

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Barbara Beerhalter	Chair
Cynthia A. Kitlinski	Commissioner
Norma McKenna	Commissioner
Robert J. O'Keefe	Commissioner
Darrel L. Peterson	Commissioner

In the Matter of the Request of Minnegasco, Inc. to Implement Two New Large Volume Interruptible Services

ISSUE DATE: December 11, 1987

DOCKET NO. G-008-M-87-331

ORDER APPROVING REQUEST AS MODIFIED

PROCEDURAL HISTORY

On June 8, 1987, Minnegasco, Inc. (Minnegasco or the Company) filed with the Minnesota Public Utilities Commission (the Commission) a request for approval of two new services. They are Optional Large Volume Interruptible Gas Service and Optional Large Volume Interruptible Transportation Service.

On July 23, 1987, the Minnesota Department of Public Service (the DPS) filed its Report of Investigation and Recommendation with the Commission. The DPS recommended approval, subject to 10 provisions.

On July 29, 1987, Minnegasco responded to the DPS's Report. Minnegasco found most of the recommended provisions acceptable. The Company urged the Commission not to adopt the provision requiring the Company to file the initial rate charged on execution of each flexible rate contract.

FINDINGS AND CONCLUSIONS

The first issue before the Commission is whether to approve the proposed flexible tariffs.

Minn. Stat. Section 216B.163 (Supp. 1987) authorizes the Commission to approve flexible tariffs under which a gas utility may set or change the price for its service to a customer or a group of customers without prior approval of the Commission, if that gas utility charges a price within a range of prices that the Commission has determined is reasonable.

The statute provides standards for the approval of a flexible tariff. First, the service offered to customers must be subject to effective competition. Effective competition is defined as:

Subd. 1. [DEFINITIONS].

(b) "Effective competition" means that a customer of a gas utility who either receives interruptible service or whose daily requirement exceeds 50,000 cubic feet maintains or plans on acquiring the capability to switch to the same, equivalent or substitutable energy supplies or service, except indigenous biomass energy supplies composed of wood products, grain, biowaste, and cellulosic materials at comparable prices from a supplier not regulated by the commission.

The Commission finds that by definition interruptible customers are subject to effective competition.

Further, the statute explains the circumstances under which flexible tariffs are permitted:

Subd. 2. [FLEXIBLE TARIFFS PERMITTED.] Notwithstanding any other provision of this chapter, the commission is authorized to approve a flexible tariff for any class of customers of a gas utility when provision of service, including the sale or transportation of gas, to any customers within the class is subject to effective competition. Upon application of a gas utility, the commission shall find that effective competition exists for a class of customers taking interruptible service at a level exceeding 199,000 cubic feet per day. A gas utility may only apply a flexible tariff to a customer that is subject to effective competition and a gas utility may not apply a flexible tariff or otherwise reduce its rates to compete with indigenous biomass energy supplies, or with customers of district heating facilities as of June 1, 1987. A customer subject to effective competition may elect to take service either under the flexible tariff or under the appropriate nonflexible tariff for that class of service set in accordance with section 216B.03, provided that a customer that uses an alternative energy supply or service other than indigenous biomass energy supplies from a supplier not regulated by the commission for reasons of price shall be deemed to have elected to take service under the flexible tariff.

Minnegasco's proposed flexible rate tariff contains a statement in its Availability of Service section that the tariff will be offered to customers per the new law. The Commission finds that this description in the tariff is inadequate.

The Commission will require the Company to expand its explanation of the new law's limits on the availability of flexible rate service. The Commission will require Minnegasco to add language to the tariff to specifically state that customers with alternative energy supplies whether from district heating or indigenous biomass from a supplier not regulated by the Commission are not eligible to take this service and cannot be compelled to take the flexible service. Further, the Commission finds that the Company's large volume interruptible flexible and nonflexible tariff pages should be revised to make the tariff more understandable. Therefore, the Commission will require the Company to state that customers' use of alternative energy sources (other than biomass energy) will automatically place them under service of the flexible tariff.

The statute also requires that tariffs contain language to:

Prevent application of the rate to customers using district heating as of June 1, 1987, or using indigenous biomass energy supplies;

Place customers on the flexible rate upon request or automatically upon use of an alternative energy supply not regulated by the Commission;

Require the customer to remain on the flexible rate a minimum of one year; and

Require a customer switching from a flexible rate to a fixed rate to pay all costs incurred by Minnegasco due to the change.

Each of these tariff provisions is required by Minn. Stat. Section 216B.163 (Supp. 1987).

The Commission finds that the low end of rates proposed by the Company will recover incremental costs. The Commission further finds that the proposed tariff does not establish a maximum flexible rate. The proposed tariff also provides that a customer who elects to take service under a flexible tariff remain on that tariff for a reasonable period of time, a minimum of one year, and that any customer changing from a flexible tariff to the appropriate non flexible tariff for that class pay all costs incurred by the Company due to that change.

The Commission notes that the DPS and the Company have agreed to a number of secondary modifications to the proposed tariff, including requiring customers to notify Minnegasco thirty days in advance when switching from a flexible to a nonflexible service; requiring Minnegasco to notify customers two days (or less, if agreed to by both parties) in advance of implementation of new negotiated rates; allowing the Company to use units of MMBtu rather than Mcf to allow for consistent measurements of fuels, whether natural gas or an alternative; requiring Minnegasco to report to the Commission in two years on any costs the Company incurs as interruptible customers switch from a flexible to a nonflexible rate; require Minnegasco to design default rates to be the higher of \$0.25 per MMBtu above either the nonflexible rate or a posted price (plus any applicable transportation rates) of the customer's alternative fuel; require the Company to remove the obligation to serve statement from its contract; and requiring Minnegasco to maintain records at all times of the rates charged to each customer.

The Commission concludes that Minnegasco's proposed flexible rate tariffs meet the standards set forth in Minn. Stat. Section 216B.163 (Supp. 1987) and should be approved.

The second issue before the Commission is whether to require the filing of each initial contract.

The Commission finds that all the information pertinent to the individual rates actually in effect from time to time will be filed at least quarterly, as discussed below. The Commission further finds that the "filed rates" language in Minn. Stat. Section 216B.05, subd. 1 (1986) is fully satisfied by the filing of a formula which defines how a charge is set. The Commission finds that the proposed tariffs constitute such formula rates. The Commission concludes that this statute does not also require the filing of initial contracts. Had the Commission concluded otherwise, it could not also

find that merely filing the initial contracts without each subsequent change would satisfy Minn. Stat. Section 216B.05, subd. 1 (1986), as suggested by the DPS. The Commission concludes it will not require the filing of each initial contract.

Laws of Minnesota 1987, Chapter 371, section 2 requires the DPS to perform a study of the operation and effects of all gas utility flexible tariffs approved under the law and report to the Legislature by February 1, 1990. To facilitate this study, the parties agreed that Minnegasco would submit quarterly reports for a year from the date of this Order containing the following information:

1. The number of customers on the flexible rate;
2. Every rate charged to each customer and the effective date of each rate;
3. To the extent available, each customer's alternative fuel and the offered price and date of the alternative fuel;
4. The number of customers switching to alternative fuel despite the availability of flexible rates;
5. Losses avoided under flexible rates;
6. The revenue difference using the non-flexible rate as opposed to the flexible rate; and
7. Additional information as requested by the DPS.

The Commission concludes that it should require the quarterly filing of this data as agreed upon by the parties because it will provide valuable information for the legislative report.

ORDER

1. Minnegasco's proposed flexible rate tariffs as modified above are hereby approved.
2. Minnegasco shall file quarterly reports containing the information described above for a period of one year from the issue date of this Order.
3. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Mary Ellen Hennen
Executive Secretary

(S E A L)