STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the application of
CONSUMERS ENERGY COMPANY
for authority to increase its rates for the
distribution of natural gas and for other relief.

Case No. U-15986

At the May 17, 2010 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. Orjiakor N. Isiogu, Chairman
Hon. Monica Martinez, Commissioner
Hon. Greg R. White, Commissioner

OPINION AND ORDER

I.

HISTORY OF PROCEEDINGS

On May 22, 2009, Consumers Energy Company (Consumers) filed an application requesting authority to increase its rates for the distribution of natural gas in the annual amount of $114.4 million and for other relief.\(^1\) In its application, Consumers projected a test year rate base amount of $2,754,695,000 and requested an 11.00% return on equity in its cost of capital projection of 7.32%. Consumers also proposed the adoption of a revenue decoupling mechanism (RDM), an uncollectible expense tracker mechanism (UETM), a pension equalization mechanism (PEM), an other post employment benefits (OPEB) mechanism, and expenditures for its Advanced Metering

\(^1\)In its initial brief, Consumers reduced its requested rate increase to $103,821,000 and in its exceptions to the Proposal for Decision (PFD) Consumers calculated a revenue deficiency of $102.1 million.
Infrastructure (AMI) program. Consumers projected deliveries of 271,575,000 thousand cubic feet (Mcf) of natural gas and an average customer total of 1,682,271. To address its additional revenue requirement, Consumers requested an equal percentage increase of 16.7% for all sales rates, and a 20.6% increase for transportation rates. The Commission last approved Consumers’ retail natural gas rates in its December 23, 2008 order in Case No. U-15506, which authorized the company to increase its rates for the distribution of natural gas in the annual amount of $22.4 million.

A prehearing conference was held on June 24, 2009 before Administrative Law Judge Mark D. Eyster (ALJ). Consumers, the Commission Staff (Staff), Attorney General Michael A. Cox (Attorney General), the Association of Businesses Advocating Tariff Equity (ABATE), the Michigan Community Action Agency Association (MCAAA), Midland Cogeneration Venture Limited Partnership (MCV), and the Michigan State Utility Workers Council, Utility Workers Union of America, AFL-CIO (AFL-CIO) appeared at the proceeding and were granted leave to intervene. Interstate Gas Supply, Inc., and the National Energy Marketers Association (together, NEMA) was granted permissive intervention. Subsequently, the ALJ granted a delayed petition for permissive intervention filed by Constellation NewEnergy, Inc. (CNE).

On October 13, 2009, the Commission issued an order, pursuant to Section 6a(1) of 2008 PA 286 (Act 286) directing Consumers to file proposed interim tariffs by October 16, 2009, and allowing the parties to respond to the filed tariffs by October 23, 2009. The Commission also set a hearing for October 27, 2009. On October 16, 2009, Consumers filed tariffs reflecting a rate increase of $89 million, which it self-implemented on November 19, 2009.

Evidentiary hearings on Consumers’ request for final rate relief were held on December 14 through 16, 2009, December 18, 2009, and January 7, 2010. On January 25, 2010, the parties filed
briefs and on February 10, 2010 the parties filed reply briefs. The record in this case consists of 1,217 pages of transcript and 173 exhibits that were admitted into evidence.

On March 24, 2010, the ALJ issued his PFD in which he recommended that the Commission grant Consumers $68,579,133 in rate relief, $20,420,867 less than the amount that the company self-implemented on November 19, 2009.

On April 7, 2010, exceptions were filed by Consumers, the Staff, the Attorney General, and ABATE. Consumers, the Staff, the Attorney General, CNE, AFL-CIO, MCAAA, and ABATE filed replies to exceptions on April 21, 2010.

II.

TEST YEAR

A test year is the starting point for establishing just and reasonable rates for both the regulated utility and its customers. A test year is employed by the Commission to establish representative levels of revenues, expenses, rate base, and capital structure for use in the rate-setting formula.

The selection of an appropriate test year has two components. First, a decision must be made regarding a 12-month period to be used for setting the utility’s rates. A second determination must then be made regarding how the Commission should establish values for the various components used in the rate-setting formula. The Commission may use different methods in establishing these values, provided that the end result is a determination of just and reasonable rates for the company and its customers.

As the Commission discussed in its January 11, 2010 order in Case Nos. U-15768 and 15751, pp. 9-10:

Section 6a(1) of Act 286, MCL 460.6a(1), provides that a utility ‘may use projected costs and revenues for a future consecutive 12-month period’ to develop its requested rates and charges. The Commission added that the Staff and intervenors should direct their focus ‘upon the strengths and weaknesses of the evidentiary
presentations of the parties regarding specific expense and revenue projections.’ In a case where a utility decides to base its filing on a fully projected test year, the utility bears the burden to substantiate its projections. Given the time constraints under Act 286, all evidence (or sources of evidence) in support of the company’s projections should be included in the company’s initial filing. If the Staff or intervenors find insufficient support for some of the utility’s projections they may endeavor to validate the company’s projection through discovery and audit requests. If the utility cannot or will not provide sufficient support for a particular revenue or expense item (particularly for an item that substantially deviates from the historical data) the Staff, intervenors, or the Commission may choose an alternative method for determining the projection.

In its filing, Consumer proposed using October 2009 through September 2010 as its future 12-month period to be used for setting the utility’s rates. No party took issue with this proposal, which was adopted by the ALJ. The Commission agrees that the proposed test year is appropriate for setting Consumers’ rates for natural gas service.

III.

RATE BASE

A utility’s rate base consists of the capital invested in used and useful plant, less accumulated depreciation, plus the utility’s working capital requirements. The Staff proposed a total rate base amount of $2,754,695,000, comprised of $1,708,873,000 for net plant, depreciation and construction work in progress; a working capital requirement of $1,025,422,000; and unamortized manufactured gas plant expense of $21,163,526. In its initial brief, Consumers stated that it did not dispute these amounts.

The Attorney General argued that Consumers’ rate base calculation showed a 31% increase in net utility plant from 2008 until the end of the forecasted test year. According to the Attorney General, this level of increase in capital expenditures is unusual for a utility “in a mature sales market with a declining customer base.” Attorney General’s initial brief, p. 16. The Attorney General added that only 6% of the proposed additional capital expenditures are revenue generating
and that Consumers failed to provide a benefit cost analysis to demonstrate that the proposed increase is reasonable and prudent.

The Attorney General was especially critical of Consumers’ proposed expenditures for AMI. According to him:

The concern about this new AMI pilot program is not whether or not AMI is a good technology or whether it will provide some benefit to customers. Rather, the concern is whether Consumers has shown that it is reasonable to expend $230 million in capital expenditures by the end of 2015 which increases cost of capital by millions without providing any cost/benefit analysis to determine if the benefits to the company and customers outweigh the costs.

Attorney General’s initial brief, p. 19.

The Attorney General added that he took issue with the timing of the AMI proposal, suggesting that even assuming that the benefits of the program will outweigh the costs, it makes little sense to implement such an expensive program in the midst of a severe recession. ABATE concurred with the Attorney General’s arguments regarding the implementation of AMI and added that it could conceive of no real customer benefits that could be obtained through gas AMI. In addition to removing AMI expenditures, the Attorney General recommended that the Commission adopt reductions to various categories of capital expenditures and approve $315.5 million in capital expenditures, $173.6 million less than the $489.1 million proposed by Consumers.

The ALJ found that in the current economic climate the Attorney General’s arguments had some merit; however, the Attorney General’s recommended reductions lacked specificity. The ALJ also found that Consumers had presented sufficient evidence to show that its proposed capital expenditures related to concrete projects that were reasonable. The ALJ agreed that Consumers could probably delay certain projects until the economic situation in Michigan improves but that the Attorney General failed to identify exactly which projects should be deferred. The ALJ therefore adopted the Staff’s recommendation of a total rate base amount of $2,754,695,000.
The Attorney General and ABATE take exception to the ALJ’s recommendation. The Attorney General argues that the ALJ’s finding shifts the burden of proof on the issue of the reasonableness of Consumers’ proposed capital expenditures from the company to other parties in the case. The Attorney General and ABATE also claim that there is insufficient justification for charging customers the cost of AMI because the technology is unnecessary for the provision of gas service and because Consumers has failed to show that the benefits of AMI outweigh the costs.

In its exceptions, the Staff points out that although the ALJ correctly accepted Consumers’ adjustment to O&M expense to reflect the implementation of plant standard retirement units (SRUs), he failed to make a corresponding adjustment to rate base. According to the Staff, the ALJ inadvertently increased rather than decreased capital expenditures in making his adjustment. In its replies, Consumers stated that it agreed with the Staff that the Commission should reduce the revenue requirement to account for a reduction in capital expenditures related to the change to SRUs.

The Commission finds that the rate base amount proposed by the Staff, and agreed to by Consumers, should be adopted with the adjustments discussed below. As Consumers pointed out, the major differences between Consumers’ calculation of capital expenditures and that of the Attorney General fall into the categories of regulatory compliance, material condition replacements and upgrades, and capacity and deliverability programs. These expense categories are tied to necessary expenditures for pipeline safety, system reliability, and distribution system upgrades that are reasonable and supported by the company.

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Nevertheless, the Commission agrees with the Attorney General that the timing of the substantial expenditures associated with AMI is premature in view of Michigan’s current economic circumstances. Although there are definite signs of economic improvement nationally, the recovery in Michigan is only beginning. The Commission is not persuaded that burdening Consumers’ ratepayers with the full amount of the approximately $30 million in capital expenditures proposed by Consumers is in the public interest at this time while the effects of the recent economic downturn are still being widely experienced in this state. The Commission therefore finds that capital expenditures for AMI that the Commission authorizes to be recovered from ratepayers in the test year should be limited to $15 million. The Commission believes that Consumers should include in its gas AMI pilot, areas where Consumers provides gas service and another utility provides electric service. A clear benefit of gas AMI is the ability to dispense with meter-reading and the associated costs. However, it is the Commission’s understanding that the gas AMI module is designed to transmit usage information from a standard gas meter to the electric AMI equipment at the facility. The electric meter then transmits the information for both services to the electric utility. Because Consumers’ gas service territory overlaps with the service territories of several different electric utilities, the Commission finds that a key technical issue that must be resolved is how the utilities with electric AMI will coordinate the transmission of information for billing purposes to a different utility that provides gas service.

The Commission also finds that in its next rate proceeding, Consumers should file a detailed benefit cost analysis and a report on the progress it has made with AMI, the probable benefits to ratepayers, and the plan it has to ensure those benefits reach ratepayers. At that time, there should be more experience with the system, which may provide the Commission sufficient evidence to
support a finding concerning whether the system is used and useful and reasonable and prudent, which is required before additional recovery can be authorized.

As the Staff observes in their exceptions, the rate base calculation did not include the adjustments associated with incorporating the Staff’s SRUs for gas plant as directed in the September 29, 2009 and February 8, 2010 orders in Case No. U-15629. Incorporating the adjustments for the use of SRUs and the reduction for AMI capital expenditures results in a total rate base amount of $2,736,211,000.

IV.

RATE OF RETURN

The criteria for establishing a fair rate of return for public utilities is rooted in the language of the landmark United States Supreme Court cases *Bluefield Water Works Co v Public Service Comm of West Virginia*, 262 US 679; 43 S Ct 675; 67 L Ed 1176 (1923) and *Federal Power Comm v Hope Natural Gas Co*, 320 US 591; 64 S Ct 281; 88 L Ed 333 (1944). The Supreme Court has made clear that in establishing a fair rate of return, consideration should be given to both investors and the customers. The rate of return should not be so high as to place an unnecessary burden on ratepayers, yet it should be sufficient to provide for investor confidence in the financial soundness of the enterprise. Nevertheless, the determination of what is fair or reasonable, “is not subject to mathematical computation with scientific exactitude but depends upon a comprehensive examination of all factors involved, having in mind the objective sought to be attained in its use.” *Meridian Twp v East Lansing*, 342 Mich 734, 749; 71 NW2d 234 (1955). With these principles in mind, the Commission turns to the factors that form the basis for determining the rate of return for Consumers.
A. Capital Structure

Consumers initially proposed a common equity balance of $3,940,000,000 and a long-term debt balance of $4,166,000,000. In its initial brief, Consumers stated that it would adopt the Staff’s balances for each of the capital structure components, with one exception: Consumers proposed to remove the $163 million liability to the U.S. Department of Energy (DOE) for pre-1983 spent nuclear fuel disposal from the Staff’s projected long-term debt balance, resulting in a balance of $3.976 billion. Consumers argued that the November 2, 2009 order in Case No. U-15645 supports the conclusion that the DOE liability should be excluded from the gas capital structure in this case.

The Staff recommended a common equity balance of $3,873,012,000, which represents approximately 48% of the permanent capital structure, and a long-term debt balance of $4,139,415,000, which represents approximately 51% of the permanent capital structure for the test year.

The Attorney General proposed that Consumers’ capital structure should reflect the capital structure of its parent company, CMS Energy, as reported in CMS Energy’s financial statements and adjusted on a regulatory basis. According to the Attorney General, on June 30, 2009, CMS Energy had a capital structure comprised of 27.9% common equity and 72.1% debt and preferred stock. The Attorney General observed that CMS Energy has sold or shut down most of its diversified businesses in the past few years. As a result, more than 90% of CMS Energy’s investments are in Consumers’ natural gas distribution and electric utility businesses. Thus, according to the Attorney General, the capital structure of CMS Energy reflects the actual situation that investors perceive regarding Consumers’ risk.
The ALJ rejected the Attorney General’s proposal, noting that the Commission did not adopt his nearly identical proposal in its November 2, 2009 order in Case No. U-15645, pp. 16-17. The ALJ recommended ratios for long-term debt of 51.38%, 0.55% for preferred stock, and 48.07% for common equity in Consumers’ permanent capital structure for the test year.

The Attorney General takes exception and repeats his argument that Consumers’ capital structure should reflect that of its parent company, CMS Energy.

The Commission agrees with the ALJ that the Attorney General’s proposal should be rejected at this time. The Commission has treated Consumers as a stand-alone company and has established as a reasonable goal that Consumers maintain a capital structure roughly balanced between debt and equity. From time to time, intervenors in Consumers’ gas or electric rate cases have proposed the use of various hypothetical capital structures and the Commission has generally rejected these proposals. The Commission is cognizant of the Attorney General’s argument regarding double leveraging by CMS Energy; however, at this time the Commission is not persuaded that the capital structure of the parent company is reasonable for Consumers.

As discussed in more detail below, the Commission adopts the balances in capital structure as recommended by the ALJ and largely agreed to by the Staff and Consumers.

B. Cost Rates

1. Short-term Debt

The parties agreed to a short-term debt balance of $56 million. Consumers calculated a short-term debt cost rate of 8.26% while the Staff projected a short-term debt cost rate of 1.94%. Consumers’ cost calculation is based on the projected cost of borrowing under the company’s two revolving credit facilities and includes recognition of the three month London Interbank Offered
Rate (LIBOR), the revolver interest spread, and the commitment fees and amortization for the revolving credit agreements.

The Staff’s short-term debt cost rate of 1.94% consists of a 2010 forecasted 3-month LIBOR of 1.03%, 0.35% for the revolver spread, plus 0.56% in revolver fees for Consumers’ two revolver credit facilities.

Consumers claimed that three adjustments should be made to the Staff’s calculation of the short-term debt cost rate: 1) A fee of 47.5 basis points should be used in determining the cost of a $68 million letter of credit rather than the 12.5 basis point amount used by the Staff; 2) the cost rate for the revolver fees should be calculated by dividing the amount of fees by the average borrowing amount rather than by the total revolver amounts; and 3) the weighting method that the Staff proposed should be rejected because it is inappropriate and inconsistent with the method adopted by the Commission in Case No. U-15645. According to Consumers, these three adjustments to the Staff’s calculation of the short-term debt cost rate increase the cost rate from 1.94% to 8.26%.

In response, the Staff asserted that Consumers covers the cost of the $68 million letter of credit by earmarking a portion of its existing revolver. Thus, including an additional 35 basis point credit spread fee for the letter of credit, on top of the 35 basis point spread fee already taken into account in the revolver’s cost, is redundant. The Staff further asserted that its method for calculating the revolver and commitment fees was reasonable. The Staff divided the revolver fees by their individual revolver amounts to obtain the additional spread required for each revolver and then modified that spread by the revolver’s weighting to the total revolver facility. Specifically, the Staff used a weighting of 77% for the $500 million revolver and 23% for the more costly $150 million revolver. According to the Staff, the company’s method divided the revolver fees by the
average outstanding short-term debt balance of $56 million and produced an unreasonably high short-term debt cost rate of 8.83%, which is noticeably higher than Consumers’ embedded long-term debt cost rate and nearing its cost of equity rate.

After reviewing the methods for calculating the short-term debt cost rate, the ALJ found that Consumers’ method should be adopted. It appeared to the ALJ that the Staff’s method did not permit the company the opportunity to completely cover the fees and interest associated with its projected revolver borrowings.

The Staff takes exception to the ALJ’s recommendation to adopt Consumers’ short-term debt cost rate and argues that Consumers’ method for calculating this cost is flawed because it inflates the effect that revolver fees have on the cost. The Staff points out:

The ALJ mistakenly agreed with the Company’s argument that Staff’s methodology limited Consumers’ recovery to approximately $314,000 out of $3.61 million in fees, which prompted the ALJ to further conclude that Consumers would not be able to recover its projected fee costs. This is not correct because, in reality, the actual impact of the fees to the Company’s short-term debt cost rate will roughly fall in line with Staff’s 0.56% estimation in the test year (0.10% for the $500 million revolver and 0.46% for the $150 million revolver). 4 TR 712. In other words, the Company will not incur the full cost weight of the projected fees because the fees impact the Company’s short-term debt cost rate through a mixture of commitment, usage/utilization, amortization and other fees, and the Company will not experience most of those projected fees given that the more expensive $150 million revolver will likely not be utilized in the 2010 test year.

Staff’s exceptions, pp. 3-4.

Consumers replies that the record supports the findings in the PFD.

The Commission agrees that the Staff’s method for calculating Consumers’ short-term debt cost rate should be adopted in part. The Commission finds that although it is not clear from the record how Consumers covers the fees associated with the $68 million letter of credit, it is most economical and reasonable to do so by allocating a portion of the company’s revolver facility. However, the Commission agrees with the ALJ and Consumers that the cost of short-term debt
should be derived by using the projected average short-term debt balance rather than the total amount available in the two revolvers as the Staff recommended. The Commission therefore adopts a short-term debt balance of $56 million at a cost rate of 7.84%.

2. Long-term Debt

Consumers projected a long-term debt balance of $4,166,000,000 at a cost rate of 6.07%. The Staff projected a long-term debt balance of $4,139,415,000 at a cost rate of 5.86%, an amount that includes a DOE liability balance of $163,124,000 at a 0% cost rate. In its initial brief, Consumers accepted the Staff’s projected balance except for the amount included for DOE liability. Consumers therefore recommended a long-term debt balance of $3.976 billion.

Consumers contended that the Commission’s November 2, 2009 order in Case No. U-15645 indicates that DOE liability for spent nuclear fuel is an electric issue and should therefore not be included as part of capital structure in a gas case. Consumers claimed that because electric ratepayers are responsible for DOE interest expense, it is unfair to include it as part of the capital structure in a gas rate case. Consumers pointed out that leaving DOE liability in the capital structure for the gas division means that gas ratepayers will receive the benefit of access to no-interest funds but are not paying DOE liability expense in rates. Consumers adds that if DOE liability remains in the company’s capital structure, gas customers should be required to pay the annual fees associated with a letter of credit that allows the DOE funds to be used to benefit ratepayers.

In response, the Staff maintained that because the company continues to retain the DOE liability, these funds should be reflected as a source of capital in the company’s capital structure. The Staff added that in accordance with past Commission orders, the DOE letter of credit fees should be excluded. The MCAAA agreed that DOE liability should be included in Consumers’
The MCAAA added that ratepayers have fully funded the DOE liability, and now Consumers is asking ratepayers to cover the cost of a guarantee that the company will remit these funds on the very remote chance that the DOE will dispose of the spent nuclear fuel during the test year. The MCAAA contended that this is clearly unreasonable. The MCAAA also requested that the Commission establish an external trust in this case to receive the DOE liability funds.

The ALJ agreed with the Staff and the MCAAA, finding that the DOE liability funds are appropriately reflected in Consumers’ capital structure as long as the company retains the funds. The ALJ also noted that in the November 2, 2009 order in Case No. U-15645, the Commission ordered Consumers to present a proposal for establishing a trust by January 4, 2011. Thus, he rejected the MCAAA’s recommendation to establish a trust for DOE liability funds in this case.

Consumers takes exception and reiterates that by including DOE liability in its capital structure for the company’s gas division, gas ratepayers receive a benefit for which electric customers pay. Consumers adds that in accordance with the Commission’s November 2, 2009 order in Case No. U-15645, the company has filed an electric rate case in which the issue of future treatment of DOE liability funds will be addressed. Consumers asserts that this is all the more reason to remove DOE liability from the capital structure in this case; or in the alternative, require gas customers to cover the cost of letter of credit fees that allow the company to use the funds for the benefit of ratepayers.

The Commission agrees with the ALJ that DOE liability should remain a part of Consumers’ long-term debt in the company’s capital structure. The Commission has consistently used a combined capital structure for Consumers’ gas and electric divisions. While Consumers’ argument that gas ratepayers receive a benefit from the access to the DOE liability funds without
paying the associated expense is technically correct, it is largely beside the point. The converse
also holds true in instances where investment dollars are used to finance gas assets and both
electric and gas customers pay the associated expense through the combined capital structure.
Moreover, it would be an extraordinary, and perhaps futile, exercise to analyze each dollar of
capital structure and assign it to either the gas or electric division, or both.

The Commission also agrees with the MCAAA and the Staff that it is unreasonable to ask
ratepayers to cover the cost of a letter of credit for the DOE liability, when ratepayers have already
paid the full cost of the liability. The Commission therefore adopts a long-term debt balance of
$4,139,415,000.

Consumers also claimed that the Staff mistakenly removed 35 basis points for Pollution
Control Revenue Bonds (PCRB) fees in calculating the company’s long-term debt cost.
Consumers argued that it secures its PCRB debt with a $103 million letter of credit established
through its $500 million revolving credit facility. The PCRB fees include a fronting fee of 12.5
basis points, and a credit spread fee of 35 basis points. According to Consumers, the 35 basis point
spread is a cost that Consumers has to pay to maintain the PCRB letter of credit.

The Staff argued that it already accounted for the 35 basis point credit spread in establishing
the cost for Consumers’ short-term debt, which consists primarily of the $500 million revolver.
The Staff noted that Consumers has flexibility to use its revolver and the company opted to
earmark $103 million of that revolver to a letter of credit for its PCRB debt. The Staff contended
that because Consumers is allocating a portion of its outstanding revolver that already has the 35
basis point spread taken into account, an additional spread of 35 basis points for a letter of credit is
unreasonable for ratepayers to cover. The Staff added that Consumers had the opportunity in
rebuttal to highlight the additional spread it claims it incurs when securing a letter of credit from
its revolver facility, but the company failed to do so. The Staff requested that the Commission reject Consumers’ $611,000 in PCRB letter of credit fees and adopt the Staff’s $252,000 in fees by removing the additional 35 basis point spread that Consumers included in its PCRB letter of credit fee rate.

The ALJ found that the PCRB letter of credit fees were not included in the Staff’s calculation of the short-term debt and therefore accepted Consumers’ calculation of $611,000 in PCRB letter of credit fees.

The Staff takes exception to the ALJ’s recommendation and argues that the PCRB fees are paid for through an existing letter of credit secured by Consumers’ $500 million revolving credit facility, which already includes a 35 basis point credit spread fee in the cost of the revolver. The Staff adds that Consumers failed to explain the need for the additional 35 basis points, beyond stating that it is a cost that the company incurs.

Consumers replies that the record supports its position that the PCRB letter of credit fees are fees that the company has to pay, and that the costs of these fees were not included by Consumers or the Staff in the calculation of short-term debt cost.

The Commission finds that, as discussed in the previous section, the PCRB letter of credit fees are included in the Staff’s calculation of short-term debt cost and that to include these fees as part of long-term debt would be duplicative. The Commission therefore adopts a cost rate of 5.86% for long-term debt.

3. Preferred Stock

The parties agreed to a preferred stock balance of $44,038,000 at a cost rate of 4.46%. The ALJ agreed and recommended this balance and cost rate to the Commission. There were no
exceptions filed. The Commission therefore adopts a preferred stock balance of $44,038,000 at a cost rate of 4.46%.

4. Cost of Equity

A utility’s cost of common equity is the return investors expect, or require, in order to provide the utility with capital. The cost of capital is an opportunity cost; in order to induce investors to purchase common stock or bonds, there must be the prospect of receiving earnings that are sufficient to make the investment attractive compared with other investment opportunities.

Consumers and the Staff agreed on a common equity balance of $3,873,012,000, which was recommended by the ALJ. There were no exceptions filed. The Commission therefore adopts a common equity balance of $3,873,012,000.

The positions of the parties and the mechanics of different models used to calculate return on equity (ROE) are discussed extensively on pages 28-35 of the PFD and will not be repeated here. Consumers’ results for the various analyses it performed are summarized in Exhibit A-68, p. 10. The Staff’s results are shown in Exhibit S-4, and the Attorney General’s analyses are shown in Exhibits AG-13 through AG-16.

On the basis of its analyses, Consumers determined an ROE range of 10.75% to 11.25% and recommended that the Commission adopt the mid-point of 11%. The Staff recommended a range from 10.45% to 10.95% and recommended the midpoint of 10.70%. The Attorney General and ABATE recommended an ROE of 10.09%, which included a downward adjustment for the adoption of an RDM. In addition, the Attorney General and ABATE claimed that the implementation of other trackers would warrant further reductions in the authorized ROE. Specifically, the Attorney General and ABATE recommended that if the Commission adopts a
UETM, Consumers’ ROE should be reduced an additional 0.15% and if the Commission adopts a pension and OPEB mechanism, the company’s ROE should be reduced another 0.10%.

The ALJ agreed with the Attorney General’s criticisms of Consumers’ risk adjustment and prospective market risk CAPM analysis. The ALJ also agreed with the Attorney General and ABATE that the adoption of an RDM and other trackers reduces the company’s business risk and should be reflected in Consumers’ authorized ROE. The ALJ found the models and results used by the Staff were reasonable, but noted that nothing in the record supported an increase from Consumers’ currently authorized ROE of 10.55% to 10.70%. Based on the Staff’s results and taking into account the decreased risk associated with the RDM, the ALJ recommended that the Commission authorize an ROE of 10.45% and an overall rate of return of 6.99%. The ALJ added that his recommendation was higher than the average ROE approved by other states’ regulatory agencies and that the Commission should consider a further downward adjustment if it adopts additional trackers.

Consumers filed exceptions on this issue and argues that the record in this case shows that investors perceive Consumers as more risky than the proxy companies used in the analysis. Consumers points to the fact that the company’s bond ratings coverage ratios, and earned returns are lower than the average for the proxies. Consumers adds that its historical performance and Michigan’s lagging economy also affect investors’ perception that Consumers is more risky than the proxy companies. Consumers claimed that the ALJ improperly updated evidence and rejected the company’s analysis of its bond rating that demonstrated that Consumers’ ROE should be adjusted upward by 34 basis points. According to Consumers, Moody’s upgrade in the company’s bond rating was a result of a change in rating methods and did not reflect a change in Consumers’ relative risk compared to the proxy companies.
Consumers contends that the ALJ erred in finding valid the Attorney General’s criticisms of the company’s prospective CAPM. Consumers argues that the weight of the evidence in this case points to the fact that, as Consumers claims, financial markets have not stabilized, access to credit remains uncertain, and investors remain more risk averse.

Consumers takes exception to the ALJ’s recommendation that the company’s ROE should be adjusted downward to account for the adoption of an RDM, noting that the ROEs for many of the proxy companies are already adjusted to account for decoupling.

In his exceptions, the Attorney General supported the ALJ’s recommendation to further reduce Consumers’ ROE if other trackers are adopted. Further, the Attorney General argued that Consumers’ authorized ROE should be reduced from 10.09% to 9.99% if the Commission does not include weather normalization in the company’s RDM.

The Commission finds that the record in this case supports an ROE of 10.55%. The Commission agrees with the ALJ that Consumers’ projected CAPM analysis should bear less weight because it was based on numbers that were outdated by the time the other parties filed their testimony and exhibits. The Commission adds that although the national economic picture is improving, Consumers is requesting an increase in its ROE and an increase in its revenue at the same time that Michigan residents and businesses continue to experience considerable economic hardship. Furthermore, the Commission finds that the recommendation by the Attorney General and ABATE, regarding a reduction in ROE to reflect the implementation of an RDM, merits careful consideration in a future rate proceeding. The implementation of revenue decoupling may have an effect on the risk profile of the company, such that a reduction in ROE may be justified as more risk is shifted from the company to its ratepayers. However, the degree to which the company’s risk is altered by the implementation of an RDM is dependent on the design of the
mechanism. In addition, the provisions contained in Act 286 that permit utilities to file annual rate cases, allow self-implementation of new rates 180 days later, and require the Commission to complete rate case processing in 12-months, likewise appear to reduce the company’s business risk.

As the Commission observed in the January 11, 2010 order in Case No. U-15768, p. 21, the revenue decoupling program is a pilot and any changes to a utility’s risk profile cannot be assessed without information on the actual performance of the specific RDM. Similarly, the Commission has limited information at this point on the effect of Act 286 on investor risk. The Commission therefore directs the Staff and other intervenors to submit, in the company’s next rate case, analyses regarding whether Consumers’ ROE should or should not be adjusted on the basis of the company’s experience with the RDM and the file and use provisions of Act 286.

5. Other Balances and Cost Rates

The Staff agreed with Consumers’ recommended balances and cost rates for Customer Deposits, Other Interest Bearing Accounts, Deferred Income Tax (FIT), Deferred Michigan Business Tax (MBT), and Job Development Income Tax Credit (JDITC).

As the ALJ noted, there were no disputes among the parties regarding the other cost elements. All parties used a cost rate of 0% for deferred FIT and MBT; 7% for Customer Deposits; 7.33% for Other Interest Bearing Accounts; and 8.50% for JDITC. The ALJ recommended that the Commission adopt the agreed-to balances and cost rates. There were no exceptions filed. The Commission therefore adopts the ALJ’s recommendations.
6. **Summary**

Based on the Commission’s findings, Consumers’ overall cost of capital is set at 7.02%, calculated as follows:

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
<th>Total Capital</th>
<th>Cost Rate</th>
<th>Weighted Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Long-Term Debt</td>
<td>$4,139,415,000</td>
<td>43.58%</td>
<td>5.86%</td>
<td>2.55%</td>
</tr>
<tr>
<td>Short-Term Debt</td>
<td>$56,000,000</td>
<td>0.59%</td>
<td>7.84%</td>
<td>0.05%</td>
</tr>
<tr>
<td>Preferred Stock</td>
<td>$44,038,000</td>
<td>0.46%</td>
<td>4.46%</td>
<td>0.02%</td>
</tr>
<tr>
<td>Common Equity</td>
<td>$3,873,012,000</td>
<td>40.78%</td>
<td>10.55%</td>
<td>4.30%</td>
</tr>
<tr>
<td>Customer Deposits</td>
<td>$32,000,000</td>
<td>.34%</td>
<td>7.00%</td>
<td>0.02%</td>
</tr>
<tr>
<td>Other Interest Bearing Accts</td>
<td>$35,000,000</td>
<td>.37%</td>
<td>7.33%</td>
<td>0.03%</td>
</tr>
<tr>
<td>Deferred FIT</td>
<td>$1,263,000,000</td>
<td>13.30%</td>
<td>0.00%</td>
<td>0.00%</td>
</tr>
</tbody>
</table>

**JDITC**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
<th>Total Capital</th>
<th>Cost Rate</th>
<th>Weighted Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Long-Term Debt</td>
<td>$28,772,823</td>
<td>0.30%</td>
<td>5.86%</td>
<td>0.02%</td>
</tr>
<tr>
<td>Preferred Stock</td>
<td>$306,105</td>
<td>0.00%</td>
<td>4.46%</td>
<td>0.00%</td>
</tr>
<tr>
<td>Common Equity</td>
<td>$26,921,072</td>
<td>0.28%</td>
<td>10.55%</td>
<td>0.03%</td>
</tr>
<tr>
<td>TOTAL</td>
<td>$9,498,465,000</td>
<td>100.00%</td>
<td>7.02%</td>
<td></td>
</tr>
</tbody>
</table>

V. **THROUGHPUT**

Throughput represents the total gas sales and transportation volumes delivered to end-use customers during the test year. Throughput is used to compute test-year revenues and is also used in determining rate design issues.

Consumers forecasted total gas deliveries for the test year of 271.6 billion cubic feet (Bcf), a 25.7 Bcf decline from the 15-year weather normalized level of 297.2 Bcf in 2008. Consumers asserted that 58% of the reduction in deliveries is attributable to the industrial sector and that average residential and commercial use per customer is forecasted to decline 1.3% to 1.6% from October 2009 to September 2010. Consumers added that overall, the forecasted reduction is due to efficiency gains from newer appliances, conservation, and Michigan’s economic conditions.
including population trends and housing activity. The Staff agreed with Consumers’ projections and with the company’s use of 15 years of weather data in developing its forecast for this case only.

The Attorney General argued that the Commission should continue to use 30 years of weather data in developing Consumers’ throughput projection. The Attorney General noted that the use of 15 years of weather, rather than 30 years, increases the company’s revenue deficiency by $5.7 million. The Attorney General asserted that although many experts have found that weather patterns have undergone a warming trend in the past decade, in any given year, weather is still a random occurrence. Thus, according to the Attorney General, the use of 30 years of weather data will reduce the effect of historical fluctuations in throughput. The Attorney General asserted that as a matter of policy, the Commission should continue to approve the 30-year normalization method.

With respect to Consumers’ projection of gas deliveries in the test year, the Attorney General claimed that the company’s regression analyses were problematic. The Attorney General pointed out that Consumers’ exponential smoothing method tends to weigh recent trends more heavily, leading to an exaggerated forecast of future declines in usage. The Attorney General added that Consumers is forecasting a decrease of 24,000 residential customers during the test year, compared to an actual decrease of 2,500 customers from 2007 to 2008. The Attorney General argued that it was more reasonable to use a simplified approach based on historical customer numbers and consumption levels for 2008 multiplied by a forecasted rate of change for the test year. As a result, the Attorney General calculated total gas sales and transportation volumes of 283.2 Bcf, approximately 11.6 Bcf more than Consumers’ forecast.
The ALJ found that normalizing weather using 15 years of data provides a more accurate forecast of deliveries in light of recent warming trends. The ALJ was not persuaded that the Attorney General’s method for estimating throughput for commercial and industrial customers was likely to be any more accurate than Consumers’ methods applied to those customer classes; however, the ALJ did find the Attorney General’s projections for residential customer numbers and usage to be more reasonable. The ALJ noted that the exponential smoothing model used by the company tended to exaggerate recent declines, the company’s witness admitted that changes in Consumers’ computer system made the projections more difficult to make, and the company was unable to quantify the adjustments made to its model results. The ALJ therefore recommended that the Commission add additional sales of 1,358,420 Mcf and revenues of $4,550,706 to Consumers’ projections.

Consumers takes exception to this recommendation, arguing that the concerns the ALJ cited regarding the company’s projections for residential customer numbers and usage did not support the rejection of the company’s forecast. Consumers points to rebuttal testimony in which it claims that more recent economic forecasts for Michigan continue to paint a grim picture. According to Consumers, most of the state’s top business leaders do not expect the economy to bottom out until 2011. Consumers therefore urges the Commission to reject the PFD and adopt the company’s forecast for residential customers and sales volumes.

In his exceptions, the Attorney General asserts that the Commission should reject the ALJ’s recommendation that the forecast should be based on 15 years of weather data rather than 30 years. The Attorney General again claims that the use of 30 years of weather data is more likely to protect against significant year-to-year fluctuations in throughput.
The Attorney General further argues that the ALJ should have adopted his forecast for sales and revenues for commercial and industrial class customers. The Attorney General asserts that the same problems that he identified with the company’s forecast of residential sales and customer number also exist with the company’s estimates for commercial and industrial customers. The Attorney General points out that Consumers’ forecast was based on different periods for different customer classes, raising the question whether the company was choosing the most advantageous periods to support its forecast.

The Staff did not take exception to the ALJ’s recommendation, but pointed out that the ALJ used evidence that was not in the record to calculate the additional customers and volumes and used customer counts, rather than bills, to determine the revenue effect. The Staff corrected the ALJ’s errors and calculated that the ALJ’s recommendation resulted in an increase of 13,219 customers over the average monthly number of residential customers projected by Consumers and an increased volume of gas sold of 1,354,292 Mcf. See, Staff’s exceptions, Attachment A. The Staff then calculated the additional revenue resulting from the customer and distribution charges. See, Staff’s exceptions, Attachment B.

The Commission finds that the Attorney General’s method for projecting throughput for all classes of customers is most reasonable and direct. The Attorney General calculated the average consumption per customer based on normalized 2008 gas consumption data from Consumers and used the average number of customers for 2008 also provided by the company. See, Exhibit AG-23. The resulting average consumption per customer and number of customers was then multiplied by the forecasted rate of change for the period January 2009 to September 2010 to arrive at the forecasted average consumption per customer in the test year. To calculate the rate of decline, the Attorney General used the same historical gas usage decline calculated by Consumers
for residential and commercial customers and extended it to September 2010. For the industrial customer class, the Attorney General used a rate of decline that reflects the drop in the State of Michigan Real Product index during the period 2008 to 2010. The Attorney General used similar methods in projecting the declines in numbers of customers for each customer class.

The Commission agrees with the Attorney General that the same weaknesses present in the company’s residential forecast, which was rejected by the ALJ, can be found in the company’s forecasts for commercial and industrial usage and customer counts. As the Attorney General pointed out, Consumers posits a ten-fold increase in the average number of residential customers leaving the system in 2008 compared to the test year. The company projects similar substantial declines for customer numbers for commercial and industrial classes. See, Exhibit AG-23. Given the current signs of recovery, although still weak in Michigan, the Commission finds the Attorney General’s customer number projections for all customer classes to be more credible than Consumers’ projections.

The Commission is cognizant of the fact that the company filed this rate case in May 2009, when the entire country, Michigan in particular, was in the midst of a severe economic crisis. By the time the Attorney General and other intervenors filed their cases in late 2009, the economy was beginning to turn around and it is the Commission’s belief that the Attorney General’s forecast better reflects the beginnings of a modest economic recovery that is expected to continue through the test year.³

³According to Exhibit A-23, from 2007 through 2008, Consumers reports a decrease in the average number of residential customers of 2420, but projects a much higher decrease of 24,003 from 2008 to the test year. Likewise, Consumers reported an average increase of 2 commercial customers from 2007 to 2008 but a decrease of 1,090 customers for the test year compared to 2008. For industrial customers, Consumers experienced an average decrease of 60 customers from 2007 to 2008, but projects a decrease in the test year of 305.
Although the Commission is adopting the Attorney General’s forecast method, it is not adopting his 30-year weather normalization for calculation of usage. The Commission observes that the 15-year weather normalization used by Consumers appears to be more reflective of recent warming trends, although the difference between the results from 15 and 30-year data set is relatively small. In future gas rate cases, the Commission directs Consumers to provide throughput projections on the basis of both 15 and 30-year weather normals. In light of the foregoing, the Commission forecasts total gas deliveries of 283,180 MMcf.

VI.

ADJUSTED NET OPERATING INCOME

A. Sales and Transportation Revenue

In accordance with the throughput projection adopted above, the Commission finds total sales and transportation revenues of $2,382,715,000.

B. Miscellaneous Revenues

Consumers projected $89,650,000 in miscellaneous revenues, incorporating a simple average of revenues from 2003 through 2009 for buy/sell agreements and average revenues from 2003-2008 for asset management agreements (AMAs). Consumers estimated this total amount to be $10,343,251 for the test year. The Staff adopted Consumers’ projection adjusted to add $72,000 for rounding error. The Staff also used a three-year average from 2006 through 2008 to estimate buy/sell and AMA revenues resulting in revenues of $16,370,282. In its initial brief, the Staff agreed that if a three-year average is to be used, the average for 2007-2009 should be applied, resulting in buy/sell and AMA revenue of $12,109,702. The ALJ accepted the Staff’s revised projection and there were no exceptions filed. The Commission therefore adopts buy/sell and
AMA revenues of $12,109,702 and miscellaneous revenues of $91,488,658. Accordingly, the Commission calculates total operating revenue of $2,474,204,000.

C. Cost of Gas Sold

Consumers projected the cost of gas sold at $7.528 per Mcf for a total of $1,681,793,000. The Staff agreed and recommended that the Commission adopt $7.528 per Mcf as the projected average cost of gas to calculate Consumers’ Lost and Unaccounted for Gas (LAUF) and its cost of company use gas. The ALJ adjusted this amount upward to account for additional residential sales.

In its exceptions, Consumers again argues that the Commission should not adopt the ALJ’s recommended increase in residential customers. The Staff points out that the ALJ’s arithmetical error in calculating the number of residential customers and usage carried through to this calculation. The Staff recommends that if the Commission adopts the adjustment for residential customers in the PFD, it should correct the cost of gas calculation accordingly.

In light of the Commission’s decision to adopt the Attorney General’s throughput projection with modifications discussed above, the Commission adopts a cost of gas sold of $7.528 per Mcf for a total of $1,695,558,000 for cost of gas sold.

D. Company Use, Lost and Unaccounted for Gas, and Gas in Kind

The Staff agreed with Consumers’ estimate of lost and unaccounted for (LAUF) gas of 1.0844% and the company’s estimate of gas-in-kind of 1.86%. The agreed-to amounts were adopted by the ALJ.

The Commission finds that the LAUF percentage of 1.0844% should be approved and, because of the increase in throughput adopted here, the gas-in-kind percentage should be adjusted
to 1.83%. Therefore, in accordance with the Commission’s throughput determination discussed above, $29,474,000 in LAUF and gas in kind expense is approved.

E. Other Operations and Maintenance Expense

Consumers’ calculation of Other O&M expense began with 2008 normalized actual levels of expense of $353,241,000. According to Consumers, this expense is the sum of the 2008 historic O&M of $320,605,000 and LAUF gas in the amount of $32,636,000. Consumers asserted that this historical amount was then adjusted for known changes. Consumers initially calculated adjustments that resulted in a total test year Other O&M level of $380,753,000. In its initial brief, Consumers revised its projected Other O&M expense for the test year to $384,134,000.

The Staff recommended a projected Other O&M expense of $356,819,780 for the test year ending September 30, 2010. See, Exhibit S-3. The Staff stated that its projections were developed through historical adjustments and projected adjustments using Consumers’ audited MPSC P-522 statement for year ending December 31, 2008, in the amount of $353,240,131, as a starting point. The differences between the Staff’s position and the company’s were attributable to different amounts for historical Employee Incentive Compensation Program (EICP), Corporate O&M, uncollectibles expense, and Accounts Receivables Sales costs.

The ALJ accepted Consumers’ adjusted historical O&M and projected $374,001,813 for Other O&M for the test year.

In its exceptions, the Staff points out a discrepancy in the PFD. Although the text of the PFD recommends projected Other O&M expense of $374,001,813, Attachment A to the PFD presents a projected O&M expense of $367,432,684, a difference of $6,569,129 from the recommendation in the body of the PFD. The Staff indicated that it was unable to reconcile these two amounts.
As discussed in more detail below, the Commission adopts a projected Other O&M expense of $369,747,000.

1. Employee Incentive Compensation Expense

Consumers stated that when it filed this rate case, it sought recovery of non-officer EICP expense. The Staff recommended that non-officer EICP expense be excluded in determining the revenue deficiency in this case. Consumers claimed that although it believes that the non-officer EICP costs are reasonable and appropriate, it nevertheless adjusted its requested relief to exclude recovery of the non-officer EICP expense.

Consumers asserted that it did not agree with a portion of the Staff’s adjustment. According to Consumers, $1.7 million of the Staff’s adjustment to historical non-officer EICP is inappropriate because this amount pertains to employee base salary and is not tied to any performance criteria. Consumers claimed that in 2009, the company chose to shift $1.7 million from base pay to incentive pay rather than shifting $3.4 million from base pay to incentive pay as it did in 2008. Consumers adds that its non-officer employee salaries are reasonable.

The ALJ agreed with Consumers that the $1.7 million adjustment was to base salary and was not related to EICP.

In its exceptions, the Staff argues that Consumers incorrectly characterized this expense as purely base salary. According to the Staff, “Consumers’ attempt to integrate a portion of its EICP expense into base salary is a back-door attempt to circumvent Commission orders.” Staff’s exceptions, p. 12. According to the Staff, if amendments to the company’s EICP were made to address the Commission’s concerns, then those costs should be evaluated within the context of the EICP. The Staff also posits that Consumers’ EICP modification was merely a cost allocation shift to evade the Commission’s policy of not including EICP payments in the cost of service.
Therefore, the Staff removed the amount designated by the company as base salary outside the constraints of the EICP and added it back to the EICP where it belonged.

The Commission observes that it rejected a similar rationale by Consumers in the company’s most recent electric rate case. In that case, Consumers proposed that the Commission approve a $3.6 million increase to base salaries, not tied to any incentive, and a $3.6 million bonus program. In its November 2, 2009 order in that case, the Commission found:

> It is disingenuous for Consumers to contend that the Commission must authorize an “incentive program” that consists of a pay increase tied to no incentive, and a bonus tied to goals that the Commission specifically disavowed in Consumers’ last rate case. This is all the more obvious in the current economic climate. For ratepayers to be asked to pay for an incentive compensation program under existing economic conditions, that program must, more than ever, clearly demonstrate that its benefits outweigh its costs. The Commission can only advise Consumers to read, again, the June 10, 2008 order in Case No. U-15245, where the Commission spelled out the necessary elements of an acceptable program. Therefore, the Commission . . . rejects the inclusion of the cost of the incentive compensation program proposed by Consumers.

November 2, 2009 order in Case No. U-15645, p. 41.

As in the company’s electric case, the Commission finds that the Staff’s $1.7 million adjustment is appropriate.

2. Uncollectibles Expense

Consumers projected that for the 12-months ending September 2010, it will incur $34.87 million of uncollectible expense, a 30% increase over the company’s 2008 level. According to Consumers, uncollectible expense is made up of the write-off of customer accounts receivable balances that are deemed uncollectible coupled with the changes in the uncollectible reserve account. The balance in the uncollectible reserve represents the estimate of existing receivables that will not be collected in the future and is recorded as an offset to the carrying value of accounts receivable.
Consumers argued that $34.87 million in uncollectibles expense is reasonable in the current economic climate. Consumers asserted that the primary drivers of increasing uncollectible expense are Michigan’s economy and the level of unemployment. These factors have affected an increasing number of customers who are struggling to pay their bills. Consumers noted that unemployment nearly doubled from March 2008 to September 2009 leading to a 36% increase in the company’s uncollectibles write-off expense. Consumers argued that the Staff’s method of calculating uncollectibles expense by using a 3-year average of bad debt loss ratio for uncollectible write-offs does not capture the current trend of rapidly escalating cost and it excludes the change in the uncollectible reserve.

Consumers also requested that the Commission approve a UETM to protect both the company and customers from the risk of inaccurate ratemaking projections of this expense. Consumers proposed a mechanism with a +/-5% deadband so that if actual uncollectible expense in future years is within 5% of the base uncollectible expense amount no adjustments would be made. However, if the annual uncollectible expense is 105% or greater of the base uncollectible expense level approved by the Commission the company would, after notice and hearing, prospectively adjust rates upward, through an appropriate surcharge, to allow Consumers to recover the amount over the 5% deadband. Conversely, if the annual uncollectible expense is 95% or less of the base uncollectible expense level, then Consumers would refund the amount under the 5% deadband.

The Staff recommended an uncollectible expense of $18,175,331 for the test year ending September 2010, an amount that is $8,506,994 below the company’s actual 2008 uncollectibles expense. The Staff’s recommendation is based on a three-year average of net uncollectible expenses as a percent of total revenues for 2006 through 2008 in accordance with prior Commission orders. The Staff explained that it has typically used multi-year averages for
adjustments to uncollectibles due to their volatility. According to the Staff, Consumers chose to use a single year’s uncollectible expense adjusted for projected increases even though it knew that its 2008 uncollectible expenses were exaggerated when compared to recent historical levels. The Staff posited that Consumers is not likely to incur this level of uncollectible expense indefinitely.

The Staff, ABATE, and the MCAAA all recommend that the Commission reject Consumers’ proposal to implement a UETM. According to the Staff, Consumers no longer needs a UETM because Act 286 virtually eliminates regulatory lag. The modified file and use approach under Act 286 provides for a 12-month turn-around time for the Commission, and allows Consumers to file a new rate case the day after the Commission’s final rate order. These provisions seriously diminish the risk that the company will undercollect the costs that its proposed tracking mechanism is designed to true up, especially in light of the company's record of filing rate cases as often as the law permits.

Alternatively, if the Commission does adopt a UETM for Consumers, the Staff recommends approval of a UETM similar to that adopted for Michigan Consolidated Gas Company in Case No. U-13898.

The MCAAA claimed that the company’s UETM proposal will remove all incentive and discipline to encourage Consumers to effectively deal with uncollectibles, and to support programs that will also help customers to address their energy costs. The MCAAA further argued that by setting the uncollectibles base cost at such a high level, Consumers puts itself in a position where it is likely to overrecover uncollectibles expense but where only 95% of that overrecovery would have to be refunded to customers.
ABATE argued that the approval of an RDM largely obviates the need for additional trackers. ABATE adds that if the Commission intends to approve tracking mechanisms, it needs to set clear standards for circumstances where such mechanisms may be approved.

The ALJ found that the Staff’s method for calculating uncollectibles should be approved. The ALJ observed that in the December 22, 2005 order in Case No. U-14347, the Commission determined that shortening the period for averaging uncollectibles expense from 5 years to 3 years was appropriate in light of the current economic conditions. The ALJ found the Commission’s rationale for approving the 3-year method applicable to the circumstances in this case. The ALJ also rejected Consumers’ request for a UETM. The ALJ agreed with the MCAAA that the proposed mechanism would lessen the incentive for Consumers to control uncollectibles expense and put Consumers in a position where it would be likely to retain overrecoveries.

Consumers takes exception and argues that the 3-year averaging method recommended by the ALJ was erroneous in light of current economic conditions and the company’s experience. Consumers points out that its levels of gas uncollectible expense have increased every year over the past five years, going from $12.4 million in 2004 to $26.7 million in 2008, an increase of over 100%. Consumers adds that the $18.2 million amount recommended by the ALJ is $8.5 million less than the company’s actual 2008 uncollectible expense, a 32% reduction. Consumers requests that the Commission use a projected test year uncollectible expense level of $34.9 million for purposes of setting rates in this case and that the Commission approve its proposed UETM to protect the company and its customers from over or under collection of uncollectibles expense.

The Commission agrees with the Staff that Consumers’ forecast overstates the trend in uncollectibles expense. It is clear that the company experienced exceptionally high levels of uncollectibles in 2008 and based its projection on expenses for that year only. Undoubtedly, high
unemployment and a generally deteriorating economy were significant factors in driving up the cost of uncollectibles in 2008, but the company’s high commodity cost has also been an important cause of customers’ inability to pay their gas bills. As Consumers observed, despite a proposed rate increase, gas bills are overall likely to decrease in the test year due to a projected decrease in the cost of natural gas.

At the same time, the Commission is skeptical that Consumers will realize a 32% decrease in uncollectibles expense in the test year compared to the 2008 actual uncollectibles expense, as the Staff projects. The Commission therefore finds that it is most reasonable to set uncollectibles expense at $26.7 million, the 2008 actual uncollectibles amount for this rate case only. The Commission believes that in light of Consumers’ recent spike in uncollectibles expense, this amount is appropriate. The Commission will revisit this issue in Consumers’ next gas rate case.

The Commission agrees with the ALJ and the Staff that a UETM for Consumers is unnecessary, in light of the rate case filing provisions in Act 286. In addition, the Commission found that the $18.2 million uncollectibles expense proposed by the Staff was too low and concluded that the uncollectibles expense level should be established at a higher level. In light of these determinations, the Commission adopts the ALJ’s recommendation that a UETM should not be approved for Consumers.

3. Low-income and Energy Efficiency Fund

Consumers projected an expense of $17,427,000 to fund the Low-income and Energy Efficiency Fund (LIEEF) for the test year. The Staff stated that it supports this amount. The Attorney General and ABATE argued that the Commission lacks statutory authority to fund the LIEEF. According to them, the Legislature eliminated the old Subsection (7) of MCL 460.10d and
all references to funding for LIEEF, thus removing the statutory mandate. They add that the
Senate failed to pass replacement authorization in the form of SB 216.

The ALJ found that, in accordance with the Commission’s reasoning in the January 25, 2010
order in Case No. U-15645, the proposed LIEEF expense should be approved.

Exceptions were filed by the Attorney General and ABATE. These parties repeat the
arguments contained in their briefs, asserting that the Commission lacks statutory authority to
approve payments to the LIEEF. ABATE adds that the Commission’s reliance on continuing
appropriations for the LIEFF is misplaced because an appropriations bill does not substitute for a
statutory mandate authorizing the collection of funds.

In its reply, Consumers points out that ABATE and the Attorney General ignore the portion of
In re Application of Consumers Energy, 279 Mich App 180, 190-191; 756 NW2d 253 (2008),
where the Court determined that the Commission’s authority to approve the voluntary LIEEF
program also existed under the Commission’s general regulatory authority pursuant to MCL 460.6.

The Commission again rejects the arguments raised by the Attorney General and ABATE and
reiterates its findings and conclusions from the January 11, 2010 order in Case Nos. U-15768 and
U-15751, page 53:

The primary goal of statutory interpretation is to ascertain and give effect to
legislative intent. Casco Twp. v Secretary of State, 472 Mich. 566, 571; 701 NW2d
102 (2005). The Commission finds that . . . the elimination of Section 10d(6) by
the Act 286 amendments merely removed a portion of the statute that was no longer
relevant to funding of the LIEEF. Nevertheless, the Legislature has evinced a clear
intent to continue the LIEEF by continuing to appropriate funds for the program
and by the passage of Act 172 that provides an additional source of funding for the
LIEEF. The Commission therefore rejects the arguments raised by the Attorney
General and ABATE[.]

The Commission therefore approves $17,427,000 for LIEEF expense.
4. Outside Services

The Staff recommended a $3,300,000 reduction to Corporate Services O&M. The Staff observed that the expense concerned consulting services related to orienting employees to the company’s new accounting system. The Staff asserted that the basis for the adjustment to the test year O&M was that it was a one-time expenditure that would not be incurred again during the test year. Consumers agreed with the Staff’s rationale for excluding the expense but argued that the company had not included this expense in the development of its test year O&M. According to Consumers, O&M expense actually decreased $1.7 million from 2008 levels. Consumers adds that subsequent to the implementation of the accounting system, the company has incurred significant repair costs to maintain the system. Consumers claimed that the test year reflects the year-over-year decline in repair costs from 2008 as the number of these maintenance issues is reduced. Consumers claimed that the Staff did not recognize the offsetting net increase in computer operating costs for a full year of operations versus a half year in the 2008 historical year due to the July 2008 program startup. Consumers added that this net increase is a result of higher licensing and maintenance fees compared to the company’s previous accounting system.

In reply, the Staff contended that it employed a method that is consistent with that used by Consumers throughout its development of projected O&M costs. The Staff pointed to the fact that both the Staff and the company made adjustments for certain clearly identified items in the historical and projected years that were non-recurring. The Staff maintained that although Consumers claimed that it adjusted this particular cost in a similar way, the company failed to explain this adjustment in its filing.

The ALJ found Consumers’ explanation persuasive and accepted the company’s projection.
The Staff takes exception and reiterates that its auditing method was consistent with that used by the company and that Consumers failed to identify this adjustment in its filing, thereby preventing the Staff from properly reviewing this cost.

The Commission finds that although Consumers’ error appears to have been inadvertent, the Staff’s method is consistent with Commission approved procedures for auditing rate cases. The Commission emphasizes that in light of the strict time constraints for rate case processing, it is absolutely essential that the utility provide complete and detailed documentation of the source of every item in its rate case. Failure to do so significantly hampers the ability of the Staff and intervenors to construct their responses to the company’s filings and constrains the Commission’s ability to set just and reasonable rates. The Commission therefore rejects the ALJ’s recommendation and adopts the Staff’s adjustment to Outside Services expense.

5. Accounts Receivables Sales Costs

Consumers projected that the total Accounts Receivable financing cost for the test year is $4,870,160 and determined that the gas portion of these costs for the test year is $2.038 million, an incremental amount over the 2008 historical year of $1,864,000. Consumers requested that the incremental cost amount of $1,864,000 be used in determining Other O&M expense. In its reply brief, the Staff accepted the company’s projection, which was adopted by the ALJ.

In its exceptions, the Staff claims that the ALJ correctly accepted Consumers’ projected $1,864,000 Accounts Receivable sales costs increase, but that he should not have reduced Consumers’ Other O&M by this amount. The Staff claims that it had already reduced Other O&M for the Accounts Receivable sales costs because the Staff included these costs in Gas Division O&M, which the ALJ adopted. Thus, according to the Staff, the ALJ inadvertently counted these
costs twice, and the Commission should correct Other O&M accordingly. In its reply, Consumers concurred with the Staffs’ recommended correction.

The Commission finds that the Staff’s position regarding the ALJ’s error is correct, and the recommended adjustment is made in the Commission’s calculation of the company’s revenue requirement.

6. Pension and Other Post Employment Benefits

Consumers recommended that the Commission approve certain employee pensions and benefits expenses and the Staff agreed, noting that the adoption of the company’s projections for this expense increases O&M within this category by $12,169,932 over 2008 levels. Consumers also requested that the Commission approve a PEM and OPEB mechanism in this case.

Consumers argued that these mechanisms are necessary to allow recovery of reasonable pension and OPEB expenses because these expenses are significantly influenced by market conditions and interest rates, factors over which the company has no control. Because these factors can fluctuate widely, Consumers contended that a symmetrical tracker would protect both the company and ratepayers.

The Staff, the Attorney General, and ABATE recommended that the Commission reject Consumers’ proposal to implement a PEM and an OPEB mechanism. According to the Staff, Consumers no longer needs these mechanisms because Act 286 largely eliminates regulatory lag. The Staff pointed out that Act 286 provides for a modified file and use approach to rate changes, establishes a 12-month turn-around time for the Commission to process rate cases, and allows Consumers to file a new rate case the day after the Commission’s final rate order. ABATE argues that if the Commission adopts an RDM, these other mechanisms are unnecessary. ABATE adds
that as a policy matter, the Commission should limit the use of adjustment mechanisms that shift risk from the company to its customers.

The ALJ found Consumers’ proposals and arguments in favor of the PEM and OPEB convincing. He agreed with Consumers that these expense items are, to a large degree, the result of various factors and market conditions beyond the company’s control and found it beneficial to Consumers and its customers that these expenses be timely funded. The ALJ also agreed with ABATE that the PEM and OPEB lessen the risk to the company, thus the ALJ recommended that the Commission further reduce Consumers’ ROE if these trackers are adopted.

The Staff, the Attorney General, and ABATE take exception and repeat the arguments in their briefs and reply briefs. The Attorney General and ABATE add that if the Commission approves these trackers, it should reduce Consumers’ authorized ROE accordingly.

The Commission agrees with the Staff that the provisions in Act 286 to a great extent address the company’s concerns regarding recovery of expenses that may be volatile. The Commission further notes that market conditions improved markedly after Consumers filed this rate case and that the inclusion of surcharges or refunds associated with various trackers included on bills could lead to considerable (and understandable) confusion on the part of customers. The Commission therefore finds that Consumers is not authorized to implement its proposed PEM or OPEB trackers.
7. Manufactured Gas Plant Amortization Expense

Consumers has identified several sites that formerly housed manufactured gas plant (MGP) facilities at which it has environmental clean-up obligations.\(^4\) Consumers sought approval of incremental MGP costs totaling $3.81 million. Consumers asserted that the Staff had audited these costs and had found them reasonable. In its initial brief, Consumers claimed that the Staff had inadvertently double counted the MGP amortization expense and the company made the appropriate adjustment.

In its reply, the Staff disagreed with Consumers’ assertion and continued to support its $3.262 million in incremental costs for MGP net amortization rather than Consumers’ $3.81 million calculation. The Staff added that it did not double count MGP amortization expense because the Staff did not include this expense in its calculation of Other O&M expense, but instead included it in Amortization and Depreciation.

The ALJ found that the Staff’s recommended MGP Net Amortization of $3,262,129 for the 2010 projected test year, as agreed to by Consumers, should be adopted. The ALJ further agreed with Consumers’ $200,000 downward adjustment to arrive at a MGP amortization expense increase of $35,000 for the 2010 test year. The ALJ also recommended that the Commission approve an additional $52,000 for MGP Direct Project Management costs.

In its exceptions, the Staff notes that the ALJ inadvertently excluded a portion of Consumers’ MGP amortization expense. According to the Staff, the error can be traced to the fact that when Consumers filed its case, it did not include the MGP amortization expense in its historic Other O&M but, rather, included the MGP expense in projected Other O&M. The Staff however

\(^4\)An MGP is an industrial facility where gas was produced from wood, coal, oil, and other feedstocks. MGP’s were built and used in Michigan and the United States for over 100 years beginning in the mid-1800’s. The production of manufactured gas created wastes, primarily coal tars, which were later found to pose a threat to ground and surface water.
included the MGP amortization expense in its Depreciation and Amortization schedules. The ALJ moved the expense into Consumers’ historic Other O&M, but he only accounted for the incremental amortized amount, not the full amount.

In addition, the Staff asserts that the ALJ made an improper $200,000 adjustment as proposed by Consumers in its initial brief. However, the Staff claims that Consumers mislabeled the Staff’s adjustment in its brief because the $200,000 cited by the company relates to Account 407 amortization and not to MGP amortization. The Staff therefore recommends that the Commission reject the ALJ’s $200,000 adjustment to MGP Net Amortization.

Finally, the Staff asserts that the ALJ correctly accepted Consumers’ projected $52,000 MGP Direct Program Management costs, but failed to reduce Other O&M to reflect these costs. The Staff claims that it had already reduced Other O&M for the MGP Direct Program Management costs because the Staff included these costs in Gas Division O&M and Corporate O&M. Thus, the ALJ inadvertently counted these costs twice, and the Commission should correct the Other O&M expense account accordingly. In its reply to exceptions, Consumers agreed with the Staff.

The Commission finds that the Staff’s position is correct. There appears to have been some confusion created by the fact that Consumers and the Staff included this expense in different schedules. The Commission therefore directs that in future filings, to avoid misunderstanding, Consumers should include MGP amortization expense in its depreciation and amortization schedule. The Commission therefore adopts the adjustment that the Staff recommended in its exceptions to the PFD.

8. Advanced Metering Infrastructure Expense

As discussed above, Consumers requested approval of AMI capital expenditures totaling $30,991,000 for the test year. Consumers stated that it intends to use the money to assess,
develop, and evaluate systems and field equipment, including installing 400 AMI gas meter modules. The company also asked the Commission to approve $854,000 in O&M costs for an AMI pilot and AMI program management for the 12-months ending September 2010. The Staff supported this request.

The Attorney General argued that the Commission should exclude AMI costs from Consumers’ capital and O&M budgets because the company did not provide a detailed benefit cost analysis and because the timing of the proposal is of questionable merit. Specifically, the Attorney General argued that it makes little sense to deploy an expensive new program when the state is in a recession and rates are increasing.

Despite some reservations, the ALJ found that the proposed expenditures for AMI should be approved.

Exceptions were filed by the Attorney General and ABATE. The Attorney General reasserts that it is unreasonable to approve expenditures for such an expensive program without a detailed benefit cost analysis. In addition, the Attorney General claims that even if the program’s benefits can be shown to outweigh its costs, it would be preferable to defer spending on the program until economic conditions in Michigan improve. ABATE argues that AMI is not essential to gas service, it confers no benefits on customers, and it should therefore be disapproved.

While the Staff did not take exception to the ALJ’s recommendation to adopt Consumers’ projected AMI expense, the Staff points out that the ALJ inadvertently reduced Consumers’ Other O&M expense by this amount. The Staff observes that it had already reduced Other O&M expense for the AMI program costs because the Staff included these costs in its Gas Division O&M, which the ALJ adopted. Thus, the ALJ inadvertently counted these costs twice. The Staff
therefore requests that the Commission correct Other O&M accordingly. In its replies, Consumers concurs with the Staff.

As discussed above, the Commission found that approximately half of Consumers’ proposed capital expenditures for AMI should be included in rates established in this proceeding; however, the Commission finds that the AMI expense level for the test year is directly related to the gas AMI pilot and is therefore reasonable. Further, the Commission agrees with the Staff regarding the computational error in the PFD and makes the recommended adjustment.


Consumers and the Staff agreed on an amount for property tax and other taxes of $61,446,000, which was adopted by the ALJ. There were no exceptions filed. The Commission therefore adopts $61,446,000 for property tax and other tax.

Consumers requested that the Commission confirm that the income tax policy authorized in Case No. U-10083 for ratemaking and accounting purposes will also apply to the new Michigan Business Tax (MBT). Consumers also requested that the Commission authorize charging the income tax effect of the equity component of allowance for funds used during construction (AFUDC) as a FAS 109 regulatory asset. Consumers requested the following authorizations:

1. General authorization to use Accounts 190, 281, 282, and 283 offset by Deferred Income Tax Expense Account 410.1 or Credit Account 411.1 for book/tax temporary differences related to the MBT calculation originating on and after the date of the final order increasing rates in this case.

2. General authorization to use Accounts 190, 281, 282, and 283 offset by a Miscellaneous Deferred Debit Account 186 for book/tax temporary differences related to the MBT calculation originating prior to the date of the final order increasing rates in this case.

3. Assurance of recovery of the Miscellaneous Deferred Debit amounts in Account 186 related to the MBT calculation that will reverse in future years through current ratemaking practices.
4. Authority to charge the income tax effect of the equity component of AFUDC as a FAS 109 related regulatory asset, rather than deferred income tax expense, consistent both with Case No. U-10083 and FAS 109.

No party opposed these requests, which were recommended by the ALJ. There were no exceptions filed. The Commission therefore grants the requested accounting authorizations.

In its exceptions to the PFD, Consumers points out that the difference between its and the Staff’s calculation of the MBT and federal income tax (FIT) is due to the different assumptions used for revenues and expenses, but that Consumers and the Staff were in agreement on the method to calculate the MBT and FIT. Consumers adds that the numbers to be incorporated into these calculations are determined by the Commission’s substantive decisions regarding the company’s costs and revenues.

Consumers argues that the ALJ erred by revising data without identifying which data was altered. Consumers observes that for both the MBT and FIT, the ALJ came up with different expenses than either Consumers or the Staff. Without knowing the adjustments the ALJ made, Consumers argues that it is unable to address the specifics of the adjustments.

The Commission agrees with Consumers that the ALJ’s calculations of MBT and FIT are in error. In accordance with the revenue and expense determinations made above, the Commission adopts $31,015,000 for FIT expense and $7,184,000 for MBT expense.

VII.

OTHER REVENUE RELATED ISSUES

A. Revenue Decoupling

Consumers proposed an RDM that the company claims will sever its need for revenue recovery from volumetric sales levels. Consumers explained that when customers’ natural gas usage decreases, gas commodity costs are likewise reduced, but the company’s fixed distribution
costs are unaffected. Consumers’ gas distribution system is characterized by high fixed costs that
do not significantly vary with changes in customer usage. When sales fall below the level used to
establish the utility’s rates in its last rate case, the utility is unable to collect its authorized level of
revenue and may be denied a reasonable opportunity to earn its authorized rate of return.

Consumers proposed that its RDM would apply to all retail and transportation gas customers.
The RDM would establish a baseline average annual usage per customer for each customer rate
class as approved by the Commission in the most recent general rate case. Annually thereafter,
Consumers would determine the actual annual average consumption per customer class and
compare that to the baseline average for each rate class. If the actual average usage is below the
baseline average usage, then Consumers would multiply the difference by the number of
customers in that class as established in the most recent general rate case. The resulting volume
would then be multiplied by the distribution charge approved by the Commission in the most
recent rate case to calculate the total amount of revenue to be collected from that rate class.
Consumers proposed to collect this amount through an equal per Mcf surcharge applied to all
customers in that class over the subsequent twelve months following Commission approval. At
the end of the twelve month period, Consumers would determine any over-collection or under-
collection of the RDM amount and roll that amount into the determination of the next period RDM
adjustment. If the actual average usage is higher than the baseline average usage for a rate class,
then Consumers would use the same method to determine the overcollection of revenue and
calculate a credit to be returned to customers in that class over a subsequent twelve-month period.

The Staff observed that the Commission has approved two slightly different RDMs for electric
utilities, one for Consumers and one for The Detroit Edison Company (Detroit Edison). The Staff
noted that these electric decouplers are based on a consumption-per-customer algorithm and that
neither of the approved RDMs uses weather normalized sales data in the annual reconciliation proceeding.

The Staff contended that an RDM using a straight revenue algorithm, with weather normalization, may have merit compared to an RDM using a consumption-per-customer algorithm. The Staff acknowledged that a consumption-per-customer RDM is sufficient with respect to energy efficiency goals of eliminating the utility throughput disincentive to promoting energy efficiency. However, the Staff argued that its proposed RDM would allow the Commission to evaluate the merits of an RDM that also reflected changes in the number of customers under actual conditions.

The Staff recommended that Consumers be ordered to file a sales revenue decoupling true-up application within 90 days of the end of each 12-month period in which rates pursuant to the Commission order in this case have been in effect. Upon receipt of the application, the Commission should then commence a decoupling true-up proceeding that would reconcile actual jurisdictional revenue with jurisdictional revenue requirements as established in the Commission’s order in this case. Consumers should be directed to include a proposal for allocating the surcharge (or refund) across customer classes and that the decoupling surcharge should be implemented until such time that the Commission authorizes a new decoupling surcharge.

The Attorney General argued that as a policy matter, the Commission should not adopt any form of revenue decoupling for Consumers, or at least adopt an RDM that is very limited in scope. According to the Attorney General, revenue decoupling greatly reduces the business risk of Consumers at great cost to its customers. The Attorney General argued that during a time of economic recession when natural gas usage is dropping, not because of energy efficiency but because many customers simply cannot afford it, it makes little sense to increase costs to
customers as a result of their decision to reduce consumption. The Attorney General asserted that implementing an RDM could create a cycle of further reductions in natural gas usage as a result of yearly surcharges imposed by the mechanism.

The Attorney General observed that there were three problems with Consumers’ proposed RDM. First, Consumers’ RDM includes the effect of weather as well as the effect of customer conservation on sales and transportation volume. The Attorney General claimed that Section 89(6) of Act 295, which provides for revenue decoupling for gas utilities, focuses on reductions due to energy conservation and makes no reference to the recovery of weather impact on sales and transportation volumes. The Attorney General claimed that limiting the RDM to sales losses due to energy efficiency is consistent with Act 295’s purpose to promote energy conservation. Second, Consumers’ proposed RDM allows for recovery of natural gas usage for large volume transportation customers due to reasons other than energy conservation. Finally, the Attorney General contended that Consumers’ proposed RDM allows for an on-going reconciliation process that is burdensome for the Staff and other parties to the reconciliation proceeding. The Attorney General suggested that once a surcharge is determined and approved, the rate should be applied to the subsequent 12 months of billed gas consumption with no reconciliation.

In light of these arguments, the Attorney General recommended that: 1) actual gas usage for each rate class should be normalized for the effect of weather during the annual period; 2) transportation volumes for large-volume customers (rate classes LT and XLT) should be split from the rest of the transportation volumes, and an annually calculated conservation reduction rate should be applied to the volumes authorized in rates; and 3) the Commission should forego an on-going reconciliation procedure for recovery or refund of over- or undercollected RDM revenue after the first year the surcharge or refund is applied to customer bills.
ABATE likewise recommended that any RDM approved by the Commission should be limited to the sales losses due to the company’s energy optimization programs. Additionally, ABATE asserted that if the Commission approves a general decoupling mechanism, then it should be true-up on the basis of class revenue, not average use per customer by class.

The ALJ found that pursuant to MCL 460.1089(6), the adoption of an RDM is mandated. The ALJ also found that the RDM should, to the greatest extent feasible, be limited to compensate Consumers for lost sales that result from actual conservation measures. The ALJ therefore recommended adoption of Consumers’ proposed RDM with the additional requirement that sales be weather normalized. The ALJ also found that the Staff’s filing timelines appeared reasonable and recommended their adoption.

In its exceptions, Consumers disagrees that weather normalization, as recommended by the ALJ, is appropriate to accomplish the purpose of the RDM, which is to effectively sever the collection of revenue from volumetric sales and remove the disincentive for the utility to encourage lower consumption through energy efficiency programs. According to Consumers, anything that causes sales to be lower is a disincentive to the utility promoting energy conservation. Consumers posits that if sales are lower due to warmer than normal weather (or for any other reason), the utility is disinclined to make things financially worse by encouraging conservation and efficiency practices. Consumers claims that if the decoupling mechanism uses a weather normalization approach, the disincentive to encourage energy conservation and efficiency will continue to exist because warmer-than-normal weather will still be a factor that the utility will consider in administering energy efficiency programs. Consumers adds that an RDM that compared actual sales to rate case sales by customer class is also a reasonable approach that would allow recovery of authorized revenues and remove any disincentive to reduce sales.
In his exceptions, the Attorney General reasserts that as a matter of policy, the Commission should decline to adopt an RDM at this time. If the Commission does decide to adopt an RDM, the Attorney General argues that the Commission should approve a straight fixed variable design for the decoupler by adopting Consumers’ proposed increases to residential, commercial, and industrial customer and distribution charges. According to the Attorney General, this would make an additional RDM redundant.

ABATE similarly takes exception to the ALJ’s recommendation and argues that the most effective way to reduce Consumers’ incentive to increase sales is to simply compensate the company for sales losses due to the company’s energy efficiency programs. Alternatively, ABATE recommends that if the Commission approves a broad based RDM, then Consumers should true-up the non-GCR revenue as approved by the Commission in this general rate case with the actual non-GCR revenue that Consumers receives, on a customer class basis.

MCL 460.1089(6) provides:

The commission shall authorize a natural gas provider that spends a minimum of 0.5% of total natural gas retail sales revenues, including natural gas commodity costs, in a year on commission-approved energy optimization programs to implement a symmetrical revenue decoupling true-up mechanism that adjusts for sales volumes that are above or below the projected levels that were used to determine the revenue requirement authorized in the natural gas provider’s most recent rate case. In determining the symmetrical revenue decoupling true-up mechanism utilized for each provider, the commission shall give deference to the proposed mechanism submitted by the provider. The commission may approve an alternative mechanism if the commission determines that the alternative mechanism is reasonable and prudent. The commission shall authorize the natural gas provider to decouple rates regardless of whether the natural gas provider’s energy optimization programs are administered by the provider or an independent energy optimization program administrator under section 91.

As the Commission observed in its January 11, 2010 order in Case No. U-15768, p. 66:

The principal purpose of decoupling is to transform the current regulatory paradigm that gives a utility a strong incentive to sell as much electricity as possible, without regard to the negative effects upon overall costs and individual
customer bills. Decoupling can be utilized to manage changes in electricity sales attributable to updated building codes, expanded energy efficiency programs (including federal and state weatherization programs), upgrades in appliance efficiency, and other similar demand side policies.

Decoupling is a ratemaking mechanism that removes the link between energy sales, or throughput, and the utility’s non-fuel revenues. With decoupling, differences between projected and actual sales, and the associated differences in the utility’s revenues, are reconciled periodically. A well-crafted decoupling mechanism will mean much better alignment of the company’s interests with that of its customers and provides a cost-effective alternative to supply side resources at a time of increasing construction and generation costs and regulatory uncertainty about greenhouse gas emissions control.

After giving careful consideration to the various RDMs proposed by the parties, the Commission finds that the decoupling mechanism proposed by Consumers is reasonable and prudent and should be adopted with the modifications discussed below.

The Commission agrees with Consumers that the lost revenue energy optimization decoupler proposed by ABATE and supported by the Attorney General does not go far enough in eliminating the company’s incentive to increase sales where sales declines may be caused by factors other than Consumers’ energy optimization programs. At the same time, the Commission finds that if the company is to be held harmless for sales reductions due to better appliance standards, building codes, or federal tax incentives, the company has some responsibility to at least assure that its customers are aware of these standards and programs by communicating information about these additional options and incentives for increased energy efficiency through bill inserts, advertising, and on the company’s website. The Commission expects the company to aggressively promote energy efficiency opportunities of all types to its customers.

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5 See, e.g., H.R. 5019 and S. 3177, 111 Cong. (2010), the Home Star Energy Retrofit Act, a.k.a. “Cash for Caulkers,” a $6 billion federal program that will incentivize home energy retrofits and increase employment in the construction and related sectors.
Consumers argues vociferously against the use of weather normalized sales in the decoupling reconciliation, asserting that weather, like anything that reduces sales and profits, does not fully remove the company’s incentive to sell more gas. Consumers points out that if sales are lower due to warmer than normal weather, the utility is clearly disinclined to make things financially worse by aggressively encouraging conservation and efficiency practices. If the decoupling mechanism uses a weather normalization approach, the disincentive to encourage energy conservation and efficiency will continue to exist, since warmer-than-normal weather will still be a factor that the utility will consider in promoting energy efficiency programs.

The Staff points out that the reason for weather normalization is to avoid potential volatility in customer rates. The Staff acknowledges that the RDMs approved for Consumers electric division and Detroit Edison do not include weather normalization but argues that gas usage is much more weather sensitive than electric usage.

The Staff posited that without weather normalization, if a given year is warmer than normal, then a surcharge would be calculated for a reconciliation true-up. The surcharge would then be applied in a subsequent year, and if that year is colder than normal, then customers will bear the combination of higher monthly bills associated with the colder weather as well as the surcharge for the prior reconciliation period. Conversely, if the true-up period were colder-than normal, a refund would be calculated for the surcharge period. If that subsequent period were warmer than normal, then the combination of the refund and lower gas usage would result in a large reduction in customer bills.

The Staff adds that because each year the company has an equal chance of colder or warmer than normal weather, the impact of weather on a utility’s earned revenues is neutralized over time.
Thus, in the long-run, a utility will not suffer a significant revenue loss or gain from variation in weather when rates are set on a weather-normalized basis.

The Commission is persuaded by the Staff’s arguments and finds that, in balancing the risks and benefits, the decoupling true-up should be based on 15-year weather normalized sales rather than actual sales. As the Staff pointed out, Consumers’ proposal shifts the company’s risk of revenue volatility to customers who must assume the risk of rate volatility when actual weather is used. As the Staff demonstrated, in any given year, the company has an equal chance of colder or warmer than normal weather; thus, utility revenues will balance out in the long run. However, the risk of volatility in customer bills, in the case where actual rather than weather normalized sales are used, is potentially quite pronounced. This could prove detrimental to customers in colder than normal years when usage and per unit commodity costs tend to be higher.

The establishment of this pilot decoupling mechanism for Consumers gas is contingent upon the utility: 1) meeting certain reporting requirements; 2) exceeding the benchmarks for the energy optimization program established pursuant to Act 295; and 3) committing to provide enhanced energy efficiency programs and demand side resources that enable all customer classes to effectively manage rising energy costs, including proposals to accomplish this in the next filed rate case. Accordingly, the Commission directs Consumers to institute a pilot decoupling mechanism described in this order, effective June 1, 2010. Consumers shall file in this docket at least quarterly, actual sales data information by rate class. Consumers shall also comply with any other reporting requirements as directed by the Staff.

The pilot decoupling mechanism shall be symmetrical, shall reconcile non-GCR revenue, and shall be applied separately by customer class. In the utility’s annual decoupling mechanism reconciliation proceeding, which shall be filed on or before September 1 of each year,
Consumers’ weather adjusted sales per customer by class during the 12-month period from June 1 to May 31 will be compared with the base sales per customer amount established in this case. Any sales per customer difference will be multiplied by the distribution charge per Mcf to obtain the non-GCR revenue difference per customer. This amount will be multiplied by the actual average monthly number of customers during the reconciliation period, as determined in the reconciliation proceeding, in order to obtain the total amount for refund or surcharge. Any overage or shortfall shall be credited or surcharged to customers in that rate class on a per Mcf basis calculated using the billing determinants for the 12-month period covered by the reconciliation until the refund or surcharge is recovered.

The company’s annual decoupling mechanism reconciliation proceeding shall be conducted as a contested case and should be focused on the revenue difference and the calculation of the resulting charges or credits. In future proceedings, the Commission will examine, and may seek comments from parties, on the success of the pilot in facilitating utility provision of increased energy efficiency programs and recommendations for adjustment and evaluation of the pilot.

All parties to the utility’s most recent general rate proceeding shall be allowed to intervene in the reconciliation in accordance with the same intervenor status. Other intervenors may also participate in accordance with the Commission’s Rules of Practice and Procedure, R 460.17101 et seq. The utility’s annual filing shall include all testimony and exhibits necessary for the reconciliation proceeding, and shall be simultaneously served on all parties to its most recent general rate case proceeding. In each annual decoupling reconciliation case, Consumers shall provide data based on its average per customer sales levels by rate class. In the event Consumers has filed a new rate case and self-implemented new rates in the 12-month period, Consumers shall include a very detailed proposal with specific explanation as to how self-implementation fits with
the decoupling mechanism and proposed reconciliation. Discovery shall be allowed to all parties in accordance with the Commission’s routine contested case procedures.

B. Gas Transportation Pooling

CNE proposed that Consumers change its operational rules to allow gas suppliers to combine their transportation customers into groups, or pools. According to CNE, pooling is a common industry practice and many Michigan gas utilities currently permit marketers to pool their transportation customers into groups in order to achieve greater efficiencies. CNE argues that Consumers should not be allowed to prevent pooling through claims of obstacles that many other utilities are able to overcome in order to provide their transportation customers with the economic benefits of pooling. CNE adds that pooling would better harmonize tariffs across utilities.

CNE recommends that the Commission: 1) require Consumers to accept pooled nominations from marketers; 2) modify Consumers’ tariff to assess charges, including load balancing charges, authorized and unauthorized gas usage charges, and excess pipeline costs surcharges, based upon the net imbalance of a marketer’s pool; and 3) implement pooling of transportation customer storage and require that pool monthly injection rights are established based upon the pool member’s individual tariff rights.

ABATE supported CNE’s proposal but argued that it did not substitute for cost-based rates for transportation customers.

Consumers and the Staff opposed CNE’s request. Consumers pointed out that the modifications proposed by CNE could have detrimental effects on transportation customers, may result in operational impacts that negatively impact GCR customers, and would cause an administrative burden to the company. According to Consumers, CNE’s objective appears to be to
simplify the transportation process and reduce costs for marketers. Consumers claimed, however, that transportation and GCR customers will be detrimentally affected by CNE’s proposals.

Consumers and the Staff observed that the CNE pooling proposal will limit the flexibility of a transportation customer to switch marketers. According to them, a transportation customer is currently allowed to designate as many marketers as it wishes, it may buy gas from one or more marketers on any given day, and it may change the marketers it is buying from at any time during the month. Because all balancing is done on a monthly basis, CNE’s pooling option would require a customer to designate one marketer for at least one month time periods. This will take away the customer’s flexibility to switch suppliers during the month and perhaps obtain more advantageous prices for its gas supplies.

Consumers also pointed out that while CNE cites examples of other utilities that offer pooling, these gas utilities require daily balancing of transportation supplies and load. Therefore, there may be operational considerations, for instance lack of storage capacity or a difference in system design, that makes pooling more advantageous for a transportation customer on those systems. Consumers, on the other hand, only requires transportation customers to balance supplies and usage on a monthly basis, within their selected authorized tolerance level (ATL) tolerance. Consumers maintains that under its current system, no daily balancing is required and there is no operational need to offer a pooling service.

Consumers posited that CNE’s gas pooling proposal could have an adverse effect on GCR customers as well. Consumers hypothesized that under CNE’s proposal, gas marketers would have the flexibility to combine the maximum daily quantities (MDQs) of each individual customer, and nominate up to that level on any given day. The marketer could choose to maximize nominations on days when gas prices are low and minimize nominations on days when
gas prices are high. This type of nomination pattern could present problems for Consumers because its physical system is designed to receive a relatively level gas flow. Consumers and the Staff contended that if this variance in daily nominations occurred in January or February, it could result in no flowing gas coming from the marketers for the transportation customers. Because a certain level of flowing gas is required to serve the company’s overall load, Consumers could be forced to purchase flowing supplies to maintain deliveries to all customers. If these gas purchases were made during a period of higher gas prices, it could result in higher GCR costs. Finally, the Staff and Consumers argued that the implementation of CNE’s proposal would impose a substantial administrative burden on the company.

The ALJ found CNE’s proposal to be reasonable and likely to benefit both customers and marketers like CNE. The ALJ noted that although Consumers would be required to make some administrative changes, it appeared to him that the changes were not significant. The ALJ added that it seemed unlikely that the adoption of CNE’s proposal would complicate the management of Consumers’ system.

Consumers and the Staff take exception to this recommendation and repeat the arguments contained in testimony and their briefs.

The Commission agrees with Consumers and the Staff that the weight of the evidence shows that marketers on Consumers’ system would likely benefit from CNE’s proposed pooling program because it would make it easier for marketers to manage their inventories on an aggregate basis. However, CNE’s proposal could harm Consumers’ transportation customers by limiting their flexibility in selecting marketers within a particular month because each of them would have to designate a single marketer to provide that month’s supply. In addition, the Commission has serious concerns about the potential effects on Consumers’ GCR customers if nominations by
marketers vary with gas prices on a day-to-day basis, creating surpluses and deficiencies. As Consumers and the Staff point out, this could force the company to replace missing gas supply for its transportation customers by taking from its GCR customer supply or by purchasing gas on the spot market, which could be very expensive on a peak winter day. The Commission therefore rejects CNE’s proposal.

C. Taft-Hartley Training Trust

The AFL-CIO presented testimony in support of their proposal that the Commission direct Consumers to establish a Taft-Hartley Training Trust that would set aside funds for worker training. According to the AFL-CIO, the gas utility workforce is aging, and there is a looming shortage of trained utility workers. The AFL-CIO adds that the aging utility workforce has additional training requirements to ensure safety of the workers and the public.

Consumers opposed the AFL-CIO’s request, arguing that the witness for the AFL-CIO is not credible because the data he relied on concerns electric utility workforce, and not gas utility workers. Consumers adds that the Commission lacks authority to require the utility to adopt what is essentially a term of a collective bargaining agreement. According to Consumers, a Taft-Hartley Training Trust can only be established pursuant to 29 USC 186(6), through the agreement of management and the labor unions.

The ALJ determined that consistent with the November 2, 2009 order in Case No. U-15645, Consumers should submit a report in this docket detailing its future gas workforce requirements and training needs.

In its exceptions, Consumers reasserts that the issue of a Taft-Hartley Trust is properly the subject of collective bargaining and not utility regulation. Consumers points out that in the November 2, 2009 order in Case No. U-15645, the Commission already directed the company to
file a report on future utility worker training needs and costs and that to require that another report
be filed would be duplicative. Consumers therefore urges the Commission to reject both the ALJ’s
recommendation and the request of the AFL-CIO.

The Commission notes that the federal statute governing the creation of a worker training trust
contains a proviso which requires that “with respect to money or other thing of value paid by any
employer to a trust fund established by such representative for the purpose of . . . defraying costs
of apprenticeship or other training programs” . . . “the detailed basis on which such payments
[from the trust] are to be made is specified in a written agreement with the employer, and
employees and employers are equally represented in the administration of such fund.” 29 USC
186(c)(6), (c)(5)(B). This language indicates that such a trust may not be created in the absence of
a written agreement between the company and the union regarding how payments from the trust
are to be disbursed. In light of this language, and the requirement of equal representation in the
administration of the trust, the Commission finds that it cannot order a utility to negotiate a written
agreement, or to fund an external training trust.

The Commission agrees with Consumers that the AFL-CIO’s presentation in this case was
largely focused on electric utility issues and was therefore not wholly relevant to this gas case.
The Commission adds that the report filed by Consumers, as ordered in the company’s electric
case, can best be described as perfunctory with minimal attention paid to training and hiring needs
for gas workers. However, the general issue that the AFL-CIO raises is an important one, as the
Commission discussed in the November 2, 2009 order in Case No. U-15645 and the January 11,
2010 order in Case No. U-15768 et al. It bears repeating that the utility workforce is aging and the
coming shortage of electricians, electric line workers, and gas line, transmission, and storage
workers is a critical problem that must be addressed. In addition, the Commission observes that
the need for workers to replace outdated gas infrastructure and, in the case of electric, to have an adequate workforce trained to install, maintain, and repair new smart grid technologies is essential to Michigan’s future. The Commission therefore directs the Staff, within the next six months, to convene a technical conference comprised of representatives from all rate-regulated electric and gas utilities, union representatives, and other interested parties to produce a consensus report for the Commission on future training and hiring needs for electric and gas utility workers including how these needs will be met.

D. Refund of Overcharges from Self-Implementation

On November 19, 2009, Consumers opted to raise rates by self-implementing an $89 million increase, an amount that equals an overall rate increase of 3.39%. The rate increase authorized by this order increases Consumers rates by only $65,893,000, an amount that is 2.8% above the rates authorized by the approval of the settlement agreement in the December 23, 2008 order in Case No. U-15506. Accordingly, Consumers is subject to the provisions of MCL 460.6a(1) that require a refund to customers, with interest, of revenues collected through self-implementation that exceed the amount subsequently ordered by the Commission in the final rate case order. The refund amount will continue to increase due to interest that will continue to accrue until the refund occurs.

The Legislature has defined the Commission’s authority to add interest to the principal refund amount as follows:

The rate of interest for refunds shall equal 5% plus the London interbank offered rate (LIBOR) for the appropriate time period. For any portion of the refund which, exclusive of interest, exceeds 25% of the annual revenue increase awarded by the commission in its final order, the rate of interest shall be the authorized rate of return on the common stock of the utility during the appropriate period. Any refund or interest awarded under this subsection shall not be included, in whole or in part, in any application for a rate increase by a utility.

MCL 460.6a(1).
The Legislature has also provided the following guidance regarding how refunds to the
various customer classes should be accomplished:

The commission shall allocate any refund required by this section among primary
customers based upon their pro rata share of the total revenue collected through the
applicable increase, and among secondary and residential customers in a manner to
be determined by the commission.
MCL 460.6a(1).

The Commission first encountered a situation requiring a refund of the overcollection of
revenues associated with the self-implementation of rates under Act 286 in Case No. U-15645.
Because the issue of a refund of overcollected self-implementation revenues was then a matter of
first impression, the Commission opted to order Consumers’ electric division to calculate the
revenue excess and propose a refund methodology. An examination of the docket in Case No. U-
15645 reveals that, although the refund filing was filed by January 6, 2010, the refund is being
contested and the utility still is in possession of the overcollected ratepayer monies after almost six
months. The Commission is persuaded that a swifter resolution of the refund of overcollected
ratepayer monies is needed. It is the goal of the Commission to expedite implementation of the
refund of the overcollection of revenues associated with the self-implementation of rates.

To this end, the Commission directs Consumers to file a refund proposal in this docket by
August 19, 2010, which shall be fully supported with appropriate documentation and affidavits.
Specifically, Consumers shall include the most up-to-date sales data available including the most
recent adjustments made in the reconciliation period. Consumers shall simultaneously serve its
August 19 filing on the other parties to this proceeding. After notice, the Commission shall
establish an expedited schedule with the intent of completing the proceeding within four months
from the date of the filing.
VIII.

BASE REVENUE DEFICIENCY

Based on the foregoing findings, Consumers’ revenue deficiency for the projected test year ending September 30, 2010 is computed as follows⁶:

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rate Base</td>
<td>$2,736,211,000</td>
</tr>
<tr>
<td>Rate of Return</td>
<td>7.02%</td>
</tr>
<tr>
<td>Income Required</td>
<td>$192,082,000</td>
</tr>
<tr>
<td>Adjusted NOI</td>
<td>$151,714,000</td>
</tr>
<tr>
<td>Income Deficiency</td>
<td>$40,368,000</td>
</tr>
<tr>
<td>Revenue Multiplier</td>
<td>1.6323</td>
</tr>
<tr>
<td>Revenue Deficiency</td>
<td>$65,893,000</td>
</tr>
</tbody>
</table>

VIII.

RATE DESIGN AND TARIFF ISSUES

A. Cost of Service

A cost of service study (COSS) is a systematic functionalization, classification, and allocation of a utility’s fixed and variable costs to serve. Consumers presented the company’s historical and test year gas COSSs by rate class. See, Exhibits A-73 and A-74. According to Consumers, both the historical and test year COSS were prepared using methods previously approved by the Commission.

⁶The revenue deficiency reported here is changed slightly due to minor adjustments made in the cost of service and rate design adopted by this order.
Consumers asserted that its historical COSS indicates that the residential and general service rate schedules, as well as Rate ST and LT, are near their cost based levels; however, the historical COSS also shows that Rate XLT is significantly below its cost based level.

The Staff recommended that the Commission adopt its COSS, shown in Revised Exhibit S-5, because the Staff claims that it supported the peak component it used to allocate costs and Consumers did not. The Staff observed that in all other respects, the company’s and the Staff’s COSSs are essentially the same. The Staff claimed that both the company and the Staff allocated plant costs using “average and peak” allocation factors. The Staff and Consumers also calculate a weighted average using the commodity (average use) and capacity (peak) factors. However, the Staff used the historical peak day of February 10, 2008 (2,537,000 Mcf) to derive its peak component, while Consumers used a design peak day load of 3,573,000 Mcf. The Staff argued that the Commission should adopt its approach because the Staff’s peak day relies on actual data from the historical test period, and the company did not explain why it assumes that the peak day will be an 80 Heating Degree Day (e.g., -15 degrees Fahrenheit average for the day).

ABATE contended that Consumers’ COSS was flawed because it wrongly allocated storage costs to transportation customers, which are projected to have a 25.7% reduction in throughput, according to Consumers’ forecast. ABATE added that the Commission should not allocate any storage costs to transportation customers because transportation customers only use storage facilities to address inadvertent imbalances. ABATE further claimed that Consumers failed to provide a reasonable study of the uses of storage that might have justified a small allocation of storage costs to transportation customers. ABATE contended that without such a study, the allocation of any storage costs to transportation customers is unreasonable. ABATE added that Consumers’ study is based on the “peak and average” allocation method, which allocates a
significant portion of fixed, demand related cost on the basis of throughput. ABATE contended that it is more appropriate to allocate the investment in mains on the basis of peak day demands. ABATE also criticized Consumers’ COSS because Consumers’ use of 50/50 weighting, between peak day and storage, is arbitrary. ABATE’s COSS, with no storage costs allocated to transportation customers, is contained in Exhibit AB-2.

Likewise, CNE claimed that the Commission should address the issue of the appropriate allocation of storage costs between utility sales and transportation customers and that transportation customers should be allowed to access storage in proportion to the amount they contribute to storage costs.

The Staff and Consumers disagreed with ABATE and maintained that the Commission should continue to allocate storage costs to transportation customers because storage is an essential part of providing service to the company’s transportation customers. The Staff and Consumers observed that transportation customers are required to have in place a daily quantity of gas that the customer is nominating for delivery to Consumers. Because it is impossible to predict actual usage, the mismatch between nominated delivery and actual usage is addressed by putting gas into, or taking gas out of, Consumers’ storage facilities. Thus, according to Consumers and the Staff, transportation customers do use the storage facilities and should be allocated the associated costs. Consumers added that amounts allocated to transportation customers are very close to the ATL which represents the amount of storage that the customer is allowed to utilize to balance supplies and usage.

In response to CNE, the Staff observed that although CNE argued that there should be an appropriate allocation of storage costs between transportation and sales customers, CNE failed to provide any analysis of what that allocation should be.
The ALJ found that in accordance with procedures for COSSs previously approved by the Commission, Consumers’ COSS should be adopted and recalculated in accordance with the Commission’s findings. The ALJ also found ABATE’s criticisms of Consumers’ cost allocation unconvincing.

The Commission agrees with the ALJ and rejects ABATE’s recommendation that no storage costs be assigned to transportation customers. As Consumers points out, the company allocates more than 90% of the costs for its storage system to sales customers. The amounts allocated to transportation customers are very similar to the ATL which represents the amount of the company’s storage that the customer is allowed to use, primarily to balance supplies and usage. Because it is generally impossible for transportation customers to perfectly match that supply with what is actually used, any difference is necessarily put into or taken out of storage.

The Commission finds that although the Staff’s position on use of an historical peak day, rather than a design peak day, is supported, more evidence is required on why the Commission should change existing practice. As the Commission recently discussed in the November 12, 2009 order in Case No. U-15701, the use of a design peak for CTN weather is reasonable and prudent in the context of planning for the availability of critical gas supplies. CTN design is dependent upon an accurate forecast of the possibility that extremely cold weather could occur for a period of time during the winter season. The use of an historical peak day, at the risk that the historical day was normal or warmer than normal, would clearly be imprudent. Thus, in a GCR plan case, the use of a design peak is essential.

However, in a COSS, the company is not engaged in planning to assure the availability of gas supplies under extreme, albeit possible, conditions. Instead, the parties are addressing the appropriate allocation of costs for peak and demand, and the use of a design, rather than historical
peak seems to be a less critical issue. The Commission therefore approves Consumers’ proposed COSS and directs Consumers, the Staff, and other interested parties to provide analyses in a future rate case of whether the Commission should continue to use a design peak method or whether an historical peak method would better address the fair allocation of costs.

B. Rate Design

Consumers stated that it designed delivery rates based on an equal percentage increase of 16.7% for all sales rates, including Residential Rates A and A-1, and General Service Rates GS-1, GS-2 and GS-3. Consumers also proposed a slightly higher equal percent increase of 20.6% to the delivery rates for the Transportation class. Consumers added that the larger percent increase does not fully reflect the Transportation class’ cost to serve as identified in the company’s 2010 COSS. According to Consumers, delivery rates were designed to recover the company’s target revenue requirement of approximately $84.8 million for Residential Service Rate Schedules A and A-1. For General Service Rate Schedules (GS-1, GS-2 and GS-3), Consumers used the total delivery cost of service of approximately $22.3 million for that class as a target revenue requirement. The proposed target revenue for the Transportation Class is $6.8 million.

The Staff stated that it essentially used the same rate design method as that used by Consumers, but the rates are different because Consumers and the Staff used different class revenue requirements. The Staff has designed its rates for the Residential, General Service, and Transportation rate classes to recover the costs that the Staff allocated to each class in its COSS. The Staff’s rate design also maintains the breakeven points between individual rate schedules. The Staff recommended that the Commission adopt the Staff’s rate design, as shown on Exhibit S-5, Schedules F-4-1 through F-4-4 and F-5.

The ALJ found that both Consumers’ and the Staff’s rate designs were reasonable.
In its exceptions, the Staff contended that its rates are purely class cost-of-service based, while Consumers’ rate design shifted its class revenue requirements for rate design reasons other than its COSS. According to the Staff, Consumers inappropriately modified its revenue requirements to equalize the sales rate percent increases. Thus, the Staff continues to assert that its rate design is superior to that proposed by Consumers.

In reply, Consumers claims that it has not modified its revenue requirements to equalize the sales rate percent increases, as the Staff claims. According to Consumers, it agrees with the Staff’s goal of equal percent increases within rate classes, as long as break-even or crossing points are maintained and that to maintain crossing points or to mitigate rate shock, the company needs to shift revenue requirements from one rate class to another. Consumers adds that this type of rate design has been approved by the Commission in the past in order to preserve crossing points.

The Commission finds that, in accordance with its objective to assure cost-of-service based rates, the Staff’s rate design method should be adopted. As the Staff pointed out, its transportation rates were designed to recover the cost to serve transportation customers while maintaining the breakeven points between individual rate schedules. Specific rate design issues are discussed in more detail below.

C. Residential, General Service, and Outdoor Lighting Rate GL Rate Schedules

1. Residential Rate Class

Consumers proposes to recover the residential revenue requirement by an increase to the Customer Charge for residential customers billed under Rates Schedules A and A-1 from $9.50 to $11.00 per month, based on the customer charge study shown in Exhibit A-74. Consumers also proposed to increase the volumetric Distribution Charge from $2.0819 per Mcf to $2.6188 per Mcf
to recover the remaining revenue requirement for the residential rate class. Consumers’ proposed rates for Rate A customers are shown on Exhibit A-54.

Consumers also recommended that the Excess Peak Demand Charge for residential Rate A customers increase by the same percent increase as the Residential Customer Charge, which represents an increase from $0.0489 per Mcf to $0.0566 per Mcf, as shown on Exhibit A-54.

The Staff agreed with Consumers’ recommendations regarding customer charge and excess peak demand charge, but recommended that the distribution charge be set at $2.3724 per Mcf.

In accordance with its determinations in this order increasing the number of residential customers from the company’s projection the resulting Customer Charge is $10.50 based on the revised COSS. The Commission approves a Residential Customer Charge of $10.50 and distribution charges for residential Rate A customers as shown in Attachment B to this order.

2. General Service Rate Class

Consumers recommended that the GS-1 monthly Customer Charge be set at $12.25 while the Staff recommended that the Commission set this charge at $11.65 in order to better reflect the company’s monthly customer-related costs, as calculated in the Staff’s COSS. Similarly, Consumers recommended $19.00 for GS-2 and $568.50 for GS-3 for the monthly Customer Charge, while the Staff recommended that the monthly Customer Charge be set at $18.00 for GS-2 and $540.00 for GS-3 in order to maintain breakeven points between the general service rate schedules.

Based on the COSS and rate design adopted here, the Commission approves monthly Customer Charges and distribution charges as shown in Attachment B for GS-1, GS-2, and GS-3 customers.
3. Outdoor Lighting Rate GL

Consumers recommended that the Commission maintain the rate for single mantle fixtures at $16.00 a month per luminaire and that it increase the rate for multiple mantle fixtures to $22.00 a month per luminaire. The Staff agreed with this recommendation. The Commission therefore adopts the company’s proposal.

4. Residential Income Assistance Provision

Consumers proposed an Income Assistance Service Provision to mitigate the effect of rising costs for customers who are low income. Consumers proposed to enroll customers whose total annual household income does not exceed 150% of the Federal Poverty Guidelines. Consumers stated that it will enroll eligible gas customers upon notification from a qualifying assistance or governmental agency. Customers who receive both gas and electric service from the company and that currently receive Consumers’ electric Residential Income Assistance Service Provision will qualify automatically for the gas residential assistance program. Enrolled customers will receive a fixed credit equal to the customer charge.

Consumers added that the Residential Income Assistance Service Program is not available to customers taking service under Rate Schedule A-1, where two or more residents are served through a central meter and are billed for a single customer charge. Consumers asserted that the intent of the program is not to offer discounts to landlords but to provide residential customers who need assistance with a credit.

The Staff agreed with the program, and the ALJ recommended its approval. There were no exceptions filed. The Commission therefore approves Consumers’ proposal to waive the customer charge for low-income customers. The Commission adds that in light of the foregoing
conclusions, the waiver applies to the Residential Customer Charge of $10.50 approved by the Commission.

D. Transportation Rate Schedules

Consumers recommended that the ST monthly Customer Charge be set at $631.30, while the Staff recommended that the Commission set the charge at $574.50. According to the Staff, its proposal minimizes the change in the GS-3/ST breakeven point and keeps the percent increases for each transportation schedules’ Customer and Distribution Charges relatively similar.

Consumers recommend monthly Customer Charges of $3481.30 for LT and $8739.80 for XLT, and the Staff recommended that the Commission set the monthly Customer Charge at $3084.50 for LT and $8127.00 for XLT.

Consumers also recommended that the ATL adjustments be altered by the same percentage as the total transportation class increase. The Staff agreed but recommended different charges because the Staff’s proposed transportation class percent increase is different than the company’s.

The Commission observes that the most significant difference between Consumers’ and the Staff’s proposals was the change to rates for the transportation class. Consumers cites concerns about rate shock in aligning the rates for this class in accordance with its cost of service. The Commission finds that Consumers’ concern with rate shock for transportation customers is largely addressed by the fact that the Commission is approving a rate increase that is much lower than that proposed by the company. Accordingly, the Commission adopts Customer and Distribution charges as shown in Attachment B for ST, XT, and XLT customers.

E. Proposed Tariff Changes

Consumers proposed tariff changes that are summarized in Exhibit A-57. The Staff agreed with Consumers and recommended that the following sentence be added to Consumers’ Customer
Choice Section F1: “If a Customer is in arrears with the company, the customer is not eligible to participate in this customer choice program until arrearages have been paid in full to the company.”

The proposed changes were adopted by the ALJ. No exceptions were filed. The Commission therefore approves the proposed changes to Consumers’ tariffs.

F. Customer Attachment Program

The Staff recommended that the Commission approve new rates for the Customer Attachment Program (CAP) model that reflect the Staff’s proposed cost of capital. On the basis of the Staff’s proposed capital structure, the Staff calculated a new carrying cost rate of 11.48% and a discount rate of 8.19%. Consumers agreed that the new rates for the CAP model should reflect the cost of capital determined by the Commission in this docket. This issue was not directly addressed by the ALJ. In its exceptions, the Staff recommended that the Commission recalculate the carrying cost rate and the discount rate in its final order.

In accordance with the Commission’s determinations regarding cost of capital, the Commission approves a carrying cost rate of 11.35% and a discount rate of 8.11%.

THEREFORE, IT IS ORDERED that:

A. Consumers Energy Company is authorized to increase its annual gas revenues by $65,893,000 for service rendered on and after the day following issuance of this opinion and order.

B. Due to the utility’s self-implementation of a rate increase on November 19, 2009 Consumers Energy Company’s current rates for the sale and distribution of electric power are too high and shall be reduced by $23,107,000 on an annual basis as directed by this order.
C. Within 30 days, Consumers Energy Company shall file revised rate schedules and tariffs reflecting the rates and tariffs approved in this order and shown in Attachment A and Attachment B.

D. Consumers Energy Company is authorized to adopt a pilot decoupling mechanism as described in this order.

E. Consumers Energy Company’s accounting requests are approved.

F. Within six months, the Commission Staff shall convene a technical conference comprised of representatives from all rate-regulated electric and gas utilities, union representatives, and other interested parties to produce a consensus report for the Commission on future training and hiring needs for electric and gas utility workers.

G. Consumers Energy Company shall file a self-implementation reconciliation application in this docket by August 19, 2010. The application shall contain the most up-to-date sales data available including the most recent adjustments made in the reconciliation period.

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.

MICHIGAN PUBLIC SERVICE COMMISSION

________________________________________
Orjiakor N. Isiogu, Chairman

________________________________________
Monica Martinez, Commissioner

________________________________________
Greg R. White, Commissioner

By its action of May 17, 2010.

________________________________________
Mary Jo Kunkle, Executive Secretary
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TECHNICAL TERMS AND ABBREVIATIONS
(For All Customers)

I. The definitions of the following technical terms and abbreviations are applicable to the Company's Gas Rate Book and are not contained in the other Sections thereof.

A. For All Utilities
   (1) “Commission” means the Michigan public service commission.
   (2) “Effective Date” means the date when the tariff sheet must be followed.
   (3) “Issue Date” means the date the Company files a tariff sheet with the Commission.
   (4) “Rate Book” means the complete set of Company filings submitted in accordance with the "Filing Procedures for Electric, Wastewater, Steam and Gas Utilities".
   (5) “Rate Schedule” or “Rider” means the rate or charge for a particular classification of service, including all special terms and conditions under which that service is furnished at the prescribed rate or charge.
   (6) “Rate Sheet” or “Tariff Sheet” means any of the documents filed in accordance with the "Filing Procedures for Electric, Wastewater, Steam and Gas Utilities".
   (7) “Rules and Regulations” means the rules, regulations, practices, classifications, exceptions, and conditions that the Company must observe when providing service.
   (8) “Standard Customer Forms Index” means a listing showing the number, title, and revision date for all standard forms, in any format (preprinted or electronically preformatted) that the Company uses to document contracts or other agreements that create or alter a customer’s rights or responsibilities in dealings with the Company. Standard customer forms require a customer signature or are specifically referenced within the Rate Book for execution between the Company and customers.

B. Company
   (1) Ccf - 100 cubic feet
   (2) Company - Consumers Energy Company
   (3) Dekatherm - 10 therms or 1,000,000 British thermal units
   (4) Mcf - 1,000 cubic feet

II. Definitions of additional technical terms and abbreviations are contained in the following sections:

A. Section C - Part II - General Rules and Regulations (For All Customers)
   (1) Rule C3.1 Curtailment of Gas Service - Definitions
      (a) Blanket Certificate Customer (h) Force Majeure
      (b) Capacity Deficiency (i) Industrial Gas Requirements
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      (e) Customers (l) Residential Gas Requirements
      (f) Deliveries (m) System Supply Customer
   (2) Rule C4.3 Application of Residential Usage and Non-Residential Usage
      (a) Household
      (b) Non-Residential Usage
      (c) Principal Residence Customer
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   (3) Rule C4.5 Mobile Home Park - Individually Served
      (a) Mobile Home Park
   (4) Rule C4.6 Centrally Metered Installation - A. Definition of a Centrally Metered Installation
      (a) Centrally Metered Installation
   (5) Rule C5.2 Bills and Payments - J. Energy Theft, Stolen Meter and Switched Meter
      (a) Stolen Meter
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TECHNICAL TERMS AND ABBREVIATIONS
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II. Definitions of additional technical terms and abbreviations are contained in the following sections:  (Contd)

B. Section E - Gas Transportation Standards and Billing Practices - Definitions

(1) Account
(2) Allowance for Use and Loss
(3) Annual Contract Quantity
(4) Authorized Tolerance Level
(5) Business Day
(6) Cubic Foot of Gas
(7) Day
(8) Designated Sales Rate
(9) Gas
(10) Gas Rate Book
(11) Load Balancing Charge
(12) Maximum Daily Quantity
(13) MMBtu
(a) Month
(b) Nominations
(c) Total Heating Value Per Cubic Foot
(14) Unauthorized Gas Usage Charge

(Continued on Sheet No. A-24.00)
C2. CONTROLLED SERVICE (Contd)

D. Approval of Application for Service (Contd)
   
   (b) The Company shall open the highest Priority first. If all the applicants within that Priority are granted service, and sufficient supply is available, the next highest Priority shall be opened. When the Company opens a Priority previously closed, the Company shall supply written notice to those within that Priority that have applications on file indicating the Priority is open and that the requested supplies of gas are available.

   (c) If the available supply is committed before granting all applicants service, then those applicants who do not receive service shall have their application kept on file and their standing reserved within their Priority, but shall not receive preference over a later applicant who qualifies for a higher Priority, when gas becomes available and Priorities are again opened.

   (d) An applicant whose Priority is open at the time of application may be granted immediate approval through written notification by the Company, provided such applicant demonstrates to the satisfaction of the Company that the construction and installation of the necessary equipment will proceed in a timely manner.

   (e) An applicant whose Priority is closed at the time of application, shall have that application for service kept on file by Priority and by the date the application was received.

(2) The Company may not grant service to new customers or permit additional load by existing customers, if:

   (a) The Company is curtailing any customers in the affected service area under the Capacity Deficiency provisions of Rule C3, Curtailment of Gas Service.

   (b) The Company is curtailing any customers under the Gas Supply Deficiency provisions of Rule C3, Curtailment of Gas Service, except that the Company may attach Priority One customers provided no customers in Curtailment Priority Two are being curtailed.

(3) The Company reserves the right to attach new interruptible loads, to provide Transportation rate customers with "Authorized Gas" under the "Authorized Gas Usage Charge" provision of the rate or to supply gas under the "Restricted Sales" provision of this rule.

(4) The written notification by the Company granting approval of the application shall specify the date by which gas service must commence.

E. Forfeiture

(1) A customer shall install the necessary equipment and commence gas service by the date specified in the Company's notification of approval, otherwise the customer's reservation of gas supply is forfeited.

(2) When the Company grants approval in those cases where the Application for Gas Service was not initially granted, the customer shall notify the Company in writing within 30 days (from the date of the Company's written notification of approval) of the customer's intention to accept service. If the customer does not respond within 30 days, the customer's original application is void.
C2. CONTROLLED SERVICE (Contd)

E. Forfeiture (Contd)

(3) If any time after commencing firm gas service, a customer switches to transportation service, that customer forfeits firm sales customer status on all volumes. After five years from the date of such forfeit, a customer may apply for firm sales rate status.

F. Restricted Sales

As a result of warmer-than-normal weather, or other factors, the Company may have gas in excess of its immediate load. The Company may sell such excess gas subject to:

(1) The provision of a net economic benefit to the Company’s customers as a result of the sale of such gas.

(2) Demonstration by the Company that the sale of such gas caused no detriment to its customers.

(3) The Gas Supply Deficiency Curtailment Priority Eight of Rule C3, Curtailment of Gas Service, for all special contract sales of such gas.

(4) Commission approval of such sales on a special contract basis, limited as to time and volume.

G. Priorities

(1) Service shall be controlled under this rule in accordance with the following Priorities. Priority One constitutes the highest Priority which will be the last Priority controlled.

PRIORITY ONE

The purchase of natural gas by any residential customer for any purpose except space heating or air conditioning. The use of gas by any commercial customer to provide a service such as would normally be provided by non-space heating or air conditioning residential use of gas.

PRIORITY TWO

The purchase of natural gas by any residential customer for space heating or air conditioning and the use of natural gas for services essential for public health and safety as defined in Rule C3, Curtailment of Gas Service.

PRIORITY THREE

The purchase of natural gas by any Non-Residential customer for space heating or air conditioning or any use of gas by a commercial customer not included in Priority One.

PRIORITY FOUR

The purchase of natural gas by any industrial customer for industrial processing or in gas-fired afterburners to limit or abate obnoxious odors or air pollution.

(Continued on Sheet No. C-7.00)
C4. APPLICATION OF RATES

C4.1 Classes of Service

The rates specified in this schedule are predicated upon the delivery of each class of service to a single metering point for the total requirements of each separate premises of the customer, unless otherwise provided for in the Company's Gas Rate Book.

Service to different delivery points and/or different classes of service on the same premises shall be separately metered and separately billed. In no case shall service be shared with another premises or transmitted off the premises to which it is delivered.

C4.2 Choice of Rates

In some cases the customer is eligible to take service under a choice of rates. Upon request, the Company shall advise the customer in the selection of the rate which will give the customer the lowest cost of service, based on the information available, but the responsibility for the selection of the rate lies with the customer.

After the customer has selected the rate under which the customer elects to take service, the customer shall not be permitted to change from that rate to another rate until at least 12 months have elapsed. The customer shall not be permitted to evade this rule by temporarily terminating service. However, the Company may, at its option, waive the provisions of this paragraph where it appears that an earlier change is requested for permanent rather than for temporary or seasonal advantage. The effective date of a rate change under this rule shall be the beginning read date of the next bill issued. The intent of this rule is to prohibit frequent shifts from rate to rate.

No refund shall be made of the difference in charges under different rates applicable to the same class of service.

C4.3 Application of Residential Usage and Non-Residential Usage

A. Residential Usage and Rate Application

For purposes of rate application "residential usage" shall be usage metered and consumed within an individual household, and reasonably appurtenant and related to and normally associated with such a household, for such applications as space conditioning, cooking, water heating, refrigeration, clothes drying, incineration, lighting and other similar household applications.

The term "household" includes single-family homes, farm homes, seasonal dwellings, duplexes, and individual living units within mobile home parks, condominiums, apartments and cooperatives; provided, however, to qualify for residential usage a household must have the normal household facilities such as bathroom, individual cooking and kitchen sink facilities.

The term "principal residence customer" is a customer who takes service at a permanent, year-round dwelling which is his/her Principal Residence throughout the year. The residence address would normally be the customer's voting address and the address used on the customer's driver's license.

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C7. GAS COST RECOVERY CLAUSE AND STANDARD REFUND PROCEDURES (Contd)

C7.2 Standard Refund Procedures for Gas Cost Recovery and Other Supplier Refunds (Contd)

C. Refund Pass-Through (Contd)

(3) Distribution of Non-GCR Customer Refunds in General (Contd)

(d) Past Customers

All past customers who had consumption during the refund distribution period shall be issued a refund check to their last known address, except that the Company is not required to issue refund checks to past customers who would receive $10.00 or less, those in arrears with the Company, or to customers whose checks were returned as undeliverable from previous refunds. Rights to any portion of a refund shall not vest until a refund amount has been credited to a customer's bill or a refund check to a past customer is negotiated. After 180 days, any returned or uncashed check shall be transferred to the refund liability account to be refunded with interest in the next refund.

(e) Customers in Arrears

Refunds made pursuant to these procedures will be applied against any past due amounts owing to the Company. The amount, if any, in excess of the amount owed will be refunded in accordance with these procedures.

(f) Refund Completion Reports

Six months after the completion of a refund distribution, the Company shall submit a completion report to the Commission Staff showing the amount actually refunded as compared to the authorized refund amount and the date the refund was completed.

(g) Unrefunded Balances

Any undistributed amounts remaining shall be rolled back into the refund liability account to accrue interest at the Company's authorized rate of return on common equity until refunded to customers in the next refund distribution.

(Continued on Sheet No. C-34.00)
C8. CUSTOMER ATTACHMENT PROGRAM (Contd)

I. Model Assumptions

Incremental Revenues:

The incremental revenues will be calculated based on current rates and a forecast of the timing and number of customer attachments as well as the customers annual consumption levels.

Incremental Costs:

(1) Carrying Cost Rate

The carrying cost rate will be based on the weighted rate of debt, preferred stock, equity and associated taxes. The cost will be equal to and weighted in proportion to those authorized in the Company's most recent rate order. The carrying cost rate is equal to 11.35%.

(2) Plant in Service

Plant in Service shall reflect the Company's estimated cost to construct distribution mains, customer service lines, meters and pressure regulators or regulating facilities for the Project. The timing of the facility investment, primarily service lines, will correspond with the projected timing of the customer attachments.

(3) Carrying Costs

The Carrying Costs will be the product of the average of beginning and end-of-year net plant, Plant in Service minus accumulated depreciation minus deferred taxes, multiplied by the Carrying Cost Rate, noted in paragraph 1 above.

(4) Depreciation

Depreciation expense will be the product of Plant in Service multiplied by the appropriate prescribed depreciation rates approved for the Company.

(5) Property Taxes and Other Operating Expenses

Property taxes will be the product of Plant in Service multiplied by the Company's average property tax rate. All other incremental operating expenses will be included as identified. Incremental O&M will at a minimum include a proportional cost for monthly meter reading, billing and mailing.

(6) Discount Rate

The discount rate will be a weighted rate of long-term debt, preferred stock and common equity. The cost will be equal to and weighted in proportion to those authorized in the Company's most recent rate order. Based on the Company's rate order in Case No. U-15986 dated May 17, 2010, the Discount Rate is equal to 8.11%.

J. Customer Attachment Project Areas

All gas sold in any area specifically listed below is subject to the following Customer Attachment Project (CAP) charges. CAP areas and charges shall be added to or removed from the list from time to time by the Company.

(Continued on Sheet No. C-38.00)
This sheet has been cancelled and is reserved for future use.

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Issued under the authority of the
Michigan Public Service Commission
dated xxxxxxxxxxxxxxxx
in Case No. U-15986
## RATE CATEGORIES

<table>
<thead>
<tr>
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<th>Rate Category</th>
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<tbody>
<tr>
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<tr>
<td>Residential Space Heating</td>
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<tr>
<td>Residential Without Space Heating</td>
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<td>Aggregation</td>
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(Continued on Sheet No. D-7.00)
(Continued From Sheet No. D-6.00)

RATE CATEGORIES (Contd)

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<td>ST-1*</td>
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<tr>
<td>Small, Negotiated</td>
<td>ST-2*</td>
</tr>
<tr>
<td>Large, Cost-Based</td>
<td>LT-1*</td>
</tr>
<tr>
<td>Large, Negotiated</td>
<td>LT-2*</td>
</tr>
<tr>
<td>Extremely Large, Cost-Based</td>
<td>XLT-1*</td>
</tr>
<tr>
<td>Extremely Large, Negotiated</td>
<td>XLT-2*</td>
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<tr>
<td>CUSTOMER CHOICE RATE CC</td>
<td>CC*</td>
</tr>
</tbody>
</table>

*A numeric rate category will not be shown on the customer's bill due to the complexity and number of rate categories necessitated by the flexible transportation program.

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Effective for service rendered on and after xxxxxxxxxxxxxxxxxxx

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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 Non-Residential usage.

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

Monthly Rate

Customer Charge

$10.50 per customer per month, plus

Income Assistance Service Provision:

When service is supplied to a Principal Residence Customer, where the total household income does not exceed 150% of the Federal poverty level, verified by confirmation of an authorized State or Federal agency, a credit shall be applied during all billing months.

The monthly credit for the residential Income Assistance Service Provision shall be applied as follows:

Income Assistance Credit: $(10.50) per customer per month

Distribution Charge

$2.4289 per Mcf for all Mcf purchased.

Gas Cost Recovery Charge

The gas cost recovery factors are shown on Sheet No. D-2.00.

General Terms and Surcharges

This rate is subject to all general terms and conditions shown on Sheet No. D-1.00 and surcharges shown on Sheet No. D-1.10.

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 transmittal. 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 the customer is 65 years of age or older, shall be exempt from a late payment charge as described in Rule B2, Consumer Standards and Billing Practices for Electric and Gas Residential Service, R 460.122, Allowable Charges.

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 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.

Monthly Rate

Customer Charge

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

$10.50 per month, plus
$0.0540 per Mcf of excess peak demand, plus

Distribution Charge

$2.4289 per Mcf for all Mcf purchased.

Gas Cost Recovery Charge

The gas cost recovery factors are shown on Sheet No. D-2.00.

General Terms and Surcharges

This rate is subject to all general terms and conditions shown on Sheet No. D-1.00 and surcharges shown on Sheet No. D-1.10.

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. D-10.00)
GENERAL SERVICE RATE
(Rates GS-1, GS-2 and GS-3)

Availability

Subject to any restrictions, this rate is available to any customer desiring gas service for any Non-Residential 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.

Rates and Charges

<table>
<thead>
<tr>
<th>Service Category</th>
<th>Customer Charge per Month</th>
<th>Distribution Charge</th>
</tr>
</thead>
<tbody>
<tr>
<td>GS-1</td>
<td>$11.65 per meter</td>
<td>$2.1454 per Mcf</td>
</tr>
<tr>
<td>GS-2</td>
<td>$18.20 per meter</td>
<td>$1.9407 per Mcf</td>
</tr>
<tr>
<td>GS-3</td>
<td>$541.00 per meter</td>
<td>$1.0043 per Mcf</td>
</tr>
</tbody>
</table>

Customers may choose the Service Category under which they take service, consistent with the provisions of Rules C4.1, Classes of Service, and C4.2, Choice of Rates. When the Customer is selecting its initial Service Category, the Company must advise them that the economic break even point between GS-1 and GS-2 is approximately 384 Mcf per year and the economic break even point between GS-2 and GS-3 is approximately 6,700 Mcf per year. After the initial selection is made, then it is the customer's responsibility to determine when it is appropriate to switch Service Categories, as permitted by Rule C4.2, Choice of Rates.

Gas Cost Recovery Charge

The gas cost recovery factors are shown on Sheet No. D-2.00.

General Terms and Surcharges

This rate is subject to all general terms and conditions shown on Sheet No. D-1.00 and surcharges shown on Sheet No. D-1.10.

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 OUTDOOR LIGHTING RATE GL

This Rate Is Not Open to New Business

Availability

Subject to any restrictions, this rate is available to any commercial or industrial customer for streetlighting or outdoor area lighting service for any system consisting of two or more gas luminaires where the Company has an existing gas distribution system.

Nature of Service

The customer shall furnish the necessary posts, luminaires and fixtures. The Company shall install this equipment and make all connections to its gas distribution system. The Company shall supply the gas, renew the mantles, clean the luminaires and paint all metal parts as needed; all other renewals and maintenance shall be paid for by the customer.

Monthly Rate

$16.00 per luminaire having a rated consumption of 2.5 cubic feet or less per hour.

$22.00 per luminaire having a rated consumption of more than 2.5 cubic feet but not more than 4.5 cubic feet per hour.

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

Minimum term of three years on written contract and year to year thereafter until terminated by mutual consent or upon three months' written notice given by either party.

Special Terms and Conditions

The Company reserves the right to make special contractual arrangements as to term or duration of contract, termination charges, contributions in aid of construction, monthly charges or other special consideration when the customer requests service, equipment or facilities not normally provided under this rate.

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Issued under the authority of the Michigan Public Service Commission dated xxxxxxxxxxxxxxxxxxxx in Case No. U-15986
SECTION E
TRANSPORTATION SERVICE
GAS TRANSPORTATION STANDARDS AND BILLING PRACTICES

E1. GENERAL PROVISIONS AND DEFINITIONS

E1.1 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 E4.1.D. in this Section E.

(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 contracted ACQ shall be adjusted 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 6.5%, 7.5%, 8.5%, 9.5%, or 10.5% of the customer's ACQ.

(e) "Business Day" means Monday through Friday, excluding Company holidays.

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

(g) "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 10:00 AM Eastern Clock Time or at such other time as may be mutually agreed.

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

(i) "Gas" means natural gas, manufactured gas or a combination of the two which meets the "quality" standards as specified in Rule E3, Gas Quality, in this Section E.

(j) "Gas Rate Book" means the standard rules and regulations and rates governing the sale of natural gas service as approved by the Michigan Public Service Commission.

(k) "Load Balancing Charge" is defined on the Transportation Service Rate Schedules.

(l) "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 usage in the last 24 months of such service divided by 30 except that the MDQ may be adjusted for known or expected changes.

(m) "MMBtu" means one million Btu.

(n) "Month," except as provided with respect to billing, means a period beginning at 10:00 AM Eastern Clock Time on the first day of a calendar month and ending at 10:00 AM Eastern Clock Time on the first day of the following calendar month or at such other time as may be mutually agreed.
E2. RECORDS, ACCOUNTING AND CONTROL (Contd)

E2.2 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, e-mail or an available electronic nomination system.

C. Daily: The customer or the customer's authorized representative shall notify the Company's Gas Transportation Services Department of the daily quantity of gas (in MMBtu) that the customer is nominating for delivery to the Company on behalf of the customer. Such nominations shall be submitted by 12:30 PM Eastern Clock Time on the Business Day prior to the effective day of the proposed delivery. Nominations made after the 12:30 PM deadline shall be accepted at the sole discretion of the Company. Customers are required to have nomination on file for each day of the month. (A single nomination shall be assumed to apply for each subsequent day of the month, unless otherwise indicated.)

D. The customer or the customer's authorized representative may transfer a portion of their account balance to another customer. The customer 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.

E3. GAS QUALITY

E3.1 Quality.

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

A. Gas shall not contain more than 0.005 percent (50 ppm) oxygen by volume;

B. Gas shall be commercially free from objectionable odors, solid or liquid matter, bacteria, 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 0.25 grain of hydrogen sulphide nor more than 0.5 grain of mercaptan sulfur per 100 cubic feet;

D. Gas shall not contain more than 5.0 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.

H. The temperature of the gas shall not exceed 100° F;

I. The hydrocarbon dewpoint of the gas shall not exceed 30° F at 500 pounds per square inch.
E3. GAS QUALITY (Contd)

E3.2 Heating Value.

The gas transported shall have a total heating value per cubic foot of not less than 965 Btu nor more than 1,110 Btu. Unless otherwise agreed, differences in the thermal value of the gas transported shall be determined by the Company based on the assumption that the gas delivered to the customer has a Btu content per Mcf that is the same as the Company's then-current system average Btu content per Mcf which shall be redetermined monthly.

E4. SERVICE REQUIREMENTS

E4.1 Quantities.

A. The customer may deliver, or cause to be delivered, and the Company shall, subject to other provisions in the Company’s Gas Rate Book, accept quantities of gas up to the MDQ specified in the transportation contract. If deliveries to the Company exceed the agreed upon quantities, the Company may terminate the contract upon 30 days’ written notice to the customer.

B. Deliveries to the Company may be made by or on behalf of the customer at existing interconnections between the gas transmission facilities of the Company and other pipeline systems. These points of receipt shall be those that are agreed to from time to time by the customer and the Company.

C. The Company shall endeavor to deliver gas to the customer, and the customer shall endeavor to take a quantity of gas that is thermally equivalent to the gas that it delivers or causes to be delivered. Such delivery on the part of the Company and take on the part of the customer is to be made at the outlet of the Company gas meter(s) identified in the transportation contract.

D. The Company shall retain 1.83 percent of all gas received from customers being billed for distribution service on the Transportation Service Rate at the points of receipt to compensate it for the Company’s use and lost and unaccounted for gas on the Company’s system (“Allowance for Use and Loss”). Gas received from customers being billed for distribution services on the General Service Rate shall not be subject to this provision. This volume shall not be included in the quantity available for delivery to the customer.

E. If, in any month, the quantity of gas received by the Company at the points of receipt, less the Allowance for Use and Loss, is more than the quantity of gas taken by the customer at the points of delivery, then the difference shall be retained by the Company and delivered to the customer in those succeeding months when the quantity of gas received by the Company is less than the customer’s requirements. Such subsequent deliveries to the customer shall be subject to the withdrawal limitations identified on the Transportation Service Rate Schedule. Should the aggregate quantity of gas, less the Allowance for Use and Loss, retained by the Company at any month-end exceed the authorized tolerance level, then the Company shall have the right: (1) to refuse to receive any additional quantity of gas for that customer until the Company has satisfied itself that the quantity of gas retained for the customer is less than the authorized tolerance level and (2) to assess the customer a Load Balancing Charge for any month-end balance that exceeds the authorized tolerance level. The customer shall withdraw or transfer any gas retained by the Company within 60 days of the termination of the contract. If the customer has not withdrawn or transferred gas retained by the Company within the 60 days, the Company, at its sole discretion, may (i) assess a holdover fee of $0.25 per MMBtu per month for any gas volumes remaining in storage or (ii) cash out the remaining gas at the then current cost of gas billed to sales customers pursuant to the Company’s Rule C7.

F. Nothing herein shall prevent the Company and the customer from entering into a separate storage agreement.
TRANSPORTATION SERVICE RATE
(Rates ST, LT and XLT)

Availability

Subject to any restrictions, service under this Rate Schedule is available to any customer that could otherwise purchase gas under another Company Rate Schedule. A customer selecting transportation service, 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 taking Transportation Service.

Under this rate schedule, 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 Schedule shall make written application for such service on a form provided by the Company.

Rates and Charges

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Transportation Rates

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</thead>
<tbody>
<tr>
<td>Cost Based Rate</td>
<td>$0.8813 Per Mcf</td>
<td>$0.5744 Per Mcf</td>
<td>$0.4548 Per Mcf</td>
</tr>
<tr>
<td>Optional Rates: Maximum Rate</td>
<td>$1.5326 Per Mcf</td>
<td>$0.9188 Per Mcf</td>
<td>$0.7596 Per Mcf</td>
</tr>
<tr>
<td>Minimum Rate</td>
<td>$0.2300 Per Mcf</td>
<td>$0.2300 Per Mcf</td>
<td>$0.1500 Per Mcf</td>
</tr>
</tbody>
</table>

Selection of Service Category and Rates

A customer may choose the Service Category under which they take service, consistent with the provisions of Rules C4.1, Classes of Service, and C4.2, Choice of Rates. When the customer is selecting its initial Service Category, the Company must advise them that the economic break even point between ST and LT is 100,000 Mcf per year and the economic break even point between LT and XLT is 500,007 Mcf per year. After the initial selection is made, then it is the customer's responsibility to determine when it is appropriate to switch Service Categories, as permitted by Rule C4.2, Choice of Rates.

(Continued on Sheet No. E-12.00)
Rates and Charges (Contd)

Selection of Service Category and Rates (Contd)

The customer will be charged the Cost Based Rate under its chosen Service Category, unless the customer chooses to negotiate a different rate under the Optional Rate provision. The Company must advise the customer of its right to negotiate rates under the Optional Rate provision, however the Company is under no obligation to offer a rate different than the Cost Based Rate. The Company, at its discretion, may negotiate different transportation rates for individual customers between the maximum and minimum rates under the appropriate Optional Rate provision. The negotiated rate may be applied to the customer's entire load or a portion of its load; however, under no circumstances can the Company charge an average rate per Mcf greater than the maximum rate or less than the minimum rate. The transportation rate is charged for each Mcf of gas delivered to the customer in a given month.

Authorized Gas Usage Charge

A customer may request in advance to purchase authorized gas in accordance with the Company's Gas Rate Book. 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 the customer's designated service category.

Unauthorized Gas Usage Charge

A customer 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 highest price reported for Michigan or Chicago LDC's during the applicable month as reported by Gas Daily or, in the event that Gas Daily discontinues its reporting of such prices, any comparable reporting service, plus $10 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 the customer's previous month-end balance during November through March will be limited to the customer's Contract Storage Quantity (CSQ), if any, plus 3% of the customer's ACQ. If in any month the quantity of gas received by the Company, less the allowance for gas-in-kind plus 3% of the transportation customer's ACQ and its allowed CSQ is less than the quantity 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". For purposes of this calculation, gas transferred to or from another customer during the billing month of the charge shall not be considered.

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 quantity. 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.

(Continued on Sheet No. E-13.00)
TRANSPORTATION SERVICE RATE  
(Rates ST, LT and XLT)  
(Continued From Sheet No. E-12.00)

Rates and Charges (Contd)

Load Balancing Charge (Contd)

A customer's ATL shall be 8.5% of the Customer's ACQ unless the customer contracts for a different percent in accordance with the following table. The Transportation Charge shall be adjusted as follows:

<table>
<thead>
<tr>
<th>Authorized As a % of ACQ</th>
<th>Transportation Charge Adjustment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tolerance Level</td>
<td></td>
</tr>
<tr>
<td>6.5%</td>
<td>$(0.0532) Per Mcf</td>
</tr>
<tr>
<td>7.5%</td>
<td>$(0.0266) Per Mcf</td>
</tr>
<tr>
<td>8.5%</td>
<td>No Change</td>
</tr>
<tr>
<td>9.5%</td>
<td>$ 0.0266 Per Mcf</td>
</tr>
<tr>
<td>10.5%</td>
<td>$ 0.0532 Per Mcf</td>
</tr>
</tbody>
</table>

The monthly injection of gas into the customer's ATL and additional CSQ, if any, shall be at the customer's discretion except in September and October when any monthly injections in excess of the customer's CSQ plus 1.43% of the customer's ACQ will be charged the Load Balancing Charge.

Excess Pipeline Costs Surcharge

This surcharge shall be assessed to the customer.

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.

Metering Requirements

All eligible XLT customers shall be required to provide, at no expense to the Company, a dedicated telecommunication line(s) as required for metering purposes, to a location specified by the Company. The communication link must be installed and operating prior to a transportation customer receiving service under Service Category XLT. The customer shall be responsible for (i) ensuring that the communication links allow access to the meter data by the Company and are compatible with the Company's metering and billing systems, and (ii) all associated costs relating to the communication links including other accompanying equipment and monthly fees. The Company shall own and maintain the actual metering equipment and modem.

(Continued on Sheet No. E-14.00)
SECTION F
GAS CUSTOMER CHOICE PROGRAM

F1. GENERAL PROVISIONS

A Supplier desiring to supply gas to customers under Gas Customer Choice Rate CC must receive a license from the Commission, register with the Commission Staff and execute an "Authorized Gas Supplier Agreement" with the Company prior to any solicitation of the Company's customers. Such agreement shall require compliance with all of the terms of this Rule F1 through Rule F5.

Definitions (applicable to all of Section F of this Rate Book):

Alternative Gas Supplier (AGS) or Supplier means a marketer, broker, producer, or other entity that has received a license from the Commission and executed an Authorized Gas Supplier Agreement with the Company to deliver gas supplies to customers under Rate CC.

Customer:

(1) Residential means a purchaser (account holder) of natural gas that is supplied or distributed by a utility for residential purposes.

(2) Small Commercial means a Non-Residential customer (business name) with aggregate usage of 500 Mcf of natural gas or less per year.

(3) Large Commercial means a Non-Residential customer (business name) with aggregate usage above 500 Mcf of natural gas per year that is supplied or distributed by a utility for non-residential purposes.

Legally Authorized Person means a person that has legal documentation or legal authority to enroll a Residential or Commercial customer into a binding contract. A Legally Authorized Person includes, but is not limited to, an individual with power of attorney or a corporate agent authorized to enter into contracts on a corporation's behalf.

Program means the Gas Customer Choice Program approved by the Commission.

The terms signature or signed include electronic signatures as defined in the Michigan Uniform Electronic Transactions Act.

A. Customers may elect to participate in the GCC Program and Suppliers may solicit customer participation at any time. However, if a customer is in arrears with the Company, the customer is not eligible to participate in this customer choice program until arrears have been paid in full to the Company.

B. A customer who is a transportation or sales customer of the Company must comply with any minimum term requirements of those tariffs before being permitted to switch to Rate CC.

C. The customer's selection of a Supplier shall remain in effect until (i) terminated by the customer or the Supplier, or (ii) the Supplier becomes disqualified from participating in the GCC Program, or (iii) the Company receives an enrollment for that customer from another Supplier. The Company shall incur no liability for relying on information from a customer or a Supplier which the Company believes to be genuine.

D. A Supplier shall provide the Company, by the last day of the calendar month prior to the month in which the Supplier's customer commences service, a cash deposit in the amount of $10.00 per Mcf for 10/365ths of the Company-estimated total annual load for those customers selecting that Supplier. The cash deposit shall be adjusted if the Company-estimated total annual load for those customers changes. As an alternative to a cash deposit, the Supplier may provide an irrevocable letter of credit from a financial institution, a surety bond, or a parental guarantee satisfactory to the Company in not less than the amount of the cash deposit. Any such letter of credit, surety bond or parental guarantee shall be in a form acceptable to the Company. The amount of cash deposit, letter of credit, surety bond or parental guarantee shall be applied against any unpaid charges and/or fees, as well as any price reconciliation liabilities, or liabilities associated with Supplier default. Cash deposit amounts not so applied shall be refunded to the Supplier if the Supplier ceases to serve customers under the Program.

(Continued on Sheet No. F-2.00)
F1. GENERAL PROVISIONS (Contd)

D. The Company shall pay simple interest to each Supplier who makes a cash deposit for the time the deposit is held. The interest rate shall be the average monthly short-term borrowing rate available to the Company for each month, or months in which the deposit is held. Payment of the interest to the Supplier shall be made at least semi-annually. The deposit shall cease to draw interest on the date the deposit is returned, on the date service is terminated, on the date the deposit is applied against any unpaid charges, fees or liabilities or the date that notice that the deposit is no longer required is sent to the Supplier's last known address.

E. If a Supplier adds customers after April 1 of a Program year, the monthly remittance to the Supplier for gas supplied to those customers will be adjusted by a Supply Equalization Charge. The Supply Equalization Charge shall be equal to the product of: (a) and (b) where (a) equals the Company's weighted average monthly cost of gas purchased and produced for the months from the preceding April through the current billing month less the Supplier specified customer billing price per Mcf, converted to price per MMBtu using the monthly system average Btu content, and (b) equals the increase for that month, if any, in the amount by which the cumulative Mcf quantity billed to those customers subject to the Supply Equalization Charge for the Program year, converted to MMBtu using the monthly system average Btu content, exceeds the cumulative Supplier deliveries for those customers for the Program year in MMBtu. The charge shall not be less than zero. The Program year is the year beginning April 1 and ending the following March 31.

F. A Supplier shall pay a monthly Administrative Fee of $100.00 per Supplier-designated pricing category.

G. The Company will provide each Supplier with a monthly schedule of quantities for delivery of gas into the Company system on behalf of the Supplier's customers. The initial schedule will indicate volumes that the Supplier is required to deliver each day. This schedule will be updated by the Company on a monthly basis. For most Gas Customer Choice customers, scheduled daily volumes will not normally vary by more than plus/minus 10% from 1/365th of the estimated annual customer load to be served by the Supplier. Scheduled daily volumes for Gas Customer Choice customers for electric peakers, greenhouses, grain dryers, asphalt plants and large new loads without historical load information may be determined by the Company on a different basis than set forth above. The Supplier shall be responsible for obtaining sufficient pipeline capacity to meet its delivery obligations.

H. Gas delivered into the Company's system shall comply with Rule E3, Gas Quality.

I. Each Supplier shall notify the Company's Gas Transportation Services Department of the daily quantity of gas (in MMBtu) that the Supplier is nominating for delivery on behalf of each Supplier-designated pricing category. Such nominations shall be made in accordance with the Company's nomination requirements, Rule E2.2 C. – Nominations, Accounting and Control.

J. A Supplier that falls short of the delivery schedule, described in Paragraph G, above, shall pay a per MMBtu "Failure Fee" for all shortages in the amount of $6/MMBtu ($10.00/MMBtu during periods of Company-declared supply emergency in accordance with Rule C3, Curtailment of Gas Service) plus the higher of (a) the cost of gas billed to sales customers pursuant to the Company's Rule C7, Gas Cost Recovery Clause and Standard Refund Procedures, or (b) the current highest spot price paid for gas delivered to ANR Pipeline Company, Trunkline Gas Company, Panhandle Eastern Pipe Line Company or at Chicago city gate for the corresponding date as published in Gas Daily, plus associated firm pipeline delivery costs.

A Supplier that falls short of the required delivery schedule obligation to the extent that the cumulative unpaid Failure Fees exceed any cash deposit or alternative assurance described in Paragraph D., above, shall have its Authorized Supplier status revoked. Subject to Rule C2, Controlled Service, the Supplier's customers shall become sales rate customers of the Company.

K. All customer billing and remittance processing functions for services provided under Rate CC will be performed by the Company. The Supplier will be charged a monthly fee of $.30 per customer account. The Company will be responsible for credit and collection activities for the amounts billed directly to the customer by the Company. The Supplier must, at least 48 hours before the start of each billing month, furnish to the Company, in a format acceptable to the Company, the price per Mcf to be billed to each Supplier-designated pricing category on its behalf or the most recently supplied price will be used.

(Continued on Sheet No. F-3.00)
F4. SUPPLIER LICENSING AND CODE OF CONDUCT  (Contd)

B. As a condition of licensing as a Supplier, a Supplier must agree to abide by a code of conduct that provides:

(1) The Supplier will issue accurate and understandable contract(s) and marketing materials.

(a) The Supplier and its agents will not engage in communications or practices that are fraudulent, deceptive or misleading.

(b) The Supplier and its agents will maintain sufficient documentation to support any claims made to customers in advertising, marketing, promoting or representing the sale of gas supply or related services.

(c) The Supplier will provide this documentation to the Commission or its Staff, upon request.

(d) Marketing materials must contain the average price per Mcf, the period of time over which the price is valid, the term of the contract, the Supplier's name and telephone number, the area which the Supplier serves and the types of customers that the Supplier serves.

(e) If the Supplier does not offer a fixed price, the marketing materials must contain a clear explanation of the pricing factors used to determine the price and an example of how the pricing factors would be implemented over a relevant time period and for relevant usages. Marketing materials shall clearly identify optional services.

(2) The Supplier will commit to truth in advertising. The Supplier will provide gas supply and related services at advertised terms and conditions.

(3) The Supplier will comply with all Company Program Rules and Regulations and Rate Schedules as they are contained in the Company's Rate Book for Natural Gas Service as well as applicable laws.

(4) The Supplier must comply with Commission rules relating to response to customer complaints, formal complaints and customer service.

(5) The Supplier will provide accurate and sufficient customer service information. The Supplier will advise customers of their name, address, toll-free telephone number and other service information, including dispute resolution procedures. The Supplier will give customers accurate and complete information on the customer's rights and responsibilities. The Supplier will maintain regular hours during which customers can make inquiries and complaints. Customer inquiries to a Supplier that are related to gas emergencies, such as gas leaks or outages, should be directed to the Company.

(6) The Supplier must inform a customer of the amount of its early termination fee prior to de-enrollment or transfer to another AGS. A customer is responsible to know if early termination fees apply in their contract. If after the Supplier discloses the early termination fee amount and the customer returns to the Company sales rate or switches to another AGS, the customer may be responsible for early termination fees or other penalties owed to the Supplier. The Supplier shall execute a customer’s request for cancellation without delay, irrespective of whether an early termination fee or other penalty is paid to the Supplier.

(7) The Supplier will not switch a customer to the Supplier's service without the express authorization of the customer. The Supplier will use appropriate marketing and verification methods for switching customers. The Supplier will agree not to charge the customer for services that the customer has not expressly authorized. The Supplier will apply appropriate verification methods for any charges applied to the customer's account.

The Supplier shall maintain verification records for as long as the customer's contract is valid, plus an additional three (3) more years. Suppliers who switch or charge customers without the proper authorization must refund the supply or other charges to the customer and pay any administrative fees, such as switching fees, necessary to reverse the actions.

(Continued on Sheet No. F-7.00)
GAS CUSTOMER CHOICE RATE CC

Availability

Subject to any restrictions, this rate is available to any active customer desiring gas service where the customer's gas is provided by an Authorized Gas Supplier under Rule F1, General Provisions. If a customer is in arrears with the Company, the customer is not eligible to participate in this customer choice program until arrearages have been paid in full to the Company. A customer will take service under this rate commencing with the customer's first full billing month following enrollment. A Rate CC customer may switch Suppliers at the end of any billing month provided the Company receives sufficient notice in a form acceptable to the Company. A customer may change Suppliers one time in any 12-month period beginning April 1 at no cost to the customer. A fee of $10 will be required for each additional change of Supplier within the same 12-month period. If a Supplier's actions force a Customer to the Company's sales service, the Customer may choose another Supplier within 60 days without a switching fee regardless of the length of time that has elapsed since the Customer left the Company's sales service. Except as set forth in the preceding sentence, a Customer returning to the Company's sales service rates from Rate CC is subject to the Choice of Rates provisions of those sales rates and except as otherwise provided, must remain on the sales rate for 12 months.

Minimum Term

A customer who has elected to take service under Rate CC may switch or cancel Suppliers at any time. A customer who has elected to take service under Rate CC may return to the Company sales rate at any time, but must remain on the sales rate for 12 months.

A customer may also change from Rate CC to another rate if (i) the customer exercises an unconditional right of cancellation pursuant to Section F with the initial Supplier selected by the customer, (ii) the customer establishes that the customer was enrolled by a Supplier without the customer's knowing consent, (iii) the Supplier's action forces the customer to the Company's sales service, (iv) the Supplier selected by the customer defaults under its Supplier Agreement, or (v) the Supplier selected by the customer has its Authorized Supplier status revoked or terminated.

Nature of Service

The customer will remain a customer of the Company. The Company will read the meter and render a bill to the customer for the monthly customer charge, distribution charge, surcharges, penalties and taxes. The authorized Supplier's cost of gas charges will be billed as part of the Company's bill. Service is subject to the Company's Rate Book for Natural Gas Service as approved by the Commission. By requesting service on this rate, the customer gives consent to the Company to furnish to the customer's authorized Supplier pertinent customer sales or transportation data.

Monthly Rate

Customer Charge
As shown on the customer's applicable sales Rate Schedule.

Distribution Charge
As shown on the customer's applicable sales Rate Schedule.

Gas Commodity Charge
The customer's cost of gas will be as communicated to the Company each month by the customer's Authorized Supplier. If a participating customer obtains gas supply from the Company as a result of its chosen Supplier becoming disqualified, or the customer otherwise returns to Company sales supply, the customer is subject to Rule C2, Controlled Service.

(Continued on Sheet No. F-9.00)
Attachment B
<table>
<thead>
<tr>
<th>Line</th>
<th>Description</th>
<th>Previously Approved Rates</th>
<th>Newly Approved Rates</th>
<th>Increase (Decrease)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>(a)</td>
<td>(b)</td>
<td>(c)</td>
</tr>
<tr>
<td>1</td>
<td>SALES SERVICE:</td>
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</tr>
<tr>
<td>2</td>
<td>Residential - Rate A</td>
<td>$9.50 per month</td>
<td>$10.50 per month</td>
<td>$1.00 per month</td>
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<tr>
<td>3</td>
<td>Customer Charge</td>
<td>$2.0819 per Mcf</td>
<td>$2.4289 per Mcf</td>
<td>$0.3470 per Mcf</td>
</tr>
<tr>
<td>4</td>
<td>Distribution Charge</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>MultiFamily Dwelling - Rate A-1</td>
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<td>$10.50 per month</td>
<td>$1.00 per month</td>
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<td>6</td>
<td>Customer Charge</td>
<td>$0.0489 per Mcf</td>
<td>$0.0540 per Mcf</td>
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<td>7</td>
<td>Excess Demand Charge</td>
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<td>8</td>
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<td>Customer Charge</td>
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<td>Distribution Charge</td>
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<td>General Service - Rate GS-2</td>
<td>$16.00 per month</td>
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<td>Customer Charge</td>
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<td>Distribution Charge</td>
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<td>General Service - Rate GS-3</td>
<td>$482.00 per month</td>
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<td>Distribution Charge</td>
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<tr>
<td>18</td>
<td>Outdoor Lighting - Rate GL:</td>
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<td></td>
</tr>
<tr>
<td>19</td>
<td>UP TO 2.5 CCF per hour</td>
<td>$16.00 per month</td>
<td>$16.00 per month</td>
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<tr>
<td>20</td>
<td>2.6 TO 4.5 CCF per hour</td>
<td>$21.00 per month</td>
<td>$22.00 per month</td>
<td>$1.00 per month</td>
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<td>TRANSPORTATION SERVICE:</td>
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<tr>
<td>22</td>
<td>Rate ST (Less than 100,000 Mcf)</td>
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</tr>
<tr>
<td>23</td>
<td>Customer Charge</td>
<td>$510.00 per meter/month</td>
<td>$575.00 per meter/month</td>
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<td>24</td>
<td>Transportation Rates</td>
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<tr>
<td>25</td>
<td>Cost Based</td>
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<td>$0.8813 per Mcf</td>
<td>$0.0678 per Mcf</td>
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<td>26</td>
<td>Optional Maximum Rate</td>
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<td>28</td>
<td>Transportation Rates</td>
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<tr>
<td>29</td>
<td>Cost Based</td>
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<tr>
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<td>Rate LT (100,000 to 500,000 Mcf)</td>
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<td>Remote Meter Charge</td>
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<td>Transportation Rates</td>
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<td>$0.4178 per Mcf</td>
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<tr>
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<td>Rate XLT (500,000 Mcf or more)</td>
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<td>Customer Charge</td>
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<tr>
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<td>Authorized Tolerance Level</td>
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<td>Authorized Tolerance Level</td>
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<tr>
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<td>Other Transportation Charges</td>
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</tr>
<tr>
<td>45</td>
<td>AUTHORIZED GAS USAGE</td>
<td>$1.00 per Mcf</td>
<td>$1.00 per Mcf</td>
<td>$0.00 per Mcf</td>
</tr>
<tr>
<td>46</td>
<td>UNAUTHORIZED GAS USAGE</td>
<td>$10.00 per Mcf</td>
<td>$10.00 per Mcf</td>
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</tr>
<tr>
<td>47</td>
<td>Authorized Tolerance Level</td>
<td>$0.25 per Mcf</td>
<td>$0.25 per Mcf</td>
<td>$0.00 per Mcf</td>
</tr>
<tr>
<td>48</td>
<td>8.5% ATL</td>
<td>($0.0490) per Mcf</td>
<td>($0.0532) per Mcf</td>
<td>($0.0042) per Mcf</td>
</tr>
<tr>
<td>49</td>
<td>9.5% ATL</td>
<td>($0.0245) per Mcf</td>
<td>($0.0266) per Mcf</td>
<td>($0.0021) per Mcf</td>
</tr>
<tr>
<td>50</td>
<td>10.5% ATL</td>
<td>$0.0000 per Mcf</td>
<td>$0.0000 per Mcf</td>
<td>$0.0000 per Mcf</td>
</tr>
<tr>
<td>51</td>
<td>11.5% ATL</td>
<td>$0.0245 per Mcf</td>
<td>$0.0266 per Mcf</td>
<td>$0.0021 per Mcf</td>
</tr>
<tr>
<td>52</td>
<td>12.5% ATL</td>
<td>$0.0490 per Mcf</td>
<td>$0.0532 per Mcf</td>
<td>$0.0042 per Mcf</td>
</tr>
<tr>
<td>53</td>
<td>EUT Gas In Kind</td>
<td>1.09%</td>
<td>1.83%</td>
<td>0.74% points</td>
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<tr>
<td>54</td>
<td>Customer Attachment Program Interest Rates:</td>
<td></td>
<td></td>
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<tr>
<td>55</td>
<td>Carrying Cost Rate</td>
<td>11.44%</td>
<td>11.35%</td>
<td>-0.09% points</td>
</tr>
<tr>
<td>56</td>
<td>Discount Rate</td>
<td>8.12%</td>
<td>8.11%</td>
<td>-0.01% points</td>
</tr>
<tr>
<td>Line</td>
<td>Description</td>
<td>Present + GCR Revenue</td>
<td>SI + GCR Revenue</td>
<td>SI over Present Increase (Decrease)</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
<td>-----------------------</td>
<td>------------------</td>
<td>-------------------------------------</td>
</tr>
<tr>
<td>1</td>
<td>Sales:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Residential - Rate A &amp; A-1</td>
<td>$1,724,879</td>
<td>$1,793,482</td>
<td>$68,603</td>
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<tr>
<td>6</td>
<td>General Service - Rate GS-1</td>
<td>$148,007</td>
<td>$153,190</td>
<td>$5,182</td>
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<tr>
<td>7</td>
<td>General Service - Rate GS-2</td>
<td>$365,205</td>
<td>$375,278</td>
<td>$10,074</td>
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<tr>
<td>8</td>
<td>General Service - Rate GS-3</td>
<td>$105,998</td>
<td>$108,045</td>
<td>$2,047</td>
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<tr>
<td>9</td>
<td>Outdoor Lighting - Rate GL:</td>
<td>$25</td>
<td>$25</td>
<td>$0</td>
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<tr>
<td>10</td>
<td>Subtotal General Service</td>
<td>$619,235</td>
<td>$636,898</td>
<td>$17,663</td>
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<tr>
<td>11</td>
<td>Subtotal Sales</td>
<td>$2,344,114</td>
<td>$2,430,380</td>
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<tr>
<td>14</td>
<td>Transportation:</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>15</td>
<td>Transporations Service - Rate ST</td>
<td>$15,183</td>
<td>$17,229</td>
<td>$2,046</td>
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<tr>
<td>16</td>
<td>Transporations Service - Rate LT</td>
<td>$13,573</td>
<td>$15,446</td>
<td>$1,873</td>
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<tr>
<td>17</td>
<td>Transporations Service - Rate XLT</td>
<td>$9,846</td>
<td>$11,174</td>
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<tr>
<td>18</td>
<td>Subtotal Transportation</td>
<td>$38,602</td>
<td>$43,849</td>
<td>$5,248</td>
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<tr>
<td>19</td>
<td>Total Sales &amp; Transportation</td>
<td>$2,382,716</td>
<td>$2,474,229</td>
<td>$91,513</td>
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</tbody>
</table>