

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter, on the Commission's own motion,)	
to create a gas choice price comparison website for)	Case No. U-17580
use by customers of all regulated gas utilities.)	
_____)	

At the September 11, 2014 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. John D. Quackenbush, Chairman
Hon. Greg R. White, Commissioner
Hon. Sally A. Talberg, Commissioner

ORDER

In Case No. U-17487, DTE Gas Company filed an application seeking approval for certain proposed changes to its gas customer choice (GCC) program, including the creation of a utility-run gas choice price comparison website. In its March 18, 2014 order in that case, the Commission, seeing value in the creation of such a website but desiring to expand participation in the site to all regulated gas utilities and other interested parties, closed the docket with respect to a DTE Gas-managed website. On March 18, 2014, the Commission, on its own motion, directed the Commission Staff (Staff) to convene a collaborative to explore the creation of a price comparison website to benefit customers from the service areas of all regulated gas utilities.

The Staff held collaborative meetings on May 7, May 28, and June 11, 2014, with approximately 45 people participating in each meeting to discuss a wide range of issues related to a central price comparison website, including the benefits of such a website, its administration,

participation by alternative gas suppliers (AGSs), data reporting requirements, the scope of the Staff's review of information posted on the website, website enforcement, website design, website reference and promotion, and the historical rate information to be shown on the site.

The collaborative consisted of representatives from twelve AGSs, four regulated gas utilities, two customer choice groups, and the Staff. The AGSs included representatives from Constellation Energy Gas Choice, Inc. (Constellation), Southstar Energy Services LLC d/b/a Grand Rapids Energy (GRE), Integrys Energy Services – Natural Gas LLC (Integrys), Interstate Gas Supply, Inc. (IGS), Just Energy Michigan Corp. (Just Energy), Lakeshore Energy Services, L.L.C. (Lakeshore), Michigan Gas & Electric, Inc. (MIG&E), Michigan Natural Gas Company (MNG), My Choice Energy LLC (My Choice), Stand Energy Corporation (Stand Energy), United Energy Trading, LLC d/b/a Kratos Gas & Power (Kratos), and Volunteer Energy Services, Inc. (Volunteer). The gas utilities included Consumers Energy Company (Consumers), DTE Gas Company (DTE Gas), Michigan Gas Utilities Corporation (MGUC), and SEMCO Energy Gas Company (SEMCO). American Coalition of Competitive Energy Suppliers (ACCES) and Reliable Choice Energy participated on behalf of the choice program and in support of customer education.

On July 22, 2014, the Staff submitted its Collaborative Report to the Commission. The Commission allowed for the submission of public comments through August 5, 2014.

Consensus Issues

All participants agreed that gas customers would benefit from a centralized gas choice comparison website that consolidates natural gas pricing information, which would provide both transparency and function as a research tool that customers who are considering gas supply options may utilize. They all agreed that the proposed website should be designed to be a user-friendly resource that is available to assist customers in making informed decisions.

The participants recommended that the Commission name the website “Compare MI Gas” and that, depending on its availability, the web address to be used for the website would be MI.gov/CompareMIGas. They recommended that the Staff assume the responsibility for the development and administration of the website, and that the Staff, working with the Department of Technology, Management & Budget (DTMB), would create a website very similar to the functionality of the Ohio Public Utility Commission’s “Apples to Apples” price comparison website. Provisionally, the participants recommended that, if the Staff or DTMB are unable to develop the website, its development would be subcontracted to a third party with the Staff retaining responsibility for administering the site once it is developed. The website is anticipated to take approximately three months to build at a cost of \$30,000, which would be funded by the Public Utility Assessment (PUA).

Regarding the level of participation by the AGSs, the participants recommended that any AGS that is actively marketing or enrolling customers be required to submit pricing information to the website. They agreed that mandatory participation will ensure that the website contains comprehensive pricing information. In terms of reporting requirements, AGSs will be required to submit pricing information to the website by logging in electronically to the web-based interface with a username and password. The participants recommended that both generally-available fixed price and variable price offers be posted to the website for both residential and small commercial customers, and that such offers should be submitted “as often as technically feasible” which might translate to updates as frequently as daily. Although the AGS would submit the pricing information electronically, the information would not appear on the website until the Staff performs a cursory review of the information to check for obvious errors and to ensure that the offers are consistent with the tariff. AGSs would be limited to posting up to five offers per offer type (i.e.

fixed price or variable price offer type) within each service territory. Participants recommended that AGSs both honor the rates and all terms and conditions of the products posted on the website and that they be allowed to offer products in the marketplace that reflect lower prices than those posted on the website. However, they also recommended that the AGSs should not offer products that reflect higher prices than the prices posted on the website.

Regarding the scope of the Staff's review, the participants agreed that the Staff would conduct four essential functions with respect to the website. The first would be the cursory review of pricing information an AGS electronically submits to the website for obvious errors and consistency with tariff requirements, which should be done before the information is made public on the website. In addition, the Staff would conduct a "dormancy review" to identify any AGS that has failed to update its information within a 90-day period, by, for example, populating or expiring information that it posts to the website. As part of this review, the Staff will follow up with the AGS to discuss the situation and to develop appropriate corrective measures. The report explains that an AGS that has made at least one web-posting within the most recent 90-day period will not be considered dormant. In addition to the cursory and dormancy reviews, the Staff will also monitor all GCC complaints regarding the website and will contact the appropriate AGS or utility about any issue that arises. Finally, the Staff will be required to maintain a record of all posted offers for a minimum of two years.

To regulate the content of the website, the participants recommended the Commission approve a document entitled "Terms and Conditions of the Compare MI Gas Website" attached to the Staff's collaborative report as Attachment A, as well as an updated AGS Licensing Application attached to the report as Attachment B. The participants further recommended that the Commission require utilities to update their tariffs to include the additional language reflected in

the DTE Gas tariff sheets attached as Attachment C to the report. The additional tariff language includes updates to Customer Protections, Solicitation Requirements, and Supplier Licensing and Code of Conduct. Currently licensed AGSs would be required to comply with the tariffs, and Consumers, DTE Gas, MGU, and SEMCO would be required to submit updated tariff sheets within 30 days of the date of this order.

The participants also agree that there should be consequences for an AGS's failure to abide by the Terms and Conditions document. After the Staff provides an AGS with timely notice and an opportunity to cure any alleged violations of the Terms and Conditions, including but not limited to the failure to report information or for reporting inaccurate information on the website, the Staff may suspend AGS customer enrollments within the affected utility service territory. This would be done through a Staff-drafted letter in the AGS licensing docket. Likewise, the Staff or the Commission will have the ability to remove a Staff-issued suspension. Finally, the participants recommended that the Commission exercise its discretion in imposing consequences for repeated or continuous failures to abide by the Terms and Conditions which may include, but are not limited to, suspension of AGS customer enrollments within the affected utility service territory and revocation of AGS eligibility within the affected utility service territory.

The report also outlines the relevant educational content to be included on the website including specifics of each offer, customer-friendly energy choice video clips, a glossary of terms, frequently asked questions, and questions to ask the AGS. In addition, the participants recommended the Commission require AGSs and utilities to provide a graphic logo in a format acceptable to the Staff for use on the website.

Disputed Issues

Website Promotion

Regarding reference to and promotion of the website, all participants agree that the website should be marketed and promoted so that customers learn about and can benefit from it. Thus, all participants encourage Commission-sponsored efforts to promote the website. However, disagreement exists among the participants about the roles of the AGSs and utilities in marketing and referencing the website.

Regarding those roles, the participating AGSs presented a united front recommending that the website be referenced on both residential and small commercial contracts as well as on all choice-eligible customer utility bills. However, they rejected the recommendation that an AGS would be required to include such a reference on any print marketing materials distributed as a condition of compliance with the website, because they contend that this would be a counter-productive business practice akin to requiring Pepsi to include the Coca-Cola website on its printed material. The report explains that early in the collaboration, the participating AGSs were opposed to a reference to the website on *any* AGS materials and that, as time went on, these participants, in an effort to reach a consensus, agreed to include the reference on residential and small commercial contracts.

In contrast, the utilities recommended that the AGSs reference the gas choice website on the AGSs' individual websites, contracts, and on any printed advertising flyers, handouts, direct mailers and AGS confirmation letters for residential and small commercial customers. The utilities claim that requiring AGSs to reference the gas choice website on written materials is essential to informing customers about the website and to give customers the information they need to make an informed choice on available gas supply options.

The Staff recommended that the AGSs be required to reference the website in its contracts and on any printed advertising flyers, handouts and direct mailers for residential and small commercial customers. This requirement would exclude reference to the website via the following media: radio, TV ads, billboards, telemarketing and door-to-door marketing scripts, confirmation letters, third-party verification (TPV) scripts, as well as an AGS's website, social media, or texts. The Staff considers this its primary recommendation. The Staff also offered a less onerous secondary recommendation that the AGSs simply be required to reference the website in residential and small commercial contracts. The Staff explained that all of its recommendations (primary and secondary alike) would require the AGSs to provide only pre-sale disclosure of the website, which would aid customers in making an informed decision. It distinguishes its recommendations from those of the utilities by pointing out that the utilities' position on the issue requires *both* pre-sale and post-sale references to the website. The Staff limited the disclosures to pre-sale disclosures because of concerns that post-sale references to the website on enrollment materials would lead to customer confusion and customer complaints.

On the issue of any recommendation requiring an AGS to reference the website on the AGS's company website, or to require a utility to reference the gas choice price comparison website on the customer bill or as a bill insert, the Staff's report indicates that, if the Commission were to approve these recommendations, the Staff would not oppose the decision. The Staff believes both of these suggestions are reasonable measures to promote the website that would not affect the enrollment process.

The utilities filed written comments on this issue, claiming that a reference to the price comparison website should be included on the AGSs' company websites and on all written materials, including confirmation letters, that an AGS provides to customers because these

references are essential to the goal of the website to provide customers with meaningful information regarding the AGS prices available to them. The utilities argue that the Staff's pre-sale/post-sale rationale for limiting the website reference to only certain publications is misplaced because customers need to receive meaningful price information all of the time, and not just when it suits the AGSs' marketing purposes. They argue that the Staff's concerns about customer confusion and complaints should not dissuade the Commission from ensuring that potential GCC customers are informed of the website's existence. They further maintain that including the reference on the AGSs' websites and in confirmation letters should actually lessen customer confusion by better informing customers.

The utilities further argue that the Commission should reject the AGSs' proposal that the reference be included in all GCC-eligible customer bills or bill inserts, because utility bills and bill inserts already display a significant amount of utility-specific customer information. Rather, the utilities express their intention to voluntarily provide customers with information regarding the website in a variety of forums, including on their websites, and in periodic mailings. However, they contend they should not be required to reference the comparison website in every bill or bill insert.

The Retail Energy Supply Association (RESA) submitted comments on behalf of the participating AGSs that took part in the collaborative. The organization's comments reiterated many of the same concerns the AGSs voiced during the collaborative meetings. With regard to the marketing and promotion of the website, the organization supports the Commission's and other agencies' future efforts, including a reference to the website in materials, and in the case of utilities, on the invoices sent to all choice-eligible customers. However, RESA states that requiring individual AGSs to promote the website address and competitor information in their

company-specific materials would be confusing and a counter-productive business practice in a competitive market. RESA reiterates that, in order to achieve consensus, the participating AGSs were willing to refer to the website in their residential and small commercial contracts. RESA explains that these contracts delineate the terms of the AGS's offer and notify customers of their rescission rights. It points out that this reference gives customers the opportunity to compare the offer in the contract with those of other AGSs during a time when the customer is still able to rescind the agreement without penalty. It further claims that any additional requirements that AGSs promote the website in their own materials would result in customer confusion and in the unintended consequence of discouraging the AGSs from providing promotional materials to Michigan gas choice-eligible customers.

Having considered the various arguments of the participants in this collaborative on this issue, the public comments submitted during the comment period, and relevant case law on the matter, the Commission concludes that any reference or promotion of the website by the utilities or the AGSs should be discretionary and cannot be compelled. Although the Commission encourages the reference to and promotion of the website, the website's promotion or reference is entirely discretionary. Accordingly, despite the recommendations that the AGSs or utilities be required to promote and refer to the website, the Commission imposes no such requirements.

Historical Rate Information

The second disputed issue involves the inclusion of historical rate information on the website. The participating utilities supported a recommendation that would require AGSs to post historical data. They included a methodology to be used to calculate this data, which is attached to the Staff's report as Attachment F. MNG opposed the inclusion of a historical chart of aggregated AGS pricing because such information would not be a fair portrayal of the marketplace given the

wide variety of pricing structures. The participating AGSs adopted the position that historical AGS rate information should not be required or posted on the website for the following reasons: (1) average rates are confidential business information not appropriate for publication on a public website; (2) at any given point in time, an AGS may make different offers, such as a 12-month fixed price, a 24-month fixed price, a 36-month fixed price and a variable price product, which would result in four separate prices that could be used to compare the utility GCR; (3) the fact that fixed price offers change due to changes in market prices over time, and due to the volume of gas supply a given customer purchases; (4) the detrimental effect that such historical price data could have on an existing customer who received a more expensive fixed price offer than other past customers received; and (5) the fact that such historical price data ignores non-price product attributes such as slightly more expensive products that include only green energy, or offer incentives such as gift cards.

The participating AGSs rejected the utilities' proposed method for calculating historical data found in Attachment F to the report for the following reasons: (1) it publishes confidential price information, and aggregating AGS rates will confuse customers; (2) historic price reporting of average unit prices is not valuable or informative for customers looking at fixed price offers without the context of the month in which the fixed price contract began; (3) it creates confusion for existing customers who do not receive the historical posted prices; (4) it ignores the impact of non-price product attributes such as contract terms, etc.; (5) a potential lack of consistency exists across AGSs when calculating their prices; and (6) during late summer and early fall, a six-month calculation will exclude most of the heating season impacts which could result in a misleading outcome, specifically for variable rate products, whereas extending the calculation beyond six months will increase the complexity of an already challenging process with other serious flaws.

The Staff considered several options and provided a primary as well as an alternative recommendation in its report on the issue. The Staff's preference was to post 12-month historical gas cost recovery (GCR) information for each utility in a fashion similar to Attachment G of its report. Its rationale for this recommendation is that customers in other states have requested that this historical information be included in gas choice price comparison websites similar to the one envisioned here. Alternatively, the Staff recommended that snapshots of the proposed website would be used to populate historical information on a going-forward basis in addition to the inclusion of the 12-month historical GCR information for each utility that the Staff recommends be disclosed.¹

Regarding the utilities' proposal that AGSs be required to disclose historical price information, the Staff indicated it opposed this proposal for the very same reasons articulated by the participating AGSs. Additionally, the Staff was concerned that the utilities' proposal would be administratively burdensome because it would be very time consuming for the Staff to review the historical data to ensure its accuracy due to the volume of information and the number of AGSs. In contrast, the Staff argues that a less-burdensome alternative would be to provide the snapshots of the proposed website in the future.

During the public comment period, the utilities submitted a comment regarding the inclusion of historical AGS price information on the proposed website. The utilities claim that the reasons the AGSs articulated during the collaborative for excluding AGS historical rate information do not justify its exclusion from the website. They contend that customers consider historical rate information important in making their decisions about current rate offers. According to the

¹ The snapshots the Staff proposes are pdfs of screen printouts similar to those that the Ohio Public Utility Commission provides in its price comparison website showing past posted rates for each type of offer published on the website on a particular date. The Staff envisions posting this historical rate information at least bi-monthly.

utilities, the Staff has acknowledged that customers find historical rate information useful and believes that many GCC customers decide to take service from AGSs because of their analysis of past utility GCR rates.

According to the utilities, the very purpose of the proposed website, namely to disclose rates, undermines the AGSs' claim that price information is confidential. They argue that releasing historical price information poses no more competitive harm than the required release of current price information. Regarding the argument that the historical rate information does not always reflect the prices that current customers are being charged and does not reflect non-price incentives, the utilities argue that this rationale ignores the fact that historical rate information is an important piece of data that customers can use to make more informed purchase decisions. As to the contention that it would be administratively burdensome to complete weighted historical AGS rate information, the utilities clarify that each AGS would be required to supply this information and that the Staff would not be responsible for compiling and preparing this data on behalf of all the AGSs. They argue that Attachment A of their comments shows that the process is straightforward and that the compilation and publishing of historical rate information is not unnecessarily complicated or an unreasonable exercise.

Regarding the Staff's proposal in its secondary recommendation that a snapshot of website price information be included as historical rate information on the website, the utilities argue that this alternative is less desirable because it does not demonstrate what the customers of AGSs actually paid. The utilities further argue that, if the Commission concludes that AGSs should not be required to provide historical rate data regarding what their customers have actually paid, then the website should similarly exclude historic GCR price data. This is because the utilities claim it would place them at a competitive disadvantage to require the release of the utilities' historical

data but not require the equivalent from the AGSs. And, this proposal would not provide the customers with all of the historical rate information necessary for them to make reasonably informed gas purchase decisions.

RESA commented that the participating AGSs were supportive of the Staff's various proposals on this issue but that they disagreed with the utilities' historical weighted average pricing proposal. It referred back to the collaborative report as setting forth the AGSs' arguments for the reasons and examples of why the Commission should reject this proposal. RESA further points out that the proposal is both burdensome and does not result in any meaningful data which is useful or beneficial to Michigan consumers.

Having considered the various proposals recommended by the collaborative participants on this issue, the Commission adopts the second of the Staff's recommended proposals that includes the listing of the utilities' 12-month historical pricing information for GCR customers as well as a snapshot of the proposed website on a going-forward basis. The Commission concludes that it would be inequitable to require utilities to provide historical pricing information without also requiring some kind of historical pricing for the AGS participants. However, the Commission rejects the utilities' proposal to furnish historical price data that contains a weighted average of AGS pricing because no customer ever paid the weighted average, which is just a calculated number that is of little relevance for the Michigan gas customer. The Commission also finds that many of the concerns the AGSs have raised about the difficulties of providing historical rate information have merit.

RESA's disclaimer request

In the comments RESA filed with the Commission, the organization points to an area of potential confusion and requests that certain disclaimer language be added to the website to clarify

that, although the website is limited to comparing gas prices charged for choice-eligible residential and small commercial customers, large commercial and industrial customers may still choose to purchase gas choice gas supply and that they are not prohibited from doing so just because the price comparison website is directed to a different type of customer. The Commission has considered the proposed disclaimer language and finds it reasonable and appropriate for inclusion on the website.

Proposed Terms and Conditions, AGS Retail Access Participation Agreement, and Proposed Tariff Language

The Commission has reviewed the proposed terms and conditions attached as Attachment A to the Staff's Report. The Commission approves that attachment as written, except for the non-consensus items listed on page 2 of that document. The AGSs are not required to reference the website and the terms and conditions should be revised to reflect the fact that AGSs cannot be compelled to reference the price comparison website. In addition, the terms and conditions should reference that the historical rate information included on the site will include 12-month historical pricing information for GCR customers as well as a snapshot of the price comparison website on a going-forward basis.

The Commission has also reviewed the changes to the AGS retail access participation agreement and approves the modifications in the proposed agreement attached as attachment B to the Staff's report, with the exception that the non-consensus items listed on page 6 of that agreement should be changed to reflect the Commission's decision on those issues in the same manner as those changes will be reflected in the terms and conditions document discussed above. Finally, the Commission has reviewed and approves the proposed amended tariff language submitted as Attachment C to the Staff's report, again with the exception that the non-consensus items listed as

F2.8J and F3.2H be amended to reflect the fact that AGSs are not required to reference the price comparison website.

The Commission further concludes that the collaborative report demonstrates the benefits that a price comparison website can offer, and approves of the consensus items set forth in the Staff's report. Therefore, the Commission directs the Staff to work with DTMB to begin the website's development as soon as practicable in anticipation of the upcoming heating season. The Commission appreciates the stakeholder participation and collaboration as well as the Staff's leadership in addressing issues and making this website a reality in order to benefit customers and the competitive market.

THEREFORE, IT IS ORDERED that:

- A. The proposed gas price comparison website is approved.
- B. The Commission Staff shall begin working with the Department of Technology, Management, and Budget to develop the website in anticipation of the upcoming heating season.
- C. The amended tariff language, participation agreement, and proposed terms and conditions are attached as Attachments A, B, and C, respectively, and are approved as provided in this order.
- D. Within 30 days of the date of this order, Consumers Energy Company, DTE Gas Company, Michigan Gas Utilities, and SEMCO Energy Gas Company shall file tariff sheets substantially similar to Attachment A.

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



Greg R. White, Commissioner



Sally A. Talberg, Commissioner

By its action of September 11, 2014.



Mary Jo Kunkle, Executive Secretary

(Continued from Sheet No. F-12.00)

F3. SOLICITATION REQUIREMENTS (Contd.)

F3.1 It is the Supplier's responsibility to have a current valid contract with the customer at all times. The Commission or its Staff may request a reasonable number of records from a Supplier to verify compliance with this customer verification provision and, in addition, may request records for any customer due to a dispute. For each customer, a Supplier must be able to demonstrate that a customer has made a knowing selection of the Supplier by at least one of the following verification records:

- A. An original signature from the customer or legally authorized person.
- B. Independent third party verification with an audio recording of the entire verification call.
- C. An e-mail address if signed up through the Internet.

F3.2 Suppliers and agents who are soliciting customers must comply with the following requirements:

- A. The Supplier and its agents must clearly identify the AGS on whose behalf they are soliciting.
- B. The Supplier and its agents must not represent themselves as employees or agents of the Company.
- C. The Supplier and its agents must affirmatively indicate if they are a marketing affiliate of the Company, that the affiliate is a separate entity and that the affiliate is not regulated by the Commission.
- D. The Supplier and its agents must submit residential and small commercial contract(s), marketing materials and scripts to the Commission Staff for review at least five (5) business days prior to using the materials in the marketplace.
- E. The Supplier and its agents cannot remove the original of the customer's bill from the residence or small commercial office.
- F. The Supplier and its agents must comply with truth in advertising in all verbal, written, or electronic statements to the customer.
- G. *A Supplier who is actively marketing and/or enrolling customers in the Company's territory will post to the Commission's gas rate comparison website at MI.gov/CompareMIGas its generally available offers for residential and small commercial customers per the Terms and Conditions of the AGS licensing application.*

F3.3 A Supplier must provide a copy of the contract to the customer, including all terms and conditions. The contract must contain all provisions as set forth in F2.

(Continued from Sheet No.F-16.00)

F4. SUPPLIER LICENSING AND CODE OF CONDUCT (Contd.)

- H. The Supplier will make a good faith effort to resolve customer disputes. The Supplier will have an internal customer dispute procedure which allows for complete, courteous, fair and timely responses to customer disputes and inquiries. The Supplier will investigate each complaint, report the results to the customer and attempt to resolve the complaint to the customer's satisfaction. If the complaint cannot be resolved, the Supplier will refer the customer to the Commission or its Staff. The Supplier will appoint at least one employee to be a contact person between the Supplier and the Commission or its Staff. The Supplier will provide complete reports of the complaint investigation and resolution to the Commission or its Staff within ten (10) business days for the resolution of customer complaints. The Supplier will cooperate with the Commission or its Staff to resolve disputes, including the provision of informational materials, contracts and verification records. The Supplier will keep a record of all customer disputes. Dispute records will be made available to the Commission, upon request.
- I. The Supplier will retain pipeline capacity sufficient to meet its customer requirements.
- J. *A Supplier who is actively marketing and/or enrolling customers in the Company's territory will post to the Commission's gas rate comparison website at MI.gov/CompareMIGas its generally available offers for residential and small commercial customers per the Terms and Conditions of the AGS licensing application.*

F5. PROCEDURES FOR COMPLAINTS BETWEEN SUPPLIERS AND THE COMPANY

If the Company receives a verbal complaint from a Supplier related to the Program rules and operational features, the Company will resolve the complaint on an informal basis. If the Company and the complainant are unable to resolve the complaint on an informal basis, the procedures outlined below will be followed:

F5.1 Complainant will route all formal complaints in writing to:

DTE Gas Company
One Energy Plaza
Detroit, MI 48226
Attention: Legal Department

F5.2 The Company will acknowledge the receipt of the formal written complaint, in writing, within five (5) working days of receipt by the Company.

F5.3 The Company will confirm and amend the prepared written statement of the complainant to ensure the complaint includes the name of the complainant, relevant dates and specific claims.

F5.4 The Company will prepare a written statement communicating to the complainant the results of the Company's preliminary investigation within 15 working days of the initial receipt of the complaint by the Company with a description of the action taken or proposed to be taken.

**ALTERNATIVE GAS SUPPLIER APPLICATION
FOR THE MICHIGAN PUBLIC SERVICE COMMISSION
RETAIL ACCESS PARTICIPATION AGREEMENT**

Public Act 634 of 2002 (Act 634), MCL 460.9 et seq., which became effective on December 23, 2002, requires an Alternative Gas Supplier (AGS) selling natural gas at unregulated retail rates in Michigan to obtain a license from the Michigan Public Service Commission (Commission). Transportation gas customers are outside the retail choice program.

<http://www.legislature.mi.gov/documents/2001-2002/publicact/pdf/2002-PA-0634.pdf>

Section 9b of Public Act 634 states:

- (1) An alternative gas supplier shall not do business in this state without first receiving a license under this act.
- (2) An alternative gas supplier shall maintain an office within this state.
- (3) The Commission shall assure that an alternative gas supplier doing business in this state has the necessary financial, managerial, and technical capabilities and require the supplier to maintain records that the commission considers necessary.
- (4) The Commission shall require an alternative gas supplier to collect and remit to state and local units of government all applicable users, sales, and use taxes if the natural gas utility is not doing so on behalf of the supplier.

A license can be obtained by satisfactory completion of this application form referred to as the Retail Access Participation Agreement. Information must be supplied prior to processing a license request. All terms and conditions must be adhered to by applicant as a condition of maintaining a license. The applicant's signature on this form attests to the accuracy of the information submitted and commits applicant to adhere to the attached terms and conditions as set forth in the Commission's orders in Case Nos. U-11915, U-13694 and U-17580.

Failure to provide accurate information on this form, to furnish any required supporting information including required affidavits or to comply with the attached terms and conditions can result in denial or revocation of a license.

After an AGS submits its application:

1. The Commission Staff (Staff) reviews the application and the AGS's Terms and Conditions Agreement submission and consults with any needed experts and the applicant before making a recommendation to the Commission for approval or non-approval of the license.
2. The Staff's review process time will vary depending on initial application contents, additional information requirements and necessary meetings with the applicant to validate proprietary documentation.
3. The Commission will issue an ex parte order approving the issuance of a license if it is satisfied that the application meets the licensing criteria.

PART I – FITNESS

1. Name, Michigan office address, phone and fax numbers, e-mail address and company website:	6. Specify type of provider (utility, marketer, utility affiliate):
2. Name of contact person, phone number and e-mail address for this application process:	7. Business affiliation (whether utility or other):
3. If principal place of business is outside Michigan, provide name, address, telephone number, and e-mail:	8. FERC authorization type(s) and number(s) if applicable:
4. Name, telephone number and e-mail of 24-hour contact person for customers:	9. Broker's name, address, telephone number, and e-mail (if applicable list all):
5. Type of legal entity (Corporate, Limited Liability Company, Partnership, etc.): a) Date and State legal entity was organized: b) Purpose for which the legal entity was organized: c) Please submit your certificate of Authority to Transact Business in MI (if Foreign Corp, LLC, LPC).	10. Please list past or future planned name changes (if applicable):

11. State specifically whether the applicant, an affiliate or subsidiary of the applicant, or a predecessor in interest of the applicant, or an owner, shareholder, principal, officer, executive or director associated with the applicant ever:

- Misled a potential customer and thereby induced that potential customer to sign a contract;
- Defaulted on a contract;
- Did not abide by the terms of the contract;
- Exited the market due to the imposition of any energy related penalties or fines;
- Committed any violations of law or business ethics in connection with the provision of energy or energy-related products and services anywhere in the United States that resulted in a criminal or civil conviction or agreement to pay a penalty including any settlement imposed by a court or administrative agency?

If the answer is yes to any of the above, please explain in detail. Subsequent violations must be disclosed within 30 days to the Michigan Public Service Commission.

12. **Please submit a separate legal affidavit**, signed by a corporate officer with proper authority, which shall attest to the competence of the company's employees to market natural gas as an AGS.

PART II – COMPLIANCE COMMITMENT

A supplier must demonstrate that it has the necessary technical and managerial capabilities to ensure adequate service to customers in Michigan. Please provide a complete summary of information covering the applicant's:

1. Corporate/Company history with Biographies of Key Personnel (this may include experience as a supplier of retail energy, including natural gas or electricity);
2. All service quality and reliability issues:
 - The total number of customer complaints;
 - Any and all violations or failures to perform on customer contracts, obligations to sell, serve or otherwise provide gas to customers by the applicant or any predecessor or affiliate entity;
3. Audited financial statements of the applicant for its two most recent fiscal years or other documentation, by affidavit, providing detailed factual data pertaining to applicant's financial standing. Please submit financials under separate cover if considered confidential;
4. Please provide the means for the required \$100,000 bond or letter of credit to ensure adequate service to customers in Michigan. Draft language will be provided at a later date;
5. Overview of business plan including risk management strategy or policy;
6. Outline of staffing and procedures for responding to customer inquiries and customer complaints.

PART III - COMPLIANCE COMMITMENT

By signing this application and providing the affidavit letter required in item 12 of this application, the applicant and its representatives (1) certify that the information provided herein is accurate and complete and (2) agree to abide by the provisions of this agreement including the Terms and Conditions for a Michigan alternative natural gas supplier.

Signature: _____

Date: _____

Name and Title: _____

Date: _____

APPLICATION, SUBMISSION, AND LICENSE PROCESS:

1. The application may be downloaded in PDF or Word format. Responses to Part I may be attached or the Part I items may be reformatted by expanding the application and inserting responses.
2. The compliance commitment must be signed and dated as indicated.
3. The Staff will contact you via email or phone to acknowledge receipt of application. The Staff also will notify you regarding any clarifications or needed additional materials. Once the Staff determines that the initial application materials are complete, the Staff will meet with principals of applicant to cover and discuss Application Part II information.
4. The financial information that is regarded as confidential will be archived at the Commission.
5. Upon completion of the application process, the Staff will make a recommendation to the Commission regarding the license. Granting of the license is by Commission order.

Terms and Conditions

1. **Supplier contact information.** An AGS shall notify the Staff of any change in the AGS's name, corporate structure, Michigan address, telephone number, contact person or agent.
2. **Michigan office.** An AGS shall maintain a Michigan office. An AGS representative, toll free telephone number, e-mail address, and website must be made available at all times to enable customers to contact or make inquiry with the AGS.
3. **FERC authorization.** An AGS shall obtain any authorizations required by the FERC, including any authorization required by the FERC to become a natural gas retail marketer. An AGS shall notify the Staff within 30 days of any FERC determination regarding the AGS's provision of natural gas to retail customers.
4. **Business practices and ethics disclosure.** An AGS shall follow all state and federal laws, as well as Commission policies and practices that may be established. Violations of law or business ethics by an AGS, AGS's agent, affiliate or subsidiary of the applicant, or a predecessor in interest of the applicant, or an owner, shareholder, principal, officer, executive, or director associated with the applicant in connection with provision of energy or energy-related products or services anywhere in the United States that results in a conviction or acceptance of a penalty for said behavior must be disclosed to the Michigan Public Service Commission within 30 days of any conviction or penalty determined or imposed by a court or an administrative agency.
5. **Product/Service disclosures.** An AGS shall conform to all customer disclosure requirements set by the Commission under authority of Act 634.
6. **Product/Service marketing and contract practices.** An AGS shall ensure fair and truthful representation of all products or services provided under the gas customer choice program in Michigan.

7. **Customer enrollment and services.** Enrollment of customers in the Michigan retail access program shall strictly follow the procedures authorized by the Commission. Slamming (unauthorized switching) or cramming (unauthorized adding of additional products or services not requested by the customer) as outlined in subsections (2) and (4) of Act 634 constitute serious offenses in the enrollment process. An AGS shall not include or add products or services without authorization as outlined in Act 634 and shall conform to all state and federal laws and regulations regarding the retail sale of products and services.
8. **Termination of service to customer.** The delivery of natural gas is the sole province of the natural gas utility offering the gas customer choice program. Termination of service to a gas customer choice customer will be handled by the natural gas utility in conformity with all rules and procedures authorized by the Commission.
9. **Utility tariffs and rules of service.** AGSs shall comply with utility tariffs and rules of service established and authorized by the Commission or the FERC that are applicable to the AGS or its retail customers.
10. **Customer confidentiality.** Information obtained from a customer or a potential customer by an AGS or an agent of an AGS is to be held in strict confidence and shall not be disclosed unless disclosure of the information is necessary to service the customer or to verify the potential customer's credit information. In the event that a customer's or a potential customer's confidential information is disclosed to a third party for any purpose, the AGS shall ensure that the party to whom the information is disclosed is informed of the duty to maintain the confidentiality of such information in the future. Any other use of such confidential information is prohibited absent the express approval of the customer or potential customer. Solicitation for such approval shall not be commingled with other offers, contracts, or approvals.
11. **Customer data requests.** A customer shall have the right to obtain its own billing and natural gas consumption data that is in the possession of the AGS.
12. **Associated broker, aggregator, or marketer.** An AGS that relies on the services of brokers, aggregators, or marketers shall pledge a best faith effort to hold them in compliance with provisions of this agreement. AGSs shall supply the Staff with the address, telephone number, name of a contact, and business affiliation of any brokers, aggregators, or marketers used by the AGS.
13. **State taxes, fees and revenue collection.** An AGS shall collect and remit all applicable state taxes, fees, and charges levied on energy suppliers as a class of business providers, including those fees and charges established by the Commission to implement and enforce this program, unless the natural gas utility is doing so on behalf of the AGS.
14. **Reporting.** AGSs shall provide statistical data regarding their retail sales and wholesale transactions to the Commission and its Staff upon request. The books and records of an AGS shall be made available by the AGS so that the Commission and its Staff may verify the accuracy of the statistical data.
15. **Posting Offers on MI.gov/CompareMIGas.** AGSs shall post rate offers to the Commission's website and are subject to the following procedures and requirements:
 1. All MPSC licensed AGSs will be issued a user-id and password, which permits each AGS to submit such information through a web-based interface.

2. The AGS is responsible for accurate and timely postings. The AGS will submit offers for posting as frequently as they become available. The AGS will be required to honor all uploaded pricing for residential and small commercial customers to the website. The AGS will expire all offers that are no longer available to customers. The AGS submitted offers will be limited to five per offer type per utility. The AGS will not offer a higher rate in the marketplace than what is posted on the website.
3. An AGS that is marketing to residential and small commercial customers must post to the website its generally available pricing offers for each type of offer available (i.e. fixed or variable) within each utility territory in which the AGS is marketing.
4. The AGS is required to populate all informational fields for each offer on the website.
5. Staff will act as a moderator of each AGS submission for posting. Staff will perform a cursory review of each submission for obvious errors before it becomes live on the website.
6. Each AGS will be required to provide its company logo in an acceptable format at the request of the MPSC Staff for inclusion on the website.
7. Staff will provide an AGS with timely notice and opportunity to cure any alleged violation of these Terms & Conditions, including the failure to report information or for reporting inaccurate information to the website. After timely notice and opportunity to cure, Staff may suspend AGS customer enrollments within the impacted utility service territory by filing a letter in the AGS licensing docket. Staff and/or the Commission will be able to remove a Staff-issued suspension. The Commission may impose consequences for continuous and/or repeated failures to abide by these Terms & Conditions. These consequences may include, but are not limited to:
 - i. Suspend AGS customer enrollments (per Commission order or Staff) within the impacted utility service territory.
 - ii. Revoke AGS eligibility (per Commission order) within the impacted utility service territory.

Failure to comply with any of these Terms and Conditions can result in revocation of an AGS license by the Michigan Public Service Commission.

Revised: September 2014
F-01

Terms and Conditions of the Compare MI Gas Website

Website Purpose

As part of Michigan's retail energy market customer education efforts, the Michigan Public Service Commission (MPSC or Commission) operates the [MI.gov/CompareMIGas](https://mi.gov/CompareMIGas) website, which provides customers an opportunity to learn about the Gas Customer Choice (GCC) Program and is intended to help customers make informed choices for gas service and providers. The [MI.gov/CompareMIGas](https://mi.gov/CompareMIGas) comparison charts are part of the website and are intended to provide residential and small commercial customers an unbiased listing of available offers. Michigan alternative gas supplier (AGS or supplier) licensing requires AGS website participation if active marketing and/or enrollment is available for residential and small commercial customers.

Neither AGS nor utility shall be required to market or promote the website but are encouraged to do so at their discretion.

Website Content

The MPSC will determine the design, data elements, layout and format of [MI.gov/CompareMIGas](https://mi.gov/CompareMIGas) including all aspects of the comparison charts and reserves the right to modify any elements of the website and the comparison charts without prior notice. The MPSC Staff will keep a record of all posted offers for a minimum of two years. If any modification requires new or changed data from the AGS, the MPSC Staff will provide sufficient notice and time to AGS to provide the required data.

Historical rate information posted to this site will include 12-months of utility gas cost recovery (GCR) rates as well as a snapshot of the price comparison website on a going-forward basis.

Honoring Offers

As a condition of posting offers on [MI.gov/CompareMIGas](https://mi.gov/CompareMIGas) an AGS is required to honor the prices and all terms and conditions of products posted. The AGS should keep posted offers current. As offer details change, the AGS should expire offers that are no longer available to customers and submit new offers. The MPSC Staff reserves the right to remove offer(s) from the website if the AGS fails to honor the posted prices.

Terms and Conditions

All offers posted on [MI.gov/CompareMIGas](https://mi.gov/CompareMIGas) are subject to the following terms and conditions and are requirements of the AGS licensing application and each GCC Program utility tariff, Section F:

1. All MPSC licensed AGSs will be issued a user-id and password, which permits each AGS to submit information to the website through a web-based interface.
2. Accurate and timely postings are the responsibility of the AGS, and the MPSC shall not be liable for inaccurate or untimely postings. The AGS will submit offers for posting as frequently as they

become available. The AGS will be required to honor all uploaded pricing for residential and small commercial customers on the website. The MPSC reserves the right to impose consequences for non-compliance.

3. Any AGS licensed by the MPSC and marketing to residential and small commercial customers must post to the website its generally available pricing offers for each type of offer available (i.e. fixed or variable) within each utility territory in which the AGS is marketing. The AGS submitted offers will be limited to five per offer type per utility. The AGS will not offer a higher rate in the marketplace than what is posted on the website.
4. The AGS is required to populate all relevant informational fields for each offer on the website. In order to ensure that offers are comparable, the MPSC website offers different identifying designations (i.e. fixed or variable, with details provided on promotion or custom) on the website. The AGS is required to follow these designations when entering information on all offer types (i.e. fixed or variable, with details provided for green, index, capped). The MPSC Staff reserves the right to reject submitted offers that do not comply with the identifying designations. The AGS may revise any rejected offer and resubmit for inclusion on the site.
5. To ensure a level of security, MPSC Staff will act as a moderator of each AGS submission for posting. MPSC Staff will perform a cursory review of each submission for obvious errors before it becomes live on the website. MPSC Staff will alert AGS to any obvious errors with a timely notice.
6. Each AGS will be required to provide its company logo in an acceptable format at the request of the MPSC Staff for inclusion on the website.

Enforcement

The MPSC Staff will provide an AGS with timely notice and opportunity to cure any alleged violation of these Terms & Conditions, including the failure to report information or for reporting inaccurate information to the website. After timely notice and opportunity to cure, Staff may suspend AGS customer enrollments within the impacted utility service territory by filing a letter in the AGS licensing docket. Staff and/or the Commission will be able to remove a Staff-issued suspension. The Commission may impose consequences for continuous and/or repeated failures to abide by these Terms & Conditions. These consequences may include, but are not limited to:

1. Suspend AGS customer enrollments (per Commission order or Staff) within the impacted utility service territory.
2. Revoke AGS eligibility (per Commission order) within the impacted utility service territory.

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

STATE OF MICHIGAN)

Case No. U-17580

County of Ingham)

Lisa Felice being duly sworn, deposes and says that on September 11, 2014 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 11th day of September 2014

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

CBaird-Forristall@MIDAMERICAN.COM	Mid American
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braukerL@MICHIGAN.GOV	Linda Brauker
ron.cerniglia@DIRECTENERGY.COM	Direct Energy Business/Direct Energy Service
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jepalinc@CMSENERGY.COM	CMS Energy Resource Mgt Co
Jayne@HOMEWORKS.ORG	Tri-County Electric Co-Op
mkappler@HOMEWORKS.ORG	Tri-County Electric Co-Op
psimmer@HOMEWORKS.ORG	Tri-County Electric Co-Op
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frucheyb@DTEENERGY.COM	Citizens Gas Fuel Company
dwjoos@CMSENERGY.COM	Consumers Energy Company
mpscfilings@CMSENERGY.COM	Consumers Energy Company
jim.vansickle@SEMCOENERGY.COM	SEMCO Energy Gas Company
kay8643990@YAHOO.COM	Superior Energy Company
ebrushford@UPPCO.COM	Upper Peninsula Power Company
ronan.patterson@WE-ENERGIES.COM	Wisconsin Electric Power Company
kerriw@TEAMMIDWEST.COM	Midwest Energy Coop
meghant@TEAMMIDWEST.COM	Midwest Energy Coop
tharrell@ALGERDELTA.COM	Alger Delta Cooperative
patti.williams@BAYFIELDELECTRIC.COM	Bayfield Electric Cooperative
tonya@CECELEC.COM	Cherryland Electric Cooperative
sfarnquist@CLOVERLAND.COM	Cloverland Electric Cooperative
sboeckman@GLENERGY.COM	Great Lakes Energy Cooperative
llopez@LIBERTYPOWERCORP.COM	Liberty Power Delaware (Holdings)
kmarklein@STEPHENSON-MI.COM	Stephson Utilities Department
debbie@ONTOREA.COM	Ontonagon Cnty Rural Elec
sharonkr@PIEG.COM	Presque Isle Electric & Gas Cooperative, INC
dbraun@TECMI.COOP	Thumb Electric
rbishop@BISHOPENERGY.COM	Bishop Energy
mkuchera@BLUESTARENERGY.COM	BlueStar Energy
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igoodman@COMMERCEENERGY.COM	Commerce Energy
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gbass@NOBLESOLUTIONS.COM	Noble American Energy
rabaey@SES4ENERGY.COM	Santana Energy
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akb@ALPENAPOWER.COM	Alpena Power
dbodine@LIBERTYPOWERCORP.COM	Liberty Power
leew@WVPA.COM	Wabash Valley Power
kmolitor@WPSCI.COM	Wolverine Power
ham557@GMAIL.COM	Lowell S.
AKlaviter@INTEGRYSENERGY.COM	Integrys Energy Service, Inc WPSES
BusinessOffice@REALGY.COM	Realgy Energy Services
landerson@VEENERGY.COM	Volunteer Energy Services
jfrench@WYAN.ORG	Wyandotte Municipal Services
kmaynard@WYAN.ORG	Wyandotte Municipal Services
Ldalessandris@FES.COM	First Energy Solutions
rboston@NOBLESOLUTIONS.COM	Noble Energy Solutions
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KKratt@ghblp.org

Zeeland Board of Public Works
Grand Haven Board of Light & Power

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