

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

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

Case No. U-8822

At a session of the Michigan Public Service Commission held at its offices in the city of Lansing, Michigan, on the 10th day of May, 1988.

PRESENT: Hon. William E. Long, Chairperson
Hon. Edwyna G. Anderson, Commissioner
Hon. Steven M. Fetter, Commissioner

ORDER APPROVING STIPULATION AND DISMISSING CASE

On June 30, 1987, this Commission issued an order and notice of hearing establishing a contested case proceeding for the purpose of developing appropriate rates, charges and conditions of service for Southeastern Michigan Gas Company (Southeastern) relating to its provision of gas transportation service.

In response to that order and notice of hearing, a prehearing conference was held on September 10, 1987 before Administrative Law Judge Alfred A. Sullivan (ALJ). Southeastern, the Commission Staff (Staff), the Association of Businesses Advocating Tariff Equity, Wolverine Gas and Oil Company, Inc. and Amoco Production Company (Amoco) participated in the proceeding.

On April 11, 1988, a jointly sponsored stipulation signed by all the parties except Amoco was admitted into evidence. However, a statement was made on

the record that Amoco did not object to the stipulation. The Staff witness testified that the stipulation is just, reasonable and in the public interest and recommended its approval. All parties waived Section 81 of the Administrative Procedures Act of 1969, as amended, (APA) MCL 24.281.

The stipulation provides for dismissal of this case and that no further action be taken in its connection until Southeastern files an application for the initiation of a general rate case, or until this case is re-opened pursuant to paragraph 3 of the stipulation.

The ALJ issued a Report and Recommendation on April 20, 1988 recommending approval of the stipulation.

Both Rule 33 of the Commission's Rules of Practice and Procedure, R 460.43, and Section 78 of the Administrative Procedures Act of 1969 MCL 24.278, provide for the disposition of matters before the Commission by stipulation and agreement. Those provisions do not relieve the Commission of its responsibility to make a final determination that the stipulation of the parties is in the public interest.

After a review of the stipulation, the Commission finds it is reasonable and therefore should be approved. In doing so, the Commission notes that if a party seeks to reopen this proceeding by filing a complaint, that party will be required to comply with all procedures governing complaints, notwithstanding paragraph 3 of the stipulation. Neither the Commission nor the parties can waive the provisions of the Commission's Rules of Practice and Procedure, although the rules permit some flexibility. For example, the Commission can shift away from the complainant the burden of going forward with the presentation of evidence. In addition, as an alternative to using a complaint procedure, the Commission can direct Southeastern to file a transportation service

case, which is how this proceeding began..

The Commission takes this opportunity to again encourage settlement of disputes between parties. The settlement process does involve give and take, but facilitates accomplishment of the Commission's goals and conserves scarce resources.

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 stipulation is reasonable, in the public interest and should be approved.

THEREFORE, IT IS ORDERED that:

A. The stipulation, attached as Exhibit A, is approved.

B. This case is dismissed, subject to the conditions stated in the stipulation.

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/ Edwyna G. Anderson
Commissioner

/s/ Steven M. Fetter
Commissioner

By the Commission and pursuant to
its action of May 10, 1988.

/s/ Dorothy Wideman
Its Executive Secretary

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

EXHIBIT A

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

Case No. U-8822

STIPULATION

NOW COME Southeastern Michigan Gas Company, the Michigan Public Service Commission Staff, the Association of Businesses Advocating Tariff Equity, and Wolverine Gas & Oil Company, Inc., each by and through their respective attorneys, and hereby stipulate and agree with respect to the following:

WHEREAS, the above-captioned proceeding was initiated on the Commission's own motion to address the establishment of rates, terms and conditions for transportation service provided by Southeastern Michigan Gas Company on its system;

WHEREAS, each of the above-named parties are participants in the above-captioned proceeding currently pending before the Michigan Public Service Commission;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED AS FOLLOWS:

1. The above-captioned proceeding shall be dismissed and no further action taken in connection therewith until Southeastern Michigan Gas Company makes application with the Michigan Public Service Commission for the initiation of a general rate case, or until the case is re-opened pursuant to paragraph 3.

2. In the interim, Southeastern Michigan Gas Company shall be required, subject to system capacity restraints, to provide transportation service to persons wishing to transport gas on its system and that such service shall be provided pursuant to Act 9, 1929 P.A. 9.

3. Each of the parties shall have the right to request the re-opening of the above-captioned proceeding upon demonstrating either a) that Southeastern Michigan Gas Company's gas transportation program under Act 9 is in conflict with Orders entered by the Michigan Public Service Commission in Michigan Consolidated Gas Company, U-8635, U-8812 and U-8854, and Consumers Power Company, U-8867 and U-8924; or b) any other good cause. It is expressly understood and agreed that any intervenor seeking to re-open the above-captioned proceeding as specified in this paragraph shall not have to comply with the procedures applicable to complaint proceedings before this Commission, nor shall such moving party have the burden of going forward or the burden of proof with respect to the same.

4. It is further understood and agreed that this Stipulation is entered solely for the purpose of terminating these proceedings and may not be used or cited as precedent in any other proceeding.

5. The parties understand that Staff intends to submit testimony setting forth its perspective on this case. It is

understood that the other parties to this case do not necessarily concur with such testimony.

LOOMIS, EWERT, EDERER, PARSLEY,
DAVIS & GOTTING
Attorneys for Southeastern Michigan
Gas Company

Dated: April 8, 1988

By: Lawrence J. Gagnon
Harvey J. Messing
Lawrence J. Gagnon
Business Address:
1200 Manufacturers Bank of
Lansing Building
Lansing, Michigan 48933
Business Telephone:
(517) 482-2400

MICHIGAN PUBLIC SERVICE COMMISSION
STAFF

Dated: April 8, 1988

By: James G. Berry
James G. Berry
Assistant Attorney General
Business Address:
900 Long Boulevard, Ste. 384
Lansing, Michigan 48909
Business Telephone:
(517) 373-7584

HILL, LEWIS, ADAMS, GOODRICH & TAIT
Attorneys for The Association of
Businesses Advocating Tariff
Equity

Dated: 8 April, 1988

By: Nancy L. Lukey
Nancy L. Lukey
Business Address:
Suite 600
200 North Capitol Avenue
Lansing, Michigan 48933
Business Telephone:
(517) 484-4481

VARNUM, RIDDERING, SCHMIDT & HOWLETT
Attorneys for Wolverine Gas & Oil
Company, Inc.

Dated: 4-7, 1988

By: Mark L. Collins
Mark L. Collins (P34609)
Business Address:
171 Monroe, N.W., Suite 800
Grand Rapids, Michigan 49503
Business Telephone:
(616) 459-4186