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October 10, 2006

Via E-file

Ms. Mary Jo. Kunkle
Executive Secretary
Michigan Public Service Commission
6545 Mercantile Way
Lansing, MI 48911

**Re: In the matter of the application of Michigan Consolidated Gas Company for ex parte approval of the sale of excess system gas supply and related accounting changes resulting from enhancements made to its gas storage system.
MPSC Case No. U-14800**

Dear Ms. Kunkle:

Enclosed for filing regarding the above-captioned matter please find *National Energy Marketers Association's Petition For Leave to Intervene And Request For a Contested Case Proceeding, Appearance of Jennifer L. Frye, and Proof of Service.*

If you have any questions, please contact me.

Very truly yours,

Jennifer L. Frye

JLF:jkt
Enclosures

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C o u n s e l l o r s A t L a w

DETROIT BLOOMFIELD HILLS LANSING GRAND RAPIDS ANN ARBOR
WASHINGTON, D.C.

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the application of)
MICHIGAN CONSOLIDATED GAS COMPANY for)
Ex Parte approval of the Sale of Excess) Case No. U-14800
System Gas Supply and Related Accounting)
Changes Resulting from Enhancements made)
To its Gas Storage System)
_____)

NATIONAL ENERGY MARKETERS ASSOCIATION'S
PETITION FOR LEAVE TO INTERVENE AND
REQUEST FOR A CONTESTED CASE PROCEEDING

The National Energy Marketers Association ("NEM"), by its counsel, petitions to intervene in this case pursuant to Rule 201(1) of the Commission's Rules of Practice and Procedure, 1992 ACS, R460.17201(1).¹ For the reasons expressed below, NEM further requests that the Commission schedule a full contested case proceeding in the captioned matter. In support of its Petition and Request, NEM states as follows:

1. NEM is a national, non-profit trade association representing wholesale and retail marketers of natural gas, electricity, as well as energy and financial related products, services, information and advanced technologies throughout the United States, Canada and the European Union. NEM's membership includes independent power producers, advanced metering, demand and load management firms, billing, back office, customer service and related information technology providers. NEM members are global leaders in the development of enterprise solution software for energy, advanced metering, information services, finance, risk management

¹ Rule 201(1) states that "[a] person who is not a complainant, respondent, protestant, applicant, or staff, as defined in these rules, and who claims an interest in a proceeding may petition for leave to intervene."

and the trading of commodities and financial instruments. NEM members also include inventors, patent holders, systems integrators, and developers of advanced power line surveillance and grid reliability technology with advanced uses in Power Line Communications (PLC) technologies as well as new and innovative electrical encoding, applications or decoding known as Smart Electricity.TM NEM members are committed to helping federal and state lawmakers and regulators to implement a consumer-focused, value-driven transition to a transparent, reliable, price and technology competitive retail marketplace for energy-related products, services, information and innovative electrical applications and technologies.

2. On August 23, 2006, Michigan Consolidated Gas Company ("MichCon") filed an Application requesting ex parte approval of the sale of excess system gas supply and related accounting changes resulting from enhancements made to its gas storage system. As a result of storage facility enhancements, MichCon states it will be able to access previously unavailable Native Base Gas for which it "proposes to make, in total, a 17 Bcf decrement to its system-wide gas storage accounts." (Application, p. 4). As part of the proposal, MichCon proposes to sell 4 Bcf of Native Base Gas to "non-GCR customers at market prices" and "keep the entire financial benefit of these sales," which it projects as \$41.2 million dollars. (Application, p. 6). Furthermore, MichCon states it would pass on the financial benefit of the remaining 13 Bcf decrement to its GCR customers, which it projected could provide gas cost savings to said customers of approximately \$28 million dollars. (Id.). MichCon also notes an \$11.8 million annual revenue requirement reduction for implementation in its next rate case. (Application, p. 5). MichCon states that the increased storage space could also provide the opportunity to sell gas storage service to third parties. (Application, pp. 4-5).

3. NEM, as a representative of a regionally diverse group of providers of energy and energy-related services, has an interest in the implementation of rates, tariffs, operating procedures, standards of conduct, rules, and policies that will ensure the development and maintenance of an efficient, reliable and price competitive natural gas market on MichCon's system and in Michigan generally. NEM's membership, which includes gas marketers and providers of energy-related services and technologies, is serving and intends to serve customers in the Michigan gas market, including residential, commercial, and industrial customer segments in the Consumers service territory. The ability of NEM's members to participate in a competitive retail gas market in Michigan will be affected by the outcome of this proceeding.

4. NEM, as a participant in restructuring proceedings nationwide, will be able to bring a broad perspective, to the deliberative process, and its participation in this proceeding should aid the Commission by enhancing the quality of the record to be developed here. NEM can lend a unique perspective to this proceeding because its membership represents a diverse cross-section of market participants. Even if other trade associations or individual marketers seek to intervene in this matter, NEM's interests and position are significant and unique given its industry diversity, its interest in serving Michigan's commercial, industrial, and residential customers, as well as its participation in restructuring in Michigan and other multiple jurisdictions on similar issues, and the substantial business interests of its members in the development of a viable natural gas market in Michigan. Thus, NEM's participation in these proceedings will not cause undue delay, will not unjustly prejudice any existing party, and will contribute to the just and quick resolution of the issues and concerns raised in these proceedings.

5. NEM meets the Commission's criteria for permissive intervention as well as for intervention of right. Intervention in this proceeding is appropriate because NEM, as a national

trade organization representing a diverse cross-section of market participants, will be able to bring a wide range of experiences, as well as a broad perspective, to this proceeding. NEM's participation in this proceeding will aid the Commission by enhancing the quality of the record developed. NEM and its membership will be directly and specifically affected by the outcome of these proceedings, and its interests in these proceedings cannot be adequately represented or protected by any other party. NEM is continuing to analyze MichCon's filing and has not yet determined what positions it may take in this proceeding.

6. NEM has been made a party in a number of MPSC dockets, including the following cases. NEM was granted intervention in Consumers gas rate case (MPSC Case No. U-14547), MichCon's gas rate case (MPSC Case No. U-13898), Detroit Edison's electric rate case (MPSC Case No. 13808), Consumers' electric rate unbundling proceeding (MPSC Case No. U-12970), Consumers' previous gas rate case (MPSC Case No. U-13000), Detroit Edison's load profiling case (MPSC Case No. U-13885), Consumers' stranded cost case (MPSC Case No. U-13380) and Detroit Edison's electric rate unbundling proceeding (MPSC Case No. U-13286).

7. For all of these reasons, and in light of the fact that the interests of NEM and its members in this proceeding cannot be adequately represented or protected by any other party hereto, NEM submits that good cause exists to grant it leave to intervene in this proceeding.

8. In addition to seeking intervention in this case, NEM also supports the request of the Attorney General for a contested case proceeding. The implementation of MichCon's application could negatively impact the competitive retail natural gas market and all customers that have made a choice or would make a choice in the future in this service territory and establish potentially harmful precedent in the State as discussed more fully below. The implementation of the application could impair the ability of NEM members to make

competitive offerings in the MichCon service territory, and confer an unfair competitive advantage to MichCon, thereby reducing options to Michigan residents. These options, have yielded significant benefits to consumers in MichCon's territory, for example, through fixed price contracts with competitive suppliers over the last heating season. For these reasons, a contested case proceeding is necessary and appropriate.

9. As an initial matter, NEM is concerned about the fairness and competitive neutrality associated with MichCon's proposal to limit the benefit of the 13 Bcf decrement to only its GCR customers. NEM questions whether such a result is fair for all MichCon customers, both choice and sales customers. Although we have not yet had an opportunity to conduct discovery, NEM submits there is a likelihood that all MichCon customers paid for the base gas that was being held in inventory for deliverability and reliability purposes in their delivery rates. Choice customers have equally contributed to the excess gas storage since MichCon requires flat annual deliveries from Suppliers. With flat annual deliveries Suppliers are essentially contributing to storage injections during the summer injection season. Accordingly, all MichCon customers – choice and sales - should be allowed to benefit through a rate reduction that is applied in a competitively neutral manner.

10. Furthermore, by limiting benefits to gas cost reductions to be realized only by sales customers, MichCon will be distorting pricing signals in a manner that interferes with the functioning of the competitive market. An artificially-depressed GCR rate will not provide MichCon consumers with accurate market-based information from which they can draw comparisons to competitive offerings. As such, it will hinder competitive suppliers' abilities to make offerings to consumers in MichCon's service territory. Allowing MichCon to implement this ad hoc change to the GCR rate would introduce a large degree of regulatory uncertainty for

competitive marketers that will be disadvantaged in their ability to devise products to meet consumer needs in an environment that changes with little notice and that does not bear a relationship to current market conditions.

11. Given the nature of the MichCon Choice system, additional available working storage should mean that alternative suppliers can deliver even greater quantities throughout the injection season, since there will be significantly greater deliverability in the heating season based upon the increased working storage available. Under the current structure, this may be difficult to quantify given the flat nature of storage deliveries. As such, all customers, including Choice customers, should benefit in some manner for the additional storage that will be made available to MichCon, which MichCon is apparently proposing will be made available to off-system shippers, presumably in the form of off-system sales, park, loan and exchange transactions and other swaps, trades and sales. In the event that MichCon is permitted to engage in these types of sales, revenue that is generated from such activities should be shared equally with the Choice customers if also provided to the GCR customers, since these assets are paid for by all base rate paying customers.

12. Natural gas market volatility can place energy marketer service at a severe price disadvantage during periods when perceived supply concerns drive the market price of gas and transportation to levels that destroy the energy marketers ability to remain competitive with utility pricing. If additional storage is available to MichCon, all customers should share in any benefits derived from the presence of additional assets, including Choice customers. Without a sharing mechanism to compensate Choice customer for the use of their assets, Choice customers are disadvantaged simply for taking advantage of their option to purchase commodity supply from an alternative supplier. In fact, to the extent MichCon engages in any off-system sales,

park, loan and exchange services or other swaps or sales, all customers, including Choice customers, should share in revenues derived from such activities. The additions to MichCon's storage facilities provide an opportunity to address these inequities.

WHEREFORE, for each and all of the reasons expressed above, NEM hereby respectfully requests that its Petition and Request in the above-entitled proceedings be granted, that NEM be granted status as a full party of record, and that the Commission set a schedule in this case for a contested case proceeding as consistent with the Commission's Rules.

Respectfully submitted,

DICKINSON WRIGHT PLLC
Counsel for National Energy Marketers Association

By: _____

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Dated: October 10, 2006.

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STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the application of)
MICHIGAN CONSOLIDATED GAS COMPANY for)
Ex Parte approval of the Sale of Excess)
System Gas Supply and Related Accounting)
Changes Resulting from Enhancements made)
To its Gas Storage System)
_____)

Case No. U-14800

PROOF OF SERVICE

STATE OF MICHIGAN)
) ss
COUNTY OF WASHTENAW)

Jacqueline K. Tinney, being first duly sworn, deposes and says that she is employed at Dickinson Wright PLLC, and that on October 10, 2006, she caused a copy of *National Energy Marketers Association’s Petition For Leave to Intervene And Request For a Contested Case Proceeding* and *Appearance of Jennifer L. Frye* to be served upon the parties listed below via email.

Jacqueline K. Tinney

Subscribed and sworn to before me,
a Notary Public in and for said County,
this 10th day of October, 2006.

Elaine M. Masters, Notary Public
Washtenaw County, Michigan
Acting in Washtenaw County, Michigan
My Commission Expires: 9/23/07

Administrative Law Judge jnrigas@michigan.gov	Michigan Consolidated Gas Company middletonr@dteenergy.com
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