

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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

Case No. U-14561

INITIAL BRIEF OF THE GAS TECHNOLOGY INSTITUTE

DATED: June 22, 2006

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I. INTRODUCTION

The Gas Technology Institute (GTI) is filing this initial brief in support of explicit funding of its research and development (R&D) by Michigan's gas utilities. GTI is the leading research, development, and training organization serving the natural gas industry. (Commission's June 30, 2005 order initiating proceeding). GTI is the successor to the Gas Research Institute (GRI), which was formed by natural gas local distribution companies (LDCs) and pipeline companies in 1977. Prior to 2004, GRI was funded through a surcharge on pipeline companies authorized by the Federal Energy Regulatory Commission (FERC).

II. HISTORY OF PROCEEDINGS

On June 30, 2005, the Commission initiated this proceeding to investigate the appropriateness of instituting a surcharge, a per-meter charge or another appropriate method of cost recovery to assist in the funding of GTI. All Commission-jurisdictional natural gas companies were ordered to participate in the proceeding. Appearances were filed by the Commission Staff (Staff), GTI, Consumers Energy Company, Wisconsin Public Service Corporation, SEMCO Energy Gas Company, Northern States Power Company, d/b/a Xcel Energy, Michigan Consolidated Gas Company, Aquila, Inc., d/b/a Aquila Networks-MGU, the Association of Businesses Advocating Tariff Equity (ABATE), and Attorney General Michael A. Cox (Attorney General).

A prehearing conference was held on August 29, 2005, before Administrative Law Judge Mark E. Cummins (ALJ). The ALJ granted discretionary intervenor status to GTI, over ABATE's objection. The interventions of the Attorney General and ABATE were unopposed. The ALJ also denied ABATE's motion to dismiss the proceeding and on October 18, 2005 (October 18 order), the Commission granted ABATE's application for leave to appeal and denied the relief requested by ABATE, to overturn the ALJ's denial of the motion to dismiss. In

its order, the Commission found that funding of GTI's efforts "has been beneficial to ratepayers in the past, and the Commission's broad authority over rates confers jurisdiction on the Commission to explore mechanisms for continued funding." (October 18 order, p. 7) The Commission went on to state that "the Commission's options with respect to voluntary or mandatory funding of GTI by [Local Distribution Companies] LDCs are not limited by the terms of the FERC settlement agreement, because the LDCs are not interstate pipelines."

On November 21, 2005, a second prehearing conference was convened by the ALJ, at which time a schedule for the proceeding was established. On June 1, 2006, the testimony of GTI witness Ronald Edelstein, Staff witness Susan Devon, Attorney General witness Charles W. King and Consumers Energy witness Jill Polich were received in evidence. The exhibits of Edelstein and Devon were received in evidence.

III. DISCUSSION

A. GTI Funded Research And Development Should Be Supported By Michigan's Gas Utilities And Ratepayers Because Both Ratepayers And Utilities Benefit Therefrom

The Commission's order initiating this proceeding (June 30 order) and its October 18 order, as well as the testimony of all of the witnesses in this case make it clear that GTI funded research and development (R&D) benefits ratepayers and LDCs. In the June 30 order, the Commission stated:

"For the past 60 years, GTI and its predecessor, the Gas Research Institute, have been meeting the nation's energy and environmental challenges by developing technology-based solutions for industry, consumers and government." (June 30 Order, p 1)

In the October 18 order, the Commission found that "funding of GTI's efforts has been beneficial to ratepayers in the past...." (October 18 Order, p 7)

Mr. Edelstein's testimony detailed eleven research projects that GTI is planning that support Michigan's retail customers and LDCs. (Tr 60-76) These projects include operations

projects designed to increase safety and reduce operating costs and end-use projects designed to increase energy efficiency and lower retail customer bills. (Tr 60) Included in these projects are devices designed to enhance leak surveys and plastic pipe location, as well as a combination residential space/water heater and a heating only residential heat pump (Tr 75-76). These 11 projects are in addition to the projects that have successfully led to commercial products developed by GRI between 1999 and 2003. The calculated ratio of the benefits to gas customers to total GRI costs incurred during this period was 8 to 1. [Exhibit GTI-1(RBE-1), p 1, 9] Gas consumers have realized billions of dollars of benefits from GRI and GTI R&D [Exhibit GTI-1 (RBE-1), p 5]. In his rebuttal testimony, Mr. Edelstein clarified that the 8 to 1 benefit/cost ratio was calculated for GTI's entire FERC-funded R&D program. If only end-use and gas operations applications are considered, the benefit cost-to cost ratio is 5.4 to 1 (Tr 90-91). In addition, GTI and GRI R&D has produced "difficult to quantify" benefits such as research on carbon monoxide monitors, indoor air quality, water heater flammability and appliance venting issues. (Tr 91-92)

In his testimony, the Attorney General's witness, Charles W. King, acknowledged that:

"Ultimately, both the gas distribution companies and their customers benefit from the R&D activities of GTI." (Tr 139)

As a result of the numerous benefits of GTI R&D, gas utilities in 21 other states have authorized research funding for GTI-related research. (Tr 170-171) Gas utilities in Michigan should support GTI funded R&D and the Commission should authorize gas utilities to fund GTI R&D.

B. Payments Made By Utilities Who Voluntarily Agree To Fund GTI's Research And Development Should Be Recorded As Operating Expenses

In a settlement approved by the FERC on January 21, 1998, the uniform R&D surcharge paid by interstate pipelines to fund GRI R&D was phased out and funding of GRI was to become "voluntary" after that date. 83 FERC ¶ 61,093.

In its November 18, 2004, decision which denied GTI's request to continue a national surcharge for R&D, the FERC stated:

"We do not agree that continued reliance on mandatory funding for RD&D is necessary. If the industry and consumers demand a form of cooperative effort in RD&D, they will be accommodated without the mandatory funding GTI seeks here." 109 FERC ¶ 61,164.

As the Commission noted in its October 18, order, at pp. 7-8:

"The Commission is not a party to the FERC settlement agreement, and the Commission's options with respect to voluntary or mandatory funding of GTI by LDCs are not limited by the terms of the FERC settlement, because the LDCs are not interstate pipelines."

Mr. Edelstein explained in his rebuttal testimony that FERC, in permitting "voluntary" funding of R&D costs, contemplated the submission of individual requests from pipelines and encouraged the use of a "check the box" system for contributions from LDCs, but recognized that the jurisdiction for such a system rested with the state commissions. Mr. Edelstein then noted that

"Ms. Devon's testimony reflects what FERC had in mind for a "voluntary" program. She proposes that LDCs who voluntarily agree to use GTI for R&D could recover from their customers up to \$.0174 per Mcf, in a general rate proceeding. " (Tr 89)

In her testimony, Commission witness Devon recommended that the Commission support voluntary funding of GTI activities "through inclusion of these amounts in each utility's revenue requirements in a general rate proceeding." (Tr 172) She went on to recommend that amounts paid to GTI "pursuant to a voluntary program should be recorded in Account 930.2-Miscellaneous General Expenses, in accordance with the Commission's USOA [Uniform System of Accounts]." (Tr 172) Ms. Devon testified that GTI's R&D work falls within the definition of R&D as provided for in paragraph 31.B of the General Instructions in the USOA (Tr 167). Attorney General witness King agreed that R&D expenses should be recorded as operating expenses by those utilities that choose to fund GTI activities and that recording the expenses in

Account 930.2 “sounds o.k. to me.”. (Tr 155-156) He acknowledged that he was not suggesting that each individual ratepayer had to make a “voluntary” decision before being billed for GTI R&D. (Tr 155)

Voluntary funding of R&D can only mean that each LDC that wants to support R&D should be allowed to do so. Once an LDC elects to support R&D, the amounts expended should be included in the LDC’s operating expense, like any other operating expense.

C. The Commission Should Establish A Presumption That R&D Expenses That Meet Specified Criteria Are Recoverable In Utility Rates

In his testimony, Mr. Edelstein proposed that the following criteria should be used by the Commission in determining whether R&D expenses should be recovered from ratepayers, if the expenses are not more than minimally funded by a bona fide private sector entity (Tr 121):

- Distribution System Integrity
- Distribution System Safety
- Distribution System Deliverability
- Low-Income-Customer Increased-Efficiency End-Use Equipment
- Consumer Safety

Mr. Edelstein testified that there “should be a rebuttable presumption that LDCs who meet the criteria listed above will be able to recover the R&D expenses in subsequent rate cases.” (Tr 83) According to Mr. Edelstein, an intervenor could challenge in a general rate case whether the criteria were met and the LDC would have the burden of proof with respect to whether they were met. However, an intervenor would have a “heavy burden” of proof if it chose to rebut that presumption that expenses that met the criteria should be funded. (Tr 84) Mr. Edelstein also testified that LDCs should be able to choose specific R&D projects that benefit their customers and fund only those projects. (Tr 83-84)

Staff witness Devon testified that Mr. Edelstein’s criteria “could be used by the Commission and gas utilities in determining whether R&D expenses should be recovered from

ratepayers” (Tr 171) Ms. Devon indicated that recovery for GTI expenses from ratepayers in future rate cases would not exceed a fixed amount equal to each utility’s “total gas throughput multiplied by \$0.0174 per Mcf.” (Tr 171)

Consumers witness Polich testified that Consumers Energy does not support a rate mechanism with a presumption of reasonableness for recovery of GTI expenses because such a mechanism would “place the burden of proof for reasonable use of research funds on the individual utilities.” (Tr 130) Contrary to Ms. Polich’s testimony, GTI’s proposal would only require that a utility demonstrate compliance with the criteria, and there would not need to be additional proof as to the reasonableness of individual expense items. Once it was established that the criteria were met, there would be a presumption that all expenses, within the caps proposed by Ms. Devon, would be recovered. In other words, if Consumers Energy included expenses paid to GTI for a Consumer Safety Program in its next general rate case application, there would be a presumption that all such expenses were recoverable. As such, the burden of providing evidence that the criteria has not been met would fall upon “the opposing party.” *Reed v Breton*, 264 Mich App 363, 370 (2004).

Ms. Polich also testified in support of a national surcharge (Tr 130). However, as Mr. Edelstein stated in his rebuttal testimony, in discounting the feasibility of a national surcharge:

“FERC does not have jurisdiction over LDCs and could not require LDCs to collect a surcharge from their customers.” (Tr 88)

IV. CONCLUSION AND RELIEF

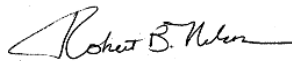
The overwhelming preponderance of the evidence in this proceeding demonstrates that GTI R&D provides substantial benefits to ratepayers and LDCs, benefits which far outweigh the cost of implementation. These benefits include enhanced safety, reduction of operating costs and increased energy efficiency. LDCs in Michigan should be able to support such R&D for the benefit of their customers by deciding what projects to fund and then recording all GTI expenses

in Account 930.2 of the Commission's Uniform System of Accounts. Assuming the projects that are chosen by the LDCs meet the criteria set forth by the Commission, there should be a rebuttable presumption that all expenses within a cap that correlates to \$.0174/ Mcf are recoverable in a general rate case.

Wherefore, GTI recommends that the Commission establish criteria for the recovery of GTI expenses by LDCs consistent with the criteria set forth in Mr. Edelstein's testimony and find that LDCs that meet the criteria shall be entitled to recover GTI expenses, up to the cap proposed by Ms. Devon, and record the expenses in Account 930.2 of the USOA.

Respectfully submitted,

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CERTIFICATE OF SERVICE

Doreen Bowerman hereby certifies that on the 22nd day of June, 2006, she served the
Initial Brief of the Gas Technology Institute in the above docket on the persons identified in
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