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February 13, 2006

Via E-file

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

Re: In the matter of the application of Consumers Energy Company for authority to increase its rates for the distribution of natural gas and for other relief.
MPSC Case No. U-14547

Dear Ms. Kunkle:

Enclosed for filing in the above-referenced case is the ***Direct Testimony of Scott White on Behalf of The National Energy Marketers Association*** and ***Proof of Service.***

If you should have any questions, please contact me.

Very truly yours,

Jennifer L. Frye

Signature Not Verified

Digitally signed by Jennifer L. Frye
DN: cn=Jennifer L. Frye, c=US
Date: 2006.02.13 14:36:42 -05'00'

Jennifer L. Frye

JLF:jkt
Enclosures
cc: Hon. James N. Rigas
All Parties of Record

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STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the application of CONSUMERS ENERGY COMPANY for authority to increase its rates for the distribution of natural gas and for other relief	)))))	Case No. U-14547

DIRECT TESTIMONY OF

SCOTT WHITE

ON BEHALF OF THE NATIONAL ENERGY MARKETERS ASSOCIATION

DATED: February 13, 2006

Q1. Please state your name, business title and business address.

A1. My name is Scott White, and I am the co-founder and president of Interstate Gas Supply, Inc. ("IGS") a certificated competitive retail natural gas supplier serving residential, commercial and industrial customers in five states including the Consumers Energy Company ("Consumers") service area of Michigan. My business address is: 5020 Bradenton Ave., Dublin Ohio.

Q2. On whose behalf are you offering direct testimony?

A2. I am testifying on behalf of the National Energy Marketers Association ("NEM"). I am Co-Chair of NEM's National Retail Natural Gas Policy Committee. NEM is a national, non-profit trade association representing wholesale and retail marketers of natural gas, electricity, as well as energy and financial related products, services, information and advanced technologies throughout the United States, Canada and the European Union. NEM's membership includes independent power producers, advanced metering, demand and load management firms, billing, back office, customer service and related information technology providers. NEM members are global leaders in the development of enterprise solution software for energy, advanced metering, information services, finance, risk management and the trading of commodities and financial instruments. NEM members also include inventors, patent holders, systems integrators, and developers of advanced, telecommunications, cable and powerline technologies, for uses in power line surveillance, grid reliability broadband over powerline and with advanced uses in power and telecom systems integration and interoperability as well as new and innovative electrical encoding, applications or decoding known as Smart Electricity.™

Q3. Would you please summarize your education and energy industry work experience?

A3. I graduated from Ohio University, Athens, Ohio and began working for a natural gas marketing company in 1988. Then in 1989, I co-founded Interstate Gas Supply, Inc. a regional gas marketing company serving a significant volume of natural gas in a multiple state region.

Q4. What is the purpose of your testimony?

A4. The purpose of my testimony is to urge the parties and the Commission to consider additional amendments to Consumers' Gas Customer Choice ("Choice") tariff aimed at resolving issues that have arisen when suppliers participate in the gas Choice program. These issues have been brought to the attention of NEM by a number of active Choice suppliers in Michigan, including IGS. One of the primary issues that we feel needs to be addressed concerns current tariff provisions that require Consumers, in the annual reconciliation process, to reconcile gas delivered into the system by Choice customers by looking at each pool independently, without consideration of all gas delivered into the entire system collectively. Other, similar tariff issues have also been raised by NEM members.

In this case, Consumers has proposed a number of changes to its gas tariffs, including a change to Section H of the tariff (Gas Customer Choice Program). In so doing, Consumers has opened the door to discussion regarding other provisions in its tariff. Moreover, this case appears to be the only avenue currently available to NEM's membership, including IGS, to address issues they have with Consumers' gas tariff. The Commission may reasonably decide in the context of this case to implement a change in Consumers' tariff to address the aggregate reconciliation issue described above. My testimony provides the foundation and justification for such a change. However, NEM is also requesting, or is requesting in the alternative, that the Commission order a working group in this case or in a separate docket to address the concerns of suppliers participating in the various customer Choice programs offered in Michigan. Such a forum could include parties and viewpoints that are not necessarily represented in this case, and it could provide the opportunity for alternative gas suppliers to discuss with utilities the various changes we believe are necessary.

Q5. Are you familiar with Consumer's Customer Choice program?

A5. Yes, IGS actively participates in Consumer's Choice program, and serves both residential and small commercial customers in the Consumers service territory with their commodity needs.

Q6. Are there specific provisions in Consumer's Choice program with which suppliers such as IGS are required to comply?

A6. Yes. Specifically, to participate in the Choice program, suppliers must comply with the requirements described in Section H (Gas Customer Choice Program) of Consumers' tariff. I believe that Section H begins with Original Sheet H-1.00 and continues through H-10.00. Consumers' witness Hubert W. Miller III has proposed at least one change to this tariff in his testimony, in Tariff Sheet No. H-7.00, Rule H4, (3), which would explicitly require suppliers to comply with "all applicable laws" as a condition to their participation in the Choice program.

Q7. Can you elaborate on the issue you raised related to the annual reconciliation process?

A7. Yes. One of the primary objectives of competitive natural gas providers is to provide alternatives to residential and commercial consumers. Such alternatives include fixed prices for periods of time, guaranteed savings to customers as compared to the utility GCR price, monthly variable prices for those that are less risk averse and want to take advantage of the market dynamics, and other services. Customers review our products, presumably also review other products and offers in the market, and some customers then make an affirmative decision to sign up with a competitive natural gas provider such as IGS. In the Consumers Choice program (as well as the Michigan Consolidated Gas, or "MichCon", program), participating customers are grouped into pools based on the supplier's price or the program in which they participate, and suppliers deliver gas to the utility throughout the year based upon delivery requirements set by the utility for each customer pool. For example, when IGS participates in the Choice program, Consumers takes a look at our customer pools, the types of customers in those pools (commercial or residential), analyzes the historic usage, determines what the predicted usage will be as the year progresses, and ultimately arrives at an amount of natural gas that needs to be delivered for each pool to satisfy the consumption needs of customers in that pool. Depending on various factors such as the number of customers entering or leaving the pool each month, and actual consumption to date, the deliveries are altered and new delivery requirements are provided to our supply department and we deliver based upon those requirements. However, it is virtually impossible for the actual deliveries to match up exactly with consumption for each pool, since deliveries are based on utility estimates and actual consumption is something that is only known for residential and small commercial customers after the fact. Therefore, a mechanism has developed, and has been codified in Tariff Sheet No. H, that is in essence an annual reconciliation process used to account for and resolve over and under deliveries of a supplier's gas compared to its customers' actual usage.

Q8. How does the utility calculate delivery requirements?

A8. Tariff Original Sheet No. H-2.00, paragraph G, states, in relevant part:

> The Company will provide each Supplier with a monthly schedule of quantities for delivery of gas into the Company system on behalf of the Supplier's customers. The initial schedule will indicate volumes that the Supplier is required to delivery each day. This schedule will be updated by the Company on a monthly basis. For most Gas Customer Choice customers, scheduled daily volumes will not normally vary by more than plus/minus 10% from 1/365th of the estimated annual customer load to be served by the Supplier.

My understanding of the operation of this provision, as far as Consumers is concerned, is that Consumers will project the volume of natural gas that customers will consume throughout the gas year, and will require gas suppliers to deliver gas to Consumers' system on an equal 1/365th basis, so that the supplier is delivering the natural gas needs of its customers to the Consumers system at a level that equates, as close as possible, to 100% of the supplier's customers' consumption on an annual basis. The tariff provides some flexibility in the monthly delivery requirements, because the composition of customers in a pool changes. The monthly delivery changes enable Consumers to make adjustments based upon actual deliveries versus actual usage to date, differences between actual weather and projected weather conditions, additions to and attrition from the supplier's service by customers and all other relevant information, so that ultimately, the supplier delivers as close to 100% of its customers annual consumption on an annual basis. The plus/minus delivery flexibility, in my opinion, is intended to provide the utility and the supplier with a mechanism to take all of those considerations into account, so that the supplier delivers the necessary level of natural gas to the utility to supply its customers.

Q9. Is it important that the deliveries of a competitive natural gas supplier match their customers' consumption on an annual basis?

A9. It is important that there is a fair and balanced process in place for suppliers to make deliveries on behalf of their customers. By fair and balanced I mean that the process should be competitively neutral with regard to both GCR and Choice customers. If a Choice customer makes a selection and signs up with a natural gas provider, that customer should have all the benefits associated with making that choice, and someone that does not make that choice and remains with the utility should not have to pay for someone else's choice. Once a customer chooses a competitive natural gas supplier, that supplier should provide the customer's natural gas commodity needs, as close to 100% of the annual volumes as possible.

Q10. Is the annual reconciliation fair and balanced?

A10. No. The annual reconciliation is not fair and balanced in that the treatment of imbalances is not consistent, and the true-up process ultimately creates a competitive disadvantage for suppliers at the expense of Choice customers. As explained in more detail below, the Choice program rules favor the utility GCR to the detriment of Choice customers and suppliers in almost every instance. Although Consumers has historically worked well with suppliers to address imbalances as they develop throughout the program year, the pool-by-pool annual reconciliation rules inhibit the development of a truly fair and balanced program.

Q11. How does this annual reconciliation work?

A11. Paragraph M of Consumers' Tariff Second Revised Sheet No. H-3.00 states, in pertinent part:

> In those instances where both (i) the price per Mcf billed to customers over the course of the program year on Supplier's behalf is higher than the cost of gas billed to sales customer by the Company pursuant to the Company's Rule B10, and (ii) the MMBtu delivered by the supplier converted to the Mcf exceeds the billed customer consumption for the year being reconciled, then the following procedure will be used. In such instances (i) within 60 working days after the end of the March billing cycle, * * * the Company will reconcile the amount billed to customers on the Supplier's behalf with the Company's remittance to the Supplier for the gas delivered, and any difference will be reflected in an adjustment on

> the next monthly remittance to the Supplier, and (ii) gas delivered by the Supplier in excess of the actual consumption will be returned to the Supplier in kind unless the Company and the Supplier mutually agree on a price for the Company to purchase the excess gas.
>
> * * *
>
> (Q) The * * * annual reconciliation shall apply separately to each Supplier-designated pricing category and each of the two customer groups within that category, i.e. those enrolled as of April 1, and those enrolled after April 1 each program year.

In essence, the way the process works is that if excess gas was delivered by a supplier and the supplier's contract price with its customers was less than Consumers' weighted GCR, *i.e.* at a price less than that charged by the utility throughout the program year, then the utility is going to keep the excess gas at the supplier's lower price. If the supplier's contract price with its customers is higher than the price of the GCR, that gas is then returned to the supplier in the summer after the reconciliation has been performed. Both volume and price are reviewed to determine what is most beneficial to the GCR, and that amount of gas is kept, while all other gas can be returned to the supplier.

On the other hand, if the amount of a supplier’s deliveries to a single pool of customers is less than the actual consumption of those customers, then the utility will do one of two things depending on the price charged to the customer (keeping in mind that the utility has complete control over the supplier's delivery requirements). If the supplier's average price is higher than the GCR price, the utility will provide the needed gas and retain the supplier's revenues at the higher amount. If the sales price was less than the GCR, the utility will collect the difference from the supplier in the form of a Supplier Equalization Charge ("SEC") to make the utility whole.

Because of the language in Section Q of the tariff, Consumers is compelled to look at each pool individually to determine whether gas will be returned or retained – instead of first looking at all the gas that has been delivered by a competitive natural gas provider to the utility system to see whether the gas delivered by the supplier, in aggregate, met, exceeded or fell short of the supplier's customers' annual consumption. In fact, it is possible for a utility to take all four actions with regard to one single supplier during the annual reconciliation, that is, keeping some lower cost gas, returning some higher cost gas, selling some gas at its WACOG and claiming some higher priced sales as its own, even though gas may have been physically delivered into the utility system that balances all customer requirements.

Q12. What is the result of the current process?

A12. Competitive suppliers and Choice customers are competitively disadvantaged because the lower cost supplier's gas will be kept by the utility to help reduce the GCR price. The GCR is directly impacted and reduced by the lower priced gas that is being supplied by alternative suppliers, providing an unfair competitive advantage to Consumers and GCR customers at the expense of Choice customers. Further, the Choice customers are not able to receive the full benefit of choosing an alternative supplier, since the supplier has to take into account this annual reconciliation on a pool by pool basis, and the impact of that reconciliation, which increases risk and ultimately price to the Choice customers.

Q13. Are there ways to address this issue in a competitively neutral manner?

A13. The simplest and most direct way to reduce the effect of this pool-by-pool reconciliation is to simply require that the annual reconciliation be conducted in the aggregate. Aggregate reconciliation allows the utility to look at all the gas that has been delivered by a competitive natural gas supplier and make determinations from that point, without considering the pool by pool issues. The only thing that distinguishes one pool from another is the price the supplier is charging and the timing regarding when the pool was established. For example, if a pool is in existence on April 1 of a gas year, it is called an A pool. There can be multiple A pools, each differentiated only by the price being charged to the customers in that pool. If a pool begins after April 1st, that pool is considered a B pool, and multiple B pools can exist, depending on the price being charged to the customer. Further, if a customer leaves an A or B pool during the course of the gas year, the gas delivered to that customer in his or her initial pool does not follow the customer, creating an immediate imbalance in both the initial pool and the new pool, which further exacerbates the issues. Nothing in this segmentation deals with delivery restrictions, requirements or any other "system integrity" issues; rather, it simply deals with the date on which a customer became a Choice customer and what price the customer paid. If the final reconciliation analysis regarding volume is done in the aggregate, disregarding the pool-by-pool distinctions, over-deliveries can be offset by under-deliveries, until a single number results. That aggregate number will either be excess volumes or insufficient volumes.

Q14. Is there anything else that should be addressed?

A14. The Commission should also consider a change to Consumers' tariff that would require delivery on a 1/365th basis, adjusted each month, to 100% of the anticipated consumption for Choice customers. If a utility is requiring deliveries based upon 110% of anticipated customer usage, as is the case with MichCon, not only will it always be the case that the marketer will over-deliver, but with all the changes that occur during the gas year, including weather, attrition, deliveries and other factors, the ultimate delivery can result in over-deliveries of 20-30% or more. There is no reason to project deliveries to 110% of anticipated annual consumption at any point. Setting delivery curves to 100% of annual consumption simply makes sense, and also helps reduce any incentive a utility might have to require over-deliveries. Another issue deals with the conservation efforts that exist and develop due to increasing volatility in natural gas prices, which ultimately impact usage and should reduce demand curves. Conservation is a positive factor, but the impact of conservation on demand curves should be addressed.

Q15. What relief is NEM requesting in this case?

A15. First, NEM is requesting that the Commission consider the testimony and other evidence submitted on the aggregate reconciliation issue and order changes to Consumers' tariff to require Consumers to take all necessary steps to ensure that its annual reconciliation procedures are fair and equitable and do not operate at a detriment to Choice customers. Additionally, *or* alternatively, NEM is requesting that the Commission initiate a working group, through this or a separate docket, to resolve this issue as well as other issues associated with the delivery of gas to the customers of competitive gas suppliers participating in gas Choice programs in Michigan. Because these issues have arisen with regard to utilities other than Consumers, such a forum should include competitive natural gas suppliers and marketers as well as all utilities that offer a gas Choice program in Michigan.

Q16. Does this conclude your testimony?

A16. Yes, it does.

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the application of CONSUMERS ENERGY COMPANY for authority to increase its rates for the distribution of natural gas and for other relief	)))))	Case No. U-14547

PROOF OF SERVICE

STATE OF MICHIGAN)
) ss.
COUNTY OF WASHTENAW)

Jacqueline K. Tinney, being first duly sworn, deposes and says she is employed at Dickinson Wright PLLC; and that on February 13, 2006 she served a copy of the ***Direct Testimony of Scott White on Behalf of The National Energy Marketers Association*** upon the attached service list via email.

Signature Not Verified Jacqueline K. Tinney Digitally signed by Jacqueline K. Tinney DN: cn=Jacqueline K. Tinney, c=US Date: 2006.02.13 14:37:23 -05'00'

Jacqueline K. Tinney

Subscribed and sworn to before me,
a Notary Public in and for said County,
this 13th day of February, 2006.

Signature Not Verified Elaine M. Masters Digitally signed by Elaine M. Masters DN: cn=Elaine M. Masters, c=US Date: 2006.02.13 14:37:53 -05'00'

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

SERVICE LIST – MPSC CASE NO. U-14547

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