

S T A T E O F M I C H I G A N
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter, on the Commission's own)
motion, of the rates and tariffs of)
MICHIGAN CONSOLIDATED GAS COMPANY)
regarding gas transportation service)
and related matters.)

Case No. U-8635

At a session of the Michigan Public Service Commission held at its offices in the city of Lansing, Michigan, on the 17th day of December, 1986.

PRESENT: Hon. William E. Long, Chairperson
Hon. Edwyna G. Anderson, Commissioner
Hon. Matthew E. McLogan, Commissioner

ORDER AND NOTICE OF HEARING

On September 26, 1984, in response to an application for rulemaking by the Association of Businesses Advocating Tariff Equity (ABATE), the Commission initiated an inquiry in Case No. U-7991 for the purpose of determining whether the Commission should develop, by rulemaking or otherwise, a policy governing the provision of transportation service by gas distribution utilities. Pursuant to that order, three days of public hearings were held during which testimony was received from ten witnesses. Briefs were filed by six parties and reply briefs were filed by five parties. Today, the Commission is concurrently issuing an order in Case No. U-7991 which, together with this case, will establish the Commission's policy covering the provision of transportation service. Since the close of the record in Case No. U-7991, the Commission recognizes that many events have occurred at the federal level as well as within Michigan that have affected or could significantly affect the transportation of gas.

On October 9, 1985, the Federal Energy Regulatory Commission (FERC) issued Order No. 436, which substantially modified the basic structure of the natural gas industry in the United States. In essence, that order permits interstate pipelines to become, at their option, open access transporters, which would enable the pipelines to provide non-discriminatory transportation service under liberalized regulatory procedures. On February 11, 1986, the Commission requested further comments on the effects of Order No. 436 on the gas transportation issues considered in Case No. U-7991. Those comments were received on April 15, 1986.

The Commission is participating as an intervenor in cases before the FERC involving the efforts of ANR Pipeline Company, Panhandle Eastern Pipe Line Company and Trunkline Gas Company to become open access transporters under Order No. 436. To date, none of the interstate pipeline companies serving local distribution companies in Michigan have received final FERC authority to provide open access transportation under Order No. 436.

On June 6, 1986, the Commission Staff (Staff) prepared A Report on Natural Gas Transportation in Michigan. This report brought together current issues on transportation in one document and has been used as a vehicle to generate additional and timely input from end users, local distribution companies (LDCs) and other parties interested in gas transportation in Michigan.

At its August 26, 1986 study session on transportation, the Commission encouraged the Staff to take an active role in working with the various individuals and organizations interested in transportation to identify issues that may come before the Commission and to attempt to resolve or reach settlement positions. The Commission appreciates the Staff's effort and the participation and comments of the various individuals and organizations that represent a broad

spectrum of the gas industry and natural gas end users.

The following is a summary of the Commission's decision in Case No. U-7991 as well as its desired policy and timing of future transportation activities. The Commission reached its decision after reviewing the record in Case No. U-7991, considering the comments received from interested parties as a result of the distribution of and meetings concerning the June 6, 1986 Staff report on transportation, and as a result of information in the Commission's files and the Commission's ongoing working relationship with the Staff and others.

1. The Commission believes it would be undesirable and inappropriate to promulgate rules under the Administrative Procedures Act covering the provisions of transportation service by gas distribution utilities or other common or contract carriers.
2. The Commission believes it would be undesirable and inappropriate to develop flexible guidelines covering the provision of transportation service by gas distribution utilities or other common or contract carriers.
3. The Commission believes it would be most appropriate to permit the various parties, in future cases, to raise issues and take positions on matters that may affect the level of any transportation rate or any related transportation charges or that may affect any conditions of transportation service. The Commission encourages the parties to any transportation case to engage in early discovery and, to the extent possible, to minimize the number of contested issues by settlement or agreement on various issues.
4. The Commission believes it would be appropriate and in the public interest to take an active role in addressing the relationship and related effects of any transportation rate, charge or condition of service on a utility's remaining captive gas sales customers. Transportation rates should reflect a fair allocation of the offering utility's total system costs so that there will be no subsidization of transportation rates by sales customers.
5. The Commission believes it would be in the public interest for utilities to provide end user transportation services with rates and charges in an unbundled manner that would permit particular types of end users to choose services appropriate for their needs.

6. The Commission believes it would be appropriate to design flexible transportation rates and charges to permit the offering utility to maximize revenues received under such transportation rates and charges.
7. The Commission believes it would be inappropriate to wait until all transportation issues at the federal level are resolved before it commences proceedings to address transportation matters in Michigan. However, the Commission recognizes that certain FERC decisions will have an impact on a utility's overall operation and longer term structural changes relating to a utility's gas purchasing arrangements will eventually have an impact on both gas sales rates and transportation rates, as well as conditions of gas sales service and gas transportation service.
8. The Commission believes it would be appropriate to establish end user transportation rates, fees and conditions of transportation service under the Commission's general regulatory authority over public utilities as discussed later in this order, rather than continue with the current method of accomplishing gas transportation in Michigan under 1929 PA 9 (Act 9).
9. The Commission believes that, until such time as there is a need to specifically address utility transportation rates for other utilities' system supply, it would be appropriate for those transportation rates to be continued under the provision of Act 9 by filing related contracts with the Commission.
10. The Commission believes it would be appropriate to place other Michigan utilities regulated by this Commission on notice that over the next several months this Commission intends to issue orders and notices of hearing, similar to this Order and Notice of Hearing, commencing proceedings for those utilities that have not voluntarily applied for Commission approval of rates and tariffs regarding gas transportation service and related matters, in a manner consistent with the Commission decision in Case No. U-7991 and this Order and Notice of Hearing.

The Commission's authority for regulating the rates charged for the transportation of natural gas is well grounded. Act 9 vests the Commission with the authority to regulate "corporations, associations or persons engaged in the business of carrying and transporting natural gas." Section 6 of Act 9 provides:

"All corporations, associations and persons, purchasing or collecting natural gas and transmitting or conveying the same for hire, compensation or otherwise by pipeline or lines as a common carrier shall be a common carrier thereof as at common law, and it shall be unlawful for any such common carrier doing business within this state to give, either directly or indirectly, any preference or advantage to any person, copartnership, corporation or locality, in any respect whatsoever as to rates, service, facilities for service or commodity delivered."

Section 10 of Act 9 requires every common carrier of natural gas acting as a carrier for hire to file with the Commission a schedule of the rates and charges that it will assess for the service it performs, together with related contracts for such service. Any subsequent change in the filed rates and charges must be approved by the Commission. Michigan Consolidated Gas Company (Mich Con) has filed contracts covering transportation service pursuant to Section 10.

The Commission also derives jurisdiction over gas transportation through its general regulatory authority over public utilities. Section 6 of 1939 PA 3 (Act 3), which created the Public Service Commission, provides in part:

"The Michigan public service commission is hereby vested with complete power and jurisdiction to regulate all public utilities in the state except any municipally owned utility and except as otherwise restricted by law. It is hereby vested with power and jurisdiction to regulate all rates, fares, fees, charges, services, rules, conditions of service and all other matters pertaining to the formation, operation or direction of such public utilities. It is further granted the power and jurisdiction to hear and pass upon all matters pertaining to or necessary or incident to such regulation of all public utilities, including electric light and power companies, whether private, corporate or cooperative, gas companies, water, telephone, telegraph, oil, gas and pipeline companies, motor carriers, and all public transportation and communication agencies other than railroads and railroad companies."

Act 3 also transferred to this Commission, all rights, powers and duties of the former Public Utilities Commission. The Public Utilities Commission was created by 1919 PA 419, which provides in Section 4 that:

"In addition to the rights, powers and duties vested in an imposed on said commission by the preceding section, its jurisdiction shall be deemed to extend to and include the control and regulation, including the fixing of rates and charges, of all public utilities within this state producing, transmitting, delivering or furnishing steam for heating or power, or gas for heating or lighting purposes for the public use."

The Commission has routinely used its authority under Act 3 to regulate rates and charges for gas sales by utilities under the Commission's jurisdiction. Because of the open access provisions of FERC Order No. 436 and other FERC decisions, gas transportation is becoming a significant factor in providing utility service and the rates and charges for gas transportation should be regulated in the same manner as gas sales.

In view of the foregoing, the Commission is commencing a contested case proceeding to address the issues specified below for the purpose of developing appropriate rates, charges and conditions of service for Mich Con relating to the provision of gas transportation service.

The issues to be addressed at the contested case hearing shall include, but not be limited to:

1. The design of transportation rates and charges, including the following:
 - a. Firm and interruptible service
 - b. Storage/load balancing charges
 - c. Flexible rates with maximums and minimums
 - d. Pipeline fixed cost charges
 - e. Standby charges
 - f. Supply commitment charge
 - g. Capacity reservation charge
 - h. Any other appropriate charges
2. The appropriateness and justification of any minimum requirements to qualify for transportation service.

3. Modification of existing tariffs to accommodate transportation service, including gas sales restriction and gas curtailment procedures.
4. New tariffs for use in providing transportation service including the following:
 - a. Conditions and receipt and delivery
 - b. Scheduling and notification
 - c. Quality standards
 - d. Measurement
 - e. Billing and payment
 - f. Responsibility during transportation
 - g. Use and loss
 - h. Any other appropriate tariff
5. The interrelationship between transportation and gas supply planning, including the effect upon the company's Gas Cost Recovery Plan.
6. The effect of transportation upon the utility's obligation to serve.
7. Any other issues that are relevant to transportation service.

The Commission FINDS that:

- a. Jurisdiction is pursuant to 1909 PA 300, as amended, MCLA 462.2 et seq.; 1919 PA 419, as amended, MCLA 460.51 et seq.; 1929 PA 9, as amended, MCLA 483.101 et seq.; 1939 PA 3, as amended, MCLA 460.1 et seq.; 1969 PA 306, as amended, MCLA 24.201 et seq.; and the Commission's Rules of Practice and Procedure, 1979 Administrative Code, R 460.11 et seq.
- b. A contested case hearing should be held for the purpose of developing appropriate rates, charges and conditions of service for Mich Con relating to the provision of gas transportation service.

THEREFORE, IT IS ORDERED that:

A. A prehearing conference will be held at 9:00 a.m. on March 17, 1987, in the offices of the Commission, Mercantile Building, 6545 Mercantile Way, Lansing, Michigan.

B. Michigan Consolidated Gas Company shall file prepared testimony on or before March 6, 1987. Testimony shall address at least all of the issues discussed above in the scope of the proceedings. The Administrative Law Judge is responsible for setting the schedule in this case; however, the Commission Staff shall not be required to file prepared testimony any sooner than 30 days after the date set for intervenors to file their prepared testimony.

C. Michigan Consolidated Gas Company shall, on or before January 30, 1987, mail a copy of this Order and Notice of Hearing to all cities, incorporated villages, townships and counties in its gas service area, as well as to all intervenors or parties who appeared in Cases Nos. U-8109, U-8565 and U-7991. Proof of Service shall be filed at or before the prehearing conference on March 17, 1987.

D. Michigan Consolidated Gas Company shall cause to be published, on or before January 30, 1987, a Notice of Hearing in daily newspapers of general circulation throughout its gas service area which shall set forth the substance of this Order and Notice of Hearing. Affidavits of Publication shall be filed at or before the prehearing conference.

E. The Executive Secretary of the Commission shall, on or before January 30, 1987, mail a copy of this Order and Notice of Hearing to those interested parties who submitted comments on the Staff's Report on Natural Gas Transportation in Michigan and to those who submitted comments to the Staff as a result of its general meeting on end user transportation issues. The Executive

Secretary is relieved from mailing copies of this Order and Notice of hearing to parties who will receive a copy of it pursuant to ordering paragraph C of this order.

F. Any person seeking to intervene in accordance with Rule 11 of the Rules of Practice and Procedure Before the Commission shall file with the Commission, on or before February 27, 1987, an original and 12 copies of a Petition to Intervene.

G. Michigan Consolidated Gas Company shall, on or before March 6, 1987, serve upon each person who has petitioned to intervene in accordance with Rule 11, a copy of the written direct testimony of its proposed witnesses and the proposed exhibits as filed with the Commission. Proof of Service shall be filed with the Commission on or before March 17, 1987.

The Commission specifically reserves jurisdiction of the matters herein contained and the authority to issue such further order or orders as the facts and circumstances may require.

Any party desiring to appeal this order must perfect an appeal to the Ingham County Circuit Court within 30 days after issuance and notice of this order, pursuant to MCLA 426.62.

MICHIGAN PUBLIC SERVICE COMMISSION

/s/ William E. Long
Chairperson

(S E A L)

/s/ Edwyna G. Anderson
Commissioner

/s/ Matthew E. McLogan
Commissioner

By the Commission and pursuant to its action of December 17, 1986.

/s/ Bruce R. Maughan
Its Secretary