2

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter of the application of **MICHIGAN CONSOLIDATED GAS COMPANY** for authority to modify its experimental gas customer choice program.	))))	Case No. U-12050

At the August 17, 1999 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. John G. Strand, Chairman
Hon. David A. Svanda, Commissioner
Hon. Robert B. Nelson, Commissioner

OPINION AND ORDER

On August 4, 1999, Michigan Consolidated Gas Company (Mich Con) filed an application for authority to modify its experimental three-year Customer Choice - Regulatory Reform Plan (the program), which was approved by the Commission's April 28, 1998 order in Case No. U-l 1682, to improve the solicitation and enrollment processes, minimize customer confusion, and ensure that adequate residential customer protection is afforded under the program. As noted in the April 1998 order, the program was designed to introduce competition into the provision of natural gas service in Mich Con's service territory. Operations under Year 1 of the program commenced on January 1, 1999. Gas deliveries from suppliers for redelivery by Mich Con to the suppliers' customers participating in Year 1 of the program commenced on April 1, 1999.

Mich Con states that it has reviewed its experiences and evaluated the results of operations under Year 1 of the program and has determined that certain changes should be implemented concurrent with the proposed commencement of program Year 2 on November 1, 1999. These changes are intended to benefit customers and natural gas suppliers that participate in the program. As described in Mich Con's application and in Attachment A to the application, the proposed modifications should improve the customer enrollment process for suppliers. At the same time, these changes should ensure that appropriate protections are in place to provide customers with a better understanding of the program and to facilitate customers' evaluation of the merits of program participation. The proposed program tariff modifications necessary to implement these changes are set forth in Attachment B to the application.

Description of Program Modifications and Tariff Revisions

In its April 28, 1998 order, the Commission authorized Mich Con's use of the name "Mich Con Select" in conjunction with the program. According to Mich Con, use of that name generated significant customer confusion, with many customers complaining to Mich Con and the Commission Staff (Staff) that they did not clearly understand from whom they were purchasing their natural gas supplies. To minimize customer confusion in the future, Mich Con proposes to discontinue use of the "Mich Con Select" name and to commence operations during Years 2 and 3 of the program under the more generic name of "Gas Customer Choice." Mich Con proposes that gas suppliers participating in the program be required to (a) use the "Gas Customer Choice" name in all future supplier solicitation materials, supplier contracts, and supplier contacts with customers, and (b) eliminate the use of the name "Mich Con" in all customer materials except as required by other express provisions of the program.

During Year 1 of the program, participating suppliers were allowed to enroll customers during either of two enrollment periods, designated as the initial and supplemental enrollment periods, which began on January 1 (initial) and ended May 15 (supplemental). For Years 2 and 3 of the program, Mich Con proposes to eliminate the dual-phase enrollment process in favor of a single enrollment period beginning November 1 for the applicable program year and ending on the earlier of February 28 of the following year or the dates on which the applicable total participation caps are met. To coincide with the proposed enrollment period change, all references to supplemental enrollment period delivery dates will be eliminated from Mich Con's existing tariffs and all deliveries made by suppliers participating in the program will begin on April 1 of the applicable program year.

Mich Con goes on to state that switching to a single enrollment period will benefit suppliers by minimizing the number of modifications to the supplier aggregation agreements that would have otherwise resulted from continued use of the supplemental enrollment period. According to Mich Con, a single enrollment period also affords suppliers additional flexibility in deciding when to implement their program solicitation activities. It further claims that customers also should benefit from the opportunity to evaluate supplier offers during the earlier, more clearly defined, enrollment period. In conjunction with this change, Mich Con asserts that it will establish a goal of completing its validation of supplier enrollment and de-enrollment files within five business days of the supplier's enrollment or de-enrollment posting to Mich Con's electronic bulletin board.

In a further effort to minimize customer confusion, Mich Con proposes to educate customers at its own expense regarding their right to choose their natural gas supplier. Mich Con contends that it will alert customers about their right to choose via (1) a bill message prior to the beginning of the enrollment period, (2) an educational brochure to be included in customer bills prior to the beginning of the enrollment period, and (3) a reminder bill message distributed midway through the enrollment period regarding the ongoing enrollment process. Mich Con asserts that it will continue the practice of providing the Staff with the opportunity to review its Gas Customer Choice program customer communications materials prior to their release to customers.

Mich Con goes on to assert that, during Year 1 of the program, customers lodged approximately 2,000 complaints with Mich Con and the Staff regarding various aspects of the solicitation and enrollment process. Mich Con proposes a number of safeguards designed to decrease the number and likelihood of residential customer complaints. Effective with commencement of the Year 2 solicitation and enrollment process, Mich Con proposes to take the following steps to enhance residential customer protection:

- Impose a 30-day unconditional cancellation period beginning the day after a new supplier contract is signed by a residential customer;

- Require the use of no less than 12 point type in all contracts between suppliers and customers;

- Demand the prominent display of the supplier's name, address, and toll-free telephone number in all contracts between suppliers and customers;

- Require the use of the generic "Gas Customer Choice" name in all supplier/customer contracts and solicitation materials, and the elimination of the name Mich Con (or reference to Mich Con or Mich Con Select) from all such materials, except when referencing Mich Con's safety-related messages or Mich Con's role as the transporter of the customer's gas;

- Mandate the inclusion in supplier/customer contracts of an acknowledgment above the customer signature line, in no less than 14 point type, indicating that the customer (i.e., the account holder, the person authorized to execute a contract on behalf of the account holder, or the spouse of the account holder) understands that he or she is switching gas suppliers, that Mich Con will continue to deliver gas supplies to customers, and that the account holder or the person who signed the contract on behalf of the account holder has 30 days within which to cancel the contract;

- Require that suppliers' contracts and customer solicitation materials be provided to the Staff for review before such materials are used in the marketplace;

- Require that suppliers leave a copy of their contracts with customers; and
- Require that suppliers' representatives or agents prominently display identification indicating that they are employees or agents soliciting business on behalf of the supplier.

Mich Con states that, among other things, these proposed program changes will provide residential customers a reasonable period of time to appropriately consider their decision to choose a new gas supplier.

Mich Con further notes that during Year 1 of the program, a customer's right to cancel a gas supply contract was limited to the statutory three-day period following execution of that contract. According to Mich Con, this limitation created problems for customers who had reconsidered or misunderstood their decision to participate in the program but could not act within the statutory three-day period. To minimize those problems and to better protect residential customers during the solicitation and enrollment periods for the remainder of the program, Mich Con proposes to enhance its program tariff to permit unconditional cancellations of new supplier contracts within 30 days of their execution. Mich Con states that this expanded right to cancel, which may be exercised either verbally or in writing, allows a reasonable period of time within which a customer can reconsider participation in the program. If the right to cancel a contract is exercised within 30 days of execution by verbal or written communication with the supplier, and the supplier subsequently submits the required de-enrollment file to Mich Con, the customer may obtain gas supply from Mich Con or may choose a new supplier if the enrollment period is still open.

Mich Con also notes that the program tariff currently grants suppliers the unilateral right to cancel a customer contract and return the customer to Mich Con. For the remainder of the program, Mich Con proposes that a supplier's right to cancel a customer contract and return the customer to Mich Con be expressly limited to circumstances in which the customer fails to pay the supplier's charges. Pursuant to this proposed revision, a supplier wishing to return a customer to Mich Con for nonpayment of the supplier's charges must provide a customer de-enrollment file to Mich Con. Within 35 days of receipt of the customer de-enrollment file from the supplier, Mich Con will terminate the applicable supplier-customer relationship.

Mich Con goes on to state that some contracts used by suppliers in Year 1 of the program contained an "evergreen" clause providing for automatic customer re-enrollment upon expiration of the initial contract period. Such clauses placed the burden of canceling supplier contracts on the customer. During program Years 2 and 3, Mich Con proposes that residential customers be given the right to terminate their contracts with suppliers at any time if the initial contract term has expired and the supplier has exercised the "evergreen" clause's right to re-enrollment. Customers choosing to terminate their contracts would be allowed to do so either verbally or in writing. Moreover, once the supplier is notified of the customer's intention to terminate a contract, the supplier would be required to submit a de-enrollment file to Mich Con within a reasonable number of days.

During Year 1 of the program, Mich Con sent confirmation letters to all customers who exercised their right to choose a new gas supplier. Mich Con states that most customers also received confirmation or welcome letters from their new supplier, as well as de-enrollment letters when applicable. For Years 2 and 3 of the program, Mich Con proposes to discontinue its confirmation letter practice and to permit suppliers participating in the program to send confirmation letters if they so choose. According to Mich Con, this proposed change will provide suppliers the flexibility to structure their own confirmation letters including congratulatory or other messages that reinforce the customer's choice. However, Mich Con continues, these confirmation letters must include Mich Con safety-related messages, such as Mich Con's leak response telephone number.

Mich Con will provide suppliers with all necessary safety related messages within a reasonable time in advance of the November 1, 1999 program solicitation period.

Further, for suppliers choosing to send confirmation letters, Mich Con requests that they be required to do so within seven days of the supplier's receipt of Mich Con's validated enrollment file. Mich Con further requests that if a supplier chooses not to issue a confirmation letter, or elects to issue a confirmation letter after the 30-day cancellation period addressed above, the affected customers should be given the right to cancel their contract through either written or verbal communication with the supplier within 30 days of the receipt of their first bill for gas services that reflects charges for the supplier's services. Again, upon customer notice to the supplier of the customer's intention to terminate a contract. the supplier would be required to submit a de-enrollment file to Mich Con within a reasonable number of days.

To aid supplier identification of customers taking service under special utility- or state-sponsored programs, such as the Heat Bank, Case Management, and Winter Protection Programs, Mich Con proposes to provide suppliers with a generic description of those programs. According to Mich Con, this will allow suppliers the opportunity to tailor their sales presentations in ways that would identify those customers for the purpose of determining whether the supplier wants to solicit the customer's business. Mich Con further proposes that if a customer taking service under a special utility- or state-sponsored program elects a new supplier and subsequently determines that the utility- or state-sponsored program was more advantageous, the customer should be given the right to de-enroll within 30 days of receipt of the first gas bill containing the supplier's charges. Under Mich Con's proposal, the customer or customers would have the right to cancel their contract with the supplier through either written or verbal communication with the supplier. Upon customer notice to the supplier of a customer's intention to terminate a contract, Mich Con continues, the supplier would be required to submit a de-enrollment file to Mich Con within a reasonable number of days.

If a supplier agrees to provide Mich Con with advance copies of the supplier's program solicitation materials, Mich Con states that it will agree to exchange copies of its program solicitation materials 24 hours in advance of the materials' public disclosure or distribution to customers. The proposed exchange is intended to provide customer service representatives (CSR) for the participating suppliers and Mich Con an opportunity to prepare for customer calls related to program solicitation materials.

In conjunction with this reciprocal arrangement, Mich Con proposes that participating suppliers be subject to the requirement, currently imposed only on Mich Con, that all supplier program solicitation materials be submitted to the Staff for review and comment at least five business days prior to mailing to the public.

In order to afford thorough investigation of complaints concerning misrepresentations about a supplier by a Mich Con CSR, Mich Con has developed (and made available to suppliers) a standardized complaint form. According to Mich Con, suppliers completing the complaint form and returning it to Mich Con will be advised of the resolution of each substantiated complaint that is submitted. Because misrepresentations about Mich Con by a supplier's CSR or agent may also occur, Mich Con proposes that suppliers be required to follow this same complaint process, including the requirement that the supplier advise Mich Con of the resolution of a substantiated complaint.

To help customers deal directly with suppliers and for those occasions when customer contacts about suppliers escalate to complaints made to Mich Con or the Staff, Mich Con states that it will encourage all suppliers participating in the program to provide Mich Con with a special phone number that customers may use to receive priority handling when contacting their supplier. Mich Con will equip each of its CSRs with a list of the special, supplier-provided phone numbers in order to assist program customers in contacting their suppliers.

To facilitate the provision of clear, accurate, and content-neutral information to program customers, Mich Con proposes to provide a training program package to its CSRs before the commencement of program Year 2. Mich Con further proposes to make its training package available to the Staff for review in advance of its implementation in order to allow for Staff verification of the content-neutral nature of the training package.

Mich Con states that it uses a standardized credit evaluation procedure to determine the amount of credit Mich Con will extend to suppliers to satisfy program deposit requirements. For program Year 2, Mich Con proposes to add surety bonds to the list of methods available to suppliers to satisfy program deposit requirements. Mich Con states that it is also willing to discuss modification of the parental guarantee language included in its program credit procedures to the extent that Mich Con can reach an acceptable uniform parental guarantee agreement with participating suppliers. The proposed modifications to the program credit procedures are reflected in Attachment D to the application.

The program tariff changes that are identified in Attachment B to the application include a proposed requirement that suppliers participating in the program meet certain basic Commission-approved informational requirements. Specifically, Mich Con proposes that each participating supplier be required to provide the Staff with certain business information including its corporate name and address, a working daytime telephone number, a toll-free telephone number, and the name of the agent registered by the supplier as part of the supplier's application to conduct business within the state of Michigan. Mich Con asserts that these proposed program modifications enhancements will provide the Staff and customers with the information necessary to contact suppliers to address business-related matters.

Mich Con goes on to state that customers that participate in the program and then move to a different location within Mich Con's service territory cannot retain their gas supplier of choice and are automatically removed from the program and returned to Mich Con's gas supply. To reflect such customer mobility, Mich Con proposes to modify the program by accepting 5,000 additional customer enrollments above the Year 2 cumulative total customer cap of 150,000 customers. According to Mich Con, this will allow the customer participation to more closely approximate the Year 2 cap of 150,000 customers.

Mich Con also states that suppliers participating in the program must execute a supplier aggregation agreement (SAA) with Mich Con. For program Year 2, Mich Con proposes to modify the SAA to reflect the Year 2 program modifications proposed in the application. The proposed modifications to the SAA are set forth in Attachment C to the application.

Discussion

After reviewing the application and Attachments A through D to the application, the Commission finds that Mich Con's proposed program modifications and tariff revisions are reasonable and in the public interest, and should be approved. This finding reflects the Commission's belief that the experimental program with its alternative, flexible regulatory mechanisms is appropriate in view of the changing nature of the gas utility industry. Based on program Year 1 experiences, the proposed program modifications and tariff revisions are consistent with that belief and should improve the solicitation and enrollment processes, minimize customer confusion, and ensure that adequate residential customer protections are continued. The Commission agrees with Mich Con that the program modifications and tariff revisions should be implemented concurrent with the November 1, 1999 commencement of program Year 2.

Approval of Mich Con's application will not increase the rates and charges for any customer. Therefore, the Commission finds that it may approve the program modifications and tariff revisions without providing notice or an opportunity for hearing, pursuant to MCL 460.6a; MSA 22.13(6a).

The Commission FINDS that:

a. Jurisdiction is pursuant to 1909 PA 300, as amended, MCL 462.2 et seq.; MSA 22.21 et seq.; 1919 PA 419, as amended, MCL 460.51 et seq.; MSA 22.1 et seq.; 1939 PA 3, as amended, MCL 460.1 et seq.; MSA 22.13(l) et seq.; 1969 PA 306, as amended, MCL 24.201 et seq.; MSA 3.560(101) et seq.; and the Commission's Rules of Practice and Procedure, as amended, 1992 AACS, R 460.17101 et seq.

b. Mich Con's application for authority to implement program modifications and tariff revisions for the three-year experimental Customer Choice Program approved by the Commission's April 28, 1998 Order in Case No. U-l 1682 should be approved.

c. The program, as modified by the enhancements and tariff revisions set forth in Mich Con's application and Attachments A through D to the application, is reasonable and in the public interest, and is consistent with the policy of the Commission and the State of Michigan to promote competition and customer choice in the gas utility industry.

d. The relief granted in this order will not increase the rates or charges of any customer and the public interest will be adequately protected without the time and expense of a public hearing.

THEREFORE, IT IS ORDERED that:

A. Michigan Consolidated Gas Company is authorized to implement the program modifications and tariff revisions set forth in its application and Attachments A through D to the application, effective November 1, 1999.

B. Except as modified by this order, the three-year Gas Customer Choice – Regulatory Reform Plan approved by the Commission's April 28, 1998 order in Case No. U-l 1682 remains in effect.

C. Michigan Consolidated Gas Company shall, within 30 days of this order's issuance, file tariff sheets incorporating the modifications and revisions approved in this order.

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; MSA 22.45.

MICHIGAN PUBLIC SERVICE COMMISSION

(SEAL)

/s/ John G. Strand
Chairman

/s/ David A. Svanda
Commissioner

By its action of August 17, 1999.

/s/ Robert B. Nelson
Commissioner

/s/ Dorothy Wideman
Its Executive Secretary

THEREFORE, IT IS ORDERED that:

A. Michigan Consolidated Gas Company is authorized to implement the program modifications and tariff revisions set forth in its application and Attachments A through D to the application, effective November 1, 1999.

B. Except as modified by this order, the three-year Gas Customer Choice – Regulatory Reform Plan approved by the Commission's April 28, 1998 order in Case No. U-l 1682 remains in effect.

C. Michigan Consolidated Gas Company shall, within 30 days of this order's issuance, file tariff sheets incorporating the modifications and revisions approved in this order.

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; MSA 22.45.

MICHIGAN PUBLIC SERVICE COMMISSION

John Strand

Chairman

David A. Svanda

Commissioner

Robert B. Nelson

Commissioner

By its action of August 17, 1999.

D. Videmore

Its Executive Secretary

PROOF OF SERVICE

STATE OF MICHIGAN)
)
County of Ingham)

Case No. U-12050

Marcia Hoskins, being duly sworn, deposes and says that on August 17, 1999, A.D. she served a copy of the attached order, by mailing copies thereof by first class mail, postage prepaid, or by inter-departmental mail, to the persons as shown on the attached service list.

Marcia Hoskins

Subscribed and sworn to before me
this 17th day of August 1999.

Catherine H Bowers

Notary Public, Ingham County, Michigan
My Commission expires November 22, 1999

SERVICE LIST FOR DOCKET U-12050

MICHIGAN CONSOLIDATED GAS COMPANY
500 GRISWOLD STREET, 21ST FLOOR
DETROIT, MI 48226