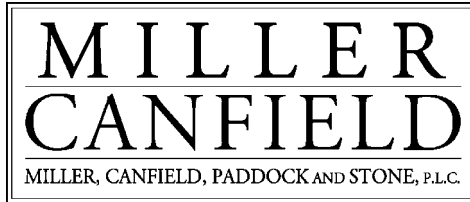


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June 2, 2006

Ms. Mary Jo Kunkle
Executive Secretary
Michigan Public Service Commission
6545 Mercantile Way
P.O. Box 30221
Lansing, MI 48909

Re: SEMCO Energy Gas Company
2006-07 GCR Plan and Factors
MPSC Case No. U-14718

Dear Ms. Kunkle:

Enclosed for electronic filing is SEMCO Energy Gas Company's Motion to Reject for Filing or Strike the Testimony of Nancy Brockway and the Testimony and Exhibit of Harlan Lachman. Also enclosed is a Proof of Service. If you should have any questions, please advise.

Very truly yours,

**Sherri
Wellman**
Sherri A. Wellman

Digitally signed by Sherri
Wellman
DN: CN = Sherri Wellman, C =
US, O = Miller Canfield
Date: 2006.06.02 16:04:55 -04'00'

SAW/lab
Enclosure
cc w/ enc: Annette Gardiner

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the application of)
SEMCO ENERGY GAS COMPANY)
for authority to implement a gas cost)
recovery plan and factors for the 12-month)
period of April 2006 through March 2007.)

Case No. U-14718

PROOF OF SERVICE

STATE OF MICHIGAN)
) ss
COUNTY OF INGHAM)

Lisa A. Becker, being first duly sworn, deposes and says that on June 2, 2006, she served a true copy of ***SEMCO Energy Gas Company's Motion to Reject for Filing or Strike the Testimony of Nancy Brockway and the Testimony and Exhibit of Harlan Lachman*** upon the parties listed on the attached Service List by depositing the same in a United States postal depository enclosed in an envelope bearing postage fully prepaid, plainly addressed. The parties were also served by electronic mail.

Lisa Becker

Digitally signed by Lisa Becker
DN: CN = Lisa Becker, C = US, O
= Miller Canfield
Date: 2006.06.02 16:04:24 -04'00'

Lisa A. Becker

Subscribed and sworn to before me
this 2nd day of June, 2006.

Edith Loomis

Digitally signed by Edith Loomis
DN: CN = Edith Loomis, C = US,
O = Miller Canfield
Date: 2006.06.02 16:04:33 -04'00'

Edith D. Loomis, Notary Public
State of Michigan, County of Ingham
My Commission expires: December 5, 2006

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STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the application of)	
SEMCO ENERGY GAS COMPANY)	
for authority to implement a gas cost)	Case No. U-14718
recovery plan and factors for the 12-month)	
<u>period of April 2006 through March 2007.</u>)	

SEMCO ENERGY GAS COMPANY'S
MOTION TO REJECT FOR FILING OR STRIKE
THE TESTIMONY OF NANCY BROCKWAY AND
THE TESTIMONY AND EXHIBIT OF HARLAN LACHMAN

SEMCO Energy Gas Company, a division of SEMCO Energy Inc., ("SEMCO Gas" or the "Company") pursuant to Rule 335 of the Rules of Practice and Procedure Before the Commission, 1992 AACS R 460.17335, requests that the Testimony of Nancy Brockway and the Testimony and Exhibit of Harlan Lachman as submitted by PAYS America, Inc., on May 30, 2006 ("PAYS's Testimony") be rejected for filing or struck as improper. In support of this Motion, SEMCO Gas represents as follows:

I. Background.

At the February 23, 2006 prehearing conference held in this matter, the petition to intervene of PAYS America was denied for failure to state an interest which is "legally justifiable".

On March 9, 2006, PAYS filed an application with the Commission appealing the February 23, 2006 ruling and requesting reversal. On March 23, 2006, both SEMCO Gas and the Staff filed replies opposing reversal. The appeal has, therefore, been ripe

for Commission decision since March 23, 2006¹, and since that time the Commission has convened four separate regular meetings (April 13, April 25, May 10 and May 25) and has not taken up PAYS's appeal and reversed the ALJ's decision denying PAYS's petition to intervene.

II. As A Non-Party to This Proceeding PAYS's Cannot Properly File Testimony.

The Rules of Practice and Procedure Before the Commission define a "party" as:

"...a person by or against whom a proceeding is commenced or a person who is permitted to intervene, a person who protests an application for motor carrier authority, or the staff or the commission in which the staff participates." R 460.17101(f)

The Rules of Practice and Procedure only permit a "party" to a proceeding to submit and file exhibits and testimony in that proceeding. See R 460.17325(2) ("Evidence...that a *party* desires or intends to rely on shall be offered and made a part of the record. ..."); R 460.17329(3) ("A *party* introducing an exhibit shall furnish copies to all parties... ."); R 460.17331(5) ("Documentary evidence may be submitted after the close of the record by stipulation of the *parties*"); and R 460.17331

Pursuant to the ALJ's ruling, PAYS was NOT permitted to intervene in this proceeding and, thus, is not a "party" as defined by Rule 460.17101(f). Therefore, PAYS' Testimony has been improperly filed and should be rejected or struck.

Futhermore, to accept PAYS's Testimony for filing at this time places SEMCO Gas in the inequitable position of having to waste time and money to rebut the testimony and exhibits of a person who had been found not to have a legally justifiable

¹ On April 3, 2006, PAYS filed Leave to File a Reply to SEMCO Gas's reply. As addressed in SEMCO Gas's April 11, 2006 Motion to Reject Filing, PAYS's Reply to SEMCO Gas should be rejected as improper and baseless.

interest in this proceeding. In essence, by making this filing and having it accepted, PAYS will have achieved a de facto reversal of the ALJ's ruling.

Additionally, PAYS's explanation for filing the testimony; that it is "to avoid having its appeal become moot", should not be accepted as a reasonable justification to circumvent the Commission's Rules of Practice and Procedure². The Rules provide that an appeal to the Commission is the only proper avenue for a person to challenge a denial of intervention, and PAYS has exercised that option. Now it must await the Commission's decision. If by chance the Commission reverses the ALJ's decision, the schedule at that time would be adjusted by the ALJ to accommodate the filing of PAYS's direct case and the filing of rebuttal testimony to PAYS's case. On the other hand, because the Commission is aware of the schedule established in this matter (e.g. the filing of intervenor testimony on May 30), and it has held four meetings between March 23 and May 30, there is no basis to assume that the Commission has any intention of reversing the ALJ and, therefore, there is little concern that PAYS's appeal will be rendered moot by rejecting its Testimony filed on May 30.

III. The Relief Sought in This Motion Must Be Expedited.

Because rebuttal testimony in this proceeding is due June 29, 2006, granting the relief requested by this Motion must be expedited, otherwise SEMCO Gas will be prejudiced by having to prepare to file rebuttal to a non-party in this case.

Since the filing of PAYS's testimony is in clear violation of the Rules of Practice and Procedure, SEMCO believes that its Motion may be heard and granted ex parte on

² In all likelihood PAYS will continue to allege that if it is not allowed to participate by improperly filing rebuttal testimony, cross-examining, submitting briefs, etc., that its "appeal [will] become moot." PAYS should not be allowed to continue to participate on this basis.

the pleadings alone. However, if it is determined that a hearing is necessary, SEMCO respectfully request that a hearing be held no later than June 7, 2006.

WHEREFORE, for the forgoing reasons stated above, SEMCO Gas represents that accepting PAYS' Testimony at this time is improper and unduly prejudices SEMCO Gas and should therefore be expeditiously rejected or struck.

Respectfully submitted,

SEMCO ENERGY GAS COMPANY

Dated: June 2, 2006

Sherri
Wellman

By: _____

One of its Attorneys
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Attorneys for SEMCO Energy Gas Company

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