

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter, on the Commission's own motion,)	
to consider the appropriate regulatory response to)	
proposals by various producers of natural gas from)	Case No. U-16230
Antrim Shale Formation to operate their wells)	
under a vacuum.)	
_____)	

At the March 8, 2012 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. John D. Quackenbush, Chairman
 Hon. Orjiakor N. Isiogu, Commissioner
 Hon. Greg R. White, Commissioner

ORDER

On August 24, 2009, HighMount Midwest Energy, LLC (HighMount), Belden & Blake Corporation, d/b/a Ward Lake Energy (Belden & Blake), and Terra Energy Company LLC (Terra Energy) filed separate applications (in Case Nos. U-16074, U-16075, and U-16076, respectively) to obtain approvals, pursuant to R 460.867 (Rule 17) of the Commission's Rules for the Production and Transmission of Natural Gas, to produce certain natural gas wells through the use of vacuum devices. The applications drew the interest of other producers of natural gas. Among others, Chevron Michigan, LLC, f/k/a Atlas Gas & Oil Company, LLC, (Chevron Michigan) filed a petition for leave to intervene in these cases, and appeared at the October 13, 2009 prehearing conference before Administrative Law Judge Mark D. Eyster (ALJ). The Commission Staff

(Staff) also participated. At the prehearing conference, the ALJ consolidated the three actions, and granted all of the intervention requests.

On April 27, 2010, the Commission issued an order in this matter on its own motion, finding that, rather than engaging in a piecemeal, case-by-case adjudication process with respect to the entire Antrim Shale Formation on the issue of operation under vacuum, the Commission should take action to broaden the proceedings. The Commission stayed further proceedings in Case Nos. U-16074, U-16075, and U-16076, and opened this docket to consider the Commission's appropriate regulatory response to proposals by all interested persons regarding the issue of whether the Commission should permit gas wells to be operated under vacuum within the Antrim Shale Formation. The Commission determined that all current applicants and intervenors in the related cases are parties to Case No. U-16230. The Commission further found,

[B]ecause the Commission believes it needs to have a better basis for understanding the issues, the ALJ's initial focus shall be on the gathering of background information. Toward that end, a liberal use of the MPSC's right to officially recognize "general, technical or scientific facts within the agency's specialized knowledge" pursuant to MCL 24.277 is encouraged. After developing a record on the history of Antrim Shale Formation production, the ALJ shall launch into developing a record that addresses the proposals put forth by the producers regarding whether the Commission should allow the production of gas from Antrim Shale Formation natural gas wells through the use of vacuum devices and the effect that allowing or rejecting such operations might have on the Commission's obligation to protect correlative rights, to safeguard the general public, and to prevent economic waste.

April 27, 2010 order, p. 6.

Several more parties intervened in this matter, including Linn Midwest Energy, LLC, Linn Operating, Inc., BreitBurn Operating, LP, BreitBurn Management, LLC, Enervest Management Partners, LP, Enervest Institutional Fund IX, LP, and Merit Energy Company, LLC. All of these parties, along with Terra Energy and Belden & Blake (collectively, the Applicants), issued a subpoena duces tecum and a subpoena (collectively, the subpoenas) to Chevron U.S.A. Inc. (Chevron) on July 29, 2011. The subpoenas sought information regarding Chevron's operation of

gas wells under vacuum in New Mexico, Texas, and Michigan. On August 17, 2011, Chevron filed a motion to quash the subpoenas. On September 14, 2011, the ALJ held a hearing on the motion to quash and denied the motion. 20 Tr 3378-3380. On September 15, 2011, the ALJ issued a written ruling denying the motion for the reasons stated in the record. On September 29, 2011, Chevron filed an application for leave to appeal the ruling pursuant to R 460.17337 (Rule 337) of the Commission's Rules of Practice and Procedure.

In an order issued on November 10, 2011 (November 10 order), the Commission found that Chevron is subject to the subpoena power of the Commission under both MCL 460.56 and MCL 462.23. The Commission granted the application for leave to appeal, but denied the relief requested.

On November 22, 2011, Chevron Michigan filed a petition in Ingham County Circuit Court for interlocutory review of the November 10 order, and on November 28, 2011, Chevron also filed a petition for review of the November 10 order in that court.

The parties subsequently settled their discovery dispute. On February 29, 2012, the Applicants, Chevron, Chevron Michigan, and the Staff filed a joint motion to vacate the November 10 order. In the motion, the parties agree that if the order is vacated: (1) all petitions for interlocutory review will be withdrawn; (2) Chevron will make inquiries and provide discovery as detailed in the motion; (3) the Applicants will issue no further discovery requests to Chevron; and (4) a standard protective order will be used where needed. The parties acknowledge that the Commission is not prevented "from issuing a similar order should a similar issue arise again." Joint motion to vacate, pp. 3-4.

The Commission finds that granting the motion will serve the public interest by reducing litigation, preventing delay to the underlying proceeding, and facilitating the voluntary and expedient exchange of information.

THEREFORE, IT IS ORDERED that the November 10, 2011 order in this matter is vacated.

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, under MCL 462.26.

MICHIGAN PUBLIC SERVICE COMMISSION

John D. Quackenbush, Chairman

By its action of March 8, 2012.

Orjiakor N. Isiogu, Commissioner

Mary Jo Kunkle, Executive Secretary

Greg R. White, Commissioner

P R O O F O F S E R V I C E

STATE OF MICHIGAN)

Case No. U-16230

County of Ingham)

Mignon Middlebrook being duly sworn, deposes and says that on March 8, 2012 A.D. she served a copy of the attached Commission Order by first class mail, postage prepaid, or by inter-departmental mail, to the persons as shown on the attached service list.

Mignon Middlebrook

Subscribed and sworn to before me
This 8th day of March 2012

Gloria Pearl Jones
Notary Public, Ingham County, MI
My commission expires June 5, 2016
Acting in Eaton County

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P R O O F O F S E R V I C E

STATE OF MICHIGAN)

Case No. U-16230

County of Ingham)

Lisa Felice being duly sworn, deposes and says that on March 8, 2012 A.D. she served a copy of the attached **Commission Order (Commission's Own Motion) via e-mail transmission**, to the persons as shown on the attached service list (Listserv Distribution List).

Lisa Felice

Subscribed and sworn to before me
this 8th day of March 2012

Gloria Pearl Jones
Notary Public, Ingham County, MI
As acting in Eaton County
My Commission Expires June 5, 2016

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