

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the complaint of
DOMINION MIDWEST ENERGY, INC.
and DOMINION RESERVES, INC. against
MICHCON GATHERING COMPANY and
MICHIGAN CONSOLIDATED GAS COMPANY.

Case No. **U-14754**
(e-file paperless)

THE MICHIGAN PUBLIC SERVICE COMMISSION STAFF'S
ANSWER TO MICHCON GATHERING COMPANY'S
MOTION TO STRIKE TESTIMONY OF DONALD J. MAZUCHOWSKI

The Michigan Public Service Commission Staff ("Staff") answers MichCon Gathering Company's Motion to Strike Testimony of Donald J. Mazuchowski as follows:

1. MichCon Gathering's motion alleges that Mr. Mazuchowski's direct testimony, on page 5, lines 10-16, should be stricken because the testimony is prejudicial and constitutes inadmissible hearsay. In Staff's view, these allegations are untrue, and do not justify striking Mr. Mazuchowski's testimony.

2. Mich. R. Evid. 801(c) states that "hearsay is a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted." Mr. Mazuchowski's testimony on page 5, lines 10-16, does not fit the definition of "hearsay" as defined under Rule 801(c). Mr. Mazuchowski in his testimony simply stated his opinion as to his recollection of the Shippers' position in Case No. U-10547. As stated by Mr. Mazuchowski in his pre-filed direct testimony, Mr. Mazuchowski was the case coordinator for the Michigan Public Service Commission Staff in Case No. U-10547. Further, Mr. Mazuchowski developed Staff's position, in Case No. U-10547, in regards to the construction of the AEP pipeline, its related safety issues and the associated Antrim Gas transportation proposals.

3. Mr. Mazuchowski did not relay, in his testimony, what he was told by a third party. Simply, Mr. Mazuchowski stated his opinion based on his personal knowledge as to what he understood concerning the Shippers' position in Case No. U-10547. This hardly qualifies as inadmissible hearsay. In addition, there is no foundation or basis, in MichCon's motion, that Mr. Mazuchowski's testimony constitutes extraneous record statement.

4. Further, Mr. Mazuchowski's testimony on page 5, lines 10-16, is not offered to prove the truth of the matter alleged in the present case, i.e., that MichCon Gathering is unlawfully discriminating against Dominion Reserves or that MichCon Gathering has unlawfully maintained that Dominion dedicated its gas reserves, for the life of the reserves, for transportation and treating on the AEP.

5. Moreover, under the Commission Rules of Practice and Procedure, Rule 325, the Commission may "admit and give probative effect to evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs." Thus, MichCon Gathering's position overstates the legal limitation in regards to the admissibility of testimonial evidence before the Commission.

6. Based on the fact that Mr. Mazuchowski is available for cross-examination, MichCon Gathering cannot reasonably claim any prejudice or harm from Mr. Mazuchowski's testimony.

For the foregoing reasons, MichCon Gathering's motion to strike Mr. Mazuchowski's testimony at page 5, lines 10-16, should be denied.

Respectfully submitted,

**MICHIGAN PUBLIC SERVICE COMMISSION
STAFF**

A handwritten signature in black ink, appearing to read "Emmanuel B. Odunlami", written in a cursive style.

Emmanuel B. Odunlami (P66255)
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Dated: June 19, 2006

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PROOF OF SERVICE

STATE OF MICHIGAN)
) ss
COUNTY OF INGHAM)

Linda Andreas, being first duly sworn, deposes and says that on **June 19, 2006**, she served a true copy of **The Michigan Public Service Commission Staff's Answer to MichCon Gathering Company's Motion to Strike Testimony of Donald J. Mazuchowski** upon the following parties by depositing the same in a United States postal depository enclosed in an envelope bearing postage fully prepaid, plainly addressed as follows:

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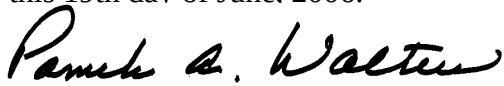
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Linda Andreas

Subscribed and sworn to before me
this 19th day of June, 2006.



Pamela A. Walters, Notary Public
State of Michigan, County of Ionia
Acting in the County of Ingham
My Commission Expires: 02/04/2007