

MICHIGAN DEPARTMENT OF COMMERCE
PUBLIC SERVICE COMMISSION

INTEROFFICE COMMUNICATION

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

Date 11/13/86

From: Michael J. Kidd, Acting Director
Gas Division

Subject: Gas Division Staff Report and Recommendation on the End User Transportation Issue

This report is intended to summarize the past activity in the area of transportation of natural gas by local distribution companies (LDCs) for End Users as well as to provide the Commission with specific recommendations on the most efficient and practical manner in which to address future natural gas transportation activities in Michigan.

Current Situation

Currently there are approximately 800 contracts on file with the Commission, pursuant to Act 9 PA 1929, that provides for End User transportation by LDCs. If transportation is not interrupted, Michigan LDCs could transport over 130 Bcf of gas to end users in 1987. This represents 20% of the 1985 gas sales level. Act 9 PA 1929 has provided the Michigan Public Service Commission, the LDCs and the End Users a timely and relatively fair process for handling transportation during the transition from LDCs being primarily merchants of gas to LDCs engaging in the traditional merchant function as well as providing a significant amount of End User transportation. End User transportation is dependant upon sufficient pipeline access and appropriate transportation rates for both the LDCs and the interstate pipeline companies. The regulatory atmosphere and, thus, the rules which the pipeline companies may be required to follow at the federal level are uncertain. The FERC Order 436 is being challenged in court. FERC's implementation of Order 436 and related cases continue to be plagued with delays as well as pipeline filings that tend to shift business risk to other segments of the gas industry.

This Report and Recommendation is being sent to the Commission with the understanding that the gas industry is in the process of significant structural change. It is likely that future events will make it necessary for the Commission to be in a position to have the flexibility needed to react and adjust to future events. With this in mind most interested parties agree it is appropriate for the Commission to begin a formal process soon to address specific LDC Transportation rates and conditions of Transportation service. We recognize that any process will take a fair amount of time and the LDCs and End Users should have a clearer longer term picture of how and at what price transportation will be provided in the future. It is important to know this longer term picture because some of the LDCs will have to renegotiate long term interstate pipeline contracts during the next few years and some of the transportation decisions will have an effect on the LDCs' ability to renegotiate contracts favorable to their customers.

Brief History

The following outline identifies the key events which have occurred over the past few years that deal with transportation issues.

- 1) Prior to the recent interest in transportation, a small amount of transportation was occurring under Act 9 PA 1929.
- 2) On May 7, 1984 FERC dismissed an application by Consumers Power Company, which sought FERC approval for contractual arrangements for transportation service, on the grounds that such service was beyond the jurisdiction of FERC and within the purview of the Michigan Public Service Commission (FERC Docket No. ST84-212-000).
- 3) On July 23, 1984, ABATE filed an application for rulemaking or other appropriate relief concerning the provision of transportation service by LDCs for industrial End Users that have purchased natural gas directly from producers.
- 4) On September 26, 1984, the Commission in Case No, U-7991 issued an order initiating an inquiry (legislative-type) and commenced a generic hearing to address a number of issues identified in the order for the purpose of developing a policy on the provisions of gas transportation service by LDCs.
- 5) On February 13, 1985, the record was closed in U-7991,
- 6) On May 10, 1985, the DC Circuit Court issued decisions in the Maryland People's Counsel V. FERC et al (No; 48-1019 and 48-1090) cases.
- 7) On May 30, 1985 in Docket No. RM85-1-000, FERC issued a notice of proposed rulemaking entitled "Regulation of Natural Gas Pipeline After Partial Wellhead Decontrol." The notice contained four parts:
 - Part A Transportation
 - Part B Take or Pay
 - Part C Optional, Expedited Certificates
 - Part D Billing Mechanism for old gas supplies.
- 8) On October 7, 1985, a new chairperson of the MPSC started at the Commission.
- 9) On October 9, 1985, FERC issued a final rule in Docket No. RM85-1-000. FERC Order 436 intended to provide a voluntary regulatory framework under which participation by Interstate pipelines would provide the benefits of competition to all customers. The initial effective date of Order 436 was November 1, 1985. FERC then delayed the effective date for portions of the transportation section to December 15, 1985; then, to February 16, 1986; and then, to July 1, 1986. FERC's current deadline for selected pipelines (4 of which serve Michigan) is January 1, 1987,

- 10) On April 15, 1986, additional comments in the form of updated briefs from the parties to Case No. U-7991 were received on the changes that occurred with respect to gas transportation since the close of the record.
- 11) During the spring of 1986, Michigan Consolidated Gas Company (Mich Con) began offering transportation rates significantly below their earlier stated rate of approximately \$2.40/Mcf.
- 12) During the spring and summer of 1986, pipeline companies and LDCs were negotiating to resolve, or minimize, the issues in cases to be filed at FERC in order to comply with Order 436. Little success resulted from these sessions and current filings by the four (4) pipeline companies serving Michigan (ANR Pipeline Company, Northern Natural Gas Company, Panhandle Eastern Pipe Line Company, and Trunkline Gas Company) are pending at FERC.
- 13) During the summer of 1986, transportation contracts between LDCs and end users continued to increase with over 500 contracts having been filed under Act 9 PA 1929,
- 14) On June 6, 1986, the Gas Division Staff completed a "Report on Natural Gas Transportation in Michigan. In part, this report provided Commission personnel with a reference document regarding the Staff's then current perceptions of past, present, and future natural gas transportation activities in Michigan. It was also used as a foundation for interested parties to provide constructive comments on generic transportation issues that would have to be addressed by the Commission in individual contested cases.
- 15) On June 17, 1986, the Staff began the process of sending copies of the June 6, 1986 report to all parties of interest in Case No. U-7991, intervenors in each utilities' most recent Rate and Gas Cost Recovery cases, as well as, other known interested parties for the purpose of soliciting comments on the report.
- 16) On August 26, 1986, the Commission held a study session on transportation. Among other things, the Commission provided the Staff with some general direction on the issue of transportation. The Commission expressed a desire to take a more active role in transportation which may necessitate proceedings to be held under the Commission's general ratemaking authority (Act 3 PA 1939), instead of continuing the current transportation under the provisions of Act 9 PA 1929. The Commission expressed a desire not to wait until the FERC Order 436 issues are settled with pipeline companies serving Michigan before addressing the intrastate transportation issues. The Commission also directed the Staff to continue to work with interested parties with the intention of identifying issues which will have to be addressed and, in which of those issues, agreements or settlements can be reached.
- 17) On September 29, 1986, the Commission Staff met with approximately

twenty-five (25) different organizations (see attached list) to discuss any transition and to determine the most efficient way the Commission could move from the current transportation rates to transportation rates approved under the Commission's general ratemaking authority. Specific issues were discussed to ensure a common understanding, as well as to determine which issues were settleable.

- 18) Since Mid-October 1986, comments have been received from the various participants in the September 29, 1986 meeting and the Staff has worked on preparing this Report and Recommendation.

Discussion

The Gas Division Staff's recommendations, contained in this report, are based on the Staff's participation in the proceedings and meetings outlined in the history section of this report, as well as our knowledge and awareness of activities relating to all natural gas transportation matters that come up during our normal day-to-day work.

Over the past few months, the Gas Division Staff has worked with the gas industry personnel and End Users in a positive and cooperative spirit to identify and resolve certain transportation issues. Their participation was not only helpful, it was appreciated. We believe the professional and productive relationship we have seen develop will continue between the parties as the Commission moves into the next year on transportation matters.

Because of certain concerns raised by both large and small end users, because of certain Staff concerns about the equity and relationships between sales customers and transportation customers, because of certain LDC concerns about their obligation to provide long-term service and, because the recent significant increase in the number of transportation customers in Michigan the Gas Division Staff recognizes that it would be in the public interest for the Commission to commence proceedings in the near future to provide a forum where various transportation issues can be decided. We believe the various interested parties have reached a point of minimal productivity in discussing transportation matters, e.g. identifying further issues or attempting to resolve some of those issues. It appears that progress could be made on reducing the number of issues in a contested case; but, it would have to be with the parties to a specific case with specific issues. There is a general consensus that the majority of the interested parties want a proceeding whereby the Commission can decide the disputed issues that may come up in a specific case. Mich Con has volunteered to be the subject of the first Commission Order and Notice of Hearing on any such future transportation case.

The Gas Division Staff believes the Commission should provide some general policy and structured framework on gas transportation matters. However, the Commission policy should not unduly restrict or preclude legitimate issues that could be raised in the contested cases. Rather than discussing the policy options in this section of the report, the Staff has, in the attached draft Order and Notice of Hearing, proposed language that covers

certain proposed policy issues that are self-evident after a' reading of the draft Order and Notice of Hearing. To the extent certain Staff recommendations may not cover all issues that were raised in Case No. U-7991 the Commission may want to review the record in Case No. U-7991 and may want to address any issue the Commission believes is appropriate. An Order in Case No. U-7991 could then be issued on the same date the Commission issues an Order and Notice of Hearing for Michigan Consolidated Gas Company.

During the September 29, 1986 Meeting on Transportation, the Staff detailed an informal procedure to give those interested parties *attending the meeting an opportunity to review the Staff Report and Recommendation to the Commission and then, if they so choose, to file comments regarding the Staff Report and Recommendation. When this Report and Recommendation is forwarded to the Commission, it will also be sent to the participants of the September 29, 1986 meeting. Within 2 weeks of the date of the report, 6 copies of any comments should be submitted to the Commission's Executive Secretary, Mr. Bruce Maughan, who will transmit comments received to the Commission for their consideration.

Recommendation

The Gas Division Staff requests that the Commission implement the following recommendations on how and when to proceed on transportation matters in the near future.

- A) Issue an Order and Notice of Hearing in substantially the same form with materially the same content as the attached draft Order and Notice of Hearing for Michigan Consolidated Gas Company. A target date should be December 16, 1986.
- B) Within 45 days of issuing the Order and Notice of Hearing for Michigan Consolidated Gas Company, issue a similar order every 45 days thereafter for the following utilities in the order indicated:

- Consumers Power Company
- Michigan Gas Utilities Company
- Southeastern Michigan Gas Company
- Michigan Power Company
- Lake Superior District Power Company
- Wisconsin Public Service Corporation
- Peninsular Gas Company

- C) Issue an Order in Case U-7991 closing the docket in that case on the same date the Michigan Consolidated Gas Company transportation Order and Notice of Hearing is issued.

As in the past, the Commission Staff is available to discuss this report and recommendation in any forum the Commission or individual Commissioners so desire,