

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter of the application of)	
SEMCO ENERGY GAS COMPANY)	
for a certificate of public convenience and)	Case No. U-21181
necessity relative to Mussey Township.)	
_____)	

At the July 27, 2022 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. Daniel C. Scripps, Chair
Hon. Tremaine L. Phillips, Commissioner
Hon. Katherine L. Peretick, Commissioner

ORDER APPROVING SETTLEMENT AGREEMENT

On December 15, 2021, SEMCO Energy Gas Company (SEMCO) filed an application requesting that the Commission issue a certificate of public convenience and necessity (CPCN) in accordance with Public Act 69 of 1929, MCL 460.501 *et seq.* (Act 69) to construct a natural gas service line and to provide natural gas service to approximately 18 residential customers in Sections 34 SW, 34 SE, 35 SW, 35 SE, and 36 SE in the Township of Mussey, St. Clair County, Michigan. On February 23, 2022, the company filed an amended application with the Commission that included a letter from an executive representative of Consumers Energy Company in support of SEMCO’s request for a CPCN.

A prehearing conference was held on April 21, 2022, before Administrative Law Judge Christopher S. Saunders. SEMCO and the Commission Staff participated in the proceeding. Subsequently, the parties submitted a settlement agreement resolving all issues in the case.

The Commission, having reviewed the settlement agreement, finds that the public interest is adequately represented by the parties to the settlement agreement. The Commission further finds that the settlement agreement is in the public interest, represents a fair and reasonable resolution of the proceeding, and should be approved.

The Commission notes that the settlement agreement also addresses compliance with the Michigan Environmental Protection Act, Part 17 of the Natural Resources and Environmental Protection Act, as amended, MCL 324.101 *et seq.*, (MEPA). While the applicability of MEPA to Act 69 cases is not clear based on existing case law, to the extent MEPA does apply to the present case, the Commission finds that the settlement agreement complies with the provisions of MEPA as any environmental impairment caused by the proposed natural gas main is *de minimis* and approval of the settlement agreement is consistent with the promotion of public health, safety, and welfare in light of the state's paramount concern for the protection of its natural resources from pollution, impairment, or destruction.

THEREFORE, IT IS ORDERED that:

- A. The settlement agreement, attached as Exhibit A, is approved.
- B. SEMCO Energy Gas Company is granted a certificate of public convenience and necessity to construct facilities and to provide natural gas service to residential customers in Sections 34 SW, 34 SE, 35 SW, 35 SE, and 36 SE of Mussey Township, St. Clair County, Michigan, as proposed in its application and subject to the conditions and requirements set forth in the settlement agreement.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26. To comply with the Michigan Rules of Court's requirement to notify the Commission of an appeal, appellants shall send required notices to both the Commission's Executive Secretary and to the Commission's Legal Counsel.

Electronic notification should be sent to the Executive Secretary at mpscdockets@michigan.gov and to the Michigan Department of Attorney General - Public Service Division at pungpl@michigan.gov. In lieu of electronic submissions, paper copies of such notifications may be sent to the Executive Secretary and the Attorney General – Public Service Division at 7109 W. Saginaw Hwy., Lansing, MI 48917.

MICHIGAN PUBLIC SERVICE COMMISSION

Daniel C. Scripps, Chair

Tremaine L. Phillips, Commissioner

Katherine L. Peretick, Commissioner

By its action of July 27, 2022.

Lisa Felice, Executive Secretary

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the application of)
SEMCO ENERGY GAS COMPANY)
for a certificate of public convenience and) Case No. U-21181
necessity relative to Mussey Township.)

SETTLEMENT AGREEMENT

Pursuant to Section 78 of the Administrative Procedures Act of 1969, as amended (1969 PA 306, § 78; MCL 24.278), and Rule 431 of the Rules of Practice and Procedure before the Michigan Public Service Commission (“Commission”), R 792.10431, the undersigned parties agree as follows:

1. On December 15, 2021, SEMCO Energy Gas Company, a division of SEMCO Energy, Inc., (“SEMCO Gas” or the “Company”) filed an Application requesting that the Commission issue a Certificate of Convenience and Necessity (“Certificate”) to SEMCO Gas in accordance with 1929 PA 69, MCL 460.501 *et seq.* (“Act 69”) on an *ex parte* basis in the Township of Mussey, St. Clair County, Michigan.

2. On February 23, 2022, the Company filed an Amended Application with the Commission that included a letter from an executive representative of Consumers Energy Company in support of SEMCO Gas’s request for a Certificate. The letter, consistent with Paragraph 8 of SEMCO Gas’s Application, stated that Consumers does not object to SEMCO Gas’s proposal that the Commission grant it an Act 69 Certificate to provide natural gas service in portions of sections in Mussey Township as outlined in the Application.

3. On March 18, 2022, the Commission’s Executive Secretary issued a Notice of Hearing. On March 21, 2022 Staff counsel filed an Appearance. On April 5, 2022, SEMCO Gas

DYKEMA GOSSETT PLLC • Capital View, 201 Townsend Street, Suite 900, Lansing, Michigan 48933

filed a Proof of Service of the Notice of Hearing on all cities, incorporated villages, townships and counties in its service area.

4. At the April 21, 2022 prehearing conference, Administrative Law Judge (“ALJ”) Christopher Saunders presiding, the Company presented proof of compliance with the Executive Secretary’s order regarding publishing the Notice of Hearing. Only Staff and the Company participated in this proceeding. No other parties requested to intervene or otherwise participate. This proceeding was conducted as a contested case matter pursuant to Chapter 4 of the Administrative Procedures Act of 1969, 1969 PA 306.

5. Prior to and following the Prehearing Conference, the parties exchanged information and discussed the Company’s filing, then entered into settlement negotiations, and have now agreed to enter into this Settlement Agreement recommending a final settlement of this matter as described below. It is the Parties’ opinion that the Settlement Agreement is reasonable, will promote the public interest, will aid the expeditious conclusion of this case, and will minimize the time and expense which would otherwise have to be devoted to this matter by the Commission and the Parties. This Settlement Agreement is for the purpose of final resolution of this case and all provisions of same are dependent upon all other provisions contained herein.

6. In view of the foregoing, and pursuant to Section 78 of the APA, MCL 24.278, the Parties hereby stipulate and agree that the Commission should:

A. Pursuant to Section 3 of Act 69, SEMCO Gas has secured the necessary franchises in Mussey Township, as referenced in the Application as Exhibit A.

B. Pursuant to Section 4 of Act 69, SEMCO Gas timely mailed a copy the clerk of Mussey Township and Consumers Energy Company as referenced in the Application and Amended Application as Exhibit D.

C. Pursuant to Section 5 of Act 69, SEMCO Gas has cited the following in support of the requested Certificate:

(i) The area covered by the requested certificate is located in Mussey Township. SEMCO Gas seeks a certificate to serve approximately 18 residential customers, approximately half of which are located in Mussey Township, with the other half in Berlin Township. The pipeline would run along the right-of-way along a road that divides Mussey Township and Berlin Township. The prospective customers in the area currently have no gas service and Consumers Energy Company has no nearby pipelines to serve the areas cost effectively;

(ii) Consumers Energy Company currently is franchised to provide natural gas service to areas in Mussey Township but does not have facilities in place to provide service in the specific area contemplated in this application;

(iii) SEMCO Gas's proposal will minimize the crossing or paralleling of any existing company's facilities within a street or right-of-way and the Company will not serve another gas company's existing customers;

(iv) Applicant states that the project will be constructed within the public road right-of-way and will not traverse any environmentally sensitive areas, woodlands, or water ways. The construction and operation of the pipeline is expected to create only *de minimis* impact to the environment and there is no other reasonable alternative that could further reduce that impact;

(v) Applicant will obtain all applicable environmental and other permits from applicable state and county agencies and authorities prior to the construction and operation of the pipeline;

(vi) The addition of this load will not adversely affect the Company's GCR customers and will not result in any incremental demand charges.

D. Pursuant to Section 5 of Act 69, SEMCO Gas has provided in detail the territory in which it will operate under the requested Certificate by referencing the map attached to the Application as Exhibit B.

E. SEMCO Gas, a public utility subject to this Commission's jurisdiction, provides service in St. Clair County where Mussey Township is located. SEMCO Gas represents that it will provide gas of a suitable pressure and composition, and any facilities will be constructed in conformance with the Michigan Gas Safety Code in effect at the time of installation.

F. No party participating in this docket has raised objection to the Commission issuing the requested Certificate.

G. SEMCO Gas should be granted the requested Certificate of Public Convenience and Necessity.

7. The parties respectfully request that the Commission promptly issue an order accepting and approving this Settlement Agreement. If the Commission issues an order accepting and adopting the Settlement Agreement without modification, no party will appeal, challenge, or contest the Commission's Order accepting and approving this Settlement Agreement. If the Commission does not accept and approve this Settlement Agreement without modification, this Settlement Agreement shall be withdrawn and shall not constitute any part of the record in this proceeding or be used for any other purpose whatsoever.

8. This Settlement Agreement has been made for the sole and express purpose of reaching compromise among the positions of the signatory parties in Case No. U-21181 without prejudice to their rights to take new and/or different positions in other proceedings. If the Commission approves this Settlement Agreement without modification, neither the parties to this

Settlement Agreement nor the Commission shall make any reference to or use the Settlement Agreement or the order approving it as a reason, authority, rationale, or example for taking any action or position or making any subsequent decision in this case or any other cases or proceedings; provided, however, such reference or use may be made to enforce the Settlement Agreement and order.

9. The stipulations and agreements contained in this Settlement Agreement shall constitute the record needed to support the Commission order in this case.

10. Section 81 of the APA, MCL 24.281, is waived.

Michael J. Orris



2022.06.29


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Dated:

Michael J. Orris (P51232)
Assistant Attorney General
Public Service Division
7109 W. Saginaw Hwy. 3rd Floor
Lansing, MI 48917
(517) 284-8140

Dated: June 7, 2022

Jason T.
Hanselman



Digitally signed by: Jason T. Hanselman
DN: CN = Jason T. Hanselman email =
jhanselman@dykema.com C = AD O =
Dykema OU = Dykema
Date: 2022.06.07 15:45:29 -04'00'

Jason T. Hanselman (P61813)
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PROOF OF SERVICE

STATE OF MICHIGAN)

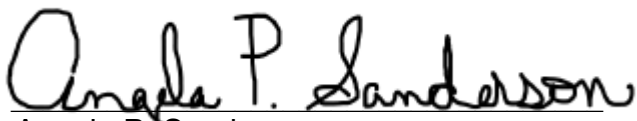
Case No. U-21181

County of Ingham)

Brianna Brown being duly sworn, deposes and says that on July 27, 2022 A.D. she electronically notified the attached list of this **Commission Order via e-mail transmission**, to the persons as shown on the attached service list (Listserv Distribution List).


Brianna Brown

Subscribed and sworn to before me
this 27th day of July 2022.



Angela P. Sanderson
Notary Public, Shiawassee County, Michigan
As acting in Eaton County
My Commission Expires: May 21, 2024

Service List for Case: U-21181

Name	Email Address
Christopher Saunders	saundersc4@michigan.gov
Jason T. Hanselman	jhanselman@dykema.com
Lauren E. Fitzsimons	lfitzsimons@dykema.com
Michael J. Orris	orrism@michigan.gov
SEMCO Energy Gas Company 1 of 2	jennifer.dennis@semcoenergy.com
SEMCO Energy Gas Company 2 of 2	vanessa.gostiaux@semcoenergy.com