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December 4, 2019

Ms. Lisa Felice, Executive Secretary  
Michigan Public Service Commission  
7109 W. Saginaw Hwy.  
Lansing, MI 48917

RE: MPSC Docket No. U-20608

Dear Ms. Felice:

Attached herewith for filing in the above-referenced matter, please find the *Comments of Retail Energy Supply Association*.

If you have any questions or concern with the attached, please do not hesitate to contact me.

Very truly yours,

**Fraser Trebilcock Davis & Dunlap, P.C.**



Jennifer Utter Heston

JUH/ab  
Attachment

**STATE OF MICHIGAN**  
**BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION**

In the matter, on the Commission’s )  
own motions, to amend the rules ) Case No. U-20608  
governing the technical standards for )  
gas service. )  
\_\_\_\_\_ )

**COMMENTS OF**  
**RETAIL ENERGY SUPPLY ASSOCIATION**

On October 17, 2019, the Commission issued an order in this proceeding requesting comments on new natural gas technical standards. The Retail Energy Supply Association (“RESA”)<sup>1</sup>, by and through its attorneys, Fraser, Trebilcock, Davis & Dunlap, P.C., appreciates the opportunity to comment on the Commission’s proposed rules and hereby submits the below comments.

RESA consists of alternative gas suppliers (“AGSs”) who participate in both the Gas Customer Choice and End-Use Transportation programs offered in Michigan. RESA is a broad and diverse group of retail energy suppliers who share the common vision that competitive retail energy markets deliver a more efficient customer-oriented outcome than a regulated utility structure. RESA members are licensed to sell natural gas to retail customers in Michigan.

Michigan’s Technical Standards for Gas Service, by their own terms, apply exclusively to gas utilities. Proposed Rule 2, R 460.2302, states, “These rules apply to a gas utility that

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<sup>1</sup> The comments expressed in this filing represent the position of the Retail Energy Supply Association (RESA) as an organization but may not represent the views of any particular member of the Association. Founded in 1990, RESA is a broad and diverse group of retail energy suppliers dedicated to promoting efficient, sustainable and customer-oriented competitive retail energy markets. RESA members operate throughout the United States delivering value-added electricity and natural gas service at retail to residential, commercial and industrial energy customers. More information on RESA can be found at [www.resausa.org](http://www.resausa.org).



operates within the state of Michigan and that is subject to the jurisdiction of the Commission.” As proposed, a “utility” is defined as “a person, firm, corporation, cooperative, association, or agency that is subject to the jurisdiction of the commission and that delivers or distributes and sells gas to the public for heating, power, or other residential, commercial, or industrial purposes.” Thus, the Commission’s gas technical standards apply to jurisdictional gas distribution companies. AGSs are not gas distribution companies.

Included, however, in the proposed rules is a new Rule 24, R 460.2324, related to cyber-security that, as drafted, would apply to a “gas provider.” A “gas provider” is defined as “[a]ny person or entity that is regulated by the commission for the purpose of selling natural gas to retail customers in this state” or “a cooperative gas utility in this state.” R 460.2324(3). Because AGSs are licensed by the Commission and sell natural gas to retail customers, the rule could be interpreted as applying to AGSs, even though the technical standards otherwise state that the standards only apply to gas utilities. RESA recommends that the new rule be revised to make clear that it applies only to gas utilities.

Further, the proposed rule is unnecessary for AGSs to protect the public. Unlike distribution utilities, AGSs do not maintain or operate critical energy infrastructure. Unauthorized access to an AGS’s databases is highly unlikely to result in a loss of gas service or the safety of persons or property. The Commission should recognize that there are not the same cyber-security implications for AGSs and their customers as there are for distribution utilities.

Importantly, AGSs are subject to Michigan’s Identify Theft Protection Act, Act 452 of 2004, MCL 445.61 et seq. (“Act 452”). Under Act 452, AGSs are required to provide notice to affected customers of security breaches. Unlike utility customers, AGS customers are not

captive. In a competitive environment, AGSs are incentivized to ensure that sensitive customer data is protected because failure to protect such data could lead to the loss of customers. Act 452 incents AGSs to protect sensitive customer data and requires disclosures where data breaches occur. Thus, there are existing adequate state regulations in place to protect AGS customers from cyber-security incidents.

**WHEREFORE**, RESA hereby respectfully requests that this Commission make clear that proposed Rule 24, like all other proposed technical standards, apply only to gas utilities. Accordingly, Rule 24 should be revised to refer only to a “utility” rather than a “gas provider” and the special definition for “gas provider” should be removed. The proposed rule creates uncertainty as to its applicability and establishes additional unwarranted requirements on AGSs that will not increase customer protections.

Respectfully submitted,

**FRASER TREBILCOCK DAVIS & DUNLAP, P.C.**  
ATTORNEYS FOR RETAIL ENERGY SUPPLY ASSOCIATION

Date: December 4, 2019

By:   
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