Schedule C-2-3.

The ALJ recommended that the Staff's O&M adjustment be accepted. PFD, p. 63.

In its exceptions, Consumers argues that using ½ of a 4% inflation forecast for 1996 provides a reasonable estimate of the increase in O&M expense caused by both inflationary pressures and expected nominal increases. It says that some increase in expenses will be necessary to maintain safe, reliable service. It adds that its proposal reflects management's dedication to containing costs.

ABATE argues that the record does not support any inflation adjustment. It says that neither Consumers nor the Staff attempted to show which O&M expenses are sensitive to inflation. It argues that expense levels are affected more by growth in volumes of through-

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[33]The Staff's revised allowance of $853,000 (from an initial five-year historical average of $713,000) includes two adjustments: (1) a $40,000 item for an additional expense of $200,000 that was originally reflected as O&M expense in the historical period ($200,000 ÷ 5 years), and (2) a $100,000 increase for legal fees incurred in 1990 and 1991 ($500,000 total fees ÷ 5 years) that were identified in Consumers witness Charles F. Belknap, Jr.'s rebuttal testimony (at 28 Tr. 5388-5390). See Staff's initial brief, pp. 94-95. To avoid double-counting of the O&M expense in the first item, the $200,000 expenditure must be removed from test year O&M. The total effect of the adjustments is: $40,000 - $200,000 + $100,000 = $(60,000).

put and numbers of customers than by price inflation. It says that Consumers' use of new technology should increase productivity and reduce expenses.

In response, Consumers says that ABATE's argument assumes that inflation has no effect on O&M expenses, notwithstanding that such items as wages, health care costs, and administrative and general expenses are clearly affected by inflationary pressures. Consumers also says that its past success in containing O&M costs below the inflation rate should not be used to withhold any inflation adjustment. It says that its proposed adjustment is in line with its internal O&M budgets. It also says that an inflation adjustment is a well-accepted practice in utility rate cases.

The Commission does not agree with ABATE's argument that an inflation adjustment is entirely inappropriate. Although ABATE's Exhibit I-152 purports to show that the rate of increase in Other O&M expense for 1984 to 1994 corresponds to growth in volumes and customer numbers, this correlation, by itself, does not foreclose a reasonable conclusion that the rate of increase is related to inflation. No information is contained in the record that could lead to the conclusion that Consumers' expenses are immune from inflationary pressure. Using an escalation rate of ½ of inflation is reasonable in this case because it recognizes Consumers' obligation to contain costs prudently and strikes an appropriate balance between inflationary pressures and expected increases in productivity and efficiency.

The Commission finds that the Staff's proposed adjustment is reasonable. The difference between Consumers' and the Staff's positions is attributable to different opinions regarding the expected rate of inflation. While Consumers' Chief Economist Bryan A. Noble supported a 4% forecast for 1996, he also stated that he expected inflation to remain low due to monetary policies pursued by the Federal Reserve Bank and to stay within a range of 3% to 4% for the next few years. 11 Tr. 2182-2184. His overall analysis is consistent with Staff witness Ballinger's 3% inflation forecast for 1996. Using the lower forecast to compute the adjustment produces a reasonable estimate and enhances Consumers' incentive to operate efficiently.

Postage

The ALJ recommended that Consumers' proposed adjustment due to the increase in first-class postage from 29¢ to 32¢ be rejected. PFD, pp. 63-64.

Consumers argues that the adjustment represents a known and measurable change that has already occurred. The Staff responds that cost increases are already reflected in the O&M inflation adjustment.

The Commission agrees with the Staff that this cost increase is accounted for in the O&M inflation adjustment. It would be improper to provide an escalation allowance for cost increases and also to provide additional allowances for specific items.

Marysville

None of the parties filed exceptions to the ALJ's recommendation that the revenues and expenses of the Marysville synthetic natural gas plant be removed from the calculation of the revenue requirement. The Commission adopts this recommendation, which reduces O&M expense by a gross amount of $5,743,000 (net adjustment of $3,683,000). Other issues related to the Marysville plant are discussed in Section IX of this order.

Miscellaneous

In keeping with its earlier finding that capital expenditures for natural gas vehicle refueling stations should be excluded from rate base, the Commission also finds that promotional expenses attributable to the natural gas vehicle program should be disallowed. The gross amount of the disallowance is $561,000 (net adjustment of $362,000).

Similarly, the Commission's earlier finding regarding the Ray Storage Field gas loss requires that no provision be made for recognizing an amortization expense. The amount of the amortization expense to be disallowed is $754,000.

Interest-related Income Tax Savings

This adjustment is necessary to reflect the tax effect of interest implicit in the capital structure. It is computed as follows:

	($000)
Rate base	$945,175
Weighted cost of debt[34]	x 3.60%
Authorized interest expense	$ 34,026
Less: Historical interest expense	29,496
	$ 4,530
Federal income tax rate	x 35%
Income tax savings	$ 1,586

[34]The weighted cost of debt is the sum of the weighted cost components of long-term debt, MIPS, short-term debt, and customer deposits in the capital structure shown on the chart at page 27 of the order. There are minor discrepancies between the chart and the rate shown in the calculation due to rounding.

Interest Synchronization

This adjustment recognizes the tax effects of interest synchronization for the debt component of JDITC. It is computed as follows:

	($000)
Rate base	$945,175
JDITC debt portion of capital[35]	x 1.42%
Rate base funded by JDITC debt	$ 13,421
Weighted cost of JDITC debt[36]	x 7.49%
	$ 1,005
Federal income tax rate	x 35%
Interest synchronization adjustment	$ 352

[35]To find the portion of the capital structure attributable to the debt component of JDITC, the sum of the proportions of permanent capital attributable to long-term debt and MIPS, as shown on page 27, n. 17 of this order (51.68% + 2.41% = 54.09%), is multiplied by the percentage of the capital structure attributable to JDITC, as shown on page 27: 54.09% x 2.63% = 1.42%.

[36]The weighted cost of the debt component of JDITC is based on the long-term debt ($2,082,283,000) and MIPS ($96,950,000) components of the capital structure, as shown on p. 27 this order. It is computed as follows: {[($2,082,283,000 ÷ ($2,082,283,000 + $96,950,000)] x 7.45% debt cost rate} + {[$96,950,000 ÷ ($2,082,283,000 + $96,950,000)] x 8.40% MIPS cost rate} = 7.49%.

Summary

The Commission finds that adjusted net operating income is $81,456,000, calculated as follows:

	Gross ($000)	Net ($000)
Historical net operating income (per Exhibit A-3)		$107,556
Allowance for funds used during construction		505
Revenue and cost-of-gas	$(25,869)	(16,428)
Conservation revenues	(837)	(532)
Miscellaneous revenues	12,551	7,971
Net uncontested O&M adjustments		(20,406)
Injuries and damages	1,463	929
Manufactured gas cleanup adjustment	60	38
O&M inflation	(6,451)	(4,160)
Marysville	5,743	3,683
Natural gas vehicles	561	362
Interest-related income tax savings		1,586
Interest synchronization		352
ADJUSTED NET OPERATING INCOME		$ 81,456

Based on the findings in this order, the revenue sufficiency is $11,730,000, calculated as follows:

	($000)
Rate base	$945,175
Authorized rate of return	x 7.83%
Income requirement	$ 74,007
Less: Adjusted net operating income	81,456
Income sufficiency	$ 7,449
Revenue multiplier	x 1.5747
REVENUE SUFFICIENCY	$ 11,730

VII.

COST ALLOCATION

Having established Consumers' revenue sufficiency, the Commission must now allocate costs and design rates in a way that both eliminates this surplus revenue and establishes reasonable rates for all customer classes. Testimony and exhibits concerning the first step in this process, namely cost allocation, were submitted by Consumers, the Staff, and ABATE. What follows is a discussion of the pertinent issues that remain in dispute among these parties.

Allocation of Transmission, Storage, and Working Capital Costs

Two closely related issues arose regarding the proposed allocation, to transportation and storage customers alike, of certain transmission, storage, and working capital costs. The first issue involved Michigan Gas Storage, which is one of Consumers' affiliates. The second arose from the Staff's proposal to assign a portion of the utility's gas inventory working capital costs to Consumers' transportation customers.

In addition to using its own facilities to satisfy its customers' daily gas demands, Consumers often relies on transmission and storage services provided by Michigan Gas Storage. Specifically, it uses this affiliate's no-notice service, under which Consumers is immediately granted short-term storage and pipeline capacity. The costs of this service are then passed on to its customers through the utility's rates.

Consumers' primary cost-of-service witness, Michael M. Edmondson, proposed allocating these costs exclusively to the utility's sales customers. The Staff's witness on this issue, William G. Aldrich, objected to the utility's proposal, claiming it ignores the fact that transportation customers benefit from Consumers' use of this no-notice service in the same manner as the utility's sales customers. Specifically, Mr. Aldrich pointed out that transportation customers "are able to use pooled Consumers/MGS storage for load balancing," and that they rely on the no-notice service that Consumers receives from this affiliate "whenever they use more or less than their daily pipeline nominations." 21 Tr. 3979-3980. The Staff therefore proposed that Consumers' Michigan Gas Storage costs be shared by sales and transportation customers.

As noted above, the Staff also suggested that Consumers' gas inventory working capital costs be allocated to sales and transportation customers. According to Mr. Aldrich, these costs (which reflect the carrying cost of leaving some gas in storage for up to eight months before it is withdrawn and delivered to end-users) arise from activities that benefit both types of customers. However, in recognition of the fact that some of the gas stored for long periods in Consumers' storage fields is supplied by transportation customers themselves, the Staff recommended giving those customers credit for the carrying costs of their own gas. Although the Staff's proposal would result in transportation customers paying only a small part of the utility's gas inventory working capital costs, ABATE objected to Mr. Aldrich's plan. Instead, ABATE recommended that none of these costs be assigned to transportation customers.

The ALJ agreed with the Staff regarding the need to allocate Consumers' Michigan Gas Storage costs to sales and transportation customers alike. In reaching this decision, he concluded, among other things, that (1) transportation customers rely on storage capacity provided on a "pooled" basis by both Consumers' and Michigan Gas Storage's facilities for purposes of load balancing and (2) these customers have the benefit of using the no-notice service that Consumers receives from Michigan Gas Storage "whenever they use more or less than their daily pipeline nominations." PFD, p. 81. The ALJ also recommended adopting the Staff's position concerning gas inventory working capital costs. In doing so, he agreed with the Staff that, because transportation customers have unlimited access to Consumers' stored gas on a daily basis, they are allowed to "borrow" stored gas on peak days and "repay" that gas on warmer, nonpeak days. PFD, p. 82. He therefore concluded that it only makes sense to seek recovery of a portion of that gas's carrying costs from Consumers' transportation customers, rather than assigning all of these costs to the utility's sales customers.

ABATE and Ward Lake/Wolverine except to the ALJ's recommendations regarding these two issues. According to them, the record conflicts with the ALJ's conclusion that transportation customers borrow gas from Consumers' stored volumes on peak days and repay it on warmer, nonpeak days. If such borrowing occurs, they argue, records would show transportation customers as having negative storage balances. Based on Schedule F-12 of Exhibit A-11, which shows Consumers' actual monthly tolerance levels and load balancing volumes from January 1993 through October 1994, ABATE and Ward Lake/Wolverine contend that transportation customers' balances never "went negative." ABATE's exceptions, p. 47. These parties go on to assert that, on pages 144-145 of Consumers' initial brief, the utility makes it clear that the Michigan Gas Storage no-notice service is for its sales customers and not its transportation customers. They therefore claim that the ALJ's recommendations regarding these issues must be rejected.

The Commission disagrees for two reasons.

First, the Commission is not persuaded by ABATE's reliance on Exhibit A-11, Schedule F-12. That document merely indicates that the <u>monthly</u> limits on storage withdrawals imposed on Consumers' end-use transportation customers have been effective. However, there are no limits on the daily withdrawals that these customers can make from storage. 21 Tr. 4070. As noted on pages 91 and 92 of the Commission's October 28, 1993 order in Cases Nos. U-10149 and U-10150, transportation customers are thus free to take as much gas out of storage on any one day as they desire, even if they exceed "1/30 of their monthly load balancing capacity." This, the Commission concludes, provides sufficient justification for allocating a small part of Consumers' gas inventory working capital costs to transportation customers.

Second, the record contradicts the assertions that the no-notice service Consumers receives from Michigan Gas Storage is used solely to benefit its sales customers. For example, Consumers witness John R. Biek testified that even the contracts between the utility and its transportation customers indicate that the facilities of both Consumers and Michigan Gas Storage will be used to handle transportation customers' daily needs. 7 Tr. 1269. Those customers' ability to rely on no-notice service provided to the utility from Michigan Gas Storage, when coupled with their ability to borrow sales customers' stored gas, constitutes a significant benefit. In light of this benefit, the Commission finds that the Staff's approach to allocating these transmission, storage, and gas inventory working capital costs to both sales and transportation customers should be adopted, as recommended by the ALJ.

Interclass Peak Demand

It has long been noted that, when allocating capacity-related costs, the methodology adopted can have a significant effect on the costs assigned to a particular customer class. In the present case, all three of the parties offering testimony on cost allocation used the average and peak (A&P) method, which apportions capacity costs based on the average demand and the peak demand of each customer class. This comports with long-standing Commission practice, in which a weighted average is derived from a capacity (peak) allocation factor and a commodity (average use) factor. Although the parties reached a general consensus regarding both use of the A&P method and the means of computing the average use factor, a dispute arose regarding how the peak demand factor should be determined. That dispute is addressed below.

In Consumers' previous gas rate case, ABATE argued that the utility should record peak day load data by rate class and submit that data in conjunction with its next rate case filing. Only then, ABATE argued, could the parties accurately determine the degree to which each customer class contributes to Consumers' peak demand. The Commission agreed with ABATE and ordered Consumers to "file actual peak day class load data in its next general rate case." December 7, 1989 order in Case No. U-8678, p. 111.

Consumers complied with that requirement. Teri L. Boertman, a supervisor in Consumers' Energy Research and Evaluation Section, testified that the utility installed specialized meters at numerous locations throughout its service territory. By using those meters, Consumers was able to record the actual volume of gas usage (at 15 minute intervals) for each of 420 customers during the period of October 1, 1992 through September 30, 1993. 10 Tr. 1944. Mr. Edmondson then used data from that period's peak day, February 18, 1993, to determine what level of interclass peak demand to use in Consumers' allocation of its capacity-related costs.

Relying in part on Consumers' load study, the Staff offered its own proposal regarding interclass peak demand. Specifically, Mr. Aldrich testified that although he did not use the specific peak day numbers generated by Ms. Boertman's load study, he did rely on her conclusion "that, for any given peak day, for any given year, the peak month that [the] peak day occurred in [is] a good proxy for what the allocation of that peak day would be." 21 Tr. 4019. Thus, in arriving at the Staff's A&P allocation factors, he used volumes recorded during the peak month of Consumers' 13-month historical period, namely January 1994. This resulted in slightly lower transportation rates than would have been achieved by relying solely on Consumers' peak day figures. 23 Tr. 4357-4358.

Unlike the other two parties, ABATE made no use of either Consumers' load study data or the conclusions drawn from that study's results. Instead, ABATE's witness regarding capacity cost allocation, Allen E. Rosenberg, relied on a three-step process to estimate each rate class's contribution to peak demand. First, he examined gas usage during July and August of 1994 to determine "the base load (i.e., nonweather sensitive load) of each class, as well as the heating usage per degree day[37] for each class." 25 Tr. 4753. Second, he estimated the requirements that the respective classes would place on Consumers' system "for a design day temperature of 80 degree days." Id. Third, he adjusted those estimates to reflect the projected growth or decline in each class's total load between the historical period (September 1, 1993 through September 30, 1994) and the year during which the utility's new rates will first take effect (1996).

The ALJ recommended adopting the Staff's proposal regarding the computation of interclass peak demands. His recommendation was based on the fact that, while Consumers and the Staff based their proposals on the actual results of a gas load study, ABATE began

[37]A degree day represents the difference between the mean temperature for a 24-hour period and 65 degrees Fahrenheit. As such, an 80 degree day load forecast refers to the amount of gas used by a utility's various rate classes on a day when the average temperature is 15 degrees below zero.

with an estimate that was then adjusted almost exclusively for weather. Moreover, he noted that one of Consumers' own witnesses found that the Staff's approach "was appropriate for developing the peak day demand." PFD, p. 84.

ABATE excepts to this recommendation for several reasons. It argues that the Commission's October 28, 1993 order in Cases Nos. U-10149 and U-10150 appears to support using statistical analyses to estimate each rate class's "design day" demand, rather than relying on actual peak day data provided by the utility's load study. Furthermore, ABATE contends that Consumers' load study is flawed because it reflects usage from a period outside the 1994 historical test year. ABATE therefore asserts that the Commission must adopt Mr. Rosenberg's proposal.

The Commission does not find ABATE's arguments persuasive, and instead concludes that the Staff's proposal should be adopted. This finding is based on the following three factors. First, Cases Nos. U-10149 and U-10150 involved a situation where, unlike the present case, no load study was available for analysis. Furthermore, the focus in those consolidated cases was on how much weight to give to the peak and the average use factors when applying the A&P methodology. In contrast, the issue now before the Commission solely involves the question of how to compute the peak factor. Thus, statements found in the Commission's October 28, 1993 order in those consolidated cases are not directly applicable to the present case. Second, the question that prompted ABATE to request that a load study be submitted with Consumers' current application concerned whether peak monthly usage by rate class provides a reasonable proxy for peak day rate class usage. Based on data provided by the utility's year-long study, Ms. Boertman found that it did. Specifically, she stated that Consumers' load study failed to reflect "a statistically significant difference between . . . peak day and peak month relative contributions by rate class." 10 Tr. 1950. The Staff's use of actual monthly load data from January 1994 is therefore appropriate. Third, ABATE's proposal is based on the assumption that the only variable affecting daily usage is temperature. However, that assumption conflicts with uncontroverted testimony that other factors, such as (1) the day of the week, (2) cloud cover, (3) wind speed, and (4) humidity, also affect gas usage. 25 Tr. 4803-4805. For all of these reasons, the Commission finds that it should adopt the ALJ's recommendation and use the Staff's methodology to establish the peak demand factor.

Allocation of Income Tax Expense

In performing its cost-of-service study, Consumers computed its income taxes in total and then allocated those costs to its various rate classes on the basis of rate base. In contrast, ABATE proposed calculating income taxes separately for each rate class, then assigning the corresponding expense to the class of customers from whose utility payments the tax liability arose. According to Mr. Rosenberg, adoption of ABATE's proposal was necessary to reflect the fact that each of Consumers' rate classes are providing different rates of return. ABATE went on to assert that the Staff apparently agreed with it on this issue, as reflected in Mr. Aldrich's cost-of-service study. Consumers opposed ABATE's proposal, claiming that ABATE raised a "false issue" that was "contrived more to attempt to discredit the Company's cost-of-service study than to establish a point of significance." Consumers' reply brief, p. 128. Specifically, it cited Mr. Rosenberg's testimony to the effect that a cost-of-service study in which the rates of return for each rate class were predetermined to be equal, such as those performed by the utility and the Staff, would "yield the same results" as ABATE's proposal. 25 Tr. 4818.

The ALJ agreed with Consumers and recommended rejecting ABATE's proposal to compute income taxes separately for each rate class. ABATE excepts to that recommendation. According to ABATE, this is not a false issue. It asserts that although the effect of Mr. Rosenberg's methodology is similar to the effect of the utility's cost-of-service study, the results are not identical. Rather, ABATE contends that Mr. Rosenberg's plan "results in indices of return for customer classes which are closer to 100 than [those] resulting from Consumers' allocation proposal."[38] ABATE's exceptions, p. 56. It therefore claims that the Commission should reject the ALJ's recommendation and adopt Mr. Rosenberg's proposed methodology.

The Commission disagrees. In performing their cost-of-service studies, both Consumers and the Staff use methodologies in which class-by-class service revenues are an output of their respective studies. Based on Mr. Rosenberg's testimony, ABATE's method would yield a different result only if such class-by-class revenues are treated as an input to the cost-of-service study. Because logic better supports using these class-specific revenues as an output, and because this has consistently been done in past rate cases, the Commission finds that the ALJ's recommendation should be approved.

<u>Allocation of Revenue Increase or Decrease</u>

In addition to asserting that Consumers' cost-of-service study was flawed in several ways, ABATE criticized the utility's overall rate design. This criticism arose from Consumers' decision to recognize the discounted T-2 rates obtained by some transportation customers when assigning revenue requirements to each customer class. According to ABATE, using

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[38]An index of return is the ratio of the return earned on serving a rate class to the overall return earned by the utility, multiplied by 100.

the actual revenues anticipated from that group of transportation customers when setting rates, rather than assigning all transportation volumes the nondiscounted T-1 rate, results in an index of return for Consumers' transportation class that is less than it should be. It therefore requested that all transportation volumes be assigned the nondiscounted T-1 rate when allocating to the respective rate classes the revenue increase or decrease arising from this case.

Consumers disagreed with ABATE and maintained that its overall rate design proposal should be adopted. The utility asserted that it was appropriate to calculate rate classes' indices of return using the market-based T-2 rates that certain customers actually pay, rather than assuming that all transportation customers will pay the nondiscounted T-1 rate.

Notwithstanding the utility's arguments, the ALJ adopted ABATE's proposal. He found that ABATE's approach was particularly appropriate in light of his recommendation that Consumers should not be allowed to recover its T-2 discounts from other ratepayers. He thus recommended that, for purposes of rate design, all transportation volumes should be priced at the T-1 rate. None of the parties except to that recommendation. The Commission therefore finds that the ALJ's recommendation should be adopted and all transportation volumes should be priced at the T-1 rate when setting rates.

VIII.

TARIFF AND RATE DESIGN ISSUES

Part of the controversy concerning the specific tariff language to be included in Consumers' rate schedules has been resolved either by the parties or through the Commission's earlier rulings in this order regarding cost allocation. However, several tariff and rate design issues require further discussion.

Sales Rate Schedules

a. Monthly customer charges for Rates A, A-1, and B

Consumers proposed significant increases in the monthly customer charges for many of its residential and commercial customers. Specifically, it sought to raise the customer charge for residential customers taking service under Rates A and A-1 from the current level of $6.50 per month to $7.50 per month.[39] Similarly, it requested authority to increase the monthly charge assessed to commercial customers under Rate B from $10 to $19.50.[40] In contrast, the Staff's proposed rate design would retain the $6.50 per month customer charge for both residential rate classes, and would increase the monthly customer charge for Rate B to $15.

Much of the difference between these parties' proposals arose from their differing views of the Commission's January 18, 1974 order in Case No. U-4331. In that order, the Commission replaced declining block rates, which had allowed customers to pay less per Mcf for each incremental amount of gas purchased, with flat rates. The Commission also allocated more of the gas utilities' total costs to their respective commodity charges and less to their monthly customer charges. In limiting the amount of costs that could be passed on to ratepayers as part of the monthly customer charge, the Commission stated that:

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[39]Although the utility initially proposed increasing the customer charge for these two rate classes to $8 per month (14 Tr. 2670), it later reduced its request by $0.50.

[40]As with its proposal regarding Rates A and A-1, the $19.50 figure represents an amendment to Consumers' proposal, which originally requested increasing the Rate B customer charge to $23 per month.

"The maximum allowable service charge would be limited to those costs associated directly with supplying service to a customer. Only costs associated with metering, the service lateral, and customer billing are includable since these are the costs that are directly incurred as a result of a customer's connection to the gas system."

January 18, 1974 order in Case No. U-4331, p. 30.

Based on that language, the Staff claimed that Consumers' proposal would improperly expand the range of allowable costs to include at least 50% of those rate classes' distribution O&M expenses. In response, Consumers argued that the Staff applied an unreasonably narrow interpretation to that order. It further contended that even if the Staff's interpretation were correct, sufficient justification exists for abandoning the position announced in that order and including a broader range of costs in the utility's customer charges.

The ALJ agreed with the Staff that the order in Case No. U-4331 allowed for a narrower range of costs to be included in monthly customer charges than represented by Consumers' proposal. Moreover, he concluded that the utility provided insufficient justification for abandoning those standards in the context of this rate case. According to him, any revision to those standards "should be considered [only] in a generic proceeding involving all gas utilities and interested parties." PFD, p. 86. Finally, the ALJ found that the Staff's proposed 50% increase in the Rate B customer charge "is a high enough increase to be made at one given point in time" and was therefore preferable to the utility's proposed 95% increase. PFD, p. 88. He thus recommended adopting the Staff's proposed customer charges for Rates A, A-1, and B.

Consumers excepts. It asserts that the order in Case No. U-4331 no longer constitutes valid precedent concerning the establishment of customer charges. In support of this assertion, the utility cites Mr. Edmondson's statement that "in the years since the energy panic of the mid-1970's, . . . public policy has executed something akin to a 180-degree turn with regard to the use of gas fuel--even unto the actual promotion of its use." 28 Tr. 5357. (Emphasis in original.) The utility goes on to point out that Case No. U-4331 was itself a Consumers rate case, and not a generic proceeding. It therefore asserts that even if the Commission believes that initiating a generic proceeding may be of benefit to other utilities and interested parties, there is no need to delay approval of Consumers' customer charge proposal in the present case.

The Commission concludes that the Staff's proposal concerning monthly customer charges for Rates A, A-1, and B should be adopted. The Staff does not rely exclusively on the standards set forth in Case No. U-4331 in proposing to retain the $6.50 customer charge for Rates A and A-1, and to raise the Rate B customer charge to $15 (an increase of $5). Rather, as shown on Exhibit S-121, Schedule F-6, page 5, a cost-of-service study performed by Mr. Aldrich reflected monthly customer costs of $6.48 for all residential customers and $15.84 for all Rate B customers. These figures are much closer to the Staff's proposed monthly customer charges than those proposed by the utility.

The Commission therefore finds that the ALJ's recommendation should be adopted and that the Staff's proposed monthly customer charges for Rates A, A-1, and B should be approved.[41]

b. Rate C customer charge

Consumers also proposed that the customer charge for its Rate C customers be reduced from its current level of $320 per month to $275 per month. The Staff proposed reducing

[41]Based on this finding, there is no need to consider convening a generic proceeding to revisit the standards set forth in Case No. U-4331.

it to $210 per month. The goal of both parties was to reduce the economic break-even point between Rates B and C from approximately 8,800 Mcf per year (the existing break-even point) to approximately 6,850 Mcf annually. 14 Tr. 2672.

The ALJ noted that, although the parties sought to establish the same break-even point, the utility's proposed $275 monthly charge assumed Commission approval of its higher Rate B customer charge. Because the ALJ recommended adopting the Staff's $15 per month Rate B proposal instead, he concluded that "it is appropriate to adopt [the] Staff's Rate C customer charge of $210 per month." PFD, p. 89.

None of the parties except to that conclusion. Taking into account the adoption of the Staff's proposal concerning the monthly customer charge for Rate B in the preceding section of this order, the Commission agrees with the ALJ and concludes that the Rate C customer charge of $210 per month should be approved, thus producing a break-even point between Rates B and C of approximately 6,850 Mcf per year.

c. Providing notification to Rate B and C customers

The Staff suggested ordering Consumers to notify all Rate B and C customers of the new break-even point. According to Michael L. Collins, the Staff's witness on this issue, the notice should (1) make it clear to these ratepayers that the service provided under each tariff is identical, except for the rate structure, (2) emphasize that "being on the wrong rate will cost the customers money," and (3) explain how to calculate costs so that they can determine whether their gas usage is "too big for Rate B or too small for Rate C." 25 Tr. 4853. Consumers objected to being required to notify all of its Rate B and C customers, and asserted instead that such notice should be given only to the 2,000 to 3,000 customers that may foreseeably be affected by the new break-even point. Notwithstanding the utility's objection, the ALJ recommended adopting the Staff's proposal in its entirety.

Consumers excepts to that recommendation and renews its assertion that such notice should be provided only to those customers that may be affected by the new break-even point. According to the utility, it would be wasteful to provide notice to all 104,000 Rate B and C customers when only a small fraction will be affected by that change. The Commission agrees. It therefore finds that the notice sought by the Staff and recommended by the ALJ must be provided only to those customers on Rates B or C that have consumed between 6,000 and 10,000 Mcf of gas annually.

d. Miscellaneous sales rate proposals

Various parties offered proposals concerning Rates E, F, GL, and B-NGV. In addition, they addressed the value of adding a standby charge to Rates B and C. As discussed below, none of the ALJ's recommendations regarding these proposals created significant controversy.

Rates E and F were designed to serve large-volume sales customers. Although the charges for each are identical, Rate E is a seasonal rate with certain interruptible features while Rate F offers fully interruptible service. According to Staff witness Collins, the success of Consumers' transportation program has made Rate E obsolete. 25 Tr. 4854. The Staff therefore proposed canceling that rate. Mr. Collins went on to state that, although no customers currently use it, Rate F "has the potential of serving new large-volume load or former transportation load for a short period of time when a customer desires sales service but is not eligible for firm sales service." 25 Tr. 4855. Thus, the Staff proposed retaining Rate F. However, it went on to suggest that Consumers eliminate the volume-based customer charge currently found in Rate F and replace it with a flat customer charge of $1,000 per month. The ALJ agreed, and recommended that the Commission adopt the Staff's proposals.

As for Rate GL, Consumers' outdoor gas light tariff, the utility proposed a significant rate increase. The Staff opposed the utility's request, claiming that there is "no compelling reason to increase the rates to this very small class of customers" that generates revenues of only $7,000 per year. Id. Again, the ALJ agreed with the Staff and recommended that Rate GL remain unchanged.

Rate B-NGV is Consumers' experimental natural gas vehicle refueling rate. According to Consumers witness James F. Bearman, that rate was approved during 1995 "in an effort to enhance the development of the natural gas vehicle market." 14 Tr. 2672. Because this rate is experimental and expires at the end of 1997, Mr. Bearman recommended that it not be changed. The ALJ agreed with Consumers' proposal and recommended that Rate B-NGV remain unchanged.

Finally, Consumers stated that, although its application included a request to initiate a standby charge, such a proposal was submitted solely to comply with a prior Commission directive. Specifically, the utility cites page 183 of the December 7, 1989 order in Case No. U-8678, where the Commission requested that Consumers "prepare and file an application to incorporate a standby service charge in its sales tariffs." Both ABATE and the Staff argued against implementing that proposal. Noting that the standby charge was not supported by any party to this proceeding, the ALJ recommended rejecting the proposal.

None of the parties except to the ALJ's previously mentioned recommendations regarding Rates E, F, GL, and B-NGV. Similarly, no exceptions were filed concerning his recommendation not to incorporate a standby charge in Consumers' sales tariffs. The Commission finds that all of those recommendations should be adopted.[42]

Transportation Rate Schedules

a. Administrative fee, customer charge, and bifurcation

Consumers' transportation customers currently pay $1,300 per month for access to the utility's transmission and distribution system. Each monthly payment consists of a $300 administrative fee and a $1,000 customer charge. Based on a cost-of-service study undertaken by Consumers' witness Bearman, the utility suggested reducing its administrative fee to $205 per month.[43] 14 Tr. 2668. However, because the utility proposed leaving its customer charge unchanged, the combined monthly assessment imposed on its transportation customers would be $1,205.

In contrast, the Staff proposed reducing the combined administrative fee and customer charge to $750 per month. According to Mr. Collins, this reduction would help satisfy one of the Staff's primary goals regarding rate design, namely "making it practical for more customers to participate in [Consumers'] transportation program." 25 Tr. 4858.

ABATE preferred Consumers' proposal over that offered by the Staff. Specifically, it warned that reducing the combined administrative fee and customer charge from $1,300 to $750 could prove "particularly disruptive of the existing relationship between fixed monthly

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[42]As shown on page 91 of the PFD, the ALJ also recommended adopting a proposal by the utility to establish a $0.05 per Mcf price differential between Rates E and F. Because this order cancels Rate E, that recommendation is moot.

[43]A dispute initially arose regarding whether this $205 customer charge was truly cost-based. Specifically, Staff witness Aldrich questioned whether that figure included all of the transportation customers' administrative expenses. However, in light of the Commission's finding that a combined administrative fee and customer charge of $750 per month should be adopted, infra, this issue need not be addressed.

charges and the volumetric transportation (distribution) charge." ABATE's brief, p. 94. ABATE went on to argue that if the Staff's proposal were adopted, it would be necessary to bifurcate the transportation class into small- and large-volume components, as was done for Mich Con's transportation program in Cases Nos. U-10149 and U-10150. Specifically, ABATE witness Rosenberg suggested (1) using 100,000 Mcf per year as the dividing line between the small and large transportation customer classes, (2) imposing the monthly $750 fee only on the small transportation customer class, (3) applying a monthly charge of $2,100 to Consumers' large transportation customers, and (4) establishing separate per Mcf transportation charges for each class. 31 Tr. 5691-5692.

In contrast, the Coalition supported the Staff's proposal to reduce the monthly charge to $750, and opposed both Consumers' offer to reduce that charge to $1,205 and ABATE's request to bifurcate the transportation class.

The ALJ found the Staff's proposal preferable to the utility's, and thus recommended that the Commission reduce Consumers' combined administrative fee and customer charge to $750 per month. In reaching this conclusion, he rejected Consumers' assertion that expanding the transportation program (by reducing the fixed monthly charge imposed upon transportation customers) would result in an unreasonable amount of stranded costs. This was based on his finding that "no evidence was presented showing that customer switching from sales to transportation would result in any stranded costs." PFD, p. 94. The ALJ went on to reject ABATE's bifurcation proposal on the grounds that it was not adequately supported on the record. However, because he found some merit to the plan, the ALJ recommended directing the Staff to conduct a comprehensive analysis of ABATE's proposal in Consumers' next rate case.

In its exceptions, Consumers states that it has now elected to withdraw its opposition to reducing the combined administrative fee and customer charge to $750 per month. Nevertheless, Consumers asserts that significant administrative effort will be necessary to accommodate sales customers that may want to switch to transportation. The utility therefore argues that it must be given 90 days from the issuance of this order to (1) alter its meter reading routes and schedules, (2) engage in employee staffing and training activities, (3) resolve contract issues, (4) initiate billing program changes, (5) commence customer education activities, and (6) implement a mechanism to recover stranded gas supply and pipeline transportation costs caused by the loss of sales customers. Only after the conclusion of that 90-day period, and following the implementation of a satisfactory cost recovery mechanism, would Consumers be willing to allow sales customers to switch to transportation service.

In ABATE's exceptions, it renews its assertion that adopting the Staff's proposal to reduce the monthly assessment from $1,300 to $750 must be coupled with bifurcation of the transportation class. ABATE points out that transportation charges would have to be increased by approximately $0.06 per Mcf to offset the revenue effect of the Staff's $550 reduction. Such an increase, it contends, would be particularly harmful to Consumers' largest transportation customers. ABATE therefore claims that some sort of bifurcation should be approved to avoid such an unfair result.

Finally, both ABATE and the Coalition oppose the utility's request to delay implementation of the new $750 per month administrative/customer charge for at least 90 days. This opposition is based primarily on the absence of testimony describing the operational difficulties Consumers now alleges. Moreover, they contend that the utility failed to offer evidence reflecting either the magnitude of, or the need to recover, any stranded costs arising from sales customers' migration to transportation service.

The Commission finds that the proposal to reduce the combined administrative fee and customer charge to $750 per month should be adopted. According to the Staff, the most disliked aspect of Consumers' existing transportation program is the $1,300 monthly charge. 25 Tr. 4915. That conclusion is supported by testimony received from representatives of school districts and small businesses alike. 21 Tr. 3778, 3823, and 3844; 22 Tr. 4096. Furthermore, as correctly noted by Mr. Collins, Consumers' $1,300 monthly charge was established in Case No. U-8678 to ensure that Michigan's gas transportation market evolved in an orderly fashion. 25 Tr. 4916. The Commission's experience with the market in general, and Consumers' program in particular, has allayed many of its initial concerns. Thus far, the marketplace appears to be working well. For example, numerous services, like those offered by brokers and marketers, are now available to help even "unsophisticated customers" participate successfully in the program. Id. The Commission therefore finds that reducing this barrier to the use of Consumers' transportation rates, as proposed by the Staff, is appropriate and should be approved.

The Commission also agrees with ABATE that this reduction in Consumers' administrative fee and customer charge should be accompanied by the bifurcation of the utility's T-1 and T-2 rate classes into small- and large-volume subclasses. As asserted by ABATE, and confirmed by Staff witness Collins, reducing that charge to $750 per month for all transportation customers would increase volumetric transportation charges by $0.0609 per Mcf. 25 Tr. 4881. Furthermore, Mr. Collins agreed with ABATE that such an increase in a large-volume customer's per Mcf transportation charge would significantly outweigh the $550 reduction in its combined administrative fee and customer charge. Id. The Commission therefore finds that some sort of bifurcation should occur.

However, it appears that ABATE's specific proposal would also produce an unfair result. Using 100,000 Mcf per year as the dividing line between small- and large-volume customers and applying monthly administrative/customer charges of $750 and $2,100 to members of the respective classes, as ABATE proposes, would result in overall rate increases for transportation customers using between 70,000 and 150,000 Mcf annually. This problem can be eliminated by revising ABATE's proposal slightly. By applying the existing administrative fee and customer charge of $1,300 per month to members of the large-volume class, rather than raising the monthly charge to $2,100 as ABATE witness Rosenberg suggested, all transportation customers would receive a rate reduction. Thus, because it allows every transportation customer to share in the $11.7 million rate reduction approved in today's order, the Commission finds that the modified bifurcation program outlined above should be adopted.[44]

Moreover, a few transportation customers may conclude that, due to bifurcation, they would be better off as sales customers. However, because they are currently barred from using Consumers' sales rates due to the terms of the utility's transportation tariffs, they may find themselves locked into a rate class that they would not have selected had bifurcation

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[44]In reaching this conclusion, the Commission rejects the view stated in the PFD that inadequate record support exists for bifurcating rates. For example, imposing a higher monthly administrative/customer charge on large-volume customers than is applied to small-volume customers is supported by Mr. Rosenberg's testimony that large-volume customers "require larger, and hence more expensive" meters and service lines. 31 Tr. 5688. Similarly, imposing a slightly lower transportation charge on large-volume customers is supported by testimony showing that their cost per Mcf is generally lower than that of Consumers' small-volume transportation customers. 31 Tr. 5689-5691.

been in place from the outset. The Commission therefore finds that one other change should be made to ABATE's bifurcation proposal. Specifically, transportation customers should be given the opportunity to switch to sales rates by notifying the utility, in writing and within 90 days following issuance of this order, of their intention to resume sales service. To ensure that these customers have a reasonable opportunity to make this switch, the Commission also directs Consumers to notify its transportation customers of this option within 30 days following issuance of this order.

Finally, the Commission finds that it should reject Consumers' request to delay implementation of the $750 per month administrative fee/customer charge until a cost recovery mechanism is both proposed by the utility and approved by the Commission. It reaches this decision for two reasons. First, no evidence was submitted in support of the utility's claim that increasing the number of potential transportation customers would cause significant operational difficulties. Similarly, despite claims that stranded gas supply and pipeline transportation costs will arise if numerous sales customers switch to transportation service, the record indicates that this may not present a problem. According to Gary C. Dillon, a witness for the Coalition, to the extent that Consumers' existing gas supply and pipeline transportation contracts are "already at a favorable rate," the utility could use the process of "capacity release" to offer that capacity to other utilities, marketers, brokers, or end-users. 22 Tr. 4234-4235. Second, adopting Consumers' request and allowing it to submit both an estimate of added costs and a proposed mechanism for their recovery could ultimately result in the creation of a protracted single-issue rate case. Because there is no showing on the record that significant stranded costs will arise, the Commission would be ill-advised to foster the creation of such a case.[45]

For these reasons, Consumers' request is rejected. However, to allow Consumers time to read the meters of its 674 existing Rate T-1 and T-2 customers before implementing bifurcation, the Commission finds that the new rates and charges for transportation service should not take effect until four days after issuance of this order.

b. Incremental cost pricing

Based on testimony offered by other parties' witnesses,[46] Ward Lake/Wolverine proposed that the Commission cease basing transportation rates on Consumers' embedded cost-of-service. Instead, they asserted that the utility's T-1 and T-2 rates should be based solely on the incremental costs arising from transportation customers' use of Consumers' transmission and distribution system. According to Ward Lake/Wolverine, such incremental costs range from $0.10 to $0.23 per Mcf. Consumers opposed this proposal on two grounds. First, the utility argued that approving Ward Lake/Wolverine's proposal would conflict with the Commission's long-standing support for cost-of-service based rates. Second, it contends that such approval would effectively force Consumers' remaining sales customers to subsidize the provision of transportation service.

The ALJ agreed with the utility's arguments. According to him, rates for all customer classes should be based on the "embedded cost of providing service." PFD, p. 95. If transportation customers pay rates that recover less than the full cost of serving them, he

[45]Moreover, doing so would conflict with the Commission's "history of being reluctant to authorize single-issue rate proceedings." April 13, 1995 order in Case No. U-10630, p. 13.

[46]Ward Lake/Wolverine sponsored no witnesses of their own in this case.

continued, Consumers' remaining customers will be forced to subsidize those customers. The ALJ therefore recommended that the Commission reject Ward Lake/Wolverine's proposal to institute incremental cost pricing for transportation customers.

Ward Lake/Wolverine except to this recommendation and renew their request to switch from embedded costs to incremental costs when setting Consumers' transportation rates. According to Ward Lake/Wolverine, Consumers' transmission and distribution system was built exclusively to serve the utility's sales customers. They go on to assert that, at no time since Consumers' transportation program was initiated has the utility been required to incur significant additional costs to provide service to its Rate T-1 and T-2 customers. Ward Lake/ Wolverine therefore argue that transportation customers should not be required to pay for the construction and maintenance of Consumers' system. In further support of their proposal, Ward Lake/Wolverine contend that other regulatory commissions have presumably adopted a system of incremental pricing for transportation customers paralleling that proposed in the present case. This contention is based on testimony from Coalition witness Dillon to the effect that Northern Illinois Gas Company (Northern Illinois) and Peoples Gas, Light & Coke Company (Peoples) offer transportation service under distribution charges ranging from a low of $0.0464 to a high of $0.2896 per Mcf. Finally, Ward Lake/Wolverine claim that Consumers' existing price structure discourages transportation on the utility's system.

The Commission does not find Ward Lake/Wolverine's arguments persuasive for several reasons. First, their joint proposal is based on the false premise that Consumers' transportation customers have only recently joined the utility's system. This ignores the fact that a vast majority of these Rate T-1 and T-2 customers were among Consumers' sales customers when the utility's transmission and distribution system was built. Thus, it would be unreasonable to allow transportation customers to escape responsibility for costs incurred in building and maintaining a system that was designed to meet their needs and that they continue to use. Second, as correctly noted by the utility and discussed by the Commission on pages 106 and 107 of its December 7, 1989 order in Case No. U-8678, transportation customers use Consumers' transmission and distribution system in much the same manner as if they were sales customers. Third, Mr. Dillon's testimony regarding the distribution rates charged by Northern Illinois and Peoples provides little support for Ward Lake/Wolverine's proposal because Mr. Dillon neither stated what customer charges are imposed in conjunction with those distribution rates nor disclosed whether other charges are assessed for services (like load balancing or short- and long-term gas storage) provided by those utilities. The Commission therefore finds that the request of Ward Lake/Wolverine to implement incremental cost pricing should be rejected.

c. <u>Computation of Rate T-1</u>

Various parties took issue with the manner in which Consumers calculated the transportation rate for its T-1 customers. According to Ward Lake/Wolverine, the utility erred by failing to include all the volumes of gas associated with its Rate T-2 customer load, as well as those arising from Consumers' transportation agreement with the MCV, when making that computation. Similarly, ABATE asserted that the four-step methodology described by Mr. Rosenberg should be followed, rather than simply relying on a cost-of-service study to arrive at the appropriate rate. The ALJ disagreed with these proposals. Instead, he found that the T-1 transportation rate should be based on the cost-of-service study approved in this case and that neither Rate T-2 volumes nor MCV volumes should be considered.

Ward Lake/Wolverine and ABATE except to the ALJ's conclusions. Ward Lake/ Wolverine argue that, because the range of rates approved for Consumers' T-2 customers uses the T-1 rate as its midpoint, the transportation volumes for both rates should be included in the calculation. However, Ward Lake/Wolverine argue, Consumers' proposed computation of its T-1 rate fails to include 25.1 Bcf of discounted Rate T-2 volumes. They go on to contend that, because the MCV could qualify as an end-user of gas transported through Consumers' system, those volumes should be treated as Rate T-1 volumes when computing the T-1 transportation rate. Ward Lake/Wolverine point out that making both of these changes would increase the volumes over which T-1 related costs would be spread, thus reducing the distribution charge. As for ABATE, it renews its assertion that Mr. Rosenberg's methodology should be used to compute the distribution charge assigned to Rate T-1. Specifically, ABATE argues that the Commission should (1) calculate the interclass subsidies with all transportation load priced at the existing T-1 rate, (2) add or subtract revenue from each class "in such a manner as to eliminate current subsidies," (3) distribute the rate reduction, "less the current difference between T-1 equivalent revenue and actual discounted revenue, in proportion to rate base," and (4) set the target revenue for each rate class at the sum of the current pro forma revenue, the revenue change calculated in step 2, and the revenue change calculated in step 3. 25 Tr. 4773.

In response to Ward Lake/Wolverine's exception, Consumers asserts that these parties misunderstand the manner in which the T-1 rate is calculated. According to the utility, proposed computations of the T-1 rate submitted by both it and the Staff include all T-1 and T-2 volumes, just as Ward Lake/Wolverine claim they should. Thus, Consumers continues, "the real interplay between T-1 and the discounted T-2 load concerns whether the amount of the [T-2] discount will be included in the T-1 rate calculation or spread to other customers." Consumers' replies to exceptions, p. 61. As for the MCV's off-system transportation, the utility points out that those volumes are received by the MCV directly from Consumers' transmission system. Thus, because that gas is never transported over the utility's distribution system, Consumers claims that it makes no sense to treat those volumes as T-1 volumes (which, in contrast, travel over, and are allocated a portion of the cost of, the utility's distribution system). Consumers goes on to note that the MCV's off-system transportation revenues are already included in miscellaneous revenues, thus reducing the utility's revenue requirement by more than $9 million. It therefore asserts that Ward Lake/Wolverine's proposal would improperly credit customers twice for those revenues.

In response to ABATE's exception, the Staff argues that the ALJ did not err by electing not to recommend the use of Mr. Rosenberg's four-step methodology. Rather, the Staff continues, it is better to set Consumers' rates based directly on the cost-of-service study approved in this order. The Staff therefore contends that ABATE's arguments should be rejected and the ALJ's recommendation should be adopted.

The Commission agrees with the arguments offered by Consumers and the Staff. Notwithstanding Ward Lake/Wolverine's belief to the contrary, these two parties included all Rate T-1 and T-2 volumes in their computation of a cost-of-service based T-1 transportation rate.[47] Moreover, none of the parties (including Ward Lake/Wolverine)

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[47]For example, the Staff's calculation of the T-1 rate (as shown on pages 9 and 10 of Exhibit S-121, Schedule F-4) is based on transportation volumes of 71.9 Bcf. This figure represents the total of Consumers' Rate T-1 volumes, T-1 equivalent volumes, and discounted T-2 volumes.

specifically challenge the MCV's status as an off-system transportation customer.[48] Thus, because Rate T-1 applies only to on-system transportation, it would be inappropriate to include the MCV's off-system volumes when computing the T-1 transportation rate. Finally, rates should be calculated in a manner that matches total revenue from each rate class with the costs arising from providing service to that class. The best way to achieve this goal is to rely on the cost-of-service study offered by the Staff. The Commission therefore finds that the proposals offered by Ward Lake/Wolverine and ABATE regarding computation of the T-1 transportation rate should be rejected and that the methodology recommended by the Staff should be approved.

d. Range of charges allowable under Rate T-2

As noted earlier, Rate T-2 is a market-based rate under which Consumers is allowed to negotiate a specific transportation charge with each customer from a lower limit of $0.2367 per Mcf to an upper limit of $0.7101 per Mcf. The midpoint of that range, $0.4734 per Mcf, is equal to Consumers' existing T-1 transportation rate.

In the present case, the utility proposed reducing the Rate T-2 floor slightly. Specifically, Consumers witness Bearman suggested establishing $0.23 per Mcf as the new minimum price. The utility went on to propose establishing a Rate T-2 ceiling equal to the T-1 transportation rate plus the difference between that figure and the T-2 floor. Finally, Mr. Bearman proposed that Consumers be given authority to reduce its T-2 rate to an absolute minimum of $0.10 per Mcf in certain circumstances to attract incremental coal

[48] Although Staff witness Aldrich stated that the MCV might be considered an on-system customer because it is "an end-user of gas . . . served directly by Consumers," he continued to treat payments made by the MCV to Consumers as off-system revenues in his analysis of miscellaneous revenues. See, e.g., 21 Tr. 3973 and 22 Tr. 4320.

displacement load and to retain customers that have a viable option for bypassing Consumers' system. 14 Tr. 2677-2678.

The Staff agreed with Consumers' first two proposals. However, it opposed the utility's request to establish what can best be described as a $0.10 per Mcf "subfloor." Due to the possibility that a T-2 transportation rate of $0.10 to $0.23 per Mcf might not provide a contribution to fixed costs, Staff witness Collins suggested that such rates "should not be allowed without special scrutiny on a case by case basis."[49] 25 Tr. 4872. In making that suggestion, Mr. Collins expressed concern about to whom, and for what reason, such a rate would be offered. Moreover, he went on to state that if a unique situation arises, as it did in the case of James River, Consumers may request approval of a special contract incorporating a T-2 rate below $0.23 per Mcf.

The ALJ found Consumers' first two proposals to be reasonable. He therefore recommended that the Commission adopt $0.23 per Mcf as the floor for Rate T-2 and establish a ceiling equal to the T-1 transportation rate plus the difference between that rate and the T-2 floor. However, he agreed with the Staff that a T-2 rate between $0.10 and $0.23 per Mcf may not be compensatory. The ALJ therefore recommended that the Commission reject Consumers' third proposal and advise the utility that if it "has an especially unique [sic] situation arising where it can prove [that] the cost of serving a customer is less than $0.23 per Mcf and, therefore, Consumers and its other customers are better off by offering this rate, the Commission can approve such a rate in a special contract case." PFD, pp. 102-103.

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[49]The Staff is concerned that, in many cases, charging only $0.23 per Mcf might not recover the variable cost of serving a Rate T-2 customer.

Consumers and ABATE except to the ALJ's recommendation regarding the $0.10 per Mcf "subfloor." According to the utility, a T-2 transportation rate of $0.10 or higher will provide a contribution to fixed costs in all but the most unusual of cases. In support of the utility's assertion, ABATE claims that (1) regulatory commissions in other states have found similar rates to be compensatory, (2) Mr. Rosenberg cited several situations where "full tariff" transportation rates are less than or equal to $0.10 per Mcf, and (3) the Commission recently approved a request by Michigan Gas Utilities (MGU) for authority to provide transportation service to Guardian Industries Corporation (Guardian) for $0.10 per Mcf. Consumers goes on to argue that, although the special contract approval process could be used to gain approval for a below tariff rate, the potential time and uncertainty involved in that process makes it an ineffective tool in many instances. Finally, the utility contends that it was "especially unreasonable" for the ALJ to bar Consumers from offering discounted rates of between $0.10 and $0.23 per Mcf in light of his recommendation that none of the utility's T-2 discounts should be passed on to other ratepayers. If its shareholders are going to have to absorb the discounts anyway, the utility contends, it makes no sense to prohibit offering discounts below $0.23 per Mcf. These two parties therefore argue that the ALJ's recommendation on this issue must be rejected.

The Commission disagrees with Consumers and ABATE for the following three reasons.

First, neither of these parties provide adequate support for their claim that a T-2 transportation rate of as little as $0.10 per Mcf would be reasonable in at least some circumstances. As correctly noted by the Staff, the utility offered no evidence whatsoever regarding its "variable cost, incremental cost, short run marginal cost, or any other type of cost of providing service" that could have been used to determine whether $0.10 per Mcf is a compensatory rate. Staff's replies to exceptions, pp. 46-47. Instead, Consumers witness Bearman conceded that the utility has undertaken no studies showing that such a rate would be compensatory. 15 Tr. 2822. Similarly, ABATE's witness regarding this issue, Mr. Rosenberg, performed no formal cost analysis to support his assertions regarding the size of the benefits that Consumers and its other ratepayers would receive by attracting and retaining discounted Rate T-2 load. 25 Tr. 4812-4813. Furthermore, despite Mr. Rosenberg's claim that transportation rates of $0.10 per Mcf have been deemed compensatory in other states, he neglects to cite any examples and fails to discuss what other charges are imposed by those out-of-state utilities on their transportation customers. 31 Tr. 5687-5688.

Second, the Commission finds unpersuasive Consumers' assertion that rejecting the $0.10 per Mcf floor would be inconsistent with disallowing recovery of the utility's Rate T-2 discounts. Neither the ALJ recommended, nor the Commission concluded, that Consumers should be forever barred from assigning some or all of its Rate T-2 discounts to other ratepayers. Rather, the ALJ and the Commission merely found that Consumers failed in this case to prove that the Rate T-2 discounts were offered for good cause and that the utility's other ratepayers benefited from the discounts' use. Thus, barring an agreement by Consumers to absorb the cost of all past and future Rate T-2 discounts regardless of justification, no inconsistency exists.

Third, the Commission disagrees with Consumers' assertion that the special contract approval process cannot adequately handle the unique situations envisioned by the utility. Rather, this process lends itself well to examining the specific relationship between the utility and a particular customer (including, but not limited to, the physical demands placed on the system, the shape of the customers' load curve, and the potential for stranded costs).

Moreover, as shown by the fact that the special contract between MGU and Guardian was approved by the Commission within 37 days of its filing, the process need not be unduly slow. November 8, 1995 order in Case No. U-10956, p. 1. Further support for this conclusion is provided by the Commission's October 25, 1995 order in Case No. U-10961 that approved Consumers' electric service contract with General Motors within 8 days.

For these reasons, the Commission finds that the ALJ's recommendations should be adopted, the Rate T-2 floor should be set at $0.23 per Mcf, the ceiling should equal the sum of Consumers' T-1 transportation rate and the difference between that figure and the Rate T-2 floor, and the utility's proposal to establish a $0.10 per Mcf "subfloor" should be rejected.

e. <u>Rate T-NGV</u>

Rate T-NGV is an experimental tariff developed to assist in the refueling of natural gas vehicles. According to Staff witness Collins, the tariff has a termination date of December 31, 1996, provides relatively small volumes of gas to a single customer, and is unlikely to experience a significant increase in use. 25 Tr. 4859. Concluding that it was therefore not practical to undertake a cost analysis to determine a more appropriate rate than that currently in effect, the Staff proposed that Rate T-NGV remain unchanged.

Based on the absence of opposition, the ALJ recommended approval of the Staff's proposal. None of the parties except to that recommendation. Accordingly, the Commission agrees with the ALJ and adopts the Staff's proposal to leave Rate T-NGV unchanged.

f. Establishing an off-system transportation rate

In their joint brief, Ward Lake/Wolverine pointed out that Consumers charges at least three different rates for off-system transportation. The first, applied when the end-user is not on Consumers' system and where the gas is only transported through the utility's transmission (as opposed to its distribution) system, is the rate of $0.1275 per Mcf approved by the Federal Energy Regulatory Commission (FERC). The second, imposed when the customer's gas is transported through both the transmission and distribution system before passing into another entity's pipeline, is Consumers' T-1 or T-2 rate. The third, charged primarily to gas producers for the use of Consumers' production and gathering facilities, is the rate established specifically for those facilities in a proceeding conducted pursuant to 1929 PA 9, as amended, MCL 483.101 et seq.; MSA 22.1311 et seq. Ward Lake/Wolverine essentially requested that the Commission bar Consumers from charging the latter two rates and establish a single rate, equal to that previously approved by the FERC, for all off-system transportation.

Consumers objected to this request. According to the utility, the FERC-approved rate is designed to recover only the costs of using its transmission system. It would not recover costs associated with such things as Consumers' distribution system or its production and gathering facilities.[50] The utility therefore asserted that it would be inappropriate to apply this $0.1275 per Mcf rate to all off-system transportation.

The ALJ agreed with the utility and recommended rejecting Ward Lake/Wolverine's proposal. In doing so, he suggested that any efforts to develop an off-system transportation

[50]Production and gathering facilities are generally defined as pipelines and associated facilities located upstream of a gas processing plant, and are used for the purpose of gathering natural gas from wells throughout Michigan.

tariff addressing the concerns of Ward Lake/Wolverine might better be saved for a generic proceeding.

Ward Lake/Wolverine except to the ALJ's conclusions. Among other things, they argue that precedent exists for establishing an off-system transportation rate in a gas rate case. Specifically, Ward Lake/Wolverine cite the April 12, 1990 order in Case No. U-9475 and the October 28, 1993 order in Cases Nos. U-10149 and U-10150 as examples of gas rate proceedings in which such rates were approved. They go on to assert that the record provides adequate support for adopting their recommended rate of $0.1275 per Mcf. In support of this assertion, they rely on Mr. Dillon's statements to the effect that "transportation charges by other pipelines range from a low of $0.0464 to a high of $0.2896." Ward Lake/ Wolverine' exceptions, p. 20. They therefore claim that the Commission should reject the ALJ' recommendation and immediately approve an off-system transportation rate of $0.1275 per Mcf rather than waiting for a generic proceeding.

The Commission agrees with Consumers that Ward Lake/Wolverine' preferred off-system transportation rate may prove unreasonably low in several circumstances. According to Mr. Bearman, the FERC-approved rate of $0.1275 per Mcf recovers only those costs related to the use of Consumers' transmission system. 17 Tr. 3150-3151. Thus, applying the same rate in situations where the off-system transportation customer also uses the utility's distribution system or production and gathering facilities "would be unfair to the company and its other customers." Id. Furthermore, the record indicates that the $0.1275 per Mcf rate was designed primarily for interruptible service and, therefore, may not provide adequate cost recovery for off-system transportation offered on a firm basis. 28 Tr. 5350. Finally, as noted in the Commission's discussion of incremental cost pricing, Mr. Dillon's testimony regarding the relatively low per Mcf rates offered by Northern Illinois and Peoples fails to indicate whether customer, load balancing, or long-term storage charges are imposed in conjunction with those rates. It therefore provides little support for Ward Lake/ Wolverine's proposal. For these reasons, the Commission finds that it should adopt the ALJ's recommendation and reject Ward Lake/Wolverine's proposal regarding off-system transportation.

g. Contiguous billing and aggregation of accounts

The Coalition offered two proposals which, if adopted, would expand the range of customers for whom transportation could be a viable option and improve those customers' competitive standing. First, Mr. Dillon proposed having Consumers establish a "contiguous billing" program identical to that found in Mich Con's Rule No. D3.2. This program would treat as a single customer for billing purposes all commercial or industrial buildings that (1) are located on the same or contiguous parcels of land, or across the street or alley from one another, (2) are operated as a "unitary enterprise" under "common ownership or leasehold," and (3) are "exclusively occupied and used by the customer." Exhibit I-132. This would allow the customer to avoid paying administrative/customer charges for all but one of its contiguous buildings. Second, he proposed enabling customers to create master accounts in which each could aggregate its Rate B and C sales accounts with an existing Rate T-1 transportation account. Under this "aggregation of accounts" proposal, the T-1 facility would pay the T-1 tariff rates and the sales facilities would pay the applicable Rate B or C sales rates, except for the GCR factors. This would allow a customer to buy its own gas for all facilities under the master account, with its total purchases being subject to the load balancing provisions of the T-1 tariff. However, Mr. Dillon emphasized that the

Coalition was not suggesting that an entity with numerous separate accounts that "economically qualify for transportation service" be allowed to join those accounts together under the same master account. 22 Tr. 4199. Rather, its aggregation of accounts proposal was intended solely to enable end-users with two or more noncontiguous facilities, such as school districts, churches, hospitals, and commercial enterprises having common ownership, to combine a single Rate T-1 account with the respective entity's sales accounts so that all facilities can receive transportation service.

In its brief, the Staff expressed support for the Coalition's contiguous billing and aggregation of accounts proposals. Nevertheless, it concluded that a less restrictive program should be adopted. The Staff therefore submitted a proposal that, among other things, would (1) eliminate the distinction between contiguous and noncontiguous facilities; (2) separate the monthly fee approved earlier in this order for small-volume Rate T-1 and T-2 customers into a $300 administrative fee and a $450 customer charge; (3) offer two options under Rate T-1, the first of which would require payment of the standard T-1 tariff charges and the second of which would couple a higher transportation charge with the $15 per month Rate B customer charge; and (4) allow a customer to aggregate its Rate T-1 and T-2 accounts, thus relieving it from paying an administrative fee on all but the master account. The Staff conceded that Consumers would lose $300 per month in administrative fees for each existing transportation customer account that is added to a master account. Nevertheless, it predicted that the overall effect on the utility would be minimal. That prediction was based on the Staff's belief that "Consumers stands to gain revenue from customers switching from sales to transportation because they will be paying more non gas charges than they would if they stayed on sales." Staff's brief, p. 130.

ABATE supported the Coalition's contiguous billing proposal. It also indicated that it had no fundamental opposition to the Coalition's plan for aggregation of accounts, as long as the Commission finds it to be revenue neutral to Consumers and the utility's other ratepayers. In contrast, ABATE asserted that the Staff's proposal must be rejected, due largely to the fact that it was not presented as evidence, examined through discovery, and subjected to cross-examination.

Consumers opposed both parties' proposals regarding contiguous billing and aggregation of accounts. It argued that the Coalition failed to prove that its plan would not result in significant financial harm to the utility. Moreover, it asserted that the Staff's proposal was neither offered in a timely fashion nor supported by record evidence.

The ALJ agreed with Consumers and ABATE regarding the Staff's late-filed proposal. Due to the absence of evidence in support of the Staff's plan and the failure to subject this comprehensive program to cross-examination, he recommended that the Commission reject it. In contrast, he found no similar problems with the Coalition's plan. He further concluded that the Coalition's contiguous billing plan is identical to one already approved for Mich Con, and that its suggested program regarding the aggregation of accounts should "ease the burden presently placed on transportation customers" and will pose little risk of financial harm to the utility. PFD, p. 100. The ALJ therefore recommended adopting the Coalition's proposal.

Consumers excepts to the ALJ's recommendations for three reasons. First, it contends that the Coalition's proposal regarding contiguous billing and aggregation of accounts will significantly increase administrative costs by requiring the utility to revise its meter reading schedules, change its customer billing program, hire additional workers, and retrain existing employees. Second, Consumers claims that a substantial revenue shortfall will arise because the proposal would vastly reduce the number of accounts to which the utility's customer charges would apply. Third, it asserts that, by allowing additional sales customers to switch to transportation, the Coalition's proposal will result in stranded gas supply and pipeline transportation costs. Consumers therefore argues that the Commission must reject the Coalition's contiguous billing and aggregation of accounts proposal. In the alternative, the utility argues that the Commission must allow it 90 days to file a detailed implementation plan (1) setting forth how the program would be implemented, (2) estimating the additional costs that would arise from the proposal, and (3) establishing a cost recovery mechanism.

The Staff also excepts to the ALJ's recommendations. Although stating that it does not oppose the Coalition's contiguous billing proposal, the Staff renews its claim that the benefits of that program should be made available to all customers, as would occur under the Staff's proposal. Likewise, although it does not find objectionable the Coalition's plan concerning aggregation of accounts, it asserts that the plan can be improved by adopting the modifications set out in the Staff's initial brief. Arguing that there is no good reason to restrict the benefits of aggregation of accounts to the two groups defined by the Coalition's proposal, the Staff argues that its modifications to that proposal should be adopted.

In response to those exceptions, the Coalition asserts that there is no reason to believe that Consumers will incur increased administrative expenses, face stranded gas supply and pipeline transportation costs, or sustain a significant loss of revenue. In support of this assertion, the Coalition notes that Consumers participated in four meetings during the spring and summer of 1994 at which other attendees (including gas suppliers, marketers, and industry consultants) discussed the need for contiguous billing and aggregation of accounts.

22 Tr. 4167 and 4196-4197; Exhibit I-131. It therefore contends that if Consumers were truly concerned about the economic effects of those proposals, the utility had more than enough time to assemble proof of the harmful effects and to present it in its direct testimony or, at the very latest, during rebuttal. According to the Coalition, Consumers' failure to offer any such evidence indicates that no significant harm will arise from implementing its proposal. Furthermore, it contends that Consumers' request for 90 days in which to submit an implementation plan is nothing more than an attempt by the utility to delay providing the benefits of contiguous billing and aggregation of accounts to its customers. Although not specifically objecting to the Staff's plan, the Coalition goes on to assert that its own proposal is more conservative. This arises from the fact that, although the Staff suggested allowing customers to tie their respective Rate T-1 and T-2 accounts together, the Coalition's proposal is designed solely to help "small and medium-size commercial and industrial customers who have more than one sales account" to qualify more of their facilities for transportation service. Coalition's replies to exceptions, p. 10. Coalition therefore requests that the Commission approve its proposal.

The Commission agrees in significant part with the Coalition. First, adoption of the contiguous billing proposal would bring Consumers' treatment of customers having several nearby facilities in line with the treatment provided by Mich Con. As noted by Coalition witness Dillon, it makes little sense to preclude a Detroit area business located north of Eight Mile Road (in Consumers' service territory) from combining meters attached to contiguous buildings into one account when, at the same time, a customer located immediately to its south (in Mich Con's territory) is allowed to do so. 22 Tr. 4199. Thus, not only does the absence of contiguous billing create a barrier to entry into the transportation market based solely on location, it likely places some of the utility's customers at a competitive disadvantage. Second, the Coalition offered exhibits and testimony showing that school districts, hospitals, and other commercial customers could benefit greatly from its proposal concerning contiguous billing and aggregation of accounts. Exhibit I-133; 22 Tr. 4200. In contrast, Consumers offered no proof in support of its assertion that the Coalition's plan would significantly increase the utility's administrative costs. Third, unlike the Staff's recommended program, which could excuse numerous customers from paying their usual customer charges, the Coalition's aggregation of accounts proposal would be revenue neutral. As noted by Mr. Dillon, any customer that aggregates its accounts under the Coalition's proposal will continue paying the administrative fees and customer charges assigned to each of its facilities. 22 Tr. 4199-4200. Fourth, as noted in the portion of this order dealing with the administrative fee, customer charge, and bifurcation, Consumers' ability to use capacity release to offer excess capacity to other utilities, marketers, or end-users indicates that stranded costs should not present a significant problem. Fifth, Consumers' request for 90 days in which to submit a cost estimate and a proposed recovery mechanism could again lead to a single-issue rate case. Based on the Commission's previously mentioned reluctance to authorize such proceedings, that request should not be adopted. Instead, the utility should be given 30 days from the date of this order to make all operational changes necessary to implement the Coalition's proposal.

The Commission therefore finds that the Coalition's contiguous billing and aggregation of accounts proposal should be approved,[51] and that Consumers' request to delay implementation by at least 90 days should be rejected.

h. Unauthorized use charge

Because a transportation customer is attached to Consumers' integrated system, that customer may draw gas at any time and it cannot be known whether the amount of gas drawn exceeds the amount agreed to be transported until the monthly meter reading occurs. If the amount drawn exceeds the amount transported for or maintained in storage by the transportation customer, that customer inappropriately uses Consumers' planned system supply purchases. If this unauthorized gas usage is billed only at the GCR rate, the transportation customer has, without penalty, received a backup supply.

To discourage unauthorized gas takes by transportation customers, the Commission established an unauthorized use charge of $10 per Mcf in its December 7, 1989 order in Case No. U-8678. As recommended by Consumers and the Staff in that case, this charge would be assessed in addition to the GCR rate.

In the present case, Consumers proposed reducing the unauthorized use charge to $6 per Mcf. That proposal received partial support from ABATE and the Coalition, both of whom concluded that the per Mcf charge should, at most, be $6. The Staff and Ward Lake/Wolverine opposed the utility's proposal, with the Staff asserting that the unauthorized

[51]In adopting this proposal, it should be noted that "an existing transportation customer" means any facility (as opposed to any corporation, association, school district, etc.) that is currently taking service on Rates T-1 or T-2 as of the date of this order's issuance.

use charge should remain at $10 per Mcf and Ward Lake/Wolverine claiming that it should be abolished altogether.

The ALJ concluded that an unauthorized use charge of $6 per Mcf would be sufficient to ensure that transportation customers avoid accessing Consumers' GCR supply on an unauthorized basis. Moreover, he believed that lowering the charge to this level might reduce customer relations problems like those which arose when the utility assessed the $10 per Mcf unauthorized use charge in the past. He therefore recommended that the Commission adopt Consumers' proposal.

Ward Lake/Wolverine except on the grounds that the unauthorized use charge proposed by Consumers is not cost-based. They go on to assert that, because the utility has ample tools to protect itself from unauthorized gas usage, no charge is necessary. Finally, they conclude that if a charge must be imposed, it should be limited to $4 per Mcf. That conclusion is based on a statement by Consumers witness Bearman to the effect that the charge cannot go below $4 per Mcf without losing its deterrent effect.

The Commission finds Ward Lake/Wolverine's arguments unpersuasive for two reasons. First, Consumers' unauthorized use charge is not, and has never been, intended to be cost-based. Rather, it is designed to keep transportation customers from using gas that has been purchased to serve the needs of Consumers' sales customers. Moreover, it constitutes the primary tool for keeping unauthorized gas use in check. It would therefore be inappropriate to eliminate Consumers' unauthorized use charge as initially requested by Ward Lake/ Wolverine. Second, the Commission finds that the new charge proposed by the utility, namely $6 per Mcf, is reasonable. Because this order is designed in part to increase the number of customers for whom transportation may be a viable option, a $6 per Mcf unauthorized use charge (rather than the $4 charge subsequently proposed by Ward Lake/ Wolverine) should help impress upon Consumers' new transportation customers the importance of monitoring their own supplies. Furthermore, as correctly noted by Mr. Bearman, transportation customers can avoid this charge by either changing their nominations or requesting "authorized gas use from the company to help avoid temporary shortages." 15 Tr. 2818. The Commission therefore agrees with the ALJ and finds that Consumers' request to reduce its unauthorized use charge to $6 per Mcf should be approved.

i. Consumers' proposed authorized tolerance limit reduction

In its December 7, 1989 order in Case No. U-8678, the Commission recognized that "few, if any, transportation customers use a steady draw of gas, thereby creating a mismatch between interstate pipeline deliveries and actual customer use." Order, p. 139. The Commission therefore concluded that transportation customers should be entitled to some storage service under their Rate T-1 and T-2 contracts. This led to the creation of an authorized tolerance limit (ATL) equal to 8.5% of a transportation customer's ACQ. Consumers proposed, in the present case, to reduce the ATL to 6% due to the utility's belief that the current ATL of 8.5% is excessive and that its retention will hinder the ability of Consumers' other customers to maximize the value of the company's storage capacity.

ABATE, the Coalition, Ward Lake/Wolverine, and the Staff opposed Consumers' proposal on the grounds that the ATL is particularly important to transportation customers with large fluctuations in their usage. These parties contend that, without an ATL of at least 8.5%, such customers could find it difficult to stay in balance and avoid paying unauthorized gas usage charges.

The ALJ agreed. Noting that the existing ATL of 8.5% is relatively conservative when compared to the 10% ATL adopted for Mich Con in Cases Nos. U-10149 and U-10150, he recommended rejecting Consumers' proposal. No exceptions were taken to the ALJ's recommendation. The Commission concurs with that recommendation and finds that the utility's proposal to reduce the ATL should be rejected.

j. <u>Load balancing charge</u>

To better ensure adherence on the part of transportation customers to their respective ATLs, the Commission's December 7, 1989 order in Case No. U-8678 established a load balancing charge of $0.041 per Mcf, plus 2% for fuel used to inject gas into storage. That charge was assessed against any month end storage balance in excess of 8.5% of a transportation customer's ACQ. In the present case, Consumers proposed increasing the load balancing charge to $0.25 per Mcf. According to Consumers witness Bearman, this was necessary because the existing charge failed to provide sufficient incentive for transportation customers to closely monitor their gas deliveries and consumption to ensure that they do not exceed their respective ATLs.

The Staff agreed with the utility's proposal, noting that it would bring Consumers' load balancing charge in line with the charge approved for Mich Con in Cases Nos. U-10149 and U-10150. In contrast, ABATE asserted that the charge should be increased to only $0.062 per Mcf. According to ABATE witness Rosenberg, that lower figure reflected the utility's cost of providing load balancing service. Finally, Ward Lake/Wolverine and the Coalition opposed any increase in Consumers' load balancing charge.

Although finding some merit to the utility's proposal to raise the load balancing charge, the ALJ concluded that any increase should be based on cost-of-service principles. He further found that the $0.062 per Mcf charge computed by Mr. Rosenberg better reflected the cost of providing load balancing service than the $0.25 per Mcf rate proposed by the utility. He therefore recommended that the Commission reject Consumers' proposal and adopt ABATE's suggestion to increase this charge to $0.062 per Mcf.

Consumers excepts to that recommendation and asserts, as the Staff did, that its load balancing charge should be equal to the charge authorized for Mich Con by the Commission's October 28, 1993 order in Cases Nos. U-10149 and U-10150. In support of its assertion, the utility cites page 108 of that order, where the Commission stated that "adoption of a cost-based rate like that proposed by ABATE would deprive Mich Con and its ratepayers of the true value of the utility's storage capacity," and that a load balancing charge of $0.25 per Mcf is needed to "provide [transportation] customers with the necessary incentive to closely monitor their injection and withdrawal activities to ensure that they do not exceed their allotted capacity." Consumers goes on to argue that the $0.062 per Mcf charge recommended by the ALJ in the present case could have the perverse effect of enticing customers and gas brokers to be out of balance, given the relationship of that charge to storage costs.

In response, Ward Lake/Wolverine and ABATE claim that the facts in the present case differ from those in Cases Nos. U-10149 and U-10150. They note that although Mich Con's customers have an ATL equal to 10% of their respective ACQ's, the ATL for any customer on Consumers' system is only 8.5% of its ACQ. As such, they continue, the Commission's findings regarding the appropriate load balancing charge for Mich Con are not applicable to Consumers. Moreover, the Coalition joins these parties in arguing that Consumers' existing charge of $0.041 per Mcf is sufficient to keep transportation customers within their storage limits. In support of this argument, they point out that the aggregate month-end storage balance for Consumers' transportation customers has not exceeded those customers' combined ATL at any time since January 1993. See Exhibit A-11, Schedule F-12. They therefore contend that the utility's request to increase the load balancing charge from $0.041 to $0.25 per Mcf is unjustified and must be rejected.

The Commission disagrees with this contention for several reasons. First, Consumers' load balancing charge must be set at a level sufficient to deter transportation customers from making unauthorized use of the utility's storage facilities. It is therefore inappropriate to adopt a cost-based charge like that proposed by ABATE and recommended by the ALJ. Second, these parties' reliance on Exhibit A-11, Schedule F-12, is not persuasive. As noted by Mr. Collins, viewing transportation customers' use of the utility's storage facilities "in the aggregate" leads to the mistaken assumption that, whenever one such customer exceeds its ATL, it relies exclusively on storage space designated for some other transportation customer. 25 Tr. 4899-4900. That may not always be the case. Rather, situations could arise in which the additional storage space used by the transportation customer had been set aside for the utility's GCR customers. Third, notwithstanding their assertions to the contrary, neither Ward Lake/Wolverine nor ABATE identify inconsistencies between the situation presented in this case and that faced by the Commission in Cases Nos. U-10149 and U-10150 sufficient to support differing results. The Commission therefore finds that the ALJ's recommendation should be rejected, Consumers' proposal should be adopted, and the utility's load balancing charge should be increased to $0.25 per Mcf.

k. Market-based storage tariff

Consumers also proposed implementing Rate ST, a market-based contract storage tariff. According to Mr. Bearman, adopting this proposal would allow the utility to "maximize the value of its storage capability" by negotiating a rate of up to $1.50 per Mcf for use of its storage facilities. 14 Tr. 2682. He went on to indicate that Consumers' Rate ST would include an administrative charge of $200 per month to recover costs associated with overseeing and billing each customer's storage account.

The Staff recommended adopting the utility's proposal, but with one change. Specifically, it suggested adding a price floor equal to $0.20 per Mcf on an annual basis. ABATE also supported Consumers' Rate ST proposal, so long as transportation customers' ATL remained at 8.5%. However, ABATE opposed implementing any price floor. In contrast to those parties, Ward Lake/Wolverine and the Coalition objected to Rate ST in its entirety.

The ALJ recommended approving Rate ST, modified to include the Staff's $0.20 per Mcf floor. According to him, approving this market-based storage tariff would provide Consumers with the "flexibility to tailor storage contracts to meet the needs of individual customers" whenever the utility has excess storage capacity. PFD, p. 111. He also noted that Rate ST is similar to the storage tariff previously approved for Mich Con.

Several parties except to the ALJ's recommendation. For example, both Consumers and ABATE oppose the $0.20 per Mcf price floor. Among other things, they contend that it makes little sense to apply a price floor to a market-based tariff and that the $0.20 per Mcf minimum is too high for short-term storage. These two parties therefore request approval of Consumers' initial Rate ST proposal. As for the Coalition, it excepts on the grounds that a negotiated storage rate (as proposed by the utility and recommended by the ALJ) will be of no use to small- and medium-sized transportation customers because they lack the leverage necessary to negotiate anything lower than the ceiling rate. Instead, the Coalition believes that Rate ST will merely be used to provide storage service to Consumers' affiliates at unreasonably low rates. It therefore argues that the ALJ's recommendation should be rejected. Finally, Ward Lake/Wolverine except on the grounds that both Consumers' proposed ceiling rate of $1.50 per Mcf and its $200 per month administrative fee are excessive. They therefore argue that the Commission should (1) reject Rate ST, (2) order the utility to develop a cost-based storage tariff, and (3) prohibit Consumers, in the interim, from "charging any more than $0.32 per Mcf for purported firm storage and between $0.10 and $0.22 per Mcf for alleged interruptible storage service." Ward Lake/Wolverine's exceptions, p. 24.

The Commission does not find these arguments persuasive for the following reasons. First, as noted by Consumers, nearly all of the space in its storage facilities will be used to meet the needs of the utility's GCR sales customers and to satisfy the 8.5% ATL provided to each of its transportation customers. It therefore appears that little excess storage capacity will be available for use under Rate ST contracts. In such circumstances, it seems wise to offer any remaining storage on the open market by using market-based rates, as would be allowed under Consumers' proposal. This would maximize the revenue received from use of this excess storage capacity, which ultimately benefits both the utility and its ratepayers. Second, Consumers' apparent assignment of Michigan Gas Storage capacity for use by Grands Lacs and its decision to more than double the ATL for Karn 4 have led to concerns regarding the potential for self-dealing. Adopting the Staff's suggestion to establish a minimum price of $0.20 per Mcf should significantly reduce the chance that Rate ST could be used to provide storage service to the utility's affiliates at unreasonably low prices. Third, as pointed out on page 155 of the Staff's brief, the $0.20 per Mcf price floor is an annual figure. Therefore, because it can be prorated to satisfy the need for daily, weekly, or monthly storage, the $0.20 per Mcf figure suggested by the Staff does not represent an excessive price for short-term storage service. Fourth, the Commission notes that Mich Con's previously approved contract storage tariff (after which Rate ST was patterned) imposes an administration fee of $300 per month. Thus, Consumers' request to include a $200 monthly administrative charge in its tariff is not unreasonable. For these reasons, the Commission finds that the ALJ's recommendation should be adopted, Rate ST should be approved, and a $0.20 per Mcf price floor should be included in the utility's proposed tariff.

1. Transferring account balances

According to Consumers witness Biek, seasonal users of gas (such as grain driers and asphalt companies) have often requested permission to sell surplus gas remaining in their accounts at the close of their respective operating seasons. This would allow them to avoid being assessed penalties for being out of balance. To accommodate these customers, the utility proposed to implement a balance transfer program. Under Consumers' proposal, any customer could transfer its gas balance, in whole or in part, to one or more other customers "on a prospective basis." 7 Tr. 1272. However, each customer that incurs an adjustment to its gas balance (whether as a transferor or a transferee) would pay a $200 fee.

The Staff supported Consumers' balance transfer proposal, but suggested revising the utility's plan in three ways. First, it proposed reducing the transfer fee to $25. Second, it recommended imposing that fee on each transaction, where a "transaction" is defined as the transfer of gas between two parties. Third, it suggested allowing transfers to occur on a retroactive basis, with certain restrictions. The Staff's proposed changes were designed to broaden the potential use of the balance transfer program, thus allowing transportation customers to avoid unauthorized gas usage charges and load balancing penalties. In addition to these revisions, the Staff asked the Commission to "encourage" Consumers to work with its customers to "develop an electronic bulletin board to facilitate the exchange of information for balance trading." Staff's brief, p. 139.

ABATE, the Coalition, and Ward Lake/Wolverine recommended adopting the Staff's suggestions. In contrast, Consumers opposed all of the Staff's modifications. The utility argued that its "$200 per customer per transaction" fee was needed to ensure recovery of the program's administrative costs and to restrict its use to seasonal transportation customers. Adopting the Staff's fee schedule, Consumers warned, would create an inadequately defined imbalance trading network. It further noted that eliminating the prohibition against retroactive gas balance transfers would allow customers to use the program to avoid paying previously incurred penalties. This, the utility asserted, would eliminate its customers' incentives to closely monitor their gas deliveries and takes. Consumers went on to contend that authorizing retroactive transfers could require the utility to prepare and issue "countless revised billings as customers 'change' what actually happened [during] the previous month." Consumers reply brief, p. 94. Finally, the utility claimed that it would be unfair to require establishing an electronic bulletin board, at a cost that could exceed $1 million, without first accounting for that expense when computing Consumers' revenue requirement.

The ALJ agreed with Consumers in significant part. Specifically, he concluded that the Staff's proposal to allow the transfer of gas balances on a retroactive basis would, as the utility argued, permit customers to eliminate previously incurred unauthorized gas usage and load balancing charges. Finding that this "would hinder, if not destroy, the incentives for transportation customers to monitor their deliveries and takes," he recommended adopting the utility's plan to permit balance transfers on a prospective basis only. PFD, p. 109. Nevertheless, the ALJ went on to conclude that one of the Staff's suggested modifications merited approval. Finding that Consumers' $200 transfer fee was excessive and would unnecessarily limit the program's usefulness, he recommended that the Commission amend the utility's proposal to include the Staff's suggested charge of $25 per transaction.

The Coalition and the Staff except to the ALJ recommendation to preclude transferring gas balances retroactively. According to the Coalition, unauthorized gas usage and load balancing charges are not technically "incurred" until the customers receive their bills. The Coalition's exceptions, p. 7. It therefore argues that allowing customers to transfer account balances within a few days after the close of the month (but before the bill has been received) "would not permit customers 'to eliminate previously incurred unauthorized gas usage charges or load balancing charges' as the ALJ erroneously concludes at page 109 of the PFD." Id. Similarly, the Staff asserts that giving the balance transfer program retroactive effect will increase, rather than decrease, customers' incentive to carefully monitor their respective gas balances. It bases this assertion on the fact that, under Consumers' proposal, a customer who is out of balance at the end of the month "is also out of options." Staff's exceptions, p. 10. In contrast, the Staff argues, authorizing retroactive transfers would extend the period during which the customer has a reason to both monitor and deal with its account imbalances.

Consumers also excepts to the PFD. It asserts that the ALJ erred in recommending adoption of the Staff's $25 transfer fee instead of the utility's proposed $200 charge. In support of this assertion, the utility claims it presented evidence indicating that the $200 charge had a cost basis. It goes on to contend that, given the token amount of the transaction fee recommended by the ALJ, it is reasonable to expect that brokers and marketers would utilize this new service to engage in widespread trading. The utility therefore asserts that, because the transfer fee must be high enough to preserve its proposal's original intent (which was to assist its seasonal transportation customers), the Commission must reject the ALJ's recommendation to adopt the Staff's $25 per transaction proposal.

The Commission disagrees with these parties and finds that their exceptions should be rejected. Applying Consumers' transfer balance program retroactively could require the utility to issue revised bills to many of its transportation customers on a regular basis. Although this would likely have a significant effect on the utility's billing operations, the parties supporting retroactive application of the program attempted to quantify neither the hours nor the costs arising from that result. Furthermore, the intent behind the unauthorized usage charge and the load balancing charge is to keep transportation customers' gas accounts in balance at all times. Failure to do so could reduce the reliability or increase the cost, or both, of the service provided to Consumers' sales customers. Contrary to assertions by the Coalition and the Staff, allowing customers to retroactively adjust their account balances does not increase their incentive to stay in balance. If anything, providing them an opportunity to avoid imbalance penalties after the fact (as retroactive application of Consumers' proposal would do) will only dilute that incentive. Because no such pitfalls arise from authorizing balance transfers on a prospective basis, the Commission finds that the ALJ's first recommendation should be adopted.

Turning to the issue of what fee should be assessed, the Commission is not persuaded by the utility's assertion that its proposed $200 per customer charge is cost-based. Although testimony cited by Consumers does state that the utility's suggested fee will "allow for recovery of the additional administrative cost" incurred in adjusting the customers' account balances, that witness went on to testify that:

> "The imposition of such a charge should help limit the number of gas balance transfers that occur [in] those situations when customers have gas balances remaining at the end of their processing cycles and desire to transfer such balances. It is not the intent of the Company to develop an imbalance trading network from which brokers and gas marketers benefit. The Company is concerned that, absent such a charge, widespread use of this service could occur. . . . Consequently, the company is proposing a $200.00 fee for this service for each account adjusted."

14 Tr. 2681.

Viewed in its entirety, this testimony indicates that Consumers' request to charge $200 for each balance adjustment was based primarily on its desire to preclude brokers and marketers from using the program to trade account imbalances. Based on Consumers witness Bearman's indication that a prospective balance transfer can be accomplished by simply receiving the transfer request and adjusting the balances in the two affected accounts (17 Tr. 3101-3110), the Commission finds the Staff's proposed fee of $25 per transaction more reasonable than the utility's proposal to charge $200 per account. It therefore concludes that the ALJ's second recommendation should also be adopted.

For these reasons, the Commission finds that Consumers' proposed gas balance transfer program should be adopted and that, except for the Staff's proposal to use a $25 per transaction balance transfer fee, all suggested modifications should be rejected.

m. Gas nomination issues

Rule F2.2 of Consumers' Tariff M.P.S.C. No. 8-Gas (Rule F2.2) sets forth the gas nomination procedures for the utility's Rate T-1 and T-2 customers. Consumers proposed several changes to that rule. For example, Mr. Biek testified that under the utility's proposed rule (1) monthly nominations for intrastate gas will now be due by the end of the fifth business day prior to the month in question, (2) monthly nominations for interstate gas will be required to conform with FERC-imposed interstate pipeline nomination time constraints, (3) changes in daily nominations will be required one business day in advance of the proposed change, and (4) all nominations must be submitted by facsimile or an available electronic nomination system. 7 Tr. 1268-1269. He also stated that "start of the month nominations will be zero" if a monthly nomination is not received by the appropriate deadline. Id. A proposed updated version of Rule F2.2 was included in the tariff sheets submitted by Consumers' rate analyst, Roger J. LaMothe, and received into evidence as part of Exhibit A-11.

According to Mr. Collins, the Staff reviewed Consumers' proposed changes and found them to be acceptable. In contrast, the Coalition and Ward Lake/Wolverine objected in part to the utility's proposal. These parties contend that, due to differences between the proposed wording in the second paragraph of Rule F2.2(C) and testimony offered by Messrs. Biek and LaMothe, that portion of the proposed rule revision was ambiguous. They therefore requested revising Consumers' proposal by deleting the second and third sentences of that paragraph. According to the Coalition and Ward Lake/Wolverine, granting that request would require Consumers to continue accepting monthly nominations, as well as changes to previously submitted nominations, after the deadline expired.

The ALJ rejected these arguments concerning the alleged ambiguity. Based on his conclusion that Consumers' proposed gas nomination rule changes were reasonable, he recommended that the Commission adopt all of the utility's changes to Rule F2.2.

The Coalition and Ward Lake/Wolverine except to that recommendation. In doing so, they reassert the arguments contained in their briefs and reply briefs regarding ambiguity. They also argue that, because no evidence was offered to show that the utility's existing practice presented difficulties for Consumers, it should be required to continue accepting nominations and requests for changes after the deadline has passed.

The Commission does not find these arguments persuasive. The paragraph in question states that:

> "If the customer does not submit a nomination by the nomination deadline, the Company will assume the customer's nomination is zero. In the event the customer does not submit a nomination by the nomination date or desires to change a previously submitted nomination prior to the first day of the nominated month, the customer or the customer's authorized representative may submit a late nomination up to one business day prior to the first day of the nomination month. Such late nominations will be accepted at the sole discretion of the Company."

Exhibit A-11, Schedule F-8, p. 21.

A fair reading of this provision reveals no significant ambiguity. The same is true of the testimony offered by Messrs. Biek and LaMothe concerning this paragraph. Although differing slightly in their estimations of how strict Consumers will be regarding enforcement of the imputed "zero nomination," both of these witnesses indicate that the utility will attempt to accommodate customers' late or changed nominations whenever possible. 6 Tr. 1400-1401; 18 Tr. 3301-3305. Furthermore, notwithstanding assertions to the contrary, the utility provided testimony concerning the need to tighten up its existing nomination requirements, including those found in Rule F2.2(C). For example, Mr. Biek indicated that, from an operational standpoint, both the pipeline that is delivering gas on behalf of a transportation customer and the utility that is receiving the gas (in this case, Consumers) must receive and acknowledge the identical nomination. 7 Tr. 1290-1295. Because some lead time is necessary to make sure that these parties' respective delivery and receipt capacities match, steps must be taken to persuade transportation customers to make their nominations in a timely manner. As correctly noted by the utility, this becomes increasingly important as the number of Rate T-1 and T-2 customers continues to rise.

The Commission therefore finds that the ALJ's recommendation should be adopted and Consumers' proposed changes to its gas nomination rule should be approved.

n. Curtailment of gas receipts and deliveries

Consumers proposed including a new rule in its tariffs identifying the priority and explaining the method by which the utility would curtail the receipt of gas on behalf of its transportation customers. According to Mr. Biek, this rule was needed to clarify how Consumers would deal with situations where the total nominated gas volumes exceed either the capacity of a specific interconnection or the capacity of the utility's system as a whole. ABATE and Ward Lake/Wolverine opposed this proposed rule. According to C. David LeBlanc, a witness for ABATE, the rule should be rejected because it is vague, provides the utility with too much discretion, and makes no exception for transportation customers that require their gas for plant protection or for public health and safety reasons. Ward Lake/ Wolverine suggested that the Commission order Consumers to initiate a separate proceeding to address these gas receipt curtailment and diversion issues, as was recently completed for Mich Con in Case No. U-10603.

ABATE also expressed concern regarding Consumers' existing procedures for curtailing gas deliveries. Specifically, it asserted that these procedures (which would be implemented in times of a gas shortage) could result in the utility's confiscation of gas owned by its transportation customers. It further argued that procedures for determining whether and how deliveries would be made to transportation customers during gas shortages must be better defined and that some method of compensating customers for confiscated gas should be developed. Thus, similar to Ward Lake/Wolverines request concerning gas receipt curtailment, ABATE suggested ordering Consumers to initiate a proceeding addressing gas delivery curtailment.

The ALJ agreed with Ward Lake/Wolverine and ABATE. He therefore recommended that the Commission order Consumers to initiate a separate proceeding to address all issues concerning the curtailment and diversion of gas receipts and deliveries. No exceptions have been filed concerning this recommendation, and the Commission finds that it should be adopted. Thus, consistent with its February 24, 1995 order in Cases Nos. U-10149 and U-10150, the Commission finds that no action should be taken on the proposed rule submitted by Consumers and that the utility should, within 90 days of issuance of this order, file an application for approval of all tariff language necessary to establish a comprehensive service curtailment and gas diversion program.

o. Limits on storage injections and withdrawals

The storage injection season normally runs from April through October. According to Consumers witness Biek, the utility's sales and transportation customers would prefer making their injections into Consumers' storage facilities as late in the injection season as possible, thus reducing the carrying cost of their respective gas purchases. However, due to physical and operational constraints, insufficient capacity exists to accept all of its customers' gas during the final eight weeks of the injection season. Consumers therefore proposed that, in order to fairly apportion the available space, each transportation customer's storage injections during September and October should be limited to 1/7 of the customer's total storage volumes (i.e., 1/7 of the sum of its ATL and its contract storage volumes), and that load balancing charges should be assessed against all injections in excess of that level.

Consumers also asserted that limits should be placed on the volume of gas withdrawn from its system during the heating season, which runs from November through March. Mr. Biek noted that, unlike Consumers' GCR sales customers, its transportation customers are not currently required to support their withdrawal demands "even though they depend on storage gas to manage their daily load swings." 7 Tr. 1270. The utility therefore proposed limiting the storage withdrawals of each transportation customer to 1/3 of its combined ATL and contract storage volumes, and recommended assessing the unauthorized gas usage charge against all volumes exceeding that limit.

Although agreeing with Consumers that limits should be imposed on gas injections and withdrawals, the Staff supported less restrictive limitations. Specifically, it suggested that the monthly injection limits for September and October should be equal to a customer's contract storage volumes plus 1.43% of the customer's ACQ. The Staff further proposed that monthly withdrawal limits for each customer be set at the customer's contract storage volumes plus 3% of its ACQ. According to Mr. Collins, the Staff's proposals would provide transportation customers more flexibility and would better correspond to the limits established for Mich Con in Cases Nos. U-10149 and U-10150. 25 Tr. 4874-4875.

ABATE, the Coalition, and Ward Lake/Wolverine argued that both parties' proposals should be rejected and that no injection or withdrawal limits should be established. The ALJ disagreed with these intervenors and recommended that the Commission adopt the Staff's suggested limits on storage injections and withdrawals.

ABATE, the Coalition, and Ward Lake/Wolverine except to the ALJ's recommendation. They contend that the proposed limits on injections and withdrawals will (1) unnecessarily limit transportation customers' ability to make effective use of their storage capacity, (2) unintentionally impose a costly administrative burden on them by forcing them to meticulously track their injections and withdrawals, and (3) unreasonably restrict these customers' access to their own gas. These parties go on to assert that, in light of Consumers' existing ability to curtail end-users' injections and withdrawals until their balances fall within their respective ATLs, there is no need for the limits recommended by the ALJ.

The Commission disagrees. As pointed out by Mr. Biek, when gas storage fields approach capacity (as they do at the end of the injection season), the ability to inject additional gas into storage "is greatly reduced and management of field availability to accommodate daily load fluctuations is critical." 7 Tr. 1271. It is therefore reasonable to limit transportation customers' injections during September and October. Doing so merely requires Consumers' transportation customers to recognize and react to the same operational constraints that the utility must observe when acquiring gas for its sales customers. A similar situation exists with regard to storage withdrawals. Before gas can be removed from storage, a sufficient inventory must exist to provide pressure for such a withdrawal. Nevertheless, transportation customers are not currently required to provide any gas inventory to support withdrawals from Consumers' facilities, leaving the utility's GCR customers to bear that full cost. Thus, it is neither unnecessary nor unreasonable to impose limits on transportation customers' monthly withdrawals. Because it finds the Staff's proposed limits on storage injections and withdrawals to be reasonable, and because these limits provide transportation customers with greater flexibility than those suggested by the utility, the Commission adopts the ALJ's recommendation.

p. Restrictions on rate switching

Currently, Consumers' Rate T-1 and T-2 customers are precluded from returning to sales service for five years after they commence transportation service. The utility proposed in this case to significantly reduce that requirement. Specifically, it suggested revising Rates T-1 and T-2 to require customers contracting for transportation service to initially remain on their respective transportation rates for at least one year and to provide Consumers with at least 12-months' written notice of their intent to return to sales service. According to the utility, the 12-month notice requirement was designed to ensure that GCR customers are not harmed when a customer leaves transportation service and rejoins one of Consumers' sales rates. The utility also proposed revising its tariffs to waive the 12-month notice "if gas supplies could be obtained without adversely affecting the GCR customers." 7 Tr. 1273.

The Coalition opposed Consumers' proposal. It asserted that the Commission should (1) reject the 12-month written notice requirement, (2) require only that transportation customers give some form of advance notice, and (3) allow them to return to sales service subject to the utility's controlled service rule.

The ALJ concluded that Consumers' procedure would better protect the utility's GCR customers. He therefore recommended that the Commission adopt Consumers' proposal.

The Coalition excepts on the grounds that adopting the ALJ's recommendation will require transportation customers to wait an unreasonably long time before regaining access to sales service. Specifically, it asserts that when the 12-month requirement proposed by Consumers is coupled with the eligibility requirements found in the utility's proposed tariff language, it could take up to 2 years for a transportation customer to switch back to sales rates. It goes on to contend that making all returns subject to Consumers' controlled service rule will adequately protect the interests of the utility's GCR customers. The Coalition therefore argues that its proposal should be adopted instead of that offered by the utility and recommended by the ALJ.

The Commission finds that the ALJ's recommendation should be adopted for three reasons. First, the record indicates that great care must be taken to avoid harming GCR sales customers when allowing transportation customers to revert to sales service. For example, Mr. Biek testified that gas purchases for Consumers' GCR customers are scheduled on an annual basis. Thus,

> "If a large transportation customer were to unexpectedly request [to] return to gas sales rates, the Company could be placed in a situation where only more expensive gas supplies were available. As a consequence, the gas costs to GCR customers would be increased."

7 Tr. 1272.

Second, as correctly noted on page 58 of Consumers' replies to exceptions, it would take a customer 2 years to switch from transportation to sales only in those cases where the customer waited until the last day of its first year on Rate T-1 or T-2 to notify the utility of its desire to switch. Moreover, according to Mr. Biek, the utility retains the option to reduce the waiting period by waiving the 12-month notice requirement if the necessary gas supplies can be obtained without harming its GCR customers. 7 Tr. 1272-1273. Third, the Coalition cites no testimony in support of its contention that relying on Consumers' controlled service rule would adequately protect those sales customers.

q. Gas-in-kind requirements

In their brief, Ward Lake/Wolverine pointed out that Consumers requests gas-in-kind from its customers in several circumstances. Specifically, these intervenors asserted that the utility demands (1) a 1.03% gas-in-kind fuel allowance for transportation on its transmission and distribution system, (2) 2% gas-in-kind as part of its load balancing charge, (3) 2.4% gas-in-kind for load balancing provided to off-system customers, and (4) a 2% late payment charge. They went on to contend that, because the 1.03% fuel allowance "was presumably" approved by the Commission in Case No. U-8678, it represents "the only fuel charge Consumers should be allowed to assess." Ward Lake/Wolverine's brief, p. 30. Consumers opposed that contention and asserted that all four of these assessments should continue to apply.

The ALJ agreed with the utility. He concluded that the assessments referred to by Ward Lake/Wolverine represent existing requirements, are necessary for the operation of Consumers' gas system, and were not shown to be unreasonable. He therefore recommended rejecting Ward Lake/Wolverine's proposal to eliminate all but one of these charges.

Ward Lake/Wolverine except to this recommendation. However, they provide no arguments beyond those initially expressed in their joint brief.

The Commission disagrees with the intervenors' apparent belief that these four assessments overlap and that only one of them should be applied. The first two charges identified above were separately approved in the Commission's December 7, 1989 order in Case No. U-8678. For example, the 1.03% gas-in-kind charge (discussed on pages 154-155 of that order) was designed to compensate the utility for lost and unaccounted for gas arising from the transportation of a Rate T-1 or T-2 customer's volumes. In contrast, the 2% load balancing charge (addressed on pages 139-142 of that decision) was intended to help the utility recover any additional storage costs incurred when a customer exceeds its ATL. The 2.4% gas in kind charge for off-system load balancing also is not related to these other charges. Instead, it is a FERC approved fee that applies only to off-system (and, thus, interstate) transportation and storage. Finally, the 2% late payment charge cited by Ward Lake/Wolverine is not a gas-in-kind charge and has been approved by the Commission solely to encourage the timely payment of customers' bills. The fact that each of these previously approved charges applies to a different service, when coupled with the absence of evidence indicating that any of the charges are excessive, leads the Commission to find that Ward Lake/Wolverine's request should be rejected and that the ALJ's recommendation should be adopted.

r. <u>Refunds to Rate T-1 equivalent customers</u>

As discussed earlier, the range of rates available under Rate T-2 has as its midpoint the cost-based transportation charge assessed to Rate T-1 customers. Although a number of T-2 customers receive discounted rates, others (referred to as T-1 equivalent customers) have entered into contracts requiring them to pay transportation charges that are greater than or equal to the established T-1 rate.

Pursuant to Commission order, Consumers has long limited distribution of its 90/10 and Marysville-related refunds[52] to customers whose rates are set at the cost-of-service.

[52]Marysville-related refunds refer to the ratepayers' share of the revenue Consumers receives from two joint ventures that make use of the utility's Marysville plant. Issues involving both that plant and Consumers' 90/10 refund mechanism are addressed later in this order. Moreover, based on the Commission's rulings in Section IX, it appears that no further Marysville-related revenues will arise that must be shared with Consumers' ratepayers.

September 27, 1994 order in Case No. U-10490, p. 15. Recipients of those refunds have therefore included the utility's GCR sales and Rate T-1 transportation customers. However, because Rate T-2 customers pay negotiated rates instead of cost-of-service rates, they have been excluded from receiving these refunds. As discussed in the Commission's September 27 and December 16, 1994 orders in Case No. U-10490, this exclusion extended to T-1 equivalent customers as well.

ABATE asserted that the utility's long-standing policy regarding this issue should be revised. Specifically, it argued that because T-1 equivalent customers pay the same cost-based rate as Rate T-1 customers, these T-1 equivalent ratepayers should be eligible to receive all 90/10 and Marysville-related refunds.

Consumers opposed ABATE's proposal. The utility contended that, notwithstanding ABATE's assertion to the contrary, "Rate T-2 customers paying a Rate T-1 equivalent rate are <u>not</u> the functional equivalent of Rate T-1 customers." Consumers' reply brief, p. 138. (Emphasis in original.) Consumers supported its conclusion by asserting that T-1 equivalent customers derive numerous nonprice benefits from their status as T-2 customers. Because transportation customers were not forced to sign a Rate T-2 contract instead of a Rate T-1 agreement, Consumers continued, T-1 equivalent customers must have found those nonprice benefits more attractive than the potential 90/10 and Marysville refunds.

The ALJ agreed with Consumers and recommended denying ABATE's request to extend these refunds to T-1 equivalent customers. This was based on his conclusion that, although they pay the same transportation rate as do members of the T-1 rate class, T-1 equivalent customers receive benefits that Rate T-1 customers do not receive. He therefore found that it was not unfair for Consumers to deny these customers any part of the utility's 90/10 and Marysville refunds.

ABATE excepts for several reasons. First, it points out that the primary reason given for treating Rate T-1 and T-2 customers differently when distributing refunds is that T-2 customers pay a negotiated (as opposed to a cost-of-service) rate. However, ABATE continues, the fact that they pay the same transportation rate as Rate T-1 customers shows that T-1 equivalent customers have no ability to negotiate. Second, it asserts that despite the ALJ's conclusion to the contrary, "no evidence was offered to support the notion that concessions were made in non-price areas." ABATE's exceptions, p. 79. Third, ABATE argues that the utility effectively forced these T-1 equivalent customers to sign Rate T-2 contracts despite their lack of bargaining power. According to ABATE, this was accomplished either by telling these customers that signing a Rate T-2 contract was a prerequisite to obtaining storage capacity above the 8.5% ATL or by representing that none of a customer's facilities could receive a discounted T-2 rate unless T-2 contracts were signed for all of its facilities. It therefore contends that the Commission must reject the ALJ's recommendation and adopt ABATE's proposal to extend all 90/10 and Marysville-related refunds to Consumers' T-1 equivalent customers.

The Commission disagrees with ABATE's assertions. As previously noted in the December 16, 1994 order in Case No. U-10490, the primary justification for treating Rate T-1 and Rate T-2 customers differently is that Rate T-2 customers negotiate with the utility regarding certain terms. Therefore, "any similarity in the price paid by Rate T-2 and Rate T-1 customers (1) is temporary, (2) may be based on factors other than price, and (3) arises from negotiations by Rate T-2 customers rather than an analysis of their cost-of-service."

December 16, 1994 order, pp. 7-8. Moreover, evidence received in this case supports the ALJ's conclusion that T-1 equivalent customers receive other benefits by taking service on Rate T-2. According to Exhibit A-11, Schedule F-8, Rate T-1 customers pay a Department of Social Services and Low-Income Conservation Program (DSS) surcharge of $0.0008 per Mcf, as well as an Energy Conservation Programs surcharge of between $0.0150 and $0.0476 per Mcf. In contrast, T-2 customers (including those paying T-1 equivalent rates) are assessed a DSS surcharge of only $0.0006 per Mcf, and pay no energy conservation surcharge. Id. The Commission therefore finds that the ALJ's recommendation should be adopted and ABATE's proposal to extend 90/10 and Marysville-related refunds to T-1 equivalent customers should be rejected.

Miscellaneous Tariff Issues

In addition to the sales and transportation rate design issues discussed above, seven miscellaneous tariff proposals were presented in this case. Although some were contested by the parties prior to issuance of the PFD, none of them are now in dispute. Specifically, the ALJ offered the following recommendations: (1) The $0.25 per foot joint trenching rebate should be eliminated, as proposed by the utility. (2) The winter construction charge, applicable from December 15 through March 15 whenever winter construction difficulties are encountered, should be reduced from its current level of $6 per foot to $3 per foot. (3) The proposal to waive the requirement that a copy of 1982 PA 304, as amended, MCL 460.6h et seq.; MSA 22.13(6h) et seq., be maintained at each of Consumers' business offices should be rejected. (4) Tariff language restricting the authority of utility agents should be amended to expressly bar an agent from orally altering the terms and conditions of rate schedules, as proposed by Consumers. (5) Language should be included in the utility's tariffs specifying that customers must abide by all applicable rates, rules, terms, and conditions contained in the schedule of rates governing natural gas service. (6) The utility's proposal to amend its area expansion program rule, as qualified by the Staff, should be adopted. (7) The proposed tariff sheet entitled "Supplemental Utility Service Charges" and set forth on Exhibit S-121, Schedule F-8-1, should be included in Consumers' tariff book as sheet A-27.00.

No exceptions have been submitted with regard to these seven recommendations.[53] The Commission finds that they are reasonable and should be adopted.

IX.

OTHER ISSUES

Grands Lacs

Pursuant to a storage and transportation arrangement with Grands Lacs, an affiliate of Consumers, Consumers will provide Grands Lacs with 150,000 MMBtu of daily transportation and storage deliverability service, and Michigan Gas Storage will provide 4.5 Bcf of firm gas storage. The arrangement has a five-year term, commencing April 1, 1995. In exchange for its services, Consumers will receive revenues of $515,000 per month from Grands Lacs. Grands Lacs also has a five-year contract to provide interchange and short-term storage services to Peoples, a Chicago-based gas distribution company.

Consumers proposed that the monthly revenues of $515,000 be earmarked for the development of an additional 5.8 Bcf of storage capacity, which would become available to

[53]Two other proposals offered by the utility (concerning the performance of leakage tests and the definition of nonresidential usage) were not challenged by the parties and are included in the rules, regulations, and rate schedules attached to this order.

ratepayers at the end of the five-year period. It proposed to exclude the revenues from rates and to apply them as a credit against storage plant.[54]

The Staff supported Consumers' proposal for the first two of the five years, with the added condition that any revenues in excess of actual expenditures on the storage enhancement project should be refunded to ratepayers. For the last three years, the Staff proposed that Consumers either refund the revenues or file an updated storage proposal at the end of the first two years.

The Coalition supported the Staff's proposal with the following added conditions: (1) that Consumers maintain records sufficient to permit a comparison of Grands Lacs revenues with storage enhancement expenditures, and (2) that the enhanced storage capacity be available to end-users.

The ALJ recommended that the Staff's proposal be adopted and that the Coalition's conditions be adopted except for the one specifying availability to end-users. PFD, pp. 68-69.

In its exceptions, Consumers argues that the ALJ's recommendation to refund revenues for the last three years of the Grands Lacs arrangement is erroneous. Consumers emphasizes its commitment to developing an additional 5.8 Bcf of storage capacity without asking ratepayers to pay for it. Consumers also states that Grands Lacs exercised its contractual right to cancel the arrangement as of August 15, 1997, but Consumers renews its commitment to use the revenues for storage enhancement.

The Coalition reiterates its argument that the enhanced storage capacity should be made available to all end-user customers, and not to Consumers' affiliates or off-system customers.

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[54]In Section VI of this order, the Commission accepted Consumers' proposed ratemaking treatment for purposes of computing the test year revenue sufficiency.

In light of the premature termination of the Grands Lacs arrangement, the Coalition says that it is even more important to require refunds of excess revenues and complete disclosure of information.

The Staff says that Consumers' representation regarding termination of the Grands Lacs arrangement in August 1997 is unsubstantiated and does not alter the Staff's proposal.

The Commission finds that the Staff's proposal to allow Consumers to use Grands Lacs revenues for storage enhancement during the first two years of the arrangement is reasonable, provided that any revenues in excess of actual expenditures are reconciled in GCR proceedings and refunded. The Commission also agrees with the Staff that any revenues earned after the first two years should be refunded in full. As set forth in Exhibit A-69, it appears that most of the storage enhancement will occur in the first two years, leaving doubt as to whether the expenditures proposed for the last three years would be cost justified. However, Consumers may file an application proposing a different treatment prior to the end of the first two years if it is able to justify its proposal by demonstrating benefits to ratepayers.

The Commission declines to adopt the conditions discussed in the Coalition's exceptions. It is not apparent why the incremental storage should be treated differently than other storage capabilities that are available to provide service to ratepayers. The Commission is not prepared at this time to specify what informational requirements would be appropriate in future cases.

<u>Marysville</u>

In March 1979, Consumers ended production of synthetic natural gas at its Marysville plant because the production was not needed in light of the gas supply situation. It maintained the plant in a mothballed state, so that it could be reactivated if required by a long-term shortage in supply conditions. In the April 12, 1983 order in Case No. U-5732 at pages 39-45, the Commission held that the undepreciated balance of investment in the Marysville plant should be transferred to plant held for future use and amortized over a period of ten years from the date of the order. It also held that the plant investment should be excluded from rate base and should not earn a return. It allowed Consumers to recover in base rates surveillance and maintenance expenses associated with the mothballing. Id., pp. 56-58.

In this case, Consumers witness Biek testified that a study dated November 1, 1994 reached the conclusion that synthetic natural gas production at the Marysville plant is not likely to be economical in the future, given the current and projected cost and availability of natural gas supplies. Consumers proposed that all costs associated with the plant be removed from rates as well as all revenues from fractionation, storage, and other operations that are currently subject to sharing with ratepayers.[55] It proposed that Marysville-related revenue sharing mechanisms be ended, with a final reconciliation in the next GCR reconciliation case. It requested that the Commission indicate that future operations at the Marysville plant will be treated as nonjurisdictional for ratemaking purposes.

The Staff did not oppose Consumers' request to treat Marysville facilities as non-utility plant. It supported the same treatment for the Marysville Ray pipeline, which connects the Marysville plant to the Ray Storage Field. However, the Staff proposes that if Consumers

[55]Consumers' proposed ratemaking treatment for the Marysville plant was incorporated in the calculation of the revenue requirement in Section VI of this order.

decides in the future to sell, transfer, or otherwise dispose of the plant, it should first file an application with the Commission for review of the proposed transaction.

The ALJ accepted Consumers' proposal to remove Marysville-related costs from rates. He agreed with the Staff's position that the plant should be transferred to non-utility operations and that the Commission should retain jurisdiction over its future sale, transfer, or other disposition. According to him, because ratepayer funds financed the investment, Consumers should be obligated to account for the proceeds or benefits it receives when it disposes of the plant. PFD, p. 71.

In its exceptions, Consumers argues that the ALJ erred by prejudging the issue of whether ratepayers or shareholders should receive the proceeds or other benefits if and when Consumers sells or otherwise disposes of the Marysville plant. It says that this issue is not now before the Commission because it does not have any current proposal to dispose of the plant. It commits to providing the Commission with notice of any divestiture that it may undertake in the future.

In its exceptions, ABATE argues that ratepayers' equitable interest in the Marysville plant goes beyond an entitlement to the proceeds of its disposal and also includes an obligation on the part of Consumers to account for all other uses of the plant. ABATE points out that even while the plant was being mothballed, Consumers earned revenues from it, e.g., by leasing the cavern storage facilities. ABATE claims that the Commission's use of a refund mechanism to pass those revenues on to ratepayers acknowledged that ratepayers paid for the plant. It argues that this principle was recognized in <u>Midland Cogeneration Venture Limited Partnership</u> v <u>Public Service Comm</u>, 199 Mich App 286, 318; 501 NW2d 573 (1993), in which the Court stated that "ratepayers may indeed acquire a protectable interest in the utility's capital gains received on the disposition of utility assets where the ratepayers have been charged with the costs or burden of investment in those assets as a rate expense."

ABATE believes that future uses of the Marysville plant are likely to be even more profitable, as fractionation operations and other business ventures expand. It is concerned that Consumers could structure future dealings to avoid an outright transfer of the plant, thereby retaining for itself the profits. It also states that Consumers' proposal extends to the Marysville Ray pipeline, even though the pipeline has remained in rate base since the mothballing of the plant.

ABATE agrees with Consumers that costs related to both the Marysville plant and the pipeline should be removed from rates, but it further recommends that the Commission (1) continue Consumers' obligation to refund all revenues derived from the plant, (2) report the revenues in its annual GCR reconciliation cases, (3) submit a proposal to make an equitable distribution of the profits and proceeds derived from the use, transfer, sale, or other disposition of the plant and the pipeline, and (4) maintain separate records of all Marysville revenues and expenses.

The Coalition concurs in ABATE's position that Consumers should be held accountable for future revenues from all uses of the Marysville plant.

Consumers responds that its proposal to remove the expenses of the Marysville plant and pipeline from rate base is conditioned upon the ending of its refund obligations for non-utility revenues from the plant. It says that the revenues, derived from storage and fractionation ventures, are conducted independent of utility operations and that the plant will no longer be held in readiness to produce synthetic natural gas. It says that the argument that ratepayers paid for the plant ignores that Consumers earned no return on the plant for the last 12 years and is contrary to the legal principle that ratepayers pay for service, not the property used to render service.

The Attorney General argues that it is lawful and proper for the Commission to retain jurisdiction over the future proceeds in order to vindicate ratepayers' interest in the Marysville plant.

The Commission finds Consumers' proposal both to exclude the costs of the Marysville plant and pipeline from rates and to terminate the refund obligation is appropriate. All parties concede that the plant is no longer used and useful and no longer has value to ratepayers as a potential source of synthetic natural gas. Exhibit A-96 shows that current costs are more than ratepayer refunds from the plant. It is speculative to say whether the potential revenues will outweigh the costs in the future.

The Commission retains jurisdiction to review possible future sales, transfers, or other dispositions of all or part of the plant and pipeline. However, it is not necessary to prescribe the ratemaking treatment of future dispositions in this order. As of now, no proposal for disposing of the plant has been made. If Consumers does make plans to dispose of the plant, it has committed to providing the Commission with advance notice. In the meantime, the issue need not be decided in a factual vacuum. When an actual proposal has been submitted, the Commission will be in a position to evaluate Consumers' application, weigh the relative interests of Consumers and ratepayers, and approve, disapprove, or modify the proposed disposition and its proceeds and benefits. Because there is no indication that a disposition is imminent, the Commission need not impose a deadline for submitting a proposal.

90/10 Refund Mechanism

The 90/10 refund mechanism requires that 90% of certain revenues above an annual threshold be refunded to ratepayers. Operations covered by the refund are off-system storage and transmission, MCV storage and transmission, and end-user storage. The threshold amount is the revenues imputed in base rates. Consumers proposed in this case that the 90/10 refund mechanism be terminated. The ALJ rejected this proposal, recommending that the threshold amount be set at $13,689,000. PFD, pp. 73-74.

In its exceptions, Consumers says that the original rationale for the 90/10 refund mechanism was to compensate for the uncertainty in projecting future revenues from off-system sales and storage. It says that the revenue projection is no longer uncertain because historical experience now provides an appropriate basis for projecting it. It argues that it is unfair that any undercollection of threshold revenues means a revenue shortfall, but any overcollection triggers an obligation to refund 90% of the excess over the threshold amount.

Ward Lake/Wolverine do not oppose the 90/10 refund mechanism, but they say that the threshold amount should be based on revenues derived from the cost-of-service of the underlying operations. They further argue that Consumers should be prohibited from charging more than the cost-of-service for storage and other services that are subject to the refund.

The Coalition says that Consumers' proposed contract storage Rate ST could mean rates as high as $1.50 per Mcf, which makes historical experience unreliable as a basis for projecting future revenues. It also says that the 90/10 refund mechanism is an appropriate means of providing assurance that ratepayers are being compensated for the MCV's use of Consumers' transmission, distribution, and storage facilities.

The Commission finds that the Staff's proposal for continuing the 90/10 refund mechanism should be adopted. Although Consumers has argued that the revenues subject to refund are no longer incapable of projection, there remains enough uncertainty to justify continuation of the mechanism. The threshold revenues are based on a historical year ended September 30, 1994, which is over a year prior to the test year used to compute the revenue requirement. Although the local gas distribution business has already changed substantially since the 90/10 mechanism was instituted, it continues to evolve, making a reasonably accurate projection of future revenues difficult for these items. Moreover, because most of the revenues are earned in dealings with the MCV, a Consumers affiliate, the 90/10 mechanism is an appropriate means of compensating gas ratepayers for services that are used in electric operations.

The Commission further finds that the threshold should be $13,689,000, as proposed by the Staff. It is not persuaded by Ward Lake/Wolverine's suggestion that the threshold provides improper incentives.[56]

Reporting Requirements for Affiliated Transactions

The ALJ recommended that the Commission adopt the Staff's position regarding reporting of transactions with affiliated companies in future rate proceedings. The proposal would require Consumers to use a format that displayed the information separately for electric and gas operations and to identify each account with the amount recorded in each account. PFD, p. 125.

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[56]In Section VIII of this order, the Commission rejected Ward Lake/Wolverine's argument that the cost-of-service should be the maximum charge for storage under Rate ST.

Consumers says that the format proposed by the Staff does not currently exist in Consumers' records and would be expensive to provide. Although it does not object to the Staff's proposal to supply this information, it says that the Commission should consider whether the information is justified by the additional cost.

The Coalition says that Consumers should be required to bear the burden of proof with respect to each of its affiliate transactions. It also says that Consumers should provide the information at its own expense.

The Staff says that Consumers could have provided the requested information regarding affiliate transactions, but it simply chose not to. It says that the information should be provided promptly to expedite rate cases.

The Commission finds that the Staff's proposed format for reporting transactions with affiliated companies is reasonable and should be adhered to in future rate cases. Affiliate transactions have the potential to raise difficult issues in rate cases and should be addressed with as much information as possible at the outset. Therefore, Consumers should report the transactions on a separate basis for electric and gas operations and should identify the specific accounts and amounts that are affected by affiliate transactions.

The Commission FINDS that:

a. Jurisdiction is pursuant to 1909 PA 300, as amended, MCL 462.2 et seq.; MSA 22.21 et seq.; 1919 PA 419, as amended, MCL 460.51 et seq.; MSA 22.1 et seq.; 1939 PA 3, as amended, MCL 460.1 et seq.; MSA 22.13(1) et seq.; 1969 PA 306, as amended, MCL 24.201 et seq.; MSA 3.560(101) et seq.; and the Commission's Rules of Practice and Procedure, 1992 AACS, R 460.17101 et seq.

b. Consumers' gas rates should be reduced by $11,730,000.

c. Consumers' rules, regulations, and rate schedules should be revised as indicated in this order.

d. Within 30 days of the date of this order, Consumers should provide notice of the change in the economic break-even point between its Rate B and Rate C customer classes to all customers in those rate classes that have consumed between 6,000 and 10,000 Mcf of gas annually.

e. Consumers should establish a bifurcated rate structure for its gas transportation service and disaggregate its customers receiving service under Rates T-1 and T-2 into small-volume and large-volume classes. Within 30 days of the date of this order, Consumers should advise its existing transportation customers of their limited right to switch some or all of their facilities to sales service. These customers should have 90 days from the issuance of this order to advise Consumers in writing of their decision to switch to sales service.

f. Within 30 days of the date of this order, Consumers should implement the contiguous billing and aggregation of accounts programs approved in this order.

g. Consumers should begin allowing gas balance transfers, on a prospective basis only and for a fee of $25 per transaction, within 30 days after issuance of this order.

h. Within 90 days of the date of this order, Consumers should file an application for approval of all tariff language necessary to establish a service curtailment and gas diversion program.

THEREFORE, IT IS ORDERED that:

A. Consumers Power Company shall reduce its rates and charges for gas service by $11,730,000 annually for service rendered on and after March 12, 1996. However, to allow Consumers Power Company time to read the meters of its existing Rate T-1 and Rate T-2 customers before implementing bifurcation, the new rates and charges for gas transportation shall only apply to service rendered on and after March 15, 1996.

B. Consumers Power Company's rules, regulations, and rate schedules shall be revised as provided in this order to be consistent with those attached as Exhibit A to the original order contained in the Commission's files.

C. Consumers Power Company shall file, within 30 days of the date of this order, all tariff sheets necessary and appropriate to comply with this order.

D. Within 30 days of the date of this order, Consumers Power Company shall (1) provide notice of the change in the economic break-even point between its Rate B and Rate C customer classes to all Rate B and Rate C customers that have consumed between 6 million and 10 million cubic feet of gas annually, and (2) advise its existing Rate T-1 and Rate T-2 customers of their limited right to switch some or all of their facilities to sales service due to the bifurcation of its transportation rate classes.

E. Consumers Power Company shall implement, within 30 days of the date of this order, the contiguous billing and aggregation of accounts programs approved in the order.

F. Consumers Power Company shall allow gas balance transfers, on a prospective basis only and for a fee of $25 per transaction, within 30 days of the date of this order.

G. Within 90 days of the date of this order, Consumers Power Company shall file an application for approval of all tariff language necessary to authorize a service curtailment and gas diversion program.

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; MSA 22.45.

MICHIGAN PUBLIC SERVICE COMMISSION

/s/ John G. Strand
Chairman

(S E A L)

/s/ John C. Shea
Commissioner

/s/ David A. Svanda
Commissioner

By its action of March 11, 1996.

/s/ Dorothy Wideman
Its Executive Secretary

SUMMARY OF PREVIOUS AND UPDATED RATES

CONSUMERS POWER COMPANY U-10755

LINE	DESCRIPTION	RATES PREVIOUSLY IN EFFECT		RATES APPROVED BY ORDER U-10755		
	(A)	(B)		(C)		
	RATE A: RESIDENTIAL					
1	CUSTOMER	$6.50	per month	$6.50	per month	
2	DISTRIBUTION	$1.2249	per Mcf	$1.2008	per Mcf	
	RATE A-1: MULTIFAMILY DWELLING					
3	CUSTOMER	$6.50	per month	$6.50	per month	
4	EXCESS PEAK USE	$0.0366	per Mcf	$0.0366	per Mcf	
5	DISTRIBUTION	$1.2249	per Mcf	$1.2008	per Mcf	
	RATE B: GENERAL SERVICE					
6	CUSTOMER	$10.00	per month	$15.00	per month	
7	DISTRIBUTION	$1.2010	per Mcf	$1.0558	per Mcf	
	RATE B-NGV: REFUELING RATE					
8	CUSTOMER	$10.00	per month	$10.00	per month	
9	DISTRIBUTION	$0.8010	per Mcf	$0.8010	per Mcf	
	RATE C: GENERAL SERVICE					
10	CUSTOMER	$320.00	per month	$210.00	per month	
11	DISTRIBUTION	$0.7797	per Mcf	$0.7073	per Mcf	
	RATE E: GENERAL SERVICE					
12	CUSTOMER: ABOVE 100,000 MCF	$3,000.00	per month	Canceled		
13	BELOW 100,000 MCF	$1,000.00	per month	Canceled		
14	DISTRIBUTION	$0.6644	per Mcf	Canceled		
	RATE F: INTERRUPTIBLE SERVICE					
15	CUSTOMER: ABOVE 100,000 MCF	$3,000.00	per month	Canceled		
16	BELOW 100,000 MCF	$1,000.00	per month	$1,000.00	per month	(A)
17	DISTRIBUTION	$0.6644	per Mcf	$0.6644	per Mcf	
	RATE GL: OUTDOOR LIGHTING					
18	UP TO 2.5 CCF PER HOUR	$9.00	per month	$9.00	per month	
19	2.6 TO 4.5 CCF PER HOUR	$11.00	per month	$11.00	per month	
	RATE ST-1: TRANSPORTATION					
20	ADMINISTRATIVE FEE	$300.00	per month			
21	CUSTOMER	$1,000.00	per month	$750.00	per month	
22	TRANSPORTATION	$0.4734	per Mcf	$0.5293	per Mcf	
	RATE ST-2: TRANSPORTATION					
23	ADMINISTRATIVE FEE	$300.00	per month			
24	CUSTOMER	$1,000.00	per month	$750.00	per month	
25	TRANSPORTATION: MAXIMUM	$0.7101	per Mcf	$0.8286	per Mcf	
26	MINIMUM	$0.2367	per Mcf	$0.2300	per Mcf	
	RATE LT-1: TRANSPORTATION					
27	ADMINISTRATIVE FEE	$300.00	per month			
28	CUSTOMER	$1,000.00	per month	$1,300.00	per month	
29	TRANSPORTATION	$0.4734	per Mcf	$0.4633	per Mcf	
	RATE LT-2: TRANSPORTATION					
30	ADMINISTRATIVE FEE	$300.00	per month			
31	CUSTOMER	$1,000.00	per month	$1,300.00	per month	
32	TRANSPORTATION: MAXIMUM	$0.7101	per Mcf	$0.6966	per Mcf	
33	MINIMUM	$0.2367	per Mcf	$0.2300	per Mcf	
	RATE T-NGV: REFUELING RATE					
34	CUSTOMER	$350.00	per month	$350.00	per month	
35	TRANSPORTATION	$0.4734	per Mcf	$0.4734	per Mcf	
	Other Charges for Transportation					
36	AUTHORIZED GAS USE	$1.0000	per Mcf	$1.0000	per Mcf	
37	UNAUTHORIZED GAS USE	$10.0000	per Mcf	$6.0000	per Mcf	
38	LOAD BALANCING	$0.0410	per Mcf	$0.2500	per Mcf	

(A) Applies to all Rate F customers.

COMPARISON OF EXISTING AND PROPOSED RATES

Consumers Power Company Case - No. U-10755

LINE	DESCRIPTION	PREVIOUS RATES	APPROVED RATES	INCREASE (DECREASE)	PERCENTAGE CHANGE	COST OF SERVICE ALLOCATION
	(A)	(B)	(C)	(D)	(E)	(F)
1	RATE A	$305,584	$301,582	($4,002)	-1.31%	
2	RATE A-1	$13,758	$13,515	($243)	-1.77%	
3	TOTAL RESIDENTIAL SERVICE	$319,342	$315,097	($4,245)	-1.33%	$315,092
4	RATE B & Rate GL	$79,708	$77,677	($2,032)	-2.55%	$82,175
5	RATE B-NGV	$0	$0	$0	NA	
6	RATE C	$16,334	$13,689	($2,645)	-16.19%	$9,191
7	RATE E	$0	CANCELED	NA	NA	
8	RATE F	$0	$0	$0	NA	
9	TOTAL GENERAL SERVICE	$96,042	$91,366	($4,676)	-4.87%	$91,366
10	RATE ST-1 & ST-2	$17,073	$14,800	($2,273)	-13.31%	
11	RATE LT-1 & LT-2	$27,396	$26,866	($530)	-1.93%	
12	RATE T-NGV	$4	$4	$0	0.00%	
13	TOTAL TRANSPORTATION	$44,473	$41,670	($2,803)	-6.30%	$41,669
14	TOTAL SALES & TRANSPORTATION	$459,857	$448,133	($11,724)	-2.55%	$448,127

SUPPLEMENTAL UTILITY SERVICE CHARGES

METER TEST CHARGE

The charge for a gas meter test when applicable per B.15.51 (Rule R460.2351) is $63.00.

SERVICE LINE AND/OR METER RELOCATION CHARGE

The charge for meter relocation when applicable per B.8.1:

a. $230 for meter relocation only
b. $70 for reconnection to the fuel line

The charge for service line relocation when applicable under B.8.1 is $6.00/foot. If the relocation is for a building expansion which results in additional consumption, an appropriate credit shall be applied for the proportionate increase in revenue.

ITEMIZED STATEMENT CHARGE

The charge for a MANUALLY PREPARED ITEMIZED STATEMENT requested by a non-residential customer shall be $15.00 per statement.

LABOR CHARGES

When applicable, the labor charge for service that the customer is responsible for shall be $10 for the first five minutes if performed in conjunction with a utility service call. Otherwise the charge would be an fixed rate of $35.00 plus $52.00/hour during normal working hours and a fixed rate of $55.00 plus $52.00/hour for work after normal working hours.

SHORT-TERM RECONNECTION CHARGE

There is a charge of $15.00 for reconnection of a customer or meter re-installation where the annual use is for a period of 45 days or less or where unmetered service is provided for decorative lighting.

SECTION B - PART II
GENERAL RULES AND REGULATIONS
(FOR ALL CUSTOMERS)

INTENT OF SECTION B - PART II

These General Rules and Regulations for all customers are not to supersede but are in addition to Rule B1., Technical Standards for Gas Service, Rules C1.-C7., Consumer Standards and Billing Practices for Residential Customers, and Rule D1., Commercial and Industrial Billing Practices.

B2. CHARACTERISTICS OF SERVICE

B2.1 Character of Service

The Company shall endeavor, but does not guarantee, to furnish a continuous supply of gas and to maintain pressure in its lines within reasonable limits.

The Company shall not be liable for interruptions in the service, variations in the pressure, or variations in the service characteristics, or for any loss or damage of any kind or character occasioned thereby, due to causes or conditions beyond the Company's reasonable control, and such causes or conditions shall be deemed to specifically include, but not be limited to the following: acts or omissions of customers or third parties; operation of safety devices except when such operation is caused by the negligence of the Company; absence of an alternate supply of service; failure, malfunction, breakage, necessary repairs or inspection of machinery, facilities or equipment when the Company has carried on a program of maintenance consistent with the general standards prevailing in the industry; act of God; war; action of the elements; storm or flood; fire; riot; labor dispute or disturbances; or the exercise of authority or regulation by governmental or military authorities.

Regardless of contracts in force, the Company shall have the right (a) to institute and maintain curtailments of gas service in accordance with the provisions of Rule B4., Curtailment of Gas Service, of this rate schedule, and (b) in the event of an emergency causing a short-term shortage of gas supply, to grant preference to that service, which in the Company's judgment, is most essential to the public health, safety and welfare.

Before purchasing equipment or installing piping, the customer shall secure from the Company information regarding whether new or additional gas loads are being accepted and the characteristics of the service available.

No ownership rights in facilities provided by the Company shall pass to any person as a result of any deposit or contribution made under these rules. Deposits or contributions made by customers shall not be refundable unless expressly provided in these rules.

The Company will make a leakage test prior to the establishment of gas service. The Company shall not be liable for the installation, maintenance or use of piping or appliances owned by the consumer nor shall the Company be liable for any continuing duty of inspection of piping or appliances.

B2.2 Hours of Service

Gas shall be supplied 24 hours per day except as provided elsewhere in the Company's Gas Rate Schedule.

(Continued on Sheet No. B-18.00)

(Continued From Sheet No. B-18.00)

L. For failure of the customer to post a cash security deposit or other form of guarantee, when required in accordance with these rules.

M. For failure of the customer to pay a delinquent account not in dispute.

N. For failure of the nonresidential customer to pay any delinquent nonresidential account incurred by the customer under a different account name, by the customer's predecessor in interest or by any other entity, the debt of which, the customer is legally obligated to assume.

O. For failure of the customer to comply with the terms and conditions of a settlement agreement, interim determination or complaint determination between the customer and the Company.

P. For violation of, or noncompliance with, the Company's Gas Rate Schedule.

B2.4 Unusual Facility Requirements

The Company reserves the right to make special contractual arrangements as to the provision of necessary service facilities, duration of contract, minimum bills, or other service conditions with respect to customers with large or unusual requirements for gas, or with respect to customers whose establishments are remote from the Company's existing suitable facilities, or with respect to customers whose requirements otherwise necessitate unusual investments by the Company or with respect to customers whose service requirements may be of a short term, temporary or transient nature.

B2.5 Invalidity of Oral Agreements or Representations

No employee or agent of the Company is authorized to modify or supplement the terms and conditions of *this Schedule of Rates Governing the Sale of Natural Gas Service or any* contract by oral agreement or representation, and no such oral agreement or representation shall be binding upon the Company.

B2.6 Transfers of Gas

Customers shall be allowed to transfer their gas requirements from one location to another under the following conditions:

A. Customers owning a building may transfer gas requirements for gas equipment in that building to a new location provided that such gas requirements are not used at the old location.

B. Customers not owning a building may transfer gas requirements attributable to the gas equipment they own; provided, however, that gas requirements associated with heating and maintaining a building in habitable condition cannot be transferred without the specific written consent of the building owner.

(Continued on Sheet No. B-20.00)

(Continued From Sheet No. B-29.00)

(1) Private Family Dwellings:

Private family dwellings where individual household usage is separately metered and consumed shall be billed on Residential Service Rate A. A private family dwelling shall include:

(a) a single-family home
(b) a farm home
(c) a seasonal dwelling
(d) a duplex
(e) a separately metered mobile home
(f) a separately metered household within a condominium
(g) a separately metered household within an apartment complex
(h) a separately metered household within a cooperative complex

(2) Homes or Dormitories for Groups Other Than Private Family Dwellings:

Tourist homes, rooming houses, dormitories, nursing homes and other similarly occupied buildings containing sleeping accommodations for up to six persons where residential usage is metered and consumed shall be classified as residential and billed on Residential Service Rate A. The landlord and the landlord's immediate family are not included in the six-person limitation.

(3) Multifamily Dwellings Served Through a Single Meter:

A multifamily dwelling shall be considered any duplex, apartment building, mobile home park, condominium, cooperative or other grouping of households. A multifamily dwelling served through a single meter where residential usage is metered and consumed shall be billed as follows:

(a) Multifamily dwellings containing two households shall be billed on Residential Service Rate A.

(b) Multifamily dwellings containing more than two households shall be billed on Multifamily Dwelling Service Rate A-1.

B. Nonresidential Usage and Rate Application

For purposes of rate application, "nonresidential usage" shall be usage metered and consumed that does not qualify for residential usage. Nonresidential usage includes usage associated with the purchase, sale, or supplying (for profit or otherwise) of a commodity or service by a public or private person, entity, organization or institution. Nonresidential usage includes usage associated with penal institutions, corrective institutions, motels, hotels or swimming pool heater usage *that is separately metered at a private family dwelling that is taking service under a gas residential service rate.*

Nonresidential usage shall be billed on the Company's appropriate General Service Rate.

Tourist homes, rooming houses, dormitories, nursing homes and other similarly occupied buildings containing sleeping accommodations for more than six persons shall be classified as nonresidential and billed on the appropriate General Service Rate. The landlord and the landlord's immediate family are not included in the six-person rule.

(Continued on Sheet No. B-31.00)

(Continued From Sheet No. B-39.00)

B. Extension to New Customers (Contd)

(2) Over 2 Inches in Diameter

(a) When a proposed gas main extension shall require an expenditure which exceeds four times the net revenue (estimated annual revenue less the cost of gas) the Company may require the prospective customer or group of customers to deposit with the Company a sum of money equal to the difference between the estimated cost of the required extension and four times the net revenue.

(b) Refund

The deposit received is subject to refund during the five-year refund period without interest. The five-year refund period shall commence on the first day of the billing month following the completion of the main extension. Refunding shall not begin until such time as the original customers or equivalent have been connected to the main extension. The total amount refunded shall not exceed the deposit and no additional refund obligation shall be created alter the close of the five-year refund period.

The amount of the refund shall be determined annually as follows:

(i) For Additional Revenues by Customers Originally Served

At the end of the first year, after completion of the extension, the Company shall refund a sum equal to four times the net revenues (gross revenues less cost of gas), if any, of actual Mcf of gas consumed through such extension for that year over the original estimated Mcf consumed.

(ii) For Additional New Customers

The Company shall refund to the depositor an amount equal to four times the net revenue (gross revenue less cost of gas) times the Mcf of gas consumed during the first full year of service from each additional customer who is furnished service from such extension within five years after the date of its construction.

(3) Additional Charges for All Applicants

An additional nonrefundable charge may also be required for:

(a) Winter construction (construction during the *period of December 15 through March 15)* at the rate of *$3* per foot *to be applied in cases where winter construction difficulties are encountered; and*

(b) The customer shall pay for any permits and inspection fees required by state or local ordinances for cutting streets or highways or for converting or connecting any gas utilization equipment.

(Continued on Sheet No. B-41.00)

(Continued From Sheet No. B-40.00)

(4) Area Expansion Program (AEP)

Customers paying for excess main extension costs as specified in this Area Expansion Program (AEP) shall not be required to make deposits described in (B)(1)(a) and (B)(2)(a) of this rule.

(a) AEP Charges

(i) An AEP *surcharge will be established for those customers* who have signed an agreement with the Company to participate in the AEP program. The surcharge shall be *set as* a fixed amount per bill and shall be designed to generate enough revenue over a five-year period to offset the estimated cost of main extension charges, net of credits deducted under this rule, along with interest at the Company's authorized rate of return. The surcharge shall be *included on each connecting customer's bill and will* be subject to the Gas Rate Schedule *governing payment and collection of charges for* gas service, including shutoff and termination. Once established, the surcharge shall continue at the established level until all costs have been recovered. The surcharge applied in the final month shall be reduced to the amount required to complete payment of the AEP balance.

(ii) Each AEP area shall be a separate and distinct area determined by the Company in its sole discretion and any subsequent main extension shall constitute a new AEP area. AEP areas could be enlarged to include contiguous areas capable of being served from the newly constructed mains which do not require an additional main extension. All residential customers in an AEP area shall be subject to the same surcharge except those customers who have already paid a deposit pursuant to this rule. An AEP surcharge for each general service customer who has not already paid a deposit pursuant to this rule will be separately determined based on the estimated usage for that customer.

(iii) Whether having signed an agreement or not, *a new customer connecting to an* existing AEP shall be required to pay the appropriate AEP surcharge. *Failure of the seller, lessor, agent,or non-company party to advise a customer of an AEP surcharge shall not relieve the customer's obligation to pay the AEP surcharge.*

(iv) All gas sold in any area specifically listed below is subject to the following Area Expansion Program charges. AEP areas and charges shall be added to *or removed from* the list from time to time by the Company.

AEP Area	AEP Charge Per Month	Expected Date of Expiration	AEP Area	AEP Charge Per Month	Expected Date of Expiration

(AEP Areas Current on Date of Order)

(Continued on Sheet No. B-42.00)

(Continued From Sheet No. B-44.00)

B. Service Lines Less Than 2 Inches in Diameter (Continued)

Mobile Home Applicants in Mobile Home Parks

For service lines to individual mobile homes, when installed with necessary gas mains in easements provided by mobile home park operators. $100 flat charge for the first 25 feet or less. $4 charge per foot for each foot in excess of 25 feet.

Additional Charges for All Applicants

$3 additional charge per foot for each foot from *the* lot line (or *the* main in the case of mobile homes) to *the* meter location to cover *the* additional costs incurred *for* winter construction during the *period of December 15 to March 15 to be applied in cases where winter construction difficulties are encountered.*

When the gas service line is installed jointly with the electric service line, the per-foot charge for all footage, as measured, shall be reduced by 25 cents per foot.

The customer shall pay for any permits and inspection fees required by state or local ordinances for cutting streets or highways or for converting or connecting any gas utilization equipment.

Deferred Payment Option

A surcharge shall be applied to the monthly bill of an individual customer who has signed an agreement with the Company relating to a deferred payment plan for the cost of service lines less than 2 inches in diameter required to serve the customer's premises. The surcharge shall be a fixed amount per bill and shall be designed to generate sufficient revenue, in less than a five year period, to offset the service line charges required under this rule along with the cost of capital at the Company's authorized rate of return and the appropriate state and federal taxes. The customer shall be required to pay a minimum of $200 of the service cost prior to the commencement of construction. The minimum amount deferred shall be $100 and the maximum amount deferred shall be $1,000. At any time, the customer shall have the option of paying the remaining balance without penalty. The surcharge shall be subject to the Company's Schedule of Rates Governing the Sale of Natural Gas Service regulating payment and collection of charges, including shutoff and termination of service.

Should service be terminated, for any reason, by the contracting customer at the premises being served by the service line subject to a deferred payment option, the unpaid balance shall be included on the final bill rendered to the contracting customer. A security deposit paid by the contracting customer may be applied toward any unpaid balance.

C. *Service Lines 2 Inches or Larger in Diameter*

The charges to the prospective customer shall be equal to the Company's estimated total cost for all facilities between the prospective customer's property line and the meter location, as well as the estimated cost of a curb valve and curb box, a tap on a main or pipeline operating at a pressure of more than 60 psig, and any required upstream regulators, pressure relief and limiting devices, whether installed on public or private property.

A sum of money equal to the estimated charge for the service line installation may be required from the customer at the time the application is accepted by the Company.

(Continued on Sheet No. B-46.00)

SECTION E
RATE SCHEDULES

GENERAL TERMS AND CONDITIONS OF THE RATE SCHEDULES

A. Bills for utility service are subject to MIchigan State Sales Tax. Customers may file a request with the Company for partial or total exemption from the application of sales tax in accordance with the laws of the State of Michigan and the rules of the MIchigan State Department of Treasury.

B. Bills shall be increased within the limits of political subdivisions which levy special taxes, license fees or rentals against the Company's property, or its operation, or the production and/or sale of gas, to offset such special charges and thereby prevent other customers from being compelled to share such local increases.

C. Bills shall be increased to offset any new or increased specific tax or excise imposed by any governmental authority upon the Company's production or sale of gas.

D. *A customer that commences service under any of the Company's rate schedules thereby agrees to abide by all of the applicable rates, rules, terms and conditions contained in this Schedule of Rates Governing the Sale of Natural Gas Service.*

RESIDENTIAL SERVICE RATE A

Availability

Subject to any restrictions, this rate is available to any customer desiring gas service for any usual residential use in: private family dwellings; tourist homes, rooming houses, dormitories, nursing homes and other similarly occupied buildings containing sleeping accommodations for up to six persons; or multifamily dwellings containing two households served through a single meter.

This rate is not available for resale service, multifamily dwellings containing more than two living units served through a single meter or for tourist homes, rooming houses, dormitories, nursing homes and similarly occupied buildings containing sleeping accommodations for more than six persons or for any other nonresidential usage.

Residences in conjunction with commercial or industrial enterprises and mobile home parks may take service on this rate only under the terms and conditions contained in the Company's Gas Rate Schedule.

Monthly Rate

Customer Charge

$6.50 per customer per month, plus

Distribution Charge

$1.2008 per Mcf for all Mcf purchased.

Gas Cost Recovery Charge

The gas cost recovery factors are shown on Sheet No. E-3.00.

General Terms and Surcharges

This rate is subject to all general terms and conditions shown on Sheet No. E-1.00 and surcharges shown on Sheet No. E-2.00.

Minimum Charge

The minimum charge shall be the customer charge included in the rate.

Due Date and Late Payment Charge

The due date of the customer's bill shall be 21 days from the date of mailing. A late payment charge of 2%, not compounded, of the portion of the bill, net of taxes, shall be assessed to any bill that is delinquent. A customer who participates in the Winter Protection Plan or who is 65 years of age or older and who has notified the Company that the customer is 65 years of age or older, shall be exempt from a late payment charge as described in Rule C-6.74.

Term and Form of Contract

Service under this rate shall not require a written contract.

MULTIFAMILY DWELLING SERVICE RATE A-1

Availability

Subject to any restrictions, this rate is available to any existing Rate A-1 multifamily dwelling customer or existing resale customer, and for any new multifamily dwelling installation containing more than two households served through a single meter and where, in the Company's opinion, it is impractical to provide gas service to each household through an individual meter.

This rate is not available for multifamily dwellings containing two households served through a single meter, or for nonresidential usage which includes swimming pool heater usage. All swimming pool heater usage and all other nonresidential usage shall be submetered or separately metered by the customer at his own expense and served on the appropriate General Service Rate.

Monthly Rate

Customer Charge

The charge per customer per month shall be the sum of the following charges:

$6.50 per month, plus
$.0366 per Mcf of excess peak demand, plus

Distribution Charge

$1.2008 per Mcf for all Mcf purchased.

Gas Cost Recovery Charge

The gas cost recovery factors are shown on Sheet No. E-3.00.

General Terms and Surcharges

This rate is subject to all general terms and conditions shown on Sheet No. E-1.00 and surcharges shown on Sheet No. E-2.00.

Minimum Charge

The minimum charge shall be the customer charge included in the rate.

Due Date and Late Payment Charge

The due date of the customer's bill shall be 21 days from the date of mailing. A late payment charge of 2% of the unpaid balance outstanding, net of taxes, shall be assessed to any bill which is not paid in full on or before the due date shown thereon.

(Continued on Sheet No. E-7.00)

GENERAL SERVICE RATE B

Availability

Subject to any restrictions, this rate is available to any customer desiring gas service for any nonresidential usage which includes tourist homes, rooming houses, dormitories, nursing homes and similarly occupied buildings containing sleeping accommodations for more than six persons, and for separately metered swimming pool heater usage. Nonresidential usage would be usage which does not qualify for Rates A or A-1.

This rate is not available for residential usage or for resale purposes.

Monthly Rate

Customer Charge

$15.00 per customer per month, plus

Distribution Charge

$1.0558 per Mcf for all Mcf.

Gas Cost Recovery Charge

The gas cost recovery factors are shown on Sheet No. E-3.00.

General Terms and Surcharges

This rate is subject to all general terms and conditions shown on Sheet No. E-1.00 and surcharges shown on Sheet No. E-2.00.

Minimum Charge

The minimum charge shall be the customer charge included in the rate.

Due Date and Late Payment Charge

The due date of the customer's bill shall be 21 days from the date of mailing. A late payment charge of 2% of the unpaid balance outstanding, net of taxes, shall be assessed to any bill which is not paid in full on or before the due date shown thereon.

Term and Form of Contract

Service under this rate shall not require a written contract.

GENERAL SERVICE RATE C

Availability

Subject to any restrictions, this rate is available to any customer desiring gas service for any nonresidential usage which includes tourist homes, rooming houses, dormitories, nursing homes and similarly occupied buildings containing sleeping accommodations for more than six persons. Gas shall not be purchased under any other rate for any equipment or process which uses gas under this rate.

This rate is not available for residential usage or for resale purposes.

All customers requesting service under this rate shall make written application for such service on a form provided by the Company.

Monthly Rate

Customer Charge

$210.00 per customer per month, plus

Distribution Charge

$.7073 per Mcf for all Mcf.

Gas Cost Recovery Charge

The gas cost recovery factors are shown on Sheet No. E-3.00.

General Terms and Surcharges

This rate is subject to all general terms and conditions shown on Sheet No. E-1.00 and surcharges shown on Sheet No. E-2.00.

Minimum Charge

The minimum charge shall be the customer charge included in the rate.

Due Date and Late Payment Charge

The due date of the customer's bill shall be 21 days from the date of mailing. A late payment charge of 2% of the unpaid balance outstanding, net of taxes, shall be assessed to any bill which is not paid in full on or before the due date shown thereon.

Term and Form of Contract

Service under this rate shall *not* require a written contract.

GENERAL SERVICE INTERRUPTIBLE RATE F

Availability

Subject to any restrictions, this rate is available to any customer who agrees to restrict gas usage under this rate in accordance with the provisions hereof. During the term of the service contract, gas shall not be purchased under any other rate for any equipment or process which uses gas under this rate.

Service under this Schedule is available only at such time or times as, in the sole judgement of the Company, the supply of gas is sufficient for distribution hereunder.

Nature of Service

The customer must agree to the following:

(a) that all gas under this schedule be separately metered;

(b) that gas will not be consumed hereunder in excess of the amount stipulated in the contract;

(c) that standby facilities, and the fuel required for the operation thereof, of sufficient capacity to make possible the interruption of the natural gas supply shall be continuously provided and maintained during the contract period by the customer;

(d) that the use of gas under this Schedule shall be conditioned on and subject to the requirements of present and future firm customers of the Company and to such other uses or sales of gas as the Company shall in its discretion determine to make;

(e) that if at anytime during the contract period it is necessary, in the sole judgement of the Company, to curtail or shut off use of gas hereunder, the Company may, upon not less than thirty days' notice given to customer, limit, curtail, or shut off the supply of gas to the customer; and

(f) that in the event of any emergency which, in the sole judgement of the Company, threatens the continuance of service to the Company's firm customers, the Company may immediately curtail or interrupt service hereunder, by oral notice or otherwise, to the extent, and for such duration, as the Company, in its sole judgement, shall deem necessary.

Hours of Service

Twenty-four hours per day, except when service is curtailed or interrupted as provided in this Schedule.

Monthly Rate

Customer Charge

$1,000 - per month, plus

Distribution Charge

$.6644 per Mcf for all Mcf.

GENERAL SERVICE INTERRUPTIBLE RATE F

(Continued From Sheet No. E-14.00)

Monthly Rate (Contd)

Gas Cost Recovery Charge

The gas cost recovery factors are shown on Sheet No. E-3.00.

General Terms and Surcharges

This rate is subject to all general terms and conditions shown on Sheet No. E-1.00 and surcharges shown on Sheet No. E-2.00.

Unauthorized Gas Usage

If the customer consumes gas in violation of any curtailment, shutoff, or interruption notice given to the customer under the provisions of this rate schedule, all gas taken by the customer shall be considered unauthorized gas usage. Unauthorized gas shall be subject to a penalty charge, with such charge being in addition to the rates set forth in this rate schedule. Charges for such unauthorized gas shall be *$6* per Mcf.

Minimum Charge

The minimum charge shall be the customer charge included in the rate. The monthly customer charge shall be paid during periods of interruption under the provisions of this rate.

Due Date and Late Payment Charge

The due date of the customer's bill shall be 21 days from the date of mailing. A late payment charge of 2% of the unpaid balance outstanding, net of taxes, shall be assessed to any bill which is not paid in full on or before the due date shown thereon.

Term and Form of Contract

All service under this rate shall require a written contract, limited as to time.

SECTION F
TRANSPORTATION SERVICE

F1.-F12. GAS TRANSPORTATION STANDARDS AND BILLING PRACTICES

F1. GENERAL PROVISIONS AND DEFINITIONS

F1.1 Definitions.

As used in this section:

(a) "Account" shall mean customer's facilities and operations directly connected with the individual facilities identified in the transportation contract between the Company and the customer. The gas for each account being measured by a single Company meter.

(b) "Allowance for Use and Loss" is defined in Rule F4.1.D. in this Section F.

(c) "Annual Contract Quantity" (ACQ) means the greatest quantity of gas the Company shall accept for transportation on the customer's behalf for any given year as specified in the contract. The ACQ shall be based on the customer's highest consecutive 12-month usage determined from the latest 24 months of data except that the ACQ may be adjusted for known or expected changes.

(d) "Authorized Tolerance Level" means *8.5%* of the customer's ACQ identified in the transportation contract between the Company and customer.

(e) "Cubic Foot of Gas" means the volume of gas which occupies one cubic foot when such gas is at a temperature of sixty degrees (60°) Fahrenheit and at a pressure base of fourteen and sixty-five hundredths (14.65) psia dry.

(f) "Day" means a period of 24 consecutive hours (23 hours when changing from Standard to Daylight Time and 25 hours when changing back to Standard Time) beginning at 9:00 AM Eastern Time or at such other time as may be mutually agreed.

(g) "Designated Sales Rate" means the rate under which the customer would take service if purchasing system-sales service.

(h) " Gas" means natural gas, manufactured gas or a combination of the two which meets the "quality" standards as specified in Rule F3., Gas Quality, in this Section F.

(I) "Gas Rate Schedule" means the Schedule of Rates Governing the Sale of Natural gas Service as approved by the Michigan Public Service Commission.

(j) "Load Balancing Charge" is defined on the Transportation Service Rate schedules.

(k) "Maximum Daily Quantity" (MDQ) means the greatest quantity of gas that the Company shall accept for transportation on the customer's behalf on any day. The MDQ shall not exceed the customer's peak monthly volume in the last 24 months of s uch service divided by 30 except that the MDQ may be adjusted for known or expected changes.

(l) "MMBtu" means one million Btu.

(m) "Month," except as provided with respect to billing, means a period beginning t 9:00 AM Eastern Time on the first day of a calendar month and ending at 9:00 AM Eastern Time on the first day of the following calendar month or at such other time as may be mutually agreed.

(Continued on Sheet No. F-2.00)

(Continued From Sheet No. F-2.00)

F2.2 **Nominations, Accounting, and Control.**

A. If the customer designates some other party as agent for purposes of nominating, and of giving and receiving notices, the customer shall provide the Company with written notice of such designation. Any such designation shall be effective until revoked in writing by the customer.

B. *All nominations shall be submitted by facsimile or an available electronic nomination system.*

C. **Monthly:** The customer or the customer's authorized representative shall notify the Company before the *end of the fifth business day prior to the start of* each month of the daily quantity of gas (in MMBtu) that the customer is nominating for delivery to the Company during the following month *from any intrastate gas source. For gas supply being nominated from the interstate pipelines, the customer or the customer's authorized representative's notice to the Company shall conform to the interstate pipeline's nomination time constraints.*

If the customer does not submit a nomination by the nomination deadline, the Company will assume the customer's nomination is zero. In the event the customer does not submit a nomination by the nomination date or desires to change a previously submitted nomination prior to the first day of the nominated month, the customer or customer's authorized representative may submit a late nomination up to one business day prior to the first day of the nomination month. Such late nominations will be accepted at the sole discretion of the Company.

D. **Daily:** The customer shall, by telephoning the Company's Gas Control Coordination Center, give the Company at least one *business* day's notice of any proposed change of a daily quantity from that set forth in *C.* above. *Telephone notifications must be confirmed by one of the methods included in B. above.* The Company may waive any part of the notice upon request if, in its judgment, operating conditions permit such waiver. The customer and the Company shall inform each other of any other changes in anticipated deliveries as soon as practicable. Departures from the monthly and daily schedules and hourly variations shall be kept to a minimum as permitted by operating conditions, and the parties' dispatchers shall cooperate to this end.

E. The customer or the customer's authorized representative may transfer a portion of their account balance to another customer. The customer, or the customer's authorized representative, from whom the gas is transferred shall be charged a $25 fee. Such transactions are prospective and may not be used to avoid penalties once charged.

F3. GAS QUALITY

F3.1 **Quality.**

The gas delivered to the Company shall meet the following requirements:

A. Gas shall not contain more than three percent oxygen by volume;

B. Gas shall be commercially free from objectionable odors, solid or liquid matter, dust, gum or gum-forming constituents which might interfere with its merchantability or cause injury to or interference with proper operation of the lines, regulators, meters or other appliances through which it flows;

C. Gas shall not contain more than 0.3 grain of hydrogen sulphide per 100 cubic feet;

D. Gas shall not contain more than 20 grains of total sulfur (including hydrogen sulphide and mercaptan sulfur) per 100 cubic feet;

E. Gas shall not at any time have a carbon dioxide content in excess of two percent by volume;

F. Gas shall not contain an amount of moisture which at any time exceeds seven pounds per million cubic feet;

G. Gas shall be fully "interchangeable" in accordance with the provisions of AGA Research Bulletin No. 36.

F13. AGGREGATION OF ACCOUNTS

Customers may qualify for aggregation of accounts under option A or B below.

Option A: Contiguous Facilities.
When an industrial or commercial customer purchasing gas under General Service Rate Schedules B, C, or F, or a commercial and/or industrial transportation customer transporting gas under Transportation Rate Schedule Nos. ST-1, ST-2, LT-1, or LT-2 occupies a group of buildings or parts of buildings which are exclusively used by such customer as a unitary enterprise under a common ownership or leasehold, the quantities of gas supplied to such buildings or parts of buildings under the same rate schedule will be added for the purpose of determining the amount of the bill which such customer shall receive for service, provided:

(i) The buildings or parts of buildings are situated upon the same parcel or contiguous parcels of land and are exclusively occupied and used by the customer as a unitary enterprise at one location and under one management; or

(ii) The buildings or parts of buildings, separated by a public street or alley (but not including a limited-access highway), are situated upon parcels of land which occupy wholly or in part immediately opposite street frontages on the same street or alley and are exclusively occupied and used by the customer as a unitary enterprise at one location and under one management.

Option B: Master Account.
A customer receiving gas service at multiple facilities under a common ownership may elect to aggregate the quantities of gas supplied to such facilities if the following conditions are met:

(i) The customer must designate one of the facilities as the master account. The master account must be a transportation account (ST-1, ST-2, LT-1, or LT-2).

(ii) Only subsidiary accounts will be eligible for aggregation with the master account. To qualify as a subsidiary account a facility must be served under a sales service rate (Rate A, A-1, B, B-NGV, C, or F). The customer must specify which of the other facilities will be designated as subsidiary accounts.

(iii) The facility designated as the master account shall be subject to and billed under the provisions of its transportation tariff. Facilities designated as subsidiary accounts shall be subject to all the terms and conditions of the master account tariff, except that the subsidiary accounts will pay the customer charge and distribution charge in effect for its designated sales rate rather than than the customer charge and transportation charge in effect for the master account.

SMALL TRANSPORTATION SERVICE RATE ST-1

Availability

Subject to any restrictions, this rate is available to any customer that could otherwise purchase gas under another Company Rate Schedule, except that a customer who has taken service under Small Transportation Service Rate ST-2 is not eligible for a period of *one year* from the date the customer commenced Small Transportation Service Rate ST-2.

A customer selecting transportation service, and not electing to pay the System Supply Entitlement Charge, is not eligible to receive gas under any of the Company's firm gas sales rates for a minimum period of *one year* from the date the customer commenced Small Transportation Service Rate ST-1. General Service Interruptible Rate F is available only at such time or times as, in the sole judgement of the Company, the supply of gas is sufficient for distribution.

Under this rate, the Company shall transport gas for the customer to the interconnections between the Company's facilities and those of the customer (points of delivery) from the interconnections between the Company's facilities and those of a third party that delivers gas to the Company for redelivery to the customer (points of receipt).

A producer or a broker may contract for service on this rate schedule for the transportation of gas from a wellhead through the Company's system to another pipeline, for the transportation of gas from one pipeline to another pipeline or for the transportation of gas from a specified interconnection between the Company's facilities and those of a third party for delivery to a specific customer within the Company's integrated distribution system, provided that all gas transported for a producer or broker pursuant to this rate schedule is consumed in and never leaves the State of Michigan after entering the Company's system.

All customers requesting transportation service under this rate shall make written application for such service on a form provided by the Company.

Monthly Rate

Customer Charge

$750 per account per month

Transportation Charge

$.5293 per Mcf

For all volumes of gas received at the point(s) of receipt in a given month, less the Allowance for Use and Loss.

System Supply Entitlement Charge (SSEC)

$1.00 to $.10 per Mcf as set by the Company from time to time as specified in Rule *F6.2 in the Company's Gas Rate Schedule.*

Authorized Gas Usage Charge

A. A customer who elects to pay the System Supply Entitlement Charge for an Account*(s)* shall be billed at the customer's *Designated* Sales Rate *for* any system supply gas used by such an Account(s) up to the system supply entitlement volume selected by the customer. The Customer Charge and the Administrative Fee shall be that as contained on this Rate ST-1.

B. A customer may *request in advance* to purchase authorized gas *in accordance with* the Company's Gas Rate Schedule. *The Company may grant such request if sufficient supplies are available.* In such instances, the customer shall be billed for such authorized usage at the customer's Designated Sales Rate, plus $1.00 per Mcf. The customer shall pay $.10 per Mcf for any unused volume that the customer received authorization to take. The Customer Charge Fee shall be that as contained on this Rate ST-1.

SMALL TRANSPORTATION SERVICE RATE ST-1

(Continued From Sheet No. F-7.00)

Monthly Rate (Contd)

Unauthorized Gas Usage Charge

A customer who declined to pay the System Supply Entitlement Charge for an Account(s) and who has not obtained authorized access to the Company's system supply for such Account(s) shall pay an Unauthorized Gas Usage Charge for any unauthorized volumes taken. Such charge shall be the customer's Designated Sales Rate plus $6 per Mcf for all gas taken by the customer in excess of the cumulative volume delivered to the Company (less gas used by the customer less the Allowance for Use and Loss) on behalf of the customer.

Monthly withdrawals from storage during November through March will be limited to 3% of the transportation customer's ACQ and its allowed Contract Storage Volume (CSV). If in any month the volume of gas received by the Company, less the allowance for gas-in-kind plus 3% of the transportation customer's ACQ and its allowed CSV is less than the volume of gas taken by the customer at the points of delivery, then the excess delivery will be treated as unauthorized gas usage and subject to the "Unauthorized Gas Usage Charge".

Load Balancing Charge

A customer shall be charged *$.25* per MMBtu for any month-end balance of gas that exceeds *the sum of its* Authorized Tolerance Level *(ATL) plus its contract storage volume. In addition, there is a* 2.0 percent gas-in-kind for fuel *used for injection,* for any month-end balance of gas that exceeds the authorized tolerance level *and is in excess of the prior month-end balance.*

The injection of gas into the customer's ATL and additional CSV, if any, shall be limited to 1.43% of the customer's ACQ and its allowed CSV during the months of September and October, without approval from the Company. Injections in excess of this limit will be charged the Load Balancing Charge.

Excess Pipeline Costs Surcharge

This surcharge shall be assessed to the customer.

Liquified Natural Gas (LNG) Settlement Surcharge

$.05 to $0 per Mcf as set by the Company from time to time as specified in Rule F11. in the Company's Gas Rate Schedule.

(Continued on Sheet No. F-8.10)

SMALL TRANSPORTATION SERVICE RATE ST-1

(Continued From Sheet No. F-8.00)

Monthly Rate (Contd)

Energy Conservation Surcharges

A. Department of Social Services (DSS) and Low-Income Conservation Program

$.0008 per Mcf as specified in Rule F12. in the Company's Gas Rate Schedule.

B. Energy Conservation Programs (Excluding the DSS and Low-Income Conservation Program)

As specified in Rule F12. in the Company's Gas Rate Schedule, the following surcharges have been approved:

Residential	$.0251 per Mcf
Commercial	.0476 per Mcf
Industrial	.0150 per Mcf

Due Date and Late Payment Charge

The due date of the customer's bill shall be 21 days from the date of mailing. A late payment charge of 2% of the unpaid balance outstanding, net of taxes, shall be assessed to any bill which is not paid in full on or before the due date shown thereon.

General Terms and Conditions

This rate is subject to all general terms and conditions shown on Sheet No. E-1.00 of the Company's Gas Rate Schedule.

Term and Form of Contract

All service under this rate shall require a written contract with a minimum term of *one year and month-to-month thereafter* which must be approved by an officer of the Company or a duly authorized agent before it shall be binding upon the Company. A customer may cancel this contract at the end of any month in order to take service under Small Transportation Service Rate ST-2. *A customer eligible to request a return to sales rates must provide a minimum of 12 months written notice of their intent to return to sales rates. The Company reserves the right to deny return to sales rates subject to the Company's Controlled Service Rule, B3.*

SMALL TRANSPORTATION SERVICE RATE ST-2

Availability

Subject to any restrictions, this rate is available to any customer that could otherwise purchase gas under another Company Rate Schedule, except that a customer who has taken service under this rate is not eligible for Small Transportation Service Rate ST-1 for a period of one year from the date the customer commenced Small Transportation Service Rate ST-2.

A customer selecting transportation service, and not electing to pay the System Supply Entitlement Charge, is not eligible to receive gas under any of the Company's firm gas sales rates for a minimum period of *one year* from the date the customer commenced transportation service. General Service Interruptible Rate F is available only at such time or times as, in the sole judgement of the Company, the supply of gas is sufficient for distribution.

Under this rate, the Company shall transport gas for the customer to the interconnections between the Company's facilities and those of the customer (points of delivery) from the interconnections between the Company's facilities and those of a third party that delivers gas to the Company for redelivery to the customer (points of receipt).

A producer or a broker may contract for service on this rate schedule for the transportation of gas from a wellhead through the Company's system to another pipeline, for the transportation of gas from one pipeline to another pipeline or for the transportation of gas from a specified interconnection between the Company's facilities and those of a third party for delivery to a specific customer within the Company's integrated distribution system, provided that all gas transported for a producer or broker pursuant to this rate schedule is consumed in and never leaves the State of Michigan after entering the Company's system.

All customers requesting transportation service under this rate shall make written application for such service on a form provided by the Company.

Monthly Rate

Customer Charge

$750 per account per month

Transportation Charge

$.8286 to *$.2300* per Mcf

For all volumes of gas received at the point(s) of receipt in a given month, less the Allowance for Use and Loss.

System Supply Entitlement Charge (SSEC)

$1.00 to $.10 per Mcf as set by the Company from time to time as specified in Rule F6.2 in the Company's Gas Rate Schedule.

Authorized Gas Usage Charge

A. A customer who elects to pay the System Supply Entitlement Charge for an Account(s) shall be billed at the customer's Designated Sales Rate for any system supply gas used by such an Account(s) up to the system supply entitlement volume selected by the customer. The Customer Charge and the Administrative Fee shall be that as contained on this Rate ST-2.

B. A customer may *request in advance* to purchase authorized gas *in accordance with* the Company's Gas Rate Schedule. *The Company may grant such request if sufficient supplies are available.* In such instances, the customer shall be billed for such authorized usage at the customer's Designated Sales Rate, plus $1.00 per Mcf. The customer shall pay $.10 per Mcf for any unused volume that the customer received authorization to take. The Customer Charge shall be that as contained on this Rate ST-2.

(Continued on Sheet No. F-10.00)

SMALL TRANSPORTATION SERVICE RATE ST-2

(Continued From Sheet No. F-9.00)

Monthly Rate (Contd)

Unauthorized Gas Usage Charge

A customer who declined to pay the System Supply Entitlement Charge for an Account(s) and who has not obtained authorized access to the Company's system supply for such Account(s) shall pay an Unauthorized Gas Usage Charge for any unauthorized volumes taken. Such charge shall be the customer's Designated Sales Rate plus *$6* per Mcf for all gas taken by the customer in excess of the cumulative volume delivered to the Company (less gas used by the customer less the Allowance for Use and Loss) on behalf of the customer.

Monthly withdrawals from storage during November through March will be limited to 3% of the transportation customer's ACQ and its allowed Contract Storage Volume (CSV). If in any month the volume of gas received by the Company, less the allowance for gas-in-kind plus 3% of the transportation customer's ACQ and its allowed CSV is less than the volume of gas taken by the customer at the points of delivery, then the excess delivery will be treated as unauthorized gas usage and subject to the "Unauthorized Gas Usage Charge".

Load Balancing Charge

A customer shall be charged *$.25* per MMBtu for any month-end balance of gas that exceeds the *sum of its* Authorized Tolerance Level *(ATL) and its contract storage volume. In addition, there is a* 2.0 percent gas-in-kind for fuel *used for injection*, for any month-end balance of gas that exceeds the *ATL and is in excess of the prior month-end balance.*

The injection of gas into the customer's ATL and additional CSV, if any, shall be limited to 1.43% of the customer's ACQ and its allowed CSV during the months of September and October, without approval from the Company. Injections in excess of this limit will be charged the Load Balancing Charge.

Excess Pipeline Costs Surcharge

This surcharge shall be assessed to the customer.

Liquified Natural Gas (LNG) Settlement Surcharge

$.05 to $0 per Mcf as set by the Company from time to time as specified in Rule F11. in the Company's Gas Rate Schedule.

Energy Conservation Surcharge

$.0006 per Mcf for the Department of Social Services (DSS) and Low-Income Conservation Program as specified in Rule F12. in the Company's Gas Rate Schedule.

Due Date and Late Payment Charge

The due date of the customer's bill shall be 21 days from the date of mailing. A late payment charge of 2% of the unpaid balance outstanding, net of taxes, shall be assessed to any bill which is not paid in full on or before the due date shown thereon.

(Continued on Sheet No. F-10.10)

SMALL TRANSPORTATION SERVICE RATE ST-2

(Continued From Sheet No. F-10.00)

General Terms and Conditions

This rate is subject to all general terms and conditions shown on Sheet No. E-1.00 of the Company's Gas Rate Schedule.

Term and Form of Contract

All service under this rate shall require a written contract with a minimum term of *one year and month-to-month thereafter* which must be approved by an officer of the Company or a duly authorized agent before it shall be binding upon the Company. *A customer eligible to request a return to sales rates must provide a minimum of 12 months written notice of their intent to return to sales rates. The Company reserves the right to deny return to sales rates subject to the Company's ability to secure additional gas supplies.*

LARGE TRANSPORTATION SERVICE RATE LT-1

Availability

Subject to any restrictions, this rate is available to any customer that could otherwise purchase gas under another Company Rate Schedule, except that a customer who has taken service under Large Transportation Service Rate LT-2 is not eligible for a period of *one year* from the date the customer commenced Large Transportation Service Rate LT-2.

A customer selecting transportation service, and not electing to pay the System Supply Entitlement Charge, is not eligible to receive gas under any of the Company's firm gas sales rates for a minimum period of *one year* from the date the customer commenced Large Transportation Service Rate LT-1. General Service Interruptible Rate F is available only at such time or times as, in the sole judgement of the Company, the supply of gas is sufficient for distribution.

Under this rate, the Company shall transport gas for the customer to the interconnections between the Company's facilities and those of the customer (points of delivery) from the interconnections between the Company's facilities and those of a third party that delivers gas to the Company for redelivery to the customer (points of receipt).

A producer or a broker may contract for service on this rate schedule for the transportation of gas from a wellhead through the Company's system to another pipeline, for the transportation of gas from one pipeline to another pipeline or for the transportation of gas from a specified interconnection between the Company's facilities and those of a third party for delivery to a specific customer within the Company's integrated distribution system, provided that all gas transported for a producer or broker pursuant to this rate schedule is consumed in and never leaves the State of Michigan after entering the Company's system.

All customers requesting transportation service under this rate shall make written application for such service on a form provided by the Company.

Monthly Rate

Customer Charge

$1,300 per account per month

Transportation Charge

$.4633 per Mcf

For all volumes of gas received at the point(s) of receipt in a given month, less the Allowance for Use and Loss.

System Supply Entitlement Charge (SSEC)

$1.00 to $.10 per Mcf as set by the Company from time to time as specified in Rule F6.2 in the Company's Gas Rate Schedule.

Authorized Gas Usage Charge

A. A customer who elects to pay the System Supply Entitlement Charge for an Account(s) shall be billed at the customer's Designated Sales Rate for any system supply gas used by such an Account(s) up to the system supply entitlement volume selected by the customer. The Customer Charge and the Administrative Fee shall be that as contained on this Rate ST-1.

B. A customer may *request in advance* to purchase authorized gas *in accordance with* the Company's Gas Rate Schedule. *The Company may grant such request if sufficient supplies are available.* In such instances, the customer shall be billed for such authorized usage at the customer's Designated Sales Rate, plus $1.00 per Mcf. The customer shall pay $.10 per Mcf for any unused volume that the customer received authorization to take. The Customer Charge and the Administrative Fee shall be that as contained on this Rate LT-1.

LARGE TRANSPORTATION SERVICE RATE LT-1

Monthly Rate (Contd)

Unauthorized Gas Usage Charge

A customer who declined to pay the System Supply Entitlement Charge for an Account(s) and who has not obtained authorized access to the Company's system supply for such Account(s) shall pay an Unauthorized Gas Usage Charge for any unauthorized volumes taken. Such charge shall be the customer's Designated Sales Rate plus $6 per Mcf for all gas taken by the customer in excess of the cumulative volume delivered to the Company (less gas used by the customer less the Allowance for Use and Loss) on behalf of the customer.

Monthly withdrawals from storage during November through March will be limited to 3% of the transportation customer's ACQ and its allowed Contract Storage Volume (CSV). If in any month the volume of gas received by the Company, less the allowance for gas-in-kind plus 3% of the transportation customer's ACQ and its allowed CSV is less than the volume of gas taken by the customer at the points of delivery, then the excess delivery will be treated as unauthorized gas usage and subject to the "Unauthorized Gas Usage Charge".

Load Balancing Charge

A customer shall be charged *$.25* per MMBtu for any month-end balance of gas that exceeds *the sum of its* Authorized Tolerance Level *(ATL) plus its contract storage volume. In addition, there is a* 2.0 percent gas-in-kind for fuel *used for injection,* for any month-end balance of gas that exceeds the authorized tolerance level *and is in excess of the prior month-end balance.*

The injection of gas into the customer's ATL and additional CSV, if any, shall be limited to 1.43% of the customer's ACQ and its allowed CSV during the months of September and October, without approval from the Company. Injections in excess of this limit will be charged the Load Balancing Charge.

Excess Pipeline Costs Surcharge

This surcharge shall be assessed to the customer.

Liquified Natural Gas (LNG) Settlement Surcharge

$.05 to $0 per Mcf as set by the Company from time to time as specified in Rule F11. in the Company's Gas Rate Schedule.

(Continued on Sheet No. F-8.10)

LARGE TRANSPORTATION SERVICE RATE LT-1

(Continued From Sheet No. F-0.00)

Monthly Rate (Contd)

Energy Conservation Surcharges

A. Department of Social Services (DSS) and Low-Income Conservation Program

$.0008 per Mcf as specified in Rule F12. in the Company's Gas Rate Schedule.

B. Energy Conservation Programs (Excluding the DSS and Low-Income Conservation Program)

As specified in Rule F12. in the Company's Gas Rate Schedule, the following surcharges have been approved:

Residential	$.0251 per Mcf
Commercial	.0476 per Mcf
Industrial	.0150 per Mcf

Due Date and Late Payment Charge

The due date of the customer's bill shall be 21 days from the date of mailing. A late payment charge of 2% of the unpaid balance outstanding, net of taxes, shall be assessed to any bill which is not paid in full on or before the due date shown thereon.

General Terms and Conditions

This rate is subject to all general terms and conditions shown on Sheet No. E-1.00 of the Company's Gas Rate Schedule.

Term and Form of Contract

All service under this rate shall require a written contract with a minimum term of *one year and month-to-month thereafter* which must be approved by an officer of the Company or a duly authorized agent before it shall be binding upon the Company. A customer may cancel this contract at the end of any month in order to take service under Large Transportation Service Rate LT-2. *A customer eligible to request a return to sales rates must provide a minimum of 12 months written notice of their intent to return to sales rates. The Company reserves the right to deny return to sales rates subject to the Company's Controlled Service Rule, B3.*

LARGE TRANSPORTATION SERVICE RATE LT-2

Availability

Subject to any restrictions, this rate is available to any customer that could otherwise purchase gas under another Company Rate Schedule, except that a customer who has taken service under this rate is not eligible for Large Transportation Service Rate LT-1 for a period of one year from the date the customer commenced Large Transportation Service Rate LT-2.

A customer selecting transportation service, and not electing to pay the System Supply Entitlement Charge, is not eligible to receive gas under any of the Company's firm gas sales rates for a minimum period of *one year* from the date the customer commenced transportation service. General Service Interruptible Rate F is available only at such time or times as, in the sole judgement of the Company, the supply of gas is sufficient for distribution.

Under this rate, the Company shall transport gas for the customer to the interconnections between the Company's facilities and those of the customer (points of delivery) from the interconnections between the Company's facilities and those of a third party that delivers gas to the Company for redelivery to the customer (points of receipt).

A producer or a broker may contract for service on this rate schedule for the transportation of gas from a wellhead through the Company's system to another pipeline, for the transportation of gas from one pipeline to another pipeline or for the transportation of gas from a specified interconnection between the Company's facilities and those of a third party for delivery to a specific customer within the Company's integrated distribution system, provided that all gas transported for a producer or broker pursuant to this rate schedule is consumed in and never leaves the State of Michigan after entering the Company's system.

All customers requesting transportation service under this rate shall make written application for such service on a form provided by the Company.

Monthly Rate

Customer Charge

$1,300 per account per month

Transportation Charge

$.6966 to *$.2300* per Mcf

For all volumes of gas received at the point(s) of receipt in a given month, less the Allowance for Use and Loss.

System Supply Entitlement Charge (SSEC)

$1.00 to $.10 per Mcf as set by the Company from time to time as specified in Rule F6.2 in the Company's Gas Rate Schedule.

Authorized Gas Usage Charge

A. A customer who elects to pay the System Supply Entitlement Charge for an Account(s) shall be billed at the customer's Designated Sales Rate for any system supply gas used by such an Account(s) up to the system supply entitlement volume selected by the customer. The Customer Charge and the Administrative Fee shall be that as contained on this Rate LT-2.

B. A customer may *request in advance* to purchase authorized gas *in accordance with* the Company's Gas Rate Schedule. *The Company may grant such request if sufficient supplies are available.* In such instances, the customer shall be billed for such authorized usage at the customer's Designated Sales Rate, plus $1.00 per Mcf. The customer shall pay $.10 per Mcf for any unused volume that the customer received authorization to take. The Customer Charge shall be that as contained on this Rate LT-2.

LARGE TRANSPORTATION SERVICE RATE LT-2

Monthly Rate (Contd)

Unauthorized Gas Usage Charge

A customer who declined to pay the System Supply Entitlement Charge for an Account(s) and who has not obtained authorized access to the Company's system supply for such Account(s) shall pay an Unauthorized Gas Usage Charge for any unauthorized volumes taken. Such charge shall be the customer's Designated Sales Rate plus *$6* per Mcf for all gas taken by the customer in excess of the cumulative volume delivered to the Company (less gas used by the customer less the Allowance for Use and Loss) on behalf of the customer.

Monthly withdrawals from storage during November through March will be limited to 3% of the transportation customer's ACQ and its allowed Contract Storage Volume (CSV). If in any month the volume of gas received by the Company, less the allowance for gas-in-kind plus 3% of the transportation customer's ACQ and its allowed CSV is less than the volume of gas taken by the customer at the points of delivery, then the excess delivery will be treated as unauthorized gas usage and subject to the "Unauthorized Gas Usage Charge".

Load Balancing Charge

A customer shall be charged *$.25* per MMBtu for any month-end balance of gas that exceeds the *sum of its* Authorized Tolerance Level *(ATL) and its contract storage volume. In addition, there is a* 2.0 percent gas-in-kind for fuel *used for injection*, for any month-end balance of gas that exceeds the *ATL and is in excess of the prior month-end balance.*

The injection of gas into the customer's ATL and additional CSV, if any, shall be limited to 1.43% of the customer's ACQ and its allowed CSV during the months of September and October, without approval from the Company. Injections in excess of this limit will be charged the Load Balancing Charge.

Excess Pipeline Costs Surcharge

This surcharge shall be assessed to the customer.

Liquified Natural Gas (LNG) Settlement Surcharge

$.05 to $0 per Mcf as set by the Company from time to time as specified in Rule F11. in the Company's Gas Rate Schedule.

Energy Conservation Surcharge

$.0006 per Mcf for the Department of Social Services (DSS) and Low-Income Conservation Program as specified in Rule F12. in the Company's Gas Rate Schedule.

Due Date and Late Payment Charge

The due date of the customer's bill shall be 21 days from the date of mailing. A late payment charge of 2% of the unpaid balance outstanding, net of taxes, shall be assessed to any bill which is not paid in full on or before the due date shown thereon.

(Continued on Sheet No. F-10.10)

LARGE TRANSPORTATION SERVICE RATE LT-2

General Terms and Conditions

This rate is subject to all general terms and conditions shown on Sheet No. E-1.00 of the Company's Gas Rate Schedule.

Term and Form of Contract

All service under this rate shall require a written contract with a minimum term of *one year and month-to-month thereafter* which must be approved by an officer of the Company or a duly authorized agent before it shall be binding upon the Company. *A customer eligible to request a return to sales rates must provide a minimum of 12 months written notice of their intent to return to sales rates. The Company reserves the right to deny return to sales rates subject to the Company's ability to secure additional gas supplies.*

CONTRACT STORAGE SERVICE RATE CS

Availability

Subject to any restrictions, this rate is available to any customer desiring storage service provided the Company has determined that it has sufficient available and uncommitted storage capacity to perform the service requested.

Delivery of gas into or out of storage may be subject to interruption at the sole discretion of the Company.

A customer requesting service on this rate shall make written application for such service on a form provided by the Company. A storage agreement shall also be required.

Monthly Rate

Administrative Fee

$200 per account per month, plus

Storage Charge

$0.20 per Mcf to $1.50 per Mcf, as negotiated.

Unauthorized Gas Usage Charge

The Company is authorized to charge storage customers for deliveries to, or redeliveries from, storage in excess of the maximum volumes set forth in the storage agreement. The penalty rates shall not exceed the sum of $6.00 per Mcf plus the currently effective Gas Cost Recovery Factor.

Fuel Used for Injection

All volumes placed in storage shall be subject to a 2.0 percent gas-in-kind for fuel used for injection.

Due Date and Late Payment Charge

The due date of the customer's bill shall be not more than 21 days from the date of mailing. A late payment charge of 2% of the unpaid balance outstanding, net of taxes, shall be assessed to any bill which is not paid in full on or before the due date shown thereon.

General Terms and Conditions

This rate is subject to all general terms and conditions shown on Sheet No. E-1.00 of the Company's Gas Rate Schedule.

Term and Form of Contract

All service under this rate shall require a written contract which must be approved by an officer of the Company or a duly authorized agent before it shall be binding upon the Company.