National Energy Marketers Association

STATE OF MICHIGAN

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter, on the Commission's own motion,	)	
to establish uniform terms and conditions for	)	Case No. U-12550
the provision of voluntary gas customer choice	)	
programs offered in Michigan.	)	

COMMENTS OF THE NATIONAL ENERGY MARKETERS ASSOCIATION ON MID-SIZED LDC PERMANENT GAS CUSTOMER CHOICE PROGRAMS

The National Energy Marketers Association (NEM) hereby submits Comments on the Staff Report on Mid-sized LDC Permanent Gas Customer Choice Programs dated September 27, 2001, (hereinafter "Report"). NEM appreciates Staff's efforts to consider the varied viewpoints raised by commenters throughout this proceeding. However, NEM has a number of concerns with the proposed implementation of mid-sized LDC gas choice programs.

1) Billing and Supplier Remittances

Staff concludes that the buy/sell agreement proposal of SEMCO should be adopted. Staff recommends that suppliers should be required to provide their price to the LDC 3 days before the end of the prior billing cycle, and the utility, within 21 days, should pay the Supplier based on gas delivered times the price per Mcf billed less fees. Staff recommends that when a Supplier has more than one pool and delivers a monthly cumulative amount of gas that is different from the total DDOs issued, the utility should allocate any gas shortages to the highest priced pools first, and any gas excesses to the lowest priced pools first when making remittances.

NEM specifically opposed the use of buy/sell agreements because in effect they cast the competitive supplier as the provider for the LDC rather than the choice customer. NEM suggested that competitive suppliers should have the ability to bill their customers. Staff asserted that this suggestion should be considered in conjunction with the utilities' future unbundling filings. NEM is concerned about the effect this proposal would have on market participants. In essence, market participants will be forced to implement a temporary, stop-gap business plan solution pending the revisitation of the subject at a later date. NEM would suggest that the mid-sized LDCs be required to file unbundled rates in conjunction with their filings in the instant matter. As a result, the

mid-sized LDC choice programs will be constructed such that market participants will be better able to allocate their resources from the beginning.

2) Customer Eligibility / Enrollment Periods

Staff recommends that customer enrollment should be phased in for MGU at 10%, 20%, 40% and 100% levels beginning in 2002, and all customers should be able to participate by June 2005. Staff recommends that customer enrollment for SEMCO should be phased in at 40%, 60% and 100% levels beginning in 2002, and all customers should be able to participate by April 2004. Staff also suggests that customers should be able to enroll in a program at any time during the year.

Staff notes that enrollment caps limit participation in Consumers program to 600,000 customers on April 1, 2001, and 900,000 customers on April 1, 2002. Based on these caps, percentage enrollment recommendations for SEMCO and MGU were drawn. NEM asserts that the recommended percentage caps should not be adopted here because they would result in a sizably smaller number of customers exercising the option to choose in comparison to customers in Consumers' service territory. According to figures posted on the Michigan Public Service Commission website, the number of Michigan gas utility customers served in 1998 by SEMCO was 241,032 and the number served by UCU and MGU was 145,064. The enrollment caps as proposed would frustrate competitive suppliers efforts to achieve economies of scale in mid-sized LDC service territories and should not be adopted.

3) Customer Switching

Staff recommends that a customer's selection of a Supplier should be effective until (i) terminated by the customer or supplier, (ii) the Supplier becomes disqualified from participating in the choice program, or (iii) the utility receives an enrollment for that customer from another Supplier. Staff recommends that a customer should stay on a choice tariff for at least 12 months before returning to sales service, although the customer should be permitted to switch between Suppliers. Staff further recommends that if a Supplier defaults, the customer should return to the LDC's sales tariff, but the customer should have 60 days to find and switch to another Supplier before being required to remain on the sales tariff for 12 months.

As previously argued by NEM, the twelve-month minimum stay requirements recommended by Staff will unnecessarily restrict customers from exercising the option to choose another supplier and should not be adopted.

4) Sales / Market Based Rates for Choice Customers Returning to a Sales Service

Staff concludes in its Report that customers that stay on a Choice tariff for at least 12-months and then voluntarily switch back to the LDC should be provided a sales service that includes a GCR Factor. Staff also recommends that Choice customers that are forced back to the LDC's sales service because of a Supplier default or actions beyond

the customer's control, should pay the higher of the market based commodity rate or the GCR based commodity rate for up to three months. Staff recommends that Choice customers forced back to a sales service who choose another Supplier should not be charged a $10.00 switching fee.

As previously noted by NEM, customers should be subject to a market-based rate when returning to the utility, but the term of service should not be set forth in a way, such as the three-month period recommended by Staff, that will inhibit a customer from participating in the Choice program.

5) "Supplier of Last Resort" (SOLR)

Staff concludes that LDCs should provide supplier of last resort services to non-transportation customers within their service territories.

As previously argued by NEM, the SOLR function should be competitively bid for <u>all</u> customer classes. The utilities' historical obligation to serve should be converted into an obligation to connect and deliver. Therefore, while the utilities should continue to provide transportation or distribution service for all customers, it is not necessary or desirable to establish the utilities, on a long-term basis at least, as the default provider of energy supply services. Indeed, the sooner the competitive market can super-aggregate small customers the sooner true price competition can begin.

Retaining the utility as the default provider of energy supply and other competitive services long term in a restructured environment will present a major barrier to the development of competitive markets. When states mandate the selection of incumbent utilities for all consumers who fail to make timely supplier elections and set a non-competitive price for default service, it perpetuates the same non-competitive energy services that restructuring is designed to replace.

The costs to provide default service vary by customer group. Properly designed default service prices should reflect these differences to encourage competition for all customer classes. NEM asserts that the SOLR entity could be different by customer group. Inasmuch as the costs to provide services varies by customer class, the SOLR entity and SOLR pricing should be structured to reflect those real price differences, and as a result, will encourage competition for all customer classes. Furthermore, NEM asserts that the SOLR function should reflect all of the political, social and reliability concerns of providing last resort service. The SOLR function can include a hedging requirement as well as a reserve requirement as part of the request for competitive proposals.

If Staff's recommendation is adopted and the utility is required to serve as the SOLR, the program should be a market-based program that exposes the SOLR provider to the risks of the market and exposes consumers to proper pricing signals. Otherwise, there will be a strong disincentive for utilities to shed SOLR customers.

6) Supplier's Gas Delivery Obligation / "Failure Fees" / Balancing Charges

Staff recommends that the Daily Delivery Obligation (DDO) proposal and Failure Fee proposed by SEMCO should be adopted. Staff recommends that when a Supplier has more than one pool and delivers a monthly cumulative amount of gas to the utility that differs from the total Daily Delivery Obligations issued by the utility to the Supplier, the utility should allocate any gas shortages to the highest priced pools first, when making remittances. For any monthly cumulative amounts of gas delivered to the utility in excess of the total Daily Delivery Obligations issued by the utility to the Supplier, the utility should allocate such gas excess to the lowest priced pools first, when making remittances.

NEM asserts that the proposed allocation method for over- and under-deliveries is inequitable. Pursuant to this proposal, Suppliers will incur an additional penalty because supply shortages will be charged to the Supplier at the highest rates and excesses will be charged at the lowest rates. Although NEM recognizes the need for certainty in how these charges will be allocated, there is no need for the method to be punitive in nature, particularly in view of the failure fees that are also proposed to be assessed. NEM also reiterates its contention that the recommended charges be cost-based.

7) Capacity Assignment / Supplier Demonstration of its Ability to Provide Reliable Service

Staff concludes in its Report that suppliers on SEMCO's system should not be required to demonstrate firm capacity, only that they retain pipeline capacity sufficient to meet their customer requirements. Staff recommends that MGU should be permitted to assign capacity at its actual cost. Staff also recommends that if MGU sheds pipeline capacity by not renewing existing contracts, Suppliers should have to demonstrate via an affidavit that the Supplier possesses firm primary capacity to MGU city gates for the five winter months equal the capacity turned back by MGU.

NEM continues to be concerned about the recommendation that competitive suppliers be required to demonstrate firm primary capacity. As previously stated, such a requirement creates demand for a commodity that does not exist. Inasmuch as the utilities can exercise an inordinate amount of control over the availability of firm primary capacity into the market, it will distort its pricing to the detriment of competitive suppliers. This concern is reflected in NEM's proposal that an electronic bulletin board for market clearing pipeline capacity be created.

NEM appreciates the opportunity to submit comments on these vital issues and reiterates its commitment to working with regulators and other stakeholders on the development of competitive natural gas markets in Michigan.

Sincerely,

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