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March 2, 2001

Ms. Dorothy Wideman
Executive Secretary
Michigan Public Service Commission
6545 Mercantile Way, Ste. 7
Lansing, MI 48911

Re: Case No. U-12762
Mich Con Cash Out Mechanism Proceeding
Energy America LLC Initial Brief

Dear Ms. Wideman:

Enclosed please find original and four copies of Initial Brief of Energy America LLC in the above-referenced matter. Also enclosed is Proof of Service upon the Parties of Record.

If you have any questions, please do not hesitate to contact me.

Sincerely,

DYKEMA GOSSETT PLLC

Christine Mason Soneral / jmb

Christine Mason Soneral

CMS/jmb
Enclosure
cc: Nick Fulford
Al McDonald
David Zeitz
Parties of Record
Albert Ernst

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STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter of Michigan Consolidated Gas Company to terminate the suspension of its Gas Cost Recovery Clause and establish a cash out mechanism.	)	**Case No. U-12762**

INITIAL BRIEF
OF
ENERGY AMERICA, LLC

INTRODUCTION

This case concerns Michigan's Gas Customer Choice pilot program. In its application, Michigan Consolidated Gas Company *("MichCon")* requests approval for two proposals: (i) to terminate the suspension of its Gas Cost Recovery *("GCR")* clause nine months earlier than initially contemplated, and (ii) to establish a mechanism for cashing-out its gas purchase contracts and distributing the proceeds to customers.

Energy America, LLC *("Energy America")*, a limited liability company that markets natural gas to approximately 200,000 Michigan customers and an active participant in both MichCon's and Consumers Energy Company's *("Consumers")* choice programs, supports MichCon's application. Energy America submits that MichCon's application should be approved for the following reasons:

✎[1] Program uniformity will be increased if MichCon's and Consumer's programs move forward at the same time and under essentially the same terms.

✎2 Customer confusion will be decreased if MichCon's program proceeds at the same time as Consumer's program.

✎3 If MichCon's application is granted, its program will terminate in a low consumption month rather than in a peak consumption month (*i.e.*, April as opposed to January). Consequently, the customer's transition from protected rates to market rates will be softened.

✎4 MichCon and marketers, such as Energy America, are currently in a position to offer competitive prices, and in some cases, lock in those prices for an extended term. This same opportunity may not exist in nine months.

✎5 Terminating MichCon's $2.95 per Mcf rate should attract marketers and stimulate competition.

✎6 If MichCon's application is not granted and its program proceeds along a different timeline than the Consumer's program, marketers such as Energy America would be forced to incur additional advertising, marketing, consumer education, and customer service costs. Consequently, there is a risk that marketers will not solicit customers in Michigan until MichCon is operating under the same terms as Consumers

Energy America believes that a careful consideration of the arguments in this case will demonstrate that, in order to make Michigan's customer choice environment successful, MichCon's application should be granted.

HISTORY OF PROCEEDINGS

On December 15, 2000, MichCon filed its application in this proceeding. MichCon's application essentially requests the Commission to make two determinations: (i) that MichCon may terminate the suspension of its GCR nine months earlier than initially contemplated, and (ii) that MichCon may establish a mechanism for cashing-out its gas purchase contracts and distributing the proceeds.

At the January 22, 2001 prehearing conference, Administrative Law Judge Barbara A. Stump *("ALJ")* presiding, appearances were entered on behalf of MichCon, the Residential Ratepayer Consortium *("RRC")*, The New Power Company *("New Power")*, Association of Businesses Advocating Tariff Equity *("ABATE")*, the Attorney General *("AG")*, and the Commission Staff *("Staff")*(Tr 3-4). A procedural schedule was determined (Tr 5-6) and other procedural matters were addressed (Tr 7-11).

On December 15, 2000, MichCon prefiled testimony and exhibits of Don M. Stanczak, MichCon's Executive Director of Rates and Regulatory Affairs (Tr 40). On February 6, 2001, the following prefiled testimony and exhibits were filed: Al McDonald, Consultant to Energy America (Tr 76); Frank J. Hollewa, Consultant for RRC (Tr 100); Ralph E. Miller, Consultant for AG (Tr 132); and William G. Aldrich, Staff's Auditor and Tariff Analysis (Tr 191-207). Also, on February 23, 2001, Larry Ladomer, Plant Operations Manager of Blue Circle Inc.*("Blue Circle")*, filed a statement pursuant to Rule 207, R 460. 17207, on Blue Circle's behalf (Tr 35).

Evidentiary hearings were held on February 23, 2001 and the prefiled testimony of Messrs. Stanczak, McDonald, Hollewa, Miller, and Aldrich were cross-examined. Mr. Stanczak's testimony is found at Tr 37 through 73; Mr. McDonald's testimony is located at Tr 74 through 96; Mr. Hollewa's testimony is located at Tr 97 through 123; Mr. Miller's testimony is located at Tr 129 through 185; and Mr. Aldrich's testimony is located at Tr 191 though 207. The evidentiary transcript consists of 210 pages. Ten exhibits were admitted into evidence (Tr 31-32). Initial and reply briefs in this matter are due on March 2, 2001 and March 9, 2001, respectively (Tr 6).

ARGUMENT

Energy America is a Delaware limited liability company engaged in the business of marketing natural gas to approximately 200,000 Michigan retail and commercial customers.[1] Energy America has been an active participant in both MichCon's and Consumers' choice programs (Tr 77). In fact, Energy America is one of the *few* marketers who actually participated in Michigan's pilot programs.[2]

Energy America supports MichCon's application. As will be discussed in more detail below, Energy America believes that MichCon's proposal will assist this Commission in attaining some of its gas customer choice goals, including its goal of program uniformity. Energy America also submits that MichCon's proposal will bring several benefits to Michigan customers as well as gas marketers. Taken together, these benefits will ensure that gas customer choice remains a viable option in Michigan.

A. MichCon's Proposal Will Help The Commission Attain Some Of Its Goals

Energy America has been an active participant in promoting gas customer choice in Michigan. As part of its involvement, Energy America participated in the Commission's gas customer choice collaborative, docket no. U-12550.[3] Energy America has also reviewed the Commission's Orders issued in U-12550 (Tr 78).

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1 Energy America is a wholly-owned subsidiary of Centrica, plc, a leading supplier of energy and home services to British consumers under the British Gas and Scottish Gas brands (Tr 77).

2 Energy America's marketing program in Michigan was successful. As announced in a February 5, 2001 press release, Energy America recently sent out approximately $5 million in rebates to Michigan customers (Tr 95).

3 In addition to its participation in the collaborative process, Energy America, through Mr. McDonald, recently testified before the House Energy and Technology Committee of the Michigan Legislature on gas customer choice issues (Tr 18).

It is Energy America's understanding from the Commission's August 4, 2000 and October 13, 2000 Orders in U-12550, as well as Energy America's participation in the collaborative process, that the Commission desires to achieve greater uniformity with respect to Michigan's gas customer choice programs (Tr 78, 84). As the Commission is aware, the fixed natural gas pricing feature of Consumers' experimental customer choice program will terminate on March 31, 2001. If MichCon is permitted to eliminate the fixed $2.95 per Mcf gas commodity component from its base rates and lift the GCR Clause suspension, both MichCon's and Consumer's programs will move forward at the same time and under essentially the same terms. Energy America suggests that program uniformity will be greatly enhanced if MichCon's application is granted.

B. <u>MichCon's Proposal Will Benefit Customers</u>

Energy America submits that MichCon's proposal will benefit customers in several ways. First, customer confusion will be substantially reduced if both MichCon's and Consumer's programs are permitted to proceed at the same time and under substantially the same terms (Tr 78). It has been Energy America's experience that its service center is inundated with calls from citizens/potential clients in any area where there are multiple utilities, split timing and/or programs with different offerings.

Second, the timing of MichCon's proposal will benefit customers. If MichCon's application is granted, the program will terminate in a low consumption month rather than in a peak consumption month, *i.e.,* April as opposed to January (Tr 78). Moreover, both MichCon and the marketers are currently in a position to offer competitive prices, and in some cases, lock in those low prices for an extended term. Given the current volatile market conditions, these same prices may not be available at the end of December, 2001 when the suspension on MichCon's GCR clause is scheduled to be lifted (Tr 78-79).

Finally, MichCon proposes to refund a portion of the gas sales margin that it realized during the 27-month period January 1999 to March 2001. This proposal will have the effect of softening the transition from protected rates to market rates for consumers (Tr 79). Unfortunately, if the fixed $2.95 rate is not eliminated and the GCR clause suspension is not lifted in April as MichCon proposes, customers will be forced to enter a market of high prices with no transition period (Tr 79).

C. <u>MichCon's Proposal Will Benefit Marketers</u>

Gas prices have increased significantly in the past few years. In fact, prices increased so dramatically that most marketers could not even begin to compete with MichCon's $2.95 per Mcf rate. Consequently, many marketers dropped out of the gas customer choice pilot programs (Tr 79). Terminating MichCon's $2.95 per Mcf rate should attract marketers to Michigan and stimulate competition.

In addition, if MichCon's application is not granted and its program proceeds along a different timeline than the Consumer's program, marketers would incur additional advertising, marketing, consumer education, and customer service costs since they would essentially have to do everything twice, *i.e.*, once for Consumers' program and once for MichCon's program (Tr 79). Because of these increased costs, marketers might not solicit customers in Michigan until MichCon is operating under the same terms as Consumers (Tr 79). Obviously, this would have an adverse affect on the competition in the Consumer's service territory and the success of the choice program.

CONCLUSION

Gas customer choice is an important goal to all of us--the Commission, the utilities, the marketers, and the customer. Energy America submits that, by granting MichCon's application, this Commission will enhance Michigan's gas customer choice environment and ensure that it remains a viable option in Michigan.

Respectfully submitted,

ENERGY AMERICA, LLC

By: ______________________

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Dated: March 2, 2001

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STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of Michigan Consolidated Gas Company to terminate the suspension of its Gas Cost Recovery Clause and establish a cash out mechanism.	))))	**Case No. U-12762**

PROOF OF SERVICE

STATE OF MICHIGAN)
) ss.
COUNTY OF INGHAM)

Jeanne M. Beachnau, being first duly sworn, deposes and says that on March 2, 2001, she caused to be served upon the persons listed in the attached Service list, copies of Initial Brief of Energy America, LLC in the above-captioned matter by United States First Class Mail and electronic mail.

Jeanne M. Beachnau

Jeanne M. Beachnau

Subscribed and sworn to before me
on March 2, 2001.

H. Sharyl Stofer

H. Sharyl Stofer, Notary Public
Eaton, Acting in Ingham County, Michigan
My commission expires: 12/17/03

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