

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

STAFF NOTICE OF ALLEGED VIOLATIONS

(January 18, 2013)

Take notice¹ that in a nonpublic preliminary investigation pursuant to 18 CFR Part 1b, the staff of the Office of Enforcement of the Federal Energy Regulatory Commission (Commission) has preliminarily determined that (i) Michigan Consolidated Gas Company (MichCon) violated the Commission's capacity release requirements, 18 CFR § 284.8(h)(2) (2012); and (ii) Washington 10 Storage Corporation (Washington 10) violated Section 311 the Natural Gas Policy Act of 1978 (NGPA),² various subparts of 18 CFR §§ 284.122, 284.123, 284.124, 284.126 (2012) and its Statement of Operating Conditions (SOC).

MichCon: Staff alleges that from 2001 through 2006, MichCon engaged in fifty-four back-to-back capacity release transactions without posting the capacity on an Electronic Bulletin Board. Staff also alleged that MichCon engaged in "flipping," which is the repeated short-term release of discounted rate capacity to two or more affiliated replacement shippers on an alternating monthly basis that circumvents the competitive bidding requirements. Staff alleges that this behavior violated 18 CFR § 284.8(h)(2) of the Commission's regulations.

Washington 10: Staff alleges that from October 2003 to November 2007, Washington 10 executed thirty-two firm transportation storage contracts as intrastate firm transportation service contracts when they should have been classified as interstate service under NGPA Section 311. Over this same time frame, staff alleges that Washington 10 also executed seventy-two park and loan (PAL) contracts and classified those contracts as intrastate when they should have been classified as interstate. As a result of this misclassification, staff preliminarily determines that Washington 10 agreed to provide firm PAL service to sixty-eight of those customers when Washington 10 was not authorized by its Commission-approved SOC to provide that service. Staff also alleges that as a result of the misclassification of contracts as intrastate, Washington 10 failed to identify these contracts in its semi-annual reports. Staff also alleges that Washington 10 failed to file annual reports reflecting hub services in violation of the

¹ Enforcement of Statutes, Regulations, and Orders, 129 FERC ¶ 61,247, *order on reh'g*, 131 FERC ¶ 61,054 (2011).

² 15 USC § 3371 (2006).

Commission's regulations. Staff alleges that by misclassifying the contracts during that period, Washington 10 violated NGPA Section 311, various subparts of sections 284.122, 284.123, 284.124 and 284.126 of the Commission's regulations as well as its SOC.

This Notice does not confer a right on third parties to intervene in the investigation or any other right with respect to the investigation.

Kimberly D. Bose,
Secretary.