

G-008/M-91-1015 ORDER GRANTING REHEARING

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Don Storm	Chair
Tom Burton	Commissioner
Cynthia A. Kitlinski	Commissioner
Dee Knaak	Commissioner
Norma McKanna	Commissioner

In the Matter of a Request by
Minnegasco for Approval of
Deferred Accounting for
Manufactured Gas Plant Site
Investigation, Monitoring, and
Remediation Costs

ISSUE DATE: September 21, 1992

DOCKET NO. G-008/M-91-1015

ORDER GRANTING REHEARING

PROCEDURAL HISTORY

On August 11, 1992, The Commission issued its ORDER ALLOWING DEFERRED ACCOUNTING TREATMENT AND REQUIRING INFORMATION in the above-captioned matter.

On September 1, 1992, Minnegasco filed a petition for reconsideration and rehearing.

On September 18, 1992, the matter came before the Commission for consideration.

FINDINGS AND CONCLUSIONS

Minn. Rules, part 7830.4100 requires that parties seeking rehearing or reconsideration of a Commission Order file a petition therefor within 20 days from the date of the mailing of such Order.

Minnegasco acknowledged that its filing on September 1, 1992 did not comply with that rule, being one day late. The Company requested that the Commission waive the 20 day filing requirement in this case or take up the Company's petition on its own motion. The Company explained that its attorney had calculated the 20 day period applying the method authorized by the state District Court rules which add an additional three days to the period of appeal from an order when the order has been mailed. Rule 6.05 of the Rules of Civil Procedure for District Court.

The Commission finds that it is reasonable for counsel inexperienced in Commission procedures to make such a mistake once. Upon its own motion, the Commission will waive the 20 day filing requirement of Minn. Rules, part 7830.4100 in this case and recognize the filing. The waiver is, in essence, a variance from the rule which the Commission is authorized to grant pursuant to Minn. Rules, part 7830.4400. The Commission finds that the variance is warranted because under the circumstances

strict enforcement of the filing time limit would impose an excessive burden upon Minnegasco, granting the variance will not adversely affect the public interest, and granting the variance would not conflict with standards imposed by law.¹

Having waived Minnegasco's filing defect, the Commission will proceed with this matter. The Commission may grant or deny a petition for reconsideration with or without a hearing or, in its discretion, set a hearing thereon. Minn. Rules, part 7830.4100.

Under Minn. Stat. § 216B.27, subd. 4 (1990), any application for rehearing not granted within 20 days of filing is deemed denied. The Commission finds that adequate review of Minnegasco's petition will require more than 20 days. The Commission will therefore grant the petition for rehearing for purposes of tolling the statute and allowing an opportunity for meaningful review. This Order makes no determination regarding the merit of the Company's petition; deliberations on the merits of the petition will be scheduled at a later date.

ORDER

1. The Commission grants the petition of Minnegasco for rehearing of the Commission's August 11, 1992 Order in this docket.
2. Parties wishing to file comments on the Company's petition may do so within 10 days after the date of this Order.
3. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Richard R. Lancaster
Executive Secretary

(S E A L)

¹ The Commission's waiving the 20 day filing requirement for purposes of allowing it to consider Minnegasco's petition does not conflict with or seek to alter the statutory requirement that no appeal to the Court of Appeals may be taken from a Commission Order unless the petitioner shall have made application to the Commission for a rehearing within 20 days after the service of the decision. Minn. Stat. § 216B.27, subd. 2 (1990).