



RICHARD P. MIDDLETON, ESQ.
Legal Department
(313) 235-3647

June 22, 2006

Ms. Mary Jo Kunkle
Executive Secretary
Michigan Public Service Commission
6545 Mercantile Way
Lansing, Michigan 48909

Re: In the matter, on the Commission's own motion, to investigate the
appropriateness of instituting a surcharge to assist in the funding of
the Gas Technology Institute
MPSC Case No. U-14561

Dear Ms. Kunkle:

Attached for electronic filing is Michigan Consolidated Gas Company's Initial Brief
along with a Proof of Service.

Very truly yours,

**Richard P.
Middleton**

Digitally signed by Richard P. Middleton
DN: cn=Richard P. Middleton, c=US,
o=DTE Energy, ou=Regulatory Affairs,
email=rmiddleton@dteenergy.com
Date: 2006.06.22 13:57:33 -04'00'

Richard P. Middleton

RPM/kbt
Attachments
cc: Service List

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter, on the Commission's own	)	
motion, to investigate the appropriateness	)	Case No. U-14561
of instituting a surcharge to assist in the	)	
<u>funding of the Gas Technology Institute</u>	)	

MICHIGAN CONSOLIDATED GAS COMPANY'S
INITIAL BRIEF

Pursuant to R 460.17339 and the schedule established by the Administrative Law Judge Daniel E. Nickerson, Jr., Michigan Consolidated Gas Company (“MichCon”) files its initial brief in the above-captioned matter.

I. Introduction and Case History

On June 30, 2005, the Michigan Public Service Commission (“Commission”) issued an order initiating a generic proceeding in the above captioned proceeding stating that the purpose of this case was “to explore the appropriate statewide level of future support and funding for the Gas Technology Institute (“GTI”)”.¹ The Commission also determined that it would consider a mechanism for the recovery of GTI related support and funding which could involve an energy surcharge applied to all gas distribution and transportation lines in Michigan or other appropriate methods of cost recovery.² In its June 30, 2005 Order, the Commission also expressly encouraged parties involved in this proceeding to engage in a collaborative process to try and settle on a consensus as to the appropriate level of support and funding for any GTI research and

¹ June 30, 2005 MPSC Order in Case No. U-14561, p. 2.

² Id.

development. As evidenced by the contents of the testimony filed in this case, there was no consensus of the parties that either a GTI funding was appropriate or agreement on what a funding mechanism might entail had the parties agreed that the funding was appropriate. As a result, four parties filed testimony in this proceeding, Consumers Energy Company, the Attorney General, the Gas Technology Institute, and the Commission Staff.

Consumers Energy Company (“Consumers”) filed the testimony of Jill M. Polich which stated that Consumers Energy does not support the creation of a rate mechanism with the presumption of reasonableness for the recovery of GTI expenditures made on behalf of gas utilities that arrange for GTI research. Ms. Polich also indicated that Consumers does not support a state by state funding for GTI and prefers that a national surcharge for research funding administered by partnership, with oversight provided by the American Gas Association. Consumers Energy’s primary objection to the Commission’s interest in establishing a rate mechanism and funding is that the Commission’s articulated position would continue to place the burden of proof for reasonable use and rate recovery of research funds on individual utilities. (T 128-130).

The Attorney General filed the testimony of Charles W. King. The Attorney General’s position as described by Mr. King, is that the Commission should follow the policy adopted by the FERC wherein support for GTI is purely voluntary on the part of the both the gas distribution companies and their ratepayers. In essence, the Attorney General says that ratepayers are not in a position to assess the proprietary and likely cost effectiveness of GTI’s research projects, and if the utilities end up merely being a conduit for research funds collected from ratepayers which are already earmarked for GTI, then the utilities do not have an incentive to make sure that the projects they are funding are cost effective. (T 131-158)

The Gas Technology Institute filed the testimony of Ronald Be. Edelstein, who is their director of state regulatory programs. Mr. Edelstein, after describing various research initiatives that benefited various classes of customers in the past, proposes that the Commission should establish a set of criteria to which any utility that can demonstrate its funding of GTI has met that criteria would receive a rebuttable presumption that they can recover the cost of funding those initiative from its ratepayers. Mr. Edelstein also proposes that the Commission approve a maximum funding recovery from customers of \$1.74 per Mcf. (T 51-126)

The Commission Staff filed the testimony of Susan Crimmins Devon. Ms. Devon states that Staff's position is to support continued funding of GTI research efforts at the state level, and that Commission support of GTI funding would entail approving ratepayer contributions in individual utility rate cases that would include a fixed charge to support GTI funding and research, not to exceed \$1.74 per Mcf. Ms. Devon states that the actual ratepayer contribution would be proposed by each gas utility in their general rate case, and only incorporated in their revenue requirements if ultimately approved by the Commission. Once such approval was granted, each utility would then decide on a project by project basis those research and development activities that would be supported by the funds collected from ratepayers and the utility would transfer those payments to GTI. Further, Ms. Devon states that utilities would have a continuing requirement to support research and development funding decisions in their future general rate case proceedings. (T 159-183) MichCon did not file any testimony in this proceeding.

There is no disagreement in the record created in this case, that in the past Gas Technology Institute research and development activities have benefited local distribution company ratepayers. What is in dispute, is whether or not any mechanism and charge levied on

local distribution customers to support GTI funding is just and reasonable, entitled to a presumption of reasonableness, or applied in such a way that such funding requirements could not be offset equally by other unrelated disallowances the Commission may order when establishing a utility's general rates. It is the disagreement on these issues, that calls into question whether or not as a result of this proceeding, anything can be accomplished that would make the recovery of any funding of GTI research and development more or less likely than if this proceeding had never taken place.

II. Discussion

Based on a record in this case, utilities are faced with a dilemma; How can a utility demonstrate that customers are benefiting from research and development activities that have not yet yielded results, and prove that ratepayer benefits are sufficient to support the GTI expenditures they are funding? This means, as pointed out by Mr. Edelstein, that while GTI can demonstrate past successes which have beyond rational dispute benefited ratepayers, they can only point to an educated belief that certain types of future research is likely to benefit ratepayers. This fact coupled with the burden placed on utilities to demonstrate benefits before recovery will be approved by the Commission, leaves the utility in an untenable position. Specifically, the utility must demonstrate in the course of a general rate case proceeding the benefits of activities conducted by a third party that have yet to take place or have not yielded final results. Furthermore, the regulatory lag that is an ingredient of any rate case proceeding, because of the magnitude of the issues and information at issue, could result in testimony being filed in support of GTI research and development activities that are no longer a planned activity when the Commission ultimately approves funding. This leaves utilities at risk that funded GTI research and development reviewed in a general rate case proceeding will be disallowed and

result in commensurate reductions in future rates.³

The Commission should decide in this proceeding that it is appropriate to fund GTI research and development, set forth very specific areas it believes are appropriate for the utility to fund and determine that a recovery of such funding from customers is just and reasonable. Further, the Commission must establish that any funding of these specific areas of research and development are reasonable and approved funding levels for these areas of research and development will be determined separate and apart from any other general rate case determinations. A determination such as this would ensure that the only issue before the Commission in a general rate case proceeding relative to GTI is the amount of funding that should be approved for research and development activities.⁴ The Commission should also state that the level of approved recovery of GTI funding will not be subject to offset by other general rate case matters and issues that would be before the Commission in a general rate case. Absent such a determination by the Commission in this proceeding, utilities will remain in the same position at the end of this proceeding that they were before it was ever commenced, i.e., the utility is at risk that its proposal for funding GTI would be denied by the Commission in its general rate order or offset by other disallowances leaving the utility to fund the GTI research out of its own pocket.

³ The utility could also choose not to fund at all which would defeat the entire purpose of the general rate case presentation.

⁴ This presumes of course that the level of funding approved by the Commission cannot be so diminimus as to be non-existent.

Respectfully submitted

MICHIGAN CONSOLIDATED GAS COMPANY

Richard P.
Middleton

Digitally signed by Richard P. Middleton
DN: cn=Richard P. Middleton, c=US, o=DTE
Energy, ou=Regulatory Affairs,
email=middletonr@dteenergy.com
Date: 2006.06.22 13:58:22 -04'00'

By: _____

Richard P. Middleton (P41278)
2000 2nd Avenue, 688 WCB
Detroit, Michigan 48226
(313) 235-3647

Dated: June 22, 2005

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter, on the Commission's own)
motion, to investigate the appropriateness)
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Case No. U-14561

PROOF OF SERVICE

STATE OF MICHIGAN)
) ss.
COUNTY OF WAYNE)

Jennifer Evans, being duly sworn, deposes and says that on the 22nd day of June, 2006, a copy of MICHIGAN CONSOLIDATED GAS COMPANY'S INITIAL BRIEF in the above captioned matter was served upon the persons on the attached service list via e-mail.

Jennifer Evans

Digitally signed by Jennifer Evans
DN: cn=Jennifer Evans, c=US, o=DECO/MichCon,
ou=Regulatory Affairs, email=evansj2@ddeenergy.
com
Date: 2006.06.22 13:51:45 -04'00'

JENNIFER EVANS

Subscribed and sworn to before
me this 22nd day of June, 2006.

Karyn Beth Teal

Digitally signed by Karyn Beth Teal
DN: cn=Karyn Beth Teal, c=US, o=DTE Energy,
ou=Regulatory Affairs, email=tealk@ddeenergy.
com
Date: 2006.06.22 13:58:46 -04'00'

Notary Public

MPSC Case No. U-14561

June 22, 2006

SERVICE LIST

ADMINISTRATIVE LAW JUDGE

Hon. Mark E. Cummins
Michigan Public Service Commission
6545 Mercantile Way
P.O. Box 30221
Lansing, MI 48911
Email: mecummi@michigan.gov

MPSC STAFF

Patricia A. Barone
Assistant Attorney General
Public Service Division
6545 Mercantile Way, #15
Lansing, MI 48909
Email: baronep@michigan.gov

CONSUMERS ENERGY COMPANY

John C. Shea
Rhonda M. Morris
Consumers Energy Company
One Energy Plaza, Room EP11-225
Jackson, MI 48201
Email: jcshea@cmsenergy.com
Email: rmmorris@cmsenergy.com

ABATE

Robert A.W. Strong
Thomas E. Maier
Clark Hill, PLC
255 S. Old Woodward Ave, 3rd Floor
Birmingham, MI 48009
Email: rstrong@clarkhill.com

ATTORNEY GENERAL

John R. Liskey
Michael Moody
Assistant Attorney General
Special Litigation Division
525 W. Ottawa, 6th Floor
P.O. Box 30212
Lansing, MI 48909
Email: moodyme@michigan.gov
Email: liskeyj@michigan.gov

GAS TECHNOLOGY INSTITUTE

Robert B. Nelson
Fraser, Trebilcock, Davis & Dunlap, PC
124 W. Allegan St., Suite 1000
Lansing, MI 48933
Email: rnelson@fraserlawfirm.com

MICHIGAN GAS UTILITIES CORPORATION f/k/a WPS MICHIGAN UTILITIES, INC., SEMCO ENERGY GAS COMPANY, WISCONSIN ELECTRIC POWER COMPANY, WISCONSIN PUBLIC SERVICE CORPORATION, NORTHERN STATES POWER COMPANY d/b/a XCEL ENERGY,

Sherri Wellman
Ronald Bloomberg
Miller, Canfield, Paddock & Stone, PLC
One Michigan Avenue, Suite 900
Lansing, MI 48933
(517) 487-2070
Email: wellmans@millercanfield.com
Email: bloomberg@millercanfield.com