In the matter, on the Commission’s own motion, to establish appropriate accounting and ratemaking treatment for STATEMENT OF FINANCIAL ACCOUNTING STANDARDS NO. 143. Case No. U-14292

In the matter, on the Commission’s own motion, to commence a rulemaking proceeding to amend the uniform system of accounts for major and non-major electric utilities, R 460.9001 and R 460.9019. Case No. U-14811

In the matter, on the Commission’s own motion, to commence a rulemaking proceeding to amend the uniform system of accounts for major and non-major gas utilities, R 460.9021 and R 460.9039. Case No. U-14812

At the September 25, 2007 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. Orjiakor N. Isiogu, Chairman
Hon. Monica Martinez, Commissioner
Hon. Steven A. Transeth, Commissioner

ORDER GRANTING REHEARING

That statement addresses financial accounting and reporting for costs associated with the retirement of tangible long-lived assets where there is a legal obligation to remove the asset. In general, SFAS No. 143 requires all entities to conduct reviews of their long-lived assets to determine whether they have AROs based on the legal standards contained in the statement. If an ARO exists, the entity must determine the current removal cost, record a liability for that amount, and capitalize it as part of the original cost of the asset.

On April 9, 2003, the Federal Energy Regulatory Commission (FERC) issued Order No. 631 in Docket No. RM02-7-000. See, 68 Fed Reg 19610 (April 9, 2003). In that order, the FERC established uniform accounting and financial reporting for the recognition and measurement of liabilities arising from AROs. The objective of both the FASB and the FERC was to provide sound and uniform accounting and financial reporting for these types of transactions and events.

The Commission prescribes accounting standards for gas and electric utilities under its jurisdiction and, finding that a uniform approach to this issue, rather than a company-by-company approach, would be beneficial to all Michigan-regulated entities, the Commission, on October 14, 2004, established Case No. U-14292 to review future treatment of SFAS No. 143-related issues, proper future ratemaking policy regarding those issues, necessary Uniform System of Accounts (USoA) revisions, and other matters that are related to the retirement of tangible long-lived assets and the associated retirement costs. The October 14 order required Commission-jurisdictional electric utilities with more than 125,000 Michigan customers and Commission-jurisdictional gas utilities to...

1SFAS No. 143 establishes the required financial accounting and reporting under generally accepted accounting principles (GAAP) in a situation where there is an unambiguous legal obligation to incur expenditures for the removal of a long-lived asset. The legal obligation to remove an asset may arise from an existing or enacted statute, ordinance, contract, or promissory estoppel. In contrast, non-AROs are those assets that may have an associated cost of removal but for which there is no legal obligation to remove the asset.

2The text of SFAS No. 143 is available at http://www.fasb.org/pdf/fas143.pdf.
utilities with more than 70,000 Michigan customers to participate in the proceeding by filing testimony and responses to specific questions asked by the Commission in the order. All remaining smaller Commission-jurisdictional entities and other interested parties were encouraged to intervene and respond as well.

The parties to the case included the Commission Staff (Staff), The Detroit Edison Company and Michigan Consolidated Gas Company (Mich Con), Consumers Energy Company (Consumers), Aquila, Inc., d/b/a Aquila Networks-MGU, (MGUC) and SEMCO Energy Gas Company (SEMCO) as respondents pursuant to the Commission’s directive requiring the largest utilities to respond. Other parties included Wisconsin Electric Power Company, Northern States Power Company, and Wisconsin Public Service Corporation; Upper Peninsula Power Company (Upper Peninsula); the Association of Businesses Advocating Tariff Equity (ABATE); Michigan Electric Cooperative Association (MECA); Adrian Energy Associates, L.L.C.; Cadillac Renewable Energy, L.L.C.; Genesee Power Station Limited Partnership; Grayling Generating Station Limited Partnership; Hillman Power Company L.L.C.; T.E.S. Filer City Station Limited Partnership; Viking Energy of Lincoln, Inc.; Viking Energy of McBain, Inc.; Michigan Power Limited Partnership; Cogeneration Limited Partnership; Attorney General Michael A. Cox; Indiana Michigan Power Company; the Residential Ratepayers Consortium; Midland Cogeneration Venture Limited Partnership; Michigan Electric and Gas Association; and Alpena Power Company.

On December 5, 2005, the ALJ issued a Proposal for Decision (PFD) in which he found that the Commission had failed to implement proper procedure for the proposed exercise of authority. The Commission disagreed and in an order issued on March 14, 2006, the Commission remanded this case for findings on the substantive issues raised by FAS No. 143. The Commission also
opened rulemaking proceedings to address amendments to the USoA for both gas and electric utilities, in the event that the Commission determined that these rules should be changed in light of SFAS No.143 and FERC Order No. 631.

On August 8, 2006, the ALJ issued a PFD in accordance with the Commission’s March 14, 2006 order. On June 26, 2007, the Commission issued an order in which it found, among other things, that rescinding the current accounting rules for electric utilities, 1999 AC, R 460.9001 et seq. and the current accounting rules for gas utilities, 1999 AC, R 460.9021 et seq. and adopting by reference the current FERC USoAs for electric and gas utilities was a reasonable solution to the need to update the Commission’s systems of accounts. Further, the Commission found that there should be some changes to the way it establishes cost of removal depreciation rates. The Commission therefore directed the large utilities (e.g., Consumers gas division, Mich Con, SEMCO, MGUC, and Consumers electric division) to file new depreciation cases in 2008-2009 using the previous year’s cost of removal expense as a basis, and to calculate cost of removal depreciation under three different methods described in the order. The Commission established the schedule for filings in the depreciation cases as follows:

- Consumers gas division: August 1, 2008, 2007 data
- Mich Con: December 1, 2008, 2007 data
- SEMCO: February 2, 2009, 2008 data
- MGUC: May 1, 2009, 2008 data
- Consumers electric division: August 3, 2009, 2008 data
- Detroit Edison: November 2, 2009, 2008 data

On July 25, 2007, SEMCO filed a petition for rehearing in which it claimed that the Commission’s order had the unintended consequence that SEMCO could not comply with the
filing schedule for its depreciation case. Specifically, SEMCO stated that the 2008 cost of removal information that it was required to use in its February 2, 2009 filing would not be audited by that time and would therefore be unavailable for use in its depreciation case. SEMCO therefore requested that the Commission allow the company to use 2007 removal costs as the basis for its depreciation studies and case. The Staff replied that it concurred with SEMCO’s request.

ABATE also filed a reply to SEMCO’s petition and argued that the Commission should move the filing date for the SEMCO case to any time during the second quarter of 2008 so that SEMCO could use 2007 cost of removal information, which will have been audited by that time. ABATE claimed that by 2009, the 2007 cost of removal information would be “stale.”

Rule 403 of the Commission’s Rules of Practice and Procedure, 1999 AC, R 460.17403, provides that a petition for rehearing may be based on claims of error, newly discovered evidence, facts or circumstances arising after the hearing, or unintended consequences resulting from compliance with the order. A petition for rehearing is not merely another opportunity for a party to argue a position or to express disagreement with the Commission’s decision. Unless a party can show the decision to be incorrect or improper because of errors, newly discovered evidence, or unintended consequences of the decision, the Commission will not grant a rehearing.

In this case, the Commission finds that the filing date established in the order for SEMCO has the unintended consequence that SEMCO will be unable to comply with the Commission’s directive. Furthermore, the Commission finds that SEMCO’s request to use 2007 cost of removal data in its February 2, 2009 filing, rather than 2008 data, is a reasonable one, because the 2007 information will be the most recent data available to the company for use in its depreciation case.
The Commission FINDS that:


b. SEMCO should be permitted to use 2007 cost of removal data as the basis for its depreciation study to be filed on February 2, 2009.

THEREFORE, IT IS ORDERED that SEMCO Energy Gas Company may use calendar year 2007 cost of removal data as the basis for its depreciation case to be filed by February 2, 2009.

The Commission reserves jurisdiction and may issue further orders as necessary.

MICHIGAN PUBLIC SERVICE COMMISSION

/s/ Orjiakor N. Isiogu
Chairman

( S E A L )

/s/ Monica Martinez
Commissioner

/s/ Steven A. Transeth
Commissioner

By its action of September 25, 2007.

/s/ Mary Jo Kunkle
Its Executive Secretary

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MICHIGAN PUBLIC SERVICE COMMISSION

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Chairman

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Commissioner

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By its action of September 25, 2007.

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Its Executive Secretary