

STATE OF MICHIGAN
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 CONSUMERS POWER COMPANY regarding
gas transportation service and related
matters.

Case No. U-8678 ✓

In the matter of the application of
CONSUMERS POWER COMPANY for authority
to increase its rates for the sale of
gas.

Case No. U-8924

In the matter of the application of
CONSUMERS POWER COMPANY for accounting
and ratemaking approval of depreciation
practices for gas utility plant.

Case No. U-9197

At a session of the Michigan Public Service Commission held at its offices
in the city of Lansing, Michigan, on the 7th day of December, 1989.

PRESENT: Hon. William E. Long, Chairperson
Hon. Steven M. Fetter, Commissioner
Hon. Ronald E. Russell, Commissioner

OPINION AND ORDER REVISING DEPRECIATION PRACTICES

I.

HISTORY OF PROCEEDINGS

On August 15, 1988, Consumers Power Company (Consumers) filed an applica-
tion for accounting and ratemaking approval of revised depreciation practices
for the company's gas utility plant. Consumers is a combination gas and elec-
tric utility that serves a substantial portion of the state of Michigan. Con-
sumers' depreciation practices were last revised by an order dated March 13,
1984 in Case No. U-7614.

Pursuant to due notice, hearings began before Administrative Law Judge James N. Rigas (ALJ) on October 13, 1988. Consumers, the Commission Staff (Staff), Attorney General Frank J. Kelley (Attorney General), and the Association of Businesses Advocating Tariff Equity (ABATE) participated in the proceedings. The ALJ issued his Proposal for Decision (PFD) on May 25, 1989. Consumers, the Attorney General, and ABATE filed exceptions. Consumers and the Staff filed replies. The record consists of 305 pages of transcript and 11 exhibits. (Exhibit A-9 was not offered into evidence.)

II.

CONSUMERS' ADDITIONAL WITNESS

On February 6, 1989, Consumers filed a motion for permission to present an additional witness. The Staff, the Attorney General, and ABATE filed replies to the motion.

Some background to the motion is necessary. While this case was being heard, Consumers' gas general rate case, Cases Nos. U-8678 and U-8924, was also being heard, and Consumers' gas rates are set using the company's authorized depreciation rates. The record in the rate case closed prior to this proceeding's conclusion. Through its motion, Consumers sought to present in this proceeding testimony regarding the revenue effect of the company's and the Staff's depreciation proposals on the company's and the Staff's revenue calculations in the gas rate case. The Staff, the Attorney General, and ABATE opposed the request. In a written ruling dated February 24, 1989, the ALJ granted Consumers' motion, stating that the notice of this proceeding permitted the introduction of revenue effect testimony and that the testimony's introduction would not be inequitable to any party.

On exception, ABATE requests the Commission to reverse the ALJ's ruling and disregard testimony concerning the effect of the Staff's proposed depreciation rates on Consumers' gas revenue requirement. ABATE argues that the notice for this proceeding did not refer to the gas rate case and that, because Consumers has withdrawn its depreciation proposal in this case, the company should not be permitted to testify as to the effect of the Staff's separate proposal on Consumers' gas revenue requirement. However, ABATE would permit Consumers to testify regarding the effect of its own proposal.

The Attorney General also seeks reversal of the ALJ's ruling. He argues that the revenue requirement effects of the Staff's and Consumers' depreciation proposals are not relevant to a determination of appropriate depreciation rates, that Consumers should have filed the revenue requirement testimony as part of its direct case, and that this proceeding's notice did not contemplate any revenue requirement testimony. Regarding the sufficiency of notice, the Attorney General argues that the public notice cannot support adoption of the Staff's depreciation proposals because those proposals exceed the levels of Consumers' initial proposal, which was referenced in the public notice.

Consumers responds that it has not withdrawn its depreciation proposal and that ABATE's motion does not allege that the ALJ was erroneous in his ruling, only that a review of the revenue effect of the Staff's depreciation proposals should not have been permitted. Consumers states, contrary to the Attorney General's assertions, that the caption of the notice for this proceeding provided that both accounting and ratemaking approval of revised depreciation practices were being sought and that the actual wording of the notice was sufficiently broad to encompass the revenue requirement testimony submitted.

The Commission has reviewed the revenue requirement testimony submitted and the published notice. We find the testimony appropriately admitted and the published notice sufficient to notify the public that Consumers' depreciation rates, and their concomitant revenue implications, were at issue. Moreover, we find the notice sufficient to support the Staff's depreciation proposals.

The notice states that Consumers has made a detailed review of the existing depreciation formulas and rates for its gas utility plant and that the company proposes to revise those formulas and rates. The notice also states that the proceeding will investigate Consumers' proposed and existing depreciation formulas and rates and that the proceeding will not necessarily be confined to matters contained in Consumers' application, but will include all matters pertaining to the reasonableness and justness of the depreciation formulas and rates to be prescribed for Consumers.

We find this notice more than sufficient to inform the public that Consumers sought revision of its gas utility plant depreciation formulas and rates and that points of view other than Consumers' would be considered at the hearings--points of view that could cause a wide variance in the eventual depreciation practices authorized. Thus, the Staff's proposals for reasonable and just depreciation formulas and rates for Consumers, although at levels higher than initially proposed by Consumers, are fully within the notice.

Both ABATE and the Attorney General would hold that the notice cannot support revenue requirement testimony. We do not agree. While the language of the notice might not support an increase in gas rates as a result of this depreciation review proceeding, that situation is not present because in this docket Consumers has only requested that its gas utility plant depreciation formulas and rates be reviewed and revised.

We find the published notice adequate to support inclusion of testimony regarding the revenue requirement effects of the revised depreciation rates. The notice, itself, is captioned as a proceeding seeking both accounting and ratemaking approval of depreciation practices. The notice states that approval of the revised depreciation formulas and rates should become effective when they are incorporated into a general rate case, or when reasonable and appropriate for ratemaking and accounting purposes. Thus, the notice stated that the ratemaking effect of the depreciation proposals was a possible subject of the proceeding, and testimony regarding that ratemaking effect was appropriately admitted.

Even were we to agree with the Attorney General that the published notice did not specifically refer to the ratemaking effects of revised depreciation formulas and rates, the Commission must disagree with his assertion that the revenue effects of revised depreciation rates are not relevant to a determination of appropriate depreciation rates. The Commission cannot deny a utility just and reasonable depreciation rates simply because of the ultimate effect of the revised depreciation expense on utility rates; however, the establishment of depreciation formulas and rates involves the use of judgment and choice among many methods with varying ratemaking effects. Recently, the Commission refused to approve the equal life group depreciation procedure for Michigan Bell Telephone Company because the revenue requirement effects of that new procedure were not addressed in the record. We found revenue requirement testimony necessary to our review of the new depreciation procedure, and directed that the revenue requirement effects be reviewed in another proceeding. (Order dated June 6, 1989 in Case No. U-8911.)

Review of revenue requirement testimony permits the Commission to set just and reasonable depreciation practices while considering the effect of various proposals on the company and its customers. Accordingly, an estimate of the revenue requirement effects of revised depreciation rates can be a relevant and useful part of a depreciation review proceeding.

III.

DISCUSSION OF DEPRECIATION PRACTICES

Consumers' case was presented through the testimony of Thomas L. Simonsen, its corporate tax supervisor, who presented Consumers' gas utility plant depreciation study and the company's revised depreciation formulas and rates. Mr. Simonsen described the revised depreciation rates, how the depreciation study was performed, and various accounting procedure changes implemented to conform with the Uniform System of Accounts or the Staff's suggestions. His proposal would increase the company's depreciation expense by \$846,000 based on December 31, 1987 depreciable plant balances.

Mr. Simonsen stated that revisions in the existing depreciation practices are necessary because: 1) the average service lives of many of the company's assets have increased, thus causing changes in the assets' retirement dispersion curves, and 2) the net salvage values presently experienced by the company are not reflected in existing depreciation rates. Mr. Simonsen stated that he used a five-year historical average to measure the cost of asset removal, as had been done in the company's prior depreciation case. A retirement dispersion curve projects the various retirements in an asset class based on the characteristics of that asset class. Gross salvage value is the market value of an asset as of

the date of its retirement. Net salvage value is the asset's final value when the cost of removal is subtracted from that asset's gross salvage value.

The Staff presented its position through the testimony of David J. Berquist, a public utilities engineer in the valuation and depreciation section of the Commission's Technical Services Division. Mr. Berquist is a member of the National Association of Regulatory Utility Commissioners' (NARUC) Staff Subcommittee on Engineering, depreciation subcommittee. He performs and testifies on behalf of the Staff regarding depreciation studies of Michigan energy utilities. He also writes computer programs to be used by the Staff in analyzing depreciation cases. Mr. Berquist extensively described his experience in depreciation matters, his work in reviewing this case, his auditing of the records and data presented by Consumers, and his judgments regarding Consumers' proposed revised depreciation rates.

The Staff accepted Consumers' proposals for average asset service lives, retirement dispersion curves, and unit of production formulas. However, the Staff disagreed with Consumers' use of a five-year historical average to estimate the cost of removal for the distribution mains and services asset categories.¹ The Staff would use a two-year historical average (1986 and 1987) to compute the estimated cost of removal. The Staff stated that studies provided in Consumers' workpapers indicated that little gross salvage value for these asset categories is being recorded by the company and that recent data indicates that the cost of removal of the distribution mains and services is increasing. Based on a review of the data filed by Consumers, the testimony of the company's

¹These categories include the large gas distribution mains in Consumers' system and the service lines used to provide gas utility service to each customer. The categories form a significant portion of Consumers' depreciable utility plant.

witness, and the Staff's independent review of Consumers' records, the Staff believes that an increased negative cost of removal should be reflected for the distribution mains and services categories. The Staff's revisions to Consumers' proposed depreciation rates would increase the company's depreciation expense by \$4,190,000 based on December 31, 1987 depreciable plant balances. Consumers responds that it could agree to the Staff's proposed rates.

ABATE states that this proceeding should be dismissed because Consumers has not set forth its actual position on the proposed depreciation rates, nor met its burden of persuading the Commission that revised rates should be adopted. In ABATE's view, Consumers requested the revision in depreciation practices and bears the burden of persuading the Commission that revised rates should be authorized. However, ABATE states, Consumers has not indicated what its actual position is--on the one hand, Consumers supports its case as filed; on the other, Consumers supports the Staff's position. ABATE argues that Consumers' ambivalence as to the depreciation rates that it supports requires the Commission to dismiss the application.

ABATE states that the Commission should not approve depreciation rates other than those originally proposed by Consumers because the Staff has not shown its proposal to be more appropriate. ABATE notes that the major difference between Consumers' and the Staff's proposed depreciation rates concerns only two accounts and that, with slight variations due to rounding or other minor matters, the Staff accepted the company's proposals for all other accounts. ABATE stresses that the two accounts, distribution mains and services, are substantial and cause a large variance between the depreciation expense under the company's and the Staff's proposals. ABATE argues that the variance between the company's and the Staff's proposals is merely based on the Staff's judgment regarding net salvage values in those two accounts.

In ABATE's view, the Staff witness made a substantial adjustment to Consumers' proposed cost of removal for distribution mains and services based on the data used by the Consumers witness, although the Consumers witness came to a vastly different conclusion from that same data. ABATE argues that the Consumers witness's judgment is more accurate and based on more experience with Consumers' gas utility plant. Moreover, ABATE states, Consumers' use of a five-year historical average to compute net salvage values more fully comports with prior Commission practice. ABATE extensively reviews the Staff witness's experience and concludes that, all things considered, the Consumers witness has more relevant experience and knowledge upon which to form a judgment.

ABATE also argues that the Staff's use of a two-year historical average to arrive at net salvage values provides an inflation adjustment within Consumers' depreciation rates, which, except in the case of nuclear decommissioning costs, has never been allowed by the Commission.

The Attorney General notes that the only difference between the Staff's and Consumers' proposed depreciation rates is a matter of judgment over net salvage values for the distribution mains and services accounts. However, the Attorney General argues, the Staff did not present separate empirical data to support its estimates of net salvage value, nor did the Staff demonstrate the unreasonableness of Consumers' proposed rates. In the Attorney General's view, the Staff has not shown by a preponderance of the evidence that its proposed rates are more appropriate than Consumers'. Accordingly, the Attorney General requests the Commission to authorize the depreciation rates originally proposed by Consumers.

Neither ABATE nor the Attorney General presented witnesses.

Based on the record before him, the ALJ concluded that sufficient evidence existed to authorize either Consumers' or the Staff's proposal. As a consequence, he rejected ABATE's argument that Consumers' ambivalence as to whether the company's or the Staff's proposed depreciation rates should be authorized required dismissal of the application. The ALJ was persuaded that the Staff's judgment regarding net salvage values and its use of a two-year historical average to estimate the net salvage values were more appropriate than Consumers' proposals. He recommended that the Staff's proposed depreciation rates be authorized. ABATE and the Attorney General except.

The Commission has reviewed ABATE's statement that Consumers' application should be dismissed for failure to specify what depreciation rates it requests. We must deny ABATE's request. The record is sufficiently clear to permit the Commission to understand Consumers' position--the company supports its case as filed, but can agree with the Staff's proposed revisions. We do not find this position unusual. In many instances, parties in cases before the Commission have presented positions while indicating that other parties' modifications to their basic proposal were not objectionable. Here, Consumers' position is discernible and we are not faced with a situation where the Commission must create a position for a party by discovering clues within its testimony.

Both ABATE and the Attorney General argue that the record evidence can support only Consumers' position and that the Staff's adjustments cannot separately stand because they are not supported by the record. We disagree. ABATE and the Attorney General correctly note that the only difference between Consumers' and the Staff's proposals involves the net salvage values used for two accounts.²

²There are other very minor differences in the remaining accounts. However, as ABATE recognized, these minor variances between the Staff's and Consumers' account balances are due to rounding or relate to the Staff's adjustments to the distribution mains and services accounts.

Relying on the data filed by Consumers in this case, as well as on a review of Consumers' proposals and records, the Staff determined that the cost of removal for distribution mains and services should be based on a two-year, rather than a five-year, historical average. The Staff based its decision on the significantly increased removal expense experienced by Consumers during the immediate past few years. The Staff saw no reason to suggest that this trend would not continue, and therefore used a two-year historical average as more indicative of the net salvage values to be experienced by Consumers. The Staff's proposed depreciation rates are fully supported by the data presented by Consumers in this case, data presented by Consumers to a government agency and sworn to by its witness. We find the Staff fully justified in relying on that data. Therefore, we reject both ABATE's and the Attorney General's contention that the Staff's proposal is not supported by the record. The data presented is more than enough to convince us that Consumers' existing depreciation rates must be revised to more accurately reflect the company's actual experience.

ABATE, as well as the Attorney General, contests the Staff's adjustment to Consumers' two accounts, arguing that the estimation of the net salvage values is an exercise in judgment and that the judgment of the Consumers witness is superior to that of the Staff witness. ABATE extensively reviews the credentials of the Staff witness as well as his preparation for this case. ABATE argues that these credentials and preparation are insufficient for Staff witness Berquist's judgment regarding net salvage values to be credible and accepted in place of Consumers witness Simonsen's judgment.

We do not agree with ABATE or the Attorney General. Mr. Berquist is both a registered professional engineer and a certified public accountant. He is employed by the Commission, among other things, to review energy utility depre-

ciation practices and, presently, is a member of the NARUC's Staff Subcommittee on Engineering, depreciation subcommittee. He has substantial experience in reviewing depreciation data for all Michigan energy utilities and has experience with Consumers' accounts and records through cases dealing with Consumers' electric and gas businesses. The Commission finds Mr. Berquist's background sufficient to support his judgment regarding Consumers' distribution mains and services net salvage values. The major difference between the approaches of Consumers witness Simonsen and Mr. Berquist is the use of a two-year average rather than a five-year average to compute the net salvage values, although both averages are derived from the same data. The cost of removal has climbed steeply during the immediate past few years and the net salvage values have significantly decreased. Had Mr. Simonsen used a two-year historical average rather than a five-year historical average, his proposals would have been much closer to the Staff's; however, he felt constrained by the use of a five-year average in Consumers' last gas depreciation case and so continued that practice. Moreover, the trend identified by Mr. Berquist has continued, as shown by the 1988 data contained in Exhibits S-6 and S-8.

The Commission has reviewed the testimony regarding the increasing cost of removal and the decreased net salvage values experienced by Consumers. Depreciation rates are established for future time periods to reasonably approximate the depreciation to be experienced. We reject ABATE's argument that the use of a two-year historical average provides Consumers an inflation adjustment in its future depreciation rates. We find that the Staff's use of a two-year average is appropriate and that the Staff's proposal will provide reasonable depreciation rates for Consumers that should fairly approximate the actual depreciation expense to be experienced by the company. For these reasons, the Commission finds that the Staff's proposal should be implemented.

Consumers would implement the revised depreciation rates for accounting purposes at the same time as new gas rates are implemented in its existing gas general rate case, Cases Nos. U-8678 and U-8924, if the revised depreciation rates are reflected in the utility rates established in that case. If not, then Consumers would have the new depreciation rates become effective with the utility rates that reflect those revised depreciation rates. In Consumers' view, any other action is confiscatory because its utility rates will not reflect its exact depreciation expense.

The Staff would implement the revised depreciation rates coincident with the gas rates established by the general rate case, if that can be done without delaying the rate case.

The Attorney General would implement the revised depreciation rates effective January 1, 1990. If the Commission reflects the revised depreciation rates in the rate case, the Attorney General would do so only in proportion to the time now remaining in the projected test year used in the rate case, i.e., the rate case uses a 1989 test year. Thus if revised depreciation rates are ordered effective halfway through 1989, then only one-half of the yearly increase in depreciation expense should be reflected when computing the general rate case's revenue requirement, and the revised depreciation rates would become effective at the same time as the new utility rates.

ABATE would not incorporate the revised depreciation rates within the general rate case, and ABATE would not await another general rate case to implement the revised depreciation rates. In ABATE's view, the Commission should order the revised depreciation rates effective for accounting purposes on the date a final order is issued in this docket.

The ALJ recommended that the revised depreciation rates be incorporated into the gas general rate case, and that the revised depreciation rates become effective coincident with the new gas rates established in Cases Nos. U-8678 and U-8924. ABATE and the Attorney General except.

Initially, the Commission must address Consumers' argument that accounting implementation of revised depreciation rates must coincide with use of those rates for ratemaking purposes and that any other action is confiscatory. Consumers confuses ratemaking with the company's financial accounting. The two are separate. Through a depreciation review, appropriate financial accounting standards are established for Consumers. These standards are then applied to the existing, actual assets of the company on a day-to-day basis and are reflected in its yearly financial statements. Those statements reflect the financial position of the company at the conclusion of one year of actual operation. It is highly unlikely that those actual statements will be identical to the projected test year used to set utility rates.

During an actual year of operation, account balances rise and fall, assets are purchased and sold, and revisions are made in accounting procedures. On the other hand, ratemaking necessitates the creation of a postulated test year, a hypothetical snapshot of the company's business. Actual depreciation rates are applied against forecasted plant balances. Numerous other items are likewise projected: the number of employees, buildings, and trucks; gas sales; retirement expenses; taxes; etc. We cannot guarantee that this snapshot will prove correct. Rather, gas rates are established based on a projected test year to permit Consumers the opportunity to earn a reasonable return on its assets. Thus, while the Commission must make reasonable assumptions regarding Consumers' projected expenses and revenues, we do not guarantee Consumers cer-

tain sales or expense levels, nor can we require Consumers to refund revenues should actual earnings turn out to be greater than authorized. To follow Consumers' argument to its logical extreme, any accounting change, whether increasing or decreasing expenses, would need to be reflected in utility rates before the change could be made. Changes in sales levels or in plant account balances would likewise need to be immediately reflected in utility rates. We reject that argument as administratively burdensome and, in practice, impossible to implement.

Moreover, depreciation is a financial accounting device and as such should be reviewed on a consistent basis and implemented similarly. Whether Consumers then seeks to have revised depreciation rates incorporated into new utility rates is a choice Consumers must make based on its actual financial condition at that time. Rate revision may be unnecessary if existing rates and actual sales coupled with the company's actual expenses still permit the utility the opportunity to earn a reasonable return of and on its assets.

Because of the need for consistency in financial accounting, the Commission agrees with the Staff's recommendation that Consumers' depreciation practices should again be reviewed in 1993. Moreover, we direct that a three-year cycle of review be implemented after that date, believing that a three-year review cycle will better serve to keep current Consumers' depreciation practices.

While the future three-year review will ensure that Consumers' depreciation rates are kept current, implementation of that cycle does not resolve the issue of when the depreciation rates proposed in this proceeding should be implemented. Because Consumers' present depreciation rates have been shown to be inaccurate, the Commission finds that the revised rates should be implemented immediately to ensure the integrity of Consumers' financial accounting records and the resultant yearly financial statements.

Although the Commission finds that the revised depreciation rates should be implemented immediately, we also find that Consumers' utility rates cannot be revised within the context of this proceeding. Nevertheless, we find that the depreciation rates here authorized are merely constant values and as such may be factored into the ratesetting computation without alteration.

The ratesetting formula uses a company's depreciation rates as a constant value against which projected figures are applied. Use of a revised, Commission-authorized constant value within the ratesetting formula causes no party harm but requires a recalculation of that formula.

Moreover, because utility rates are set for a future time period, it would be inequitable, as well as illogical, to recognize a revision in one of the ratesetting formula's constants within this official, contested case proceeding, and then disregard that revision in the context of an ongoing rate case. Thus, the Commission finds that the present general gas rate case, Cases Nos. U-8678 and U-8924, should reflect the new depreciation practices authorized by this order, and our order in the rate case, issued today, uses the revised depreciation rates applied to the facts presented in that record.

IV.

THE ALJ's REMARKS

Consumers filed a verified petition to reopen the record in the gas general rate case and a motion for consolidation of the record in that case with the record in this proceeding. The ALJ, who presided at both proceedings, commented upon the filings. The Attorney General states that because the motions were before the Commission for review, the ALJ erred by commenting upon them. He requests that the comments be stricken.

The Commission has reviewed the ALJ's comments. While it is true as stated by the Attorney General that the motions were before the Commission, not the ALJ, the ALJ recognized that. Moreover, the ALJ heard both cases. We do not find his statements objectionable, and we deny the Attorney General's request to strike those statements.

V.

THE 1993 DEPRECIATION STUDY

The Staff requests that Consumers file its next depreciation study on or before August 1, 1993. The study would be based on data as of December 31, 1992. Consumers agrees to the filing of the depreciation study, but requests that the study be filed on or before October 1, 1993. Consumers argues that the company department that prepares depreciation studies also prepares Consumers' tax returns, and that meeting the August 1, 1993 date will require significant extra work by that department because the August deadline comes so soon after the tax season. The company states that the October 1 date will permit ample time for the Staff to review the depreciation study and for settlement negotiations to take place prior to the beginning of 1994.

The Staff responds that, although inconvenient to the company, the August 1 deadline is necessary to give the Staff adequate time to inspect assets at company locations during a period of better weather and longer daylight hours. Moreover, the August 1 date provides the Staff sufficient lead time to conclude the new depreciation case by the end of the year. The ALJ recommended that Consumers file its next depreciation study on or before August 1, 1993. We agree.

The Commission understands Consumers' concern that preparation of the depreciation study will require extensive work by its tax department and that the August 1 deadline will require proper work scheduling and time management to ensure that the study can be prepared between the end of tax season and August 1. However, we are equally mindful of the Staff's need to review the filed study and its need to travel to inspect various of the company's locations throughout the state to audit the company's property records. Comparing the resources available to the Staff and to the company, we find that the August 1, 1993 date is appropriate and will provide the Staff sufficient time to review and to audit Consumers' depreciation study.

The Commission FINDS:

a. Jurisdiction is pursuant to 1909 PA 300, as amended, MCL 462.2 et seq.; 1919 PA 419, as amended, MCL 460.51 et seq.; 1939 PA 3, as amended, MCL 460.1 et seq.; 1969 PA 306, as amended, MCL 24.201 et seq.; and the Commission's Rules of Practice and Procedure, 1979 Administrative Code, R 460.11 et seq.

b. The depreciation practices proposed by the Staff are reasonable and provide an appropriate measure of the present experience with Consumers' gas utility plant.

c. The ALJ's February 24, 1989 ruling permitting an additional witness was appropriate.

d. The notice for this proceeding was sufficient for the Staff to introduce its proposed depreciation rates.

e. Testimony regarding the effect of revised depreciation practices on a company's revenue requirement is appropriate within the context of a depreciation case.

THEREFORE; IT IS ORDERED that:

A. The Commission Staff's proposed depreciation practices for Consumers Power Company's gas utility plant shall be implemented on and after December 8, 1989.

B. Consumers Power Company shall prepare and submit a new depreciation study for its gas utility plant on or before August 1, 1993. The study shall be based on data as of December 31, 1992.

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 appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26.

MICHIGAN PUBLIC SERVICE COMMISSION

/s/ William E. Long
Chairperson

(S E A L)

/s/ Steven M. Fetter
Commissioner

/s/ Ronald E. Russell
Commissioner

By the Commission and pursuant to
its action of December 7, 1989.

/s/ Dorothy Wideman
Its Executive Secretary

CONSUMERS POWER COMPANY

Attachment A
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Case No. U-9197
Annual Depreciation Accruals Determined
on the Unit-of-Production Basis

PROPERTY GROUP

Production and Gathering Plant

325.4 Rights of way	(See Note 1)
325.5 Other land and land rights	
327.0 Compressor station structures	(See Note 2)
328.0 Field measuring and regulating station structures	
329.0 Other production system structures	
330.0 Producing gas wells-well construction	
331.0 Producing gas wells-well equipment	
332.0 Field lines	
333.0 Field compressor station equipment	
334.0 Field measuring and regulating station equipment	
336.0 Purification equipment	
337.0 Other production equipment	

Transmission Plant

365.2 Rights of way	
366.0 Structures and improvements	(See Note 2)
367.0 Mains	
368.0 Compressor station equipment	
369.0 Measuring and regulating station equipment	
371.0 Other equipment	

FORMULAS

Note 1:

Annual Provision =	Original cost at end of year less accumulated provision beginning of year	X	Annual gas production and oil production (in Mcf equivalents)
	Recoverable gas reserves and recoverable oil reserves (in MCF equivalents) at end of year, plus current year's production		

Note 2:

Annual Provision =	Original cost at end of year less estimated net salvage (a) less accumulated provision beginning of year	X	Annual gas production and oil production (in Mcf equivalents)
	Recoverable gas reserves and recoverable oil reserves (in MCF equivalents) at end of year, plus current year's production		

(a) Net salvage factors:

<u>Production and Gathering Plant</u>	<u>Proposed</u>
	%
St Clair	(1)
Southern Michigan	4
<u>Transmission Plant</u>	
St Clair	(6)
Southern Michigan	(3)
Kalkaska	(4)

CONSUMERS POWER COMPANY

Attachment A
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Annual Depreciation Accrual Rates
(Excluding Transportation Equipment)

<u>Account</u>	<u>Annual Accrual Rate - %</u>
<u>Underground Storage Plant</u>	
350.2 Rights of way	2.02
351.2 Compressor station structures	3.31
351.3 Measuring and regulating station structures	3.39
351.4 Other structures	3.35
352.1 Storage leaseholds and rights	1.66
352.2 Reservoirs	0.00
352.3 Well construction	2.31
352.4 Well equipment	4.16
353.0 Lines	3.05
354.0 Compressor station equipment	3.66
355.0 Measuring and regulating equipment	3.12
356.0 Purification equipment	3.01
357.0 Other equipment	3.93
<u>Transmission Plant (Straight Line)</u>	
365.2 Rights of way	1.57
366.0 Structures and improvements	3.53
367.0 Mains	2.98
368.0 Compressor station equipment	3.38
369.0 Measuring and regulating station equipment	2.46
370.0 Communication equipment	4.50
371.0 Other equipment	3.72
<u>Distribution Plant</u>	
374.2 Rights of way	1.57
375.0 Structures and improvements	3.59
376.1 Mains-bare	3.15
376.2 Mains-coated and wrapped	2.86
376.3 Mains-cast iron	3.31
376.4 Mains-copper	3.84
376.5 Mains-plastic	3.65
378.0 Measuring and regulating station equipment	2.78
380.1 Services-bare steel	11.60
380.2 Services-coated and wrapped	6.06
380.4 Services-copper	7.07
380.5 Services-plastic	7.39
381.0 Meters	3.09
382.0 Meter installations	5.45
383.0 House regulators	2.49
<u>General Plant</u>	
390.0 Structures and improvements	2.94
391.0 Office furniture and equipment	3.51
391.2 Computer equipment	20.11
393.0 Stores equipment	2.50
394.0 Tools, shop and garage equipment	4.40
395.0 Laboratory equipment	4.25
396.0 Power operated equipment	9.41
397.0 Communications equipment	5.06
398.0 Miscellaneous equipment	6.11

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

* * * * *

In the matter, on the Commission's
own motion, of the rates and tariffs
of CONSUMERS POWER COMPANY regarding
gas transportation service and related
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At a session of the Michigan Public Service Commission held at its offices
in the city of Lansing, Michigan, on the 7th day of December, 1989.

PRESENT: Hon. William E. Long, Chairperson
Hon. Steven M. Fetter, Commissioner
Hon. Ronald E. Russell, Commissioner

ORDER DENYING APPLICATION TO REOPEN THE RECORD
AND GRANTING MOTION FOR CONSOLIDATION

On April 18, 1989, Consumers Power Company (Consumers) filed a verified application to reopen the record in Cases Nos. U-8678 and U-8924, which was supplemented by a November 2, 1989 filing, and a motion to consolidate Cases Nos. U-8678 and U-8924 with Case No. U-9197. Case No. U-8678 was initiated by the Commission to investigate and establish rates and tariffs for the provision of gas transportation service by Consumers. Case No. U-8924 is a gas general

rate case proceeding filed by Consumers on November 13, 1987. Case No. U-9197 involves Consumers' depreciation practices for gas utility plant.

On April 28, 1989, the Commission Staff (Staff) filed a brief opposing Consumers' application to reopen the record and motion to consolidate Cases Nos. U-8678 and U-8924 with Case No. U-9197. On May 8, 1989, answers in opposition to Consumers' application and motion were also filed by Attorney General Frank J. Kelley (Attorney General) and the Association of Businesses Advocating Tariff Equity (ABATE). Supplemental answers to Consumers' November 2, 1989 supplemental filing were filed by ABATE and the Attorney General on November 14, 1989 and November 20, 1989, respectively.

In its verified application to reopen the record in Cases No. U-8678 and U-8924, Consumers alleges that the \$40.9 million gas rate reduction recommended by Administrative Law Judge James N. Rigas (ALJ) in his March 10, 1989 Proposal for Decision (PFD) would result in a \$33.2 million annual revenue deficiency in 1990 and beyond. Consumers alleges that adoption of the PFD in its entirety would virtually guarantee that it could not earn an adequate return and that it would experience a significant revenue deficiency in the near future. Accordingly, Consumers insists that it will have to immediately prepare and file a new gas rate case in an attempt to reverse the unfair and inequitable revenue reductions that could result if the recommendations in the PFD are adopted by the Commission. Arguing that it should not be forced to go to such lengths, Consumers proposes that the record in Cases Nos. U-8678 and U-8924 should be reopened to consider the additional information contained in an affidavit that was attached to its application. According to Consumers, the new information would illustrate the "real world" impact that adoption of the recommended rate reduction would have on its gas business in 1990. Further, Consumers requests

that the Commission take the information contained in its affidavit into account in its decision-making process.

Consumers also contends that the record in Cases Nos. U-8678 and U-8924 does not support implementation of a gas transportation program similar to the program established by the Commission for Michigan Consolidated Gas Company (Mich Con) in its December 22, 1988 order in Cases Nos. U-8635, U-8812, and U-8854. Accordingly, Consumers insists that if the Commission intends to use its Mich Con order as a standard, the record in these cases must be reopened to receive evidence indicating areas where the Mich Con approach does not fit Consumers' situation and additional information necessary to implement the Mich Con approach where that approach is appropriate for Consumers. Consumers alleges that a number of specific areas including production and gathering charges, allocation of storage, the T-2 transportation tariff, crossover points, billing determinants, customer migration, standby rates, off-system transportation, and implementation time frames need to be addressed. Due to these alleged deficiencies in the record, Consumers argues that the record must be reopened in order to calculate and implement a Mich Con-style transportation program for Consumers.

Consumers next alleges that the information contained in its attached affidavit is not cumulative and could not have been presented earlier in this case. Further, Consumers maintains that reopening of the record to demonstrate the effects of the proposed rate reduction in 1990 is necessary and appropriate if Consumers is to have any hope of receiving an order that establishes just and reasonable rates for the future. Additionally, Consumers alleges that reopening of the record is required in order for it to have an opportunity to illustrate the effects of the ALJ's arbitrary and unsupported adoption of financial data

applicable to Mich Con.

In its brief, the Staff contends that Consumers failed to establish that good cause exists for reopening the record. The Staff maintains that Consumers could have submitted the additional information in either its direct or rebuttal case. Further, the Staff points out that much of the proposed evidence merely consists of the updating of previous data. The Staff hints that Consumers' attempt to reopen Cases Nos. U-8678 and U-8924 is merely an effort to delay implementation of the rate reduction. The Staff also maintains that the affidavit and supporting schedules that Consumers desires to add to the record fail to include the accounting adjustments related to Consumers' Midland plant that are mandated by Financial Accounting Standards Board Statement No. 90 and that failure to include these adjustments distorts Consumers' financial condition.

The Attorney General contends that, contrary to Consumers' allegations, the ALJ did not go outside the record of the rate case proceeding to recommend a rate reduction. Rather, the Attorney General contends that the Commission's order in Mich Con's gas rate and transportation case is a matter of public record that may be cited and utilized as precedent in this proceeding. The Attorney General points out that Consumers failed to mention that it was a party to Mich Con's gas rate and transportation case. Further, the Attorney General contends that Consumers has grossly distorted the facts in an attempt to further persuade that a rate reduction is not necessary. The Attorney General also maintains that Consumers' request to reopen the record constitutes an improper attempt to introduce evidence that is outside the 1989 test year. Finally, contrary to Consumers' allegations, the Attorney General insists that there is sufficient evidence in the record to fashion an appropriate transportation program as recommended by the ALJ.

ABATE urges the Commission to deny Consumers' application and to issue a final order in Cases Nos. U-8678 and U-8924 as expeditiously as possible. ABATE characterizes Consumers' application as a clear effort to further delay a long overdue reduction in gas rates. ABATE contends that Consumers had ample opportunity before the record closed to analyze and present evidence regarding the impact of a rate reduction of the magnitude recommended by the ALJ. Accordingly, ABATE believes Consumers has failed to show good cause why it should now be allowed to present evidence addressing the impact of the rate reduction. ABATE argues that Consumers is attempting to reargue its case on the basis of a 1990 test year rather than the 1989 test year used by Consumers in its testimony and exhibits. Further, ABATE denies that the record is insufficient to address issues related to Consumers' transportation program and cost-of-service allocations. Finally, ABATE maintains that its concerns regarding allocation of storage plant and capacity related costs and the implementation of a transportation program expressed in its exceptions do not constitute support for Consumers' blatant attempt to delay this proceeding.

R 460.61 (Rule 51) of the Commission's Rules of Practice and Procedure provide that an application for reopening of a hearing after final submission and prior to a decision or order made by the Commission shall be by verified petition only. Rule 51 requires that if the application for reopening is for the purpose of presenting further evidence, the nature and the purpose of the evidence shall be briefly stated. Additionally, good cause must be shown for the applicant's failure to produce the evidence at the original hearing, and it must be established that the evidence is not merely cumulative.

The decision to grant a reopening of a hearing is discretionary with the Commission. After reviewing the arguments raised by the parties, the Commission

is persuaded that Consumers' application for reopening of the record in Cases Nos. U-8678 and U-8924 should be denied. The authority cited by Consumers in support of its application for reopening, General Telephone Co v Michigan Public Service Commission, 341 Mich 620 (1954), does not require the Commission to reopen Cases Nos. U-8678 and U-8924. The General Telephone case involved the Supreme Court's interpretation of MCL 460.26, not R 460.51. Additionally, while that case requires that the Commission consider factors that affect rates for a reasonable time in the future, this requirement is fulfilled by the selection of an appropriate test year. In our April 12, 1976 order in Cases Nos. U-4840 and 4621, the Commission stated:

"In exercising its responsibilities the Commission finds that it must determine with reasonable accuracy based upon the record what applicant's rate base and operating revenues and expenses will be in the period immediately following the issuance of this Opinion and Order and set the lowest rates consistent with a reasonable opportunity to earn a fair return on its investment in that period of time. (p. 8)

At the time it filed its rebuttal testimony, Consumers was undoubtedly aware of the Commission's obligation to provide a reasonable opportunity for the utility to earn a fair rate of return as well as the potential impact that the adoption of the Staff's position would have on its rates. However, Consumers did not attempt to rebut the Staff's case with the information Consumers now desires to have included in the record. Accordingly, the Commission finds that Consumers' failure to include this information in its rebuttal case should preclude its subsequent effort to reopen and delay this proceeding to consider this evidence.

The methodology of establishing rates based upon cost and revenue data from an appropriate test year is a well-accepted method by which the Commission may ensure that the rates established by its final order in a rate proceeding allow

a utility an opportunity to earn a fair rate of return following the issuance of the order. The Commission is not persuaded that Consumers should be allowed to supplement the record with evidence pertaining to 1990, when its rate case filing was premised on a 1989 test year. The record cannot be reopened simply to provide more current data. A rate case must end at some time. That time has arrived for this case. As Consumers is aware, its recourse is to file another case using a later test year.

In its motion for consolidation of Cases Nos. U-8678 and U-8924 with Case No. U-9197, Consumers explains that it presented testimony in Case No. U-9197 regarding the revenue requirement effect on both Consumers' and the Staff's rate case positions of adoption of either Consumers' or the Staff's depreciation proposals in Case No. U-9197. Given the potentially significant effect on its revenue requirement that could result from the current depreciation proceeding, Consumers requests that the depreciation rates approved in Case No. U-9197 be incorporated into the results of its gas rate case proceeding in Cases Nos. U-8678 and U-8924. Consumers further requests that the Commission's order in Case No. U-9197 be effective for accounting and ratemaking purposes as of the first day following a final order in Cases Nos. U-8678 and U-8924. Given the parallel schedules of the rate/transportation proceeding and the depreciation proceeding, Consumers argues that it would be both feasible and an efficient use of the Commission's time to recognize the revenue requirement effects of the depreciation case in the gas rate case final order.

The Staff maintains that Consumers' request to consolidate Cases Nos. U-8678 and U-8924 with Case No. U-9197 should be rejected because combining the dockets would likely delay issuance of the rate case order, which would not be in the best interests of ratepayers. Further, the Staff contends that Con-

sumers' retention of the higher current revenue requirement during the first half of 1989 serves as an equitable set-off against any increase in the revenue requirement that could result from the depreciation case.

The Attorney General claims that Consumers' efforts to consolidate the gas/transportation proceeding with the depreciation proceeding is a tactic to delay reduction of Consumers' currently unreasonably high gas rates. Because Consumers made its choice to file separate cases, the Attorney General argues that it must now live with that decision.

ABATE argues that Consumers has presented no good reason to further delay the general rate and transportation case to await completion of the depreciation case. According to ABATE, Consumers did not explain why it failed to act in a timely manner to address the depreciation case in the context of the general rate case and that Consumers should not now be permitted to further delay the general rate case to accommodate the depreciation case.

The Commission's Rules of Practice and Procedure do not contain any specific standards regarding the consolidation of cases. Accordingly, the Commission turns to the Michigan Court Rules of 1985 (MCR) for guidance. While MCR 2.505 is not binding on the Commission, it does indicate that the decision to consolidate cases that involve a substantial and controlling common question of law or fact is a matter of discretion and that decisions regarding the consolidation of cases primarily depend on how to better avoid unnecessary costs or delays. Indeed, the most important purpose of consolidation is to achieve convenience and economy by avoiding the needless duplication of time, effort, and expense.

The records in the rate/transportation proceeding and the depreciation case have been closed and both cases are now ripe for the Commission's decision. Accordingly, the Commission finds that the rate/transportation proceeding will

not be delayed by consolidation with the depreciation case. Therefore, the Commission finds Consumers' motion for consolidation of these cases should be granted.

The Commission FINDS that:

a. Jurisdiction is pursuant to 1909 PA 300, as amended, MCL 462.2 et seq.; 1919 PA 419, as amended, MCL 460.51 et seq.; 1939 PA 3, as amended, MCL 460.1 et seq.; 1969 PA 306, as amended, MCL 24.201 et seq.; and the Commission's Rules of Practice and Procedure, 1979 Administrative Code, R 460.11 et seq.

b. The verified application to reopen the record in Cases Nos. U-8678 and U-8924 filed by Consumers on April 18, 1989 should be denied.

c. The motion for consolidation of the record in Cases Nos. U-8678 and U-8924 with Case No. U-9197 filed by Consumers on April 18, 1989 should be granted.

THEREFORE, IT IS ORDERED that:

A. The verified application to reopen the record in Cases Nos. U-8678 and U-8924 filed by Consumers Power Company on April 18, 1989 is denied.

B. The motion for consolidation of the record in Cases Nos. U-8678 and U-8924 with the record in Case No. U-9197 filed by Consumers Power Company on April 18, 1989 is granted.

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.

MICHIGAN PUBLIC SERVICE COMMISSION

/s/ William E. Long
Chairperson

(S E A L)

/s/ Steven M. Fetter
Commissioner

/s/ Ronald E. Russell
Commissioner

By the Commission and pursuant to
its action of December 7, 1989.

/s/ Dorothy Wideman
Its Executive Secretary



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U-8678

12-7-1989



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STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter, on the Commission's own motion, of the rates and tariffs of CONSUMERS POWER COMPANY regarding gas transportation service and related matters.

Case No. U-8678 ✓

In the matter of the application of CONSUMERS POWER COMPANY for authority to increase its rates for the sale of gas.

Case No. U-8924

In the matter of the application of CONSUMERS POWER COMPANY for accounting and ratemaking approval of depreciation practices for gas utility plant.

Case No. U-9197

At a session of the Michigan Public Service Commission held at its offices in the city of Lansing, Michigan, on the 7th day of December, 1989.

PRESENT: Hon. William E. Long, Chairperson
Hon. Steven M. Fetter, Commissioner
Hon. Ronald E. Russell, Commissioner

OPINION AND ORDER

I.

HISTORY OF PROCEEDINGS

On February 19, 1987, the Commission, on its own motion, initiated Case No. U-8678 to investigate and develop appropriate rates, charges, and conditions of service for the provision of gas transportation service by Consumers Power Company (Consumers). Case No. U-8678 was assigned to Administrative Law Judge James N. Rigas (ALJ). The evidentiary hearing in Case No. U-8678 commenced July 20, 1987.

For complete order see U-8924