

G-001/M-90-493 ORDER REVISING FLEXIBLE RATE TARIFF

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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In the Matter of a Petition from
Interstate Power to Revise Its
Flexible Gas Tariffs

ISSUE DATE: December 14, 1990

DOCKET NO. G-001/M-90-493

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TARIFF

PROCEDURAL HISTORY

In 1987 the Minnesota legislature enacted Minn. Stat. § 216B.163, a flexible rate statute for gas utilities. This law allowed gas utilities to offer flexible, discounted tariffs to customers subject to effective competition. Effective competition was defined as the capability of obtaining equivalent energy service from a nonregulated supplier.

In 1990 the flexible rate tariff was amended by the Minnesota legislature. The new version of the statute incorporated the following changes, among others:

1. The Commission must specify a maximum rate for any flexible tariff.
2. The Commission may specify the minimum term for which a customer must be on the tariff.
3. Eligibility restrictions were changed to disallow competition with district heating facilities as of June 1, 1987.

On July 3, 1990, Interstate Power (Interstate or the Company) responded to the statutory changes by petitioning for modifications to its flexible rate tariff. The tariff applied to Large Volume Interruptible and Interruptible 526 Gas Transportation service. Interstate requested that the Commission approve the following changes to its tariff:

1. The maximum rate would be set at an amount equal to the jurisdictional standard rate plus the same margin by which the Company is allowed to flex down to derive the minimum flexible rate.

2. There would be a minimum term of one year set for new contracts.
3. There would be a prohibition against competing with customers of district heating systems who had been on the system as of June 1, 1987. The prohibition would expire on July 1, 1992.

Item three requested by the Company was simply a restatement of a statutory change. Items one and two were requests for Commission approval of positions taken by the Company.

On August 20, 1990, the Department of Public Service (the Department) filed its Report of Investigation and Recommendation. The Department noted that the Company had not addressed the issue of a default rate to be set in months when the utility and the customer fail to negotiate a rate. The Department suggested certain clarifying language to be added to the tariff. The Department also recommended eliminating the requirement that customers pay the utility's cost of switching from flexible rates to standard rates. This reflected a change in the amended flexible rate tariff.

The Residential Utilities Division of the Office of the Attorney General (RUD-OAG) submitted comments on August 22, 1990 and on October 12, 1990. On September 27 and October 1, 1990, the Department filed comments. Interstate submitted a comment letter on September 14, 1990.

The Commission met to consider the matter on November 27, 1990.

FINDINGS AND CONCLUSIONS

Issues Before the Commission

The following issues were raised in the Company's petition or in the Department's Report of Investigation and Recommendation:

1. At what level should the maximum tariff rate be set?
2. What minimum term should be set for flexible rate contracts?
3. What default rate should be set for periods in which the utility and the customer have failed to negotiate a flexible rate?
4. Should the clarifying language proposed by the Department be added to the tariff?

The Maximum Rate

Positions of the Parties

The Department recommended that the Commission set the maximum rate for flexible tariffs at the standard rate as approved in the utility's most recent rate case. The Department argued that this rate would enable utilities to retain dual fuel customers who might otherwise leave the system by offering them flexible downward pricing. At the same time, according to the Department, this system would protect customers who seek alternative energy sources. Such customers would not be at the mercy of sudden price escalations for alternative fuels, because they could choose to pay the standard tariffed rate to Interstate.

Interstate requested that the Commission set the maximum rate at an amount equal to the standard rate plus the same margin by which the Company is allowed to flex down to derive the minimum flexible rate. The Company argued that this method was most fair to all parties, because it would allow the level of risk to the customer to match the level of reward. The RUD-OAG supported this position in its comments.

Commission Action

The Commission agrees with the position advocated by Interstate and supported by the RUD-OAG. Allowing the maximum rate to flex above the standard rate to the same extent as it can flex below is fair to the parties involved. Under the method requested by Interstate, customers are sufficiently protected by the maximum rate "cap". Flex rate customers are thus not entirely subject to extreme price swings for alternative fuel. Any amount by which the flex rate may exceed the standard rate can be considered an appropriate "fee" the customers pay for the benefits of flexible pricing and protection against dramatic price increases.

Flexible rate customers are further protected against excessive cost by their option of choosing the standard rate over a flexible rate. The complaint process is also open to flexible rate customers who feel they have been treated unfairly.

If the maximum were set at the standard rate, flexible gas customers would receive the benefits of the flexible tariff without assuming any of the inherent risk. The Interstate method more closely follows the model of the open market place, in which competitive forces ensure that both risks and rewards are weighed when customers decide to enter the market.

Without the possibility of an upward flex, customers who do not qualify for flexible rates could shoulder an unjust portion of the utilities' fixed costs. Non-flex customers, usually small business and residential customers, would reap little benefit from the flexible rate tariffs. Nearly all benefits of the gas

utility flexible rate statute would flow to the utilities and their large energy customers.

The Commission finds that setting the maximum flex rate above the standard rate by the same increment as the below-standard flex is fair to the utilities, the large customers, and to residential and small business customers. The Commission will set the maximum tariff rate in this manner.

Minimum Term for Contracts

Positions of the Parties

In its petition, Interstate requested a one year minimum term for new flexible rate contracts. The Department recommended the same term if the Interstate maximum rate method were adopted.

Commission Action

The Commission agrees with Interstate's position, which is also the Department's recommendation. A one year minimum term will provide sufficient stability for the contracting parties, yet will allow sufficient freedom for the parties to respond to market forces.

Default Rate

The Parties' Positions

In its August 20, 1990 Report and Recommendation, the Department advocated using the utility's maximum flexible rate as the default rate. Thus, if a utility and a flexible rate customer failed to agree during negotiations for a contract renewal, the flexible rate would be set at the maximum until the parties settled on a negotiated rate. The Department argued that this would give both parties to the contract negotiations an incentive to agree on a rate. In times when alternative prices are lower than the maximum, utilities could risk losing customers and customers could risk locking into a rate that is higher than their alternative fuel price. When alternative prices are higher than the maximum, the contract rate and the default rate would usually both equal the maximum rate.

Interstate did not refer to the issue of a default rate in its petition.

Commission Action

The Commission agrees with the Department that the default rate should be set at the maximum flexible rate. Because the Commission has decided to adopt Interstate's plan for setting a

maximum rate, the Commission finds that this is the proper formula for a default rate in the tariff.

Clarifying Language

Positions of the Parties

The Department recommended that the following clarifying language be added to the "Availability" section of Interstate's flexible rate tariff to reflect a statutory change:

A customer whose only alternative source of energy is gas from a supplier not regulated by the Minnesota Public Utilities Commission and who uses Interstate's system to transport gas is ineligible for flexible rates, unless the customer has or can reasonably acquire the ability to bypass Interstate's system.

The Department also recommended that the Company remove the language from its tariff which required customers to pay the utility for the cost of switching from flexible to standard tariffs. This change reflected the language of the amended flexible rate statute.

Interstate had no objection to the addition and deletion recommended by the Department.

Commission Action

The Commission agrees with the Department that the recommended clarifying language should be added to and the specified language deleted from the Company's flexible rate tariff.

ORDER

1. Interstate's July 3, 1990 petition for a revised tariff is hereby approved, with the following clarifications and modifications:
 - a. The maximum rate for the Interstate flexible rate tariff shall be set at an amount equal to the standard rate plus the same margin by which the Company is allowed to flex down to derive the minimum flexible rate.
 - b. The minimum term for flexible rate tariffs between Interstate and its customers shall be one year.

- c. The Interstate flexible rate tariff shall include a default rate which is equal to the maximum rate as set out in Paragraph One (a) above.
 - d. Clarifying language as proposed by the Department and specified in the body of this Order shall be added to the "Availability" section of Interstate's flexible rate tariff.
 - e. The language requiring customers to pay the cost of switching from flexible to standard tariffs shall be deleted from the Company's tariff.
2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Richard R. Lancaster
Executive Secretary

(S E A L)