

G-011/M-90-63 ALLOWING REVISION

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Darrel L. Peterson	Chair
Cynthia A. Kitlinski	Commissioner
Norma McKanna	Commissioner
Robert J. O'Keefe	Commissioner
Patrice Vick	Commissioner

In the Matter of a Petition by Peoples Natural Gas Company to Revise its Terms and Conditions Regarding Customer Deposits

ISSUE DATE: May 24, 1990

DOCKET NO. G-011/M-90-63

ORDER ALLOWING REVISION

PROCEDURAL HISTORY

On May 24, 1983, the Commission issued its ORDER APPROVING TARIFF in In the Matter of Peoples Natural Gas Company's Filing for Approval of Tariff Sheets with Revised Wording Governing Guarantee Deposit Terms, Docket No. G-011/M-83-240. In that Order, the Commission approved an increase from 6% to 8% in the interest rate paid by Peoples Natural Gas Company (Peoples or the Company) on customers' deposits.

On January 31, 1990, Peoples filed a request to lower the interest rate it pays on customer deposits from 8% to 6%. In its petition, Peoples asked the Commission to grant the rate decrease effective January 1, 1990.

On February 22, 1990, the Department of Public Service (the Department) filed comments and a recommendation that the retroactive rate change be approved.

The matter came before the Commission on May 8, 1990.

FINDINGS AND CONCLUSIONS

The Commission must decide two issues in connection with the Company's requested rate change. First, the Commission must decide if the requested interest rate decrease should be approved. Second, if the Commission decides to approve the change, the question of a retroactive effective date must be addressed.

The decrease in interest rate

The Commission agrees with the Department that the Company's requested lower rate would conform to Commission rule. Minn. Rules pt. 7820.4500 specifies a 6% interest rate to be paid on customer deposits. Although a higher rate has been in effect for Peoples for approximately seven years, the interest rate rule has remained unchanged. The Company's proposed rate change request also contains the essential elements spelled out in Minn. Rules pt. 7820.4500 (1989): interest will be compounded annually; interest will be paid at least once a year; and non-delinquent customers will get their deposits back after twelve months.

The lower interest rate will also conform to current realities of the market place. The previous increase in interest rate took place in 1983, a period of high interest rates. Current interest rates are lower. During the last 4 1/2 months of 1983 the prime rate was 11%; during the first 3 1/2 months of 1990 the prime rate was 10%. The requested lower rate also better reflects the return on investment a customer could expect to receive on his or her money in the market place.

Because the requested interest rate decrease would conform more closely to Commission rule and would better reflect current terms in the market place, the Commission will approve the decrease.

Retroactive application

Minn. Rules pt. 7825.3200 (1989) requires a utility filing for a change in rates to serve notice to the Commission at least 90 days prior to the proposed effective date of the modified rates. In order for the Commission to grant Peoples' requested effective date of January 1, a variance from this rule would be required.

Minn. Rules pt. 7830.4400 (1989) lists the following conditions which must apply in order for the Commission to grant a rule variance:

1. Enforcement of the rule would impose an excessive burden upon the applicant or others affected by the rule;
2. Granting of the variance would not adversely affect the public interest; and
3. Granting of the variance would not conflict with standards imposed by law.

Granting Peoples a retroactive rate change would fail to meet the aforementioned conditions. First, enforcement of the rule requiring 90 days notice would not impose an excessive burden upon the applicant. While allowing the Company to compute an interest rate from the beginning of the calendar year rather than from the middle might be slightly simpler, it could not be said to be an undue burden if the Company must change its computation at mid-year. Second, granting the variance to allow retroactive application could adversely affect the public interest. The public has had an expectation of an 8% return on utility deposits for this calendar year as well as previous ones. It is in the best interest of the public to require the Company to give notice of a prospective decrease in return on deposits. Third, granting the variance may well conflict with standards imposed by law. A variance which would allow the Company's requested effective date could be regarded as retroactive ratemaking. Retroactive ratemaking is in conflict with constitutional due process

protections against the taking of property. Such ratemaking is also in conflict with Minnesota law, specifically Minn. Stat. §216B.23, subd 1 (1989), which provides: "[T]he commission shall ... by order fix reasonable rates ... to be imposed, observed and followed in the future."

Because enforcement of the rule requiring 90 days notice before a rate change would not impose an excessive burden on the Company and would be in the best interest of the public, and because granting a variance to the rule would be in conflict with standards imposed by law, the Commission will allow only a prospective decrease in the Company's interest rates for deposits.

ORDER

1. Peoples Natural Gas Company's request for a decrease in interest on customer deposits from 8% to 6% is hereby granted, effective June 1, 1990.
2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Richard R. Lancaster
Executive Secretary

(S E A L)