

A CMS Energy Company

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June 22, 2001

Ms. Dorothy Wideman
Executive Secretary
Michigan Public Service Commission
6545 Mercantile Way
P.O. Box 30221
Lansing, MI 48909

RE: Case No. U-12990, In the matter of a Request for a Declaratory Ruling Regarding the Regulation of the Rates, Service and Facilities of Michigan Gas Storage Company

Dear Ms. Wideman:

Please find enclosed for filing in the above referenced matter an original and 4 copies of "Request for Declaratory Ruling." In addition, an electronic copy is being filed with the Commission in the portable document format. (PDF).

Sincerely,



Robert M. Neustifter

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STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the Matter of a Request for a	)	
Declaratory Ruling Regarding the	)	
Regulation of the Rates, Service and	)	MPSC Case No. U-12990
Facilities of Michigan Gas Storage Company	)	
_____	)	

**REQUEST FOR DECLARATORY
RULING**

Consumers Energy Company (“Consumers”) and Michigan Gas Storage Company (“MGSCo”) hereby jointly request the Michigan Public Service Commission (“MPSC”) to issue a declaratory ruling, pursuant to Rule 701 of the MPSC’s Rules of Practice and Procedure, R460.17701, indicating that the rates, service and facilities of MGSCo are subject to the regulatory jurisdiction of the MPSC. Upon receipt of such a declaratory ruling, MGSCo plans to request from the Federal Energy Regulatory Commission (“FERC”) an exemption from the provisions of the Natural Gas Act (“NGA”). 16 USCA 717, et seq. Such an exemption would be pursuant to Section 1(c) of the NGA. 16 USCA 717(c).

I

BACKGROUND

MGSCo was established in 1946 by Consumers (at that time it was called Consumers Power Company) and Panhandle Eastern Pipe Line Company as a natural gas company under the Natural Gas Act, subject to the jurisdiction of the Federal Power Commission. (In 1968, Consumers acquired full ownership of MGSCo.) In 1954, the NGA was amended to add §1(c). Section 1(c) exempted certain types of pipelines from the NGA and hence from the jurisdiction of the Federal Power Commission (later, the Federal Energy

Regulatory Commission.) MGSCo qualifies for the exemption from FERC jurisdiction provided by §1(c) except for one thing. MGSCo is not currently regulated by a State Commission. Section 1(c) requires that an exempt entity's "rates and service . . . and facilities be subject to regulation by a State commission."

Since 1946, MGSCo has been regulated by the Federal Power Commission, and subsequently the FERC, rather than by the MPSC. MGSCo hereby formally requests that the MPSC certify its intent and ability to regulate the rates, service and facilities of MGSCo. Once the MPSC has so certified, MGSCo will apply to the FERC pursuant to §1(c), asking FERC to declare that MGSCo is exempt from the provisions of the NGA and regulation by the FERC, effective upon the MPSC exercising regulatory jurisdiction and establishing tariff rates which reflect the assumption of jurisdiction. MGSCo also hereby commits to accept the jurisdiction of the MPSC over its rates, service and facilities once the FERC has relinquished its jurisdiction over MGSCo. The ultimate goal is that MGSCo be rolled into its parent, Consumers Energy Company, once all necessary regulatory approvals are received. Consumers is a gas distribution company regulated by this Commission.

II

ARGUMENT

Attached is Exhibit A, which consists of a map showing all of MGSCo's facilities. All of its facilities are located in Michigan. None of the gas stored or transported on MGSCo's facilities is subsequently transported to another State. Exhibit B is a map showing the gas transmission facilities of Consumers and MGSCo as an integrated transmission system. MGSCo's facilities are fully integrated with the transmission and storage systems of Consumers and are operated on an integrated basis with those of Consumers. All customers of MGSCo are

also customers of Consumers. Further, Consumers accounts for almost 90% of MGSCo's operating revenues, the cost of which is reflected in Consumers' base rates. Once MGSCo is found to be exempt from the provisions of the NGA, its facilities can be regulated by the MPSC as an integrated part of Consumers' transmission system, pursuant to various provisions of 1909 PA 300, as amended (MCLA 462.2 et seq.); 1919 PA 419, as amended (MCLA 460.54 et seq.); 1929 PA 9, as amended (MCLA 483.101 et seq.) and 1939 PA 3, as amended (MCLA 460.1 et seq.). A comparison of Exhibits A and B and the uses to which MGSCo's facilities are put indicate no reason why MGSCo's facilities, service and rates could not be subject to the MPSC's jurisdiction under those statutes. Whatever interstate transmission services are currently provided by means of MGSCo's facilities can continue to be provided under Consumers' FERC blanket certificate.

With the addition of §1(c) to the Natural Gas Act, and with FERC blanket certificates and unbundled open access natural gas transportation available at both the retail and wholesale level in Michigan, whatever need there originally was for MGSCo to be a separate, FERC-jurisdictional entity no longer exists. There is no apparent issue over whether the MPSC could grant the declaratory ruling being requested. The only remaining question is whether there are sufficient benefits to the natural gas customers of Michigan from combining MGSCo and its facilities into Consumers to justify doing so.

Recent regulatory developments have pushed the balance to clearly favor consolidation of Consumers' and MGSCo's facilities under MPSC jurisdiction. Last year's FERC Order No. 637 (and its requirements for segmentation of pipelines), 90 FERC ¶61,109 (2000), and ever-increasing Gas Industry Standards Board requirements make it increasingly difficult to operate Consumers' and MGSCo's transmission and storage facilities as separately

regulated entities on a cost-effective integrated basis. Also, the final order in MGSCo's most recent FERC rate case, Docket No. RP96-290-000, required more extensive and expensive cost-tracking measures for work done by Consumers personnel for MGSCo. 87 FERC §61,038 (1999). The increasing cost and complexity of various FERC regulations for interstate pipelines have reached the point where they favor regulatory consolidation of MGSCo's facilities with those of Consumers under MPSC jurisdiction. The role that MGSCo has played as part of an integrated storage and transmission system supplying service to customers in the State of Michigan has become incompatible with the ever-increasing costs and demands facing FERC regulated pipelines. The customers of MGSCo, who are all located in Michigan, ultimately pay those costs. In addition, putting MGSCo's facilities under MPSC regulation would relieve its customers of the charges they are assessed annually (through the ACA surcharge) for the cost of FERC's natural gas activities.

MGSCo and Consumers are jointly requesting that the MPSC assert its jurisdiction over MGSCo's facilities and rates in order to preserve the continued integrated operation of the current MGSCo and Consumers facilities. Such integrated operation has proved beneficial for the natural gas customers of Michigan.

III

CONCLUSION

As indicated above, MGSCo is eligible for exemption from the Natural Gas Act and from FERC regulation. Such an exemption would benefit the natural gas customers of Michigan for the reasons stated above. Consumers Energy Company and Michigan Gas Storage Company respectfully request that the MPSC issue a declaratory ruling and formally certify its intent and ability to regulate MGSCo's rates, service and facilities by approving a statement in

the form attached as Exhibit C. MGSCo respectfully requests the MPSC to issue such a declaratory ruling at its earliest convenience.

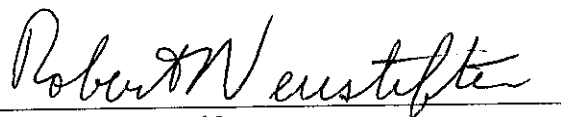
Respectfully submitted,

CONSUMERS ENERGY COMPANY
MICHIGAN GAS STORAGE COMPANY

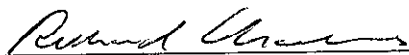
Dated: JUNE 22, 2001

By: 

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President and CEO - Gas, Consumers
Energy Company and
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EXHIBIT A

Michigan Gas Storage

GAS SYSTEM MAP

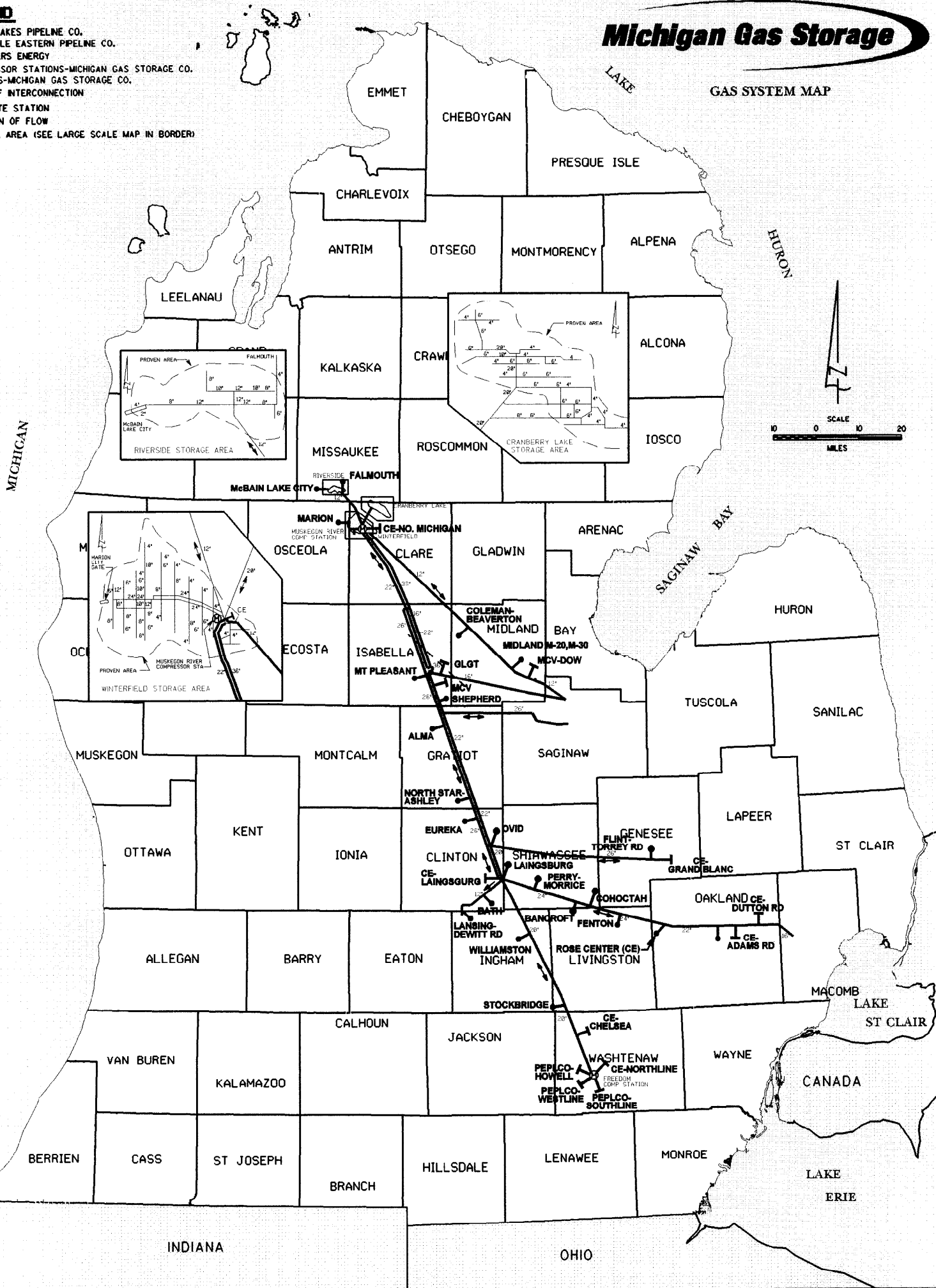


EXHIBIT B

STORAGE FIELDS-CONSUMERS ENERGY
STORAGE FIELDS-MICHIGAN GAS STORAGE CO.
PROCESSING PLANT
PIPELINES-CONSUMERS ENERGY, TRANSMISSION
PIPELINES-MICHIGAN GAS STORAGE CO.
COMPRESSOR STATIONS-MICHIGAN GAS STORAGE CO.
COMPRESSOR STATIONS-CONSUMERS ENERGY

Consumers Energy

INTEGRATED NATURAL GAS SYSTEM

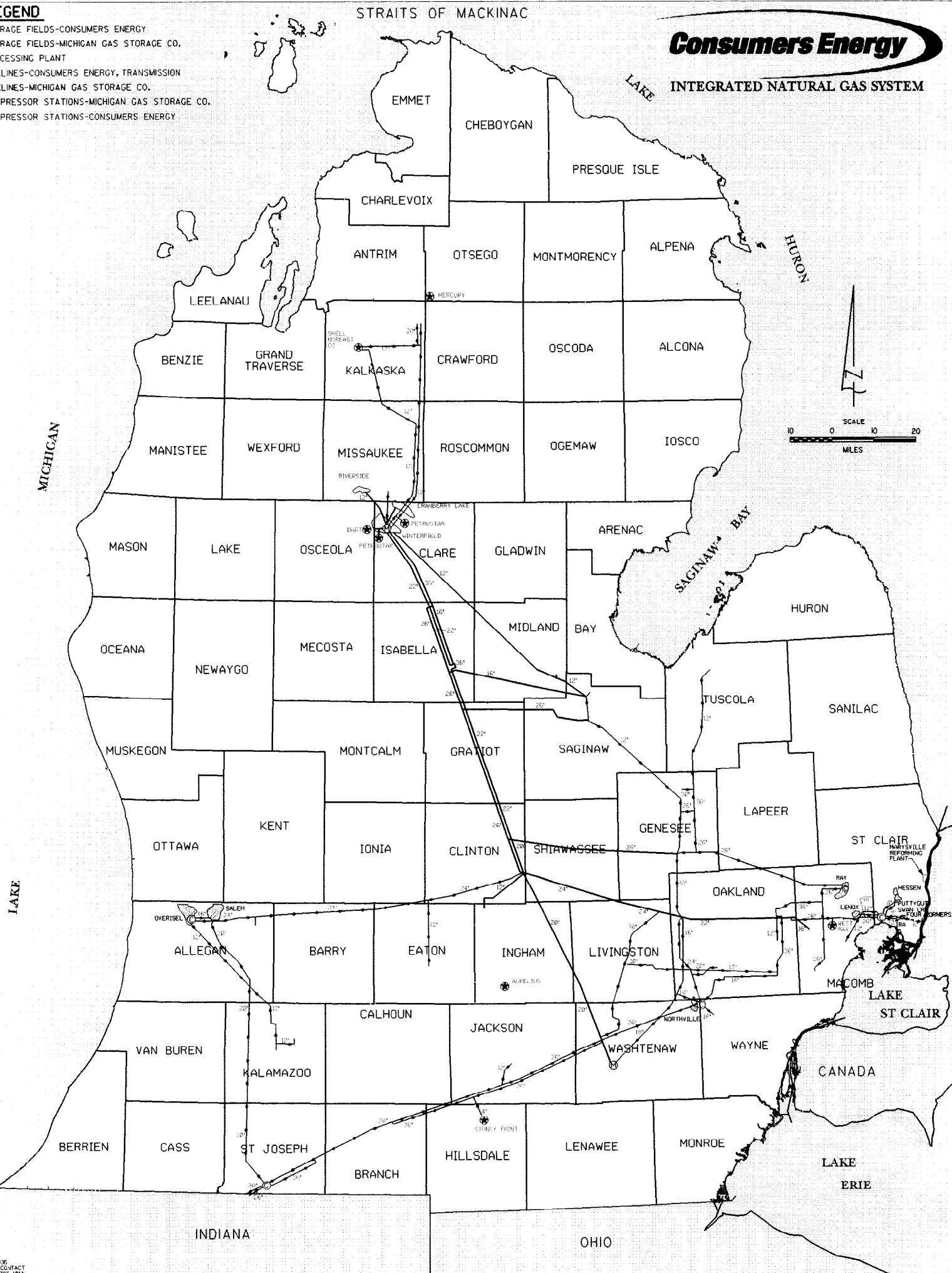


EXHIBIT C

_____, 2001

Mr. David P. Boergers, Secretary
Federal Energy Regulatory Commission
Dockets Room, Room 1A
888 First Street, N.E.
Washington, DC 20426

RE: MICHIGAN GAS STORAGE COMPANY

Dear Mr. Boergers:

By this letter, the Michigan Public Service Commission ("MPSC") certifies that the natural-gas (a) rates, (b) service and (c) facilities of Michigan Gas Storage Company ("MGSCo") are subject to the regulatory jurisdiction of the MPSC. Upon the issuance of an exemption from the provisions of the Natural Gas Act and the rules and regulations, of the Federal Energy Regulatory Commission ("FERC") issued pursuant thereto, as requested by MGSCo in its forthcoming application to the FERC, the MPSC will exercise such jurisdiction.

Hon. Laura Chappelle, Chairman

Hon. David A. Svanda, Commissioner

Hon. Robert B. Nelson, Commissioner