

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the Complaint against:

MICHIGAN CONSOLIDATED GAS
COMPANY, a Michigan Corporation,
and MICHCON GATHERING COMPANY,
a Michigan Corporation.

Case No. U - 14821
Hon. Mark D. Eyster
Administrative Law Judge

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COMPLAINANTS' MOTION TO STRIKE TESTIMONY
OF ARTHUR RAYMOND LYLE, II

NOW COME Complainants, Quicksilver Resources, Inc. and Terra Energy Ltd. by their attorneys, Dingeman, Dancer & Christopherson, PLC, and for their Motion to Strike Testimony of Arthur Raymond Lyle, II, brought by their counsel, and pursuant to the Michigan Rules of Evidence and Rule 335 of the Commission's Rules of Practice and procedure, R 460.17335, moves to strike portions of the direct testimony and rebuttal testimony of Respondents' witness Arthur Raymond Lyle II. The testimony of this witness violates the Commission's Rules of Practice and Procedure, R 460.17103,

17325, and the Michigan Rules of Evidence, including 401, 402, 403, and 702, and the testimony should therefore be stricken:

1. Complainants are engaged in the business of exploration, production, and sale of natural gas in the State of Michigan, including Antrim gas produced in Otsego County, Michigan.

2. Respondents own and operate the Antrim Expansion Pipeline (“AEP”), and they receive and transport Antrim gas to downstream delivery points designated by shippers on the AEP. Respondents are common carriers and the AEP is a common carrier pipeline subject to the provisions of 1929 PA 9, as amended, MCL 483.101 et seq.

3. The issues in dispute are fully described in the Complaint; however, in summary Complainants primarily contend that Respondents (1) may not unilaterally set CO₂ treatment rates without Commission approval, especially where such rates are less than 2%; (2) may not discriminate against certain producers by requiring CO₂ treatment rates that are less than those required of other similarly situated producers; and (3) failed to file tariffs.

4. On or about June 21, 2006, Respondents filed Direct Testimony of Arthur Raymond Lyle, II, along with related exhibits.

5. On or about July 7, 2006, Respondents filed Rebuttal Testimony of Arthur Raymond Lyle, II.

6. Mr. Lyle did not become an employee of MichCon until September of 2005. Mr. Lyle is not competent to testify to facts or give opinions on matters prior to September of 2005. Mr. Lyle attempts in his testimony to describe “the history and

foundation of an agreement for CO2 treating services.” (Page 2, lines 5-6 of Mr. Lyle’s Direct Testimony.) Mr. Lyle is not a competent witness to so testify.

7. Mr. Lyle’s Direct Testimony at Page 5, Line 19 through Page 7, Line 4 should be stricken. Mr. Lyle is an engineer. He does not have any formal legal education. He is not a qualified attorney in any jurisdiction. Mr. Lyle’s direct testimony improperly includes legal opinion testimony, and it should be stricken. (MRE 702; Re Consumers Power Company, 106 PUR 4th 45, 60; 1989 WL 418489 (MPSC. Aug 29, 1989) (No U-8545-R)). Mr. Lyle provides improper legal opinion related to and interpretation of the Commission Order in Case No. U-12342 and the Commission Order in Case No. U-10547.

8. Mr. Lyle’s Direct Testimony from Page 22, Line 10 through Page 23, Line 3 should be stricken. Mr. Lyle is not properly qualified or competent to testify as to what operating responsibility the Commission gave to MGAT.

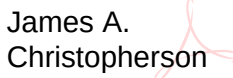
Relief:

WHEREFORE, for the foregoing reasons, Complainants respectfully move that this honorable Commission strike the testimony of Arthur Lyle, II as described above, along with all related exhibits.

DINGEMAN, DANCER &
CHRISTOPHERSON, P.L.C.

Dated: July 12, 2006

By:


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