

G-002/M-94-104 ORDER GRANTING REQUEST FOR DEFERRED ACCOUNTING

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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Chair  
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In the Matter of the Application of Northern States Power Company Gas Utility for Approval of Deferred Accounting for Certain Manufactured Gas Plant Site Cleanup Costs

ISSUE DATE: September 6, 1994

DOCKET NO. G-002/M-94-104

ORDER GRANTING REQUEST FOR DEFERRED ACCOUNTING

**PROCEDURAL HISTORY**

On February 3, 1994, Northern States Power Company Gas Utility (NSP Gas or the Company) filed a request for approval of deferred accounting. NSP wished to defer costs of investigation and cleanup of four manufactured gas plant (MGP) sites in Minnesota. NSP planned to seek Commission permission to amortize those costs in the Company's next general rate case.

On March 9, 1994, the Department of Public Service (the Department) and the Residential Utilities Division of the Office of the Attorney General (RUD-OAG) submitted comments in opposition to the deferral.

On March 18, 1994, NSP submitted reply comments. NSP filed responses to Department and Commission information requests on March 30, 1994.

On June 10, 1994, the Department filed supplemental comments. The Department recommended that the Commission allow deferred accounting only for the Red Wing MGP site. The Department continued to believe that costs should not be deferred for the other three sites mentioned in the petition.

The matter came before the Commission for consideration on August 4, 1994.

**FINDINGS AND CONCLUSIONS**

**I. Factual Background**

NSP now owns or previously owned ten Minnesota properties which are listed on the U.S. Environmental Protection Agency's (EPA) Superfund cleanup list. Although the EPA is not presently investigating any of these sites, the Company is working with the Minnesota Pollution Control Agency (MPCA) on investigation, monitoring, and remediation of four of the sites.

1. Red Wing. This property was a manufactured gas plant site which produced coal gas from 1873 to 1940. Although the property is no longer owned by NSP, the Company will be obliged to share in remediation. Costs for excavation and disposal were projected at \$2.5 to \$3.5 million.
2. Stillwater. NSP owned a manufactured gas plant on this site from 1916 to 1953, when it sold the property. The City of Stillwater now wants to develop the property into a

parking lot. The initial cost of \$100,000 is likely to greatly expand when the City proceeds with the development and actual remediation is required.

3. Kopper's Coke Pipeline. This pipeline, built by NSP's predecessor in 1916, was used to transport manufactured gas until the site's retirement in 1978. Expenses for remediation of this site are being shared by NSP's gas and electric utilities. Costs for 1994 and future years are estimated at \$1,320,000.
4. High Bridge Levee Station. The environmental cleanup at this site consists of removing "blue soil," or spent oxide box wastes, a byproduct of manufactured gas processing. Costs are estimated at \$450,000.

## **II. Accounting Standards**

Under Minn. Rules, part 7825.0300, the Commission has adopted the Federal Energy Regulatory Commission (FERC) uniform system of accounts (USOA). Minnesota utilities are required to present their filings in conformity with the USOA.

The USOA provides that items of profit and loss are to be presented and taken into account in calculating the utility's annual net income in the year in which the items are experienced. In contrast, deferred accounting excludes certain costs in the year incurred and holds them for inclusion in profit and loss calculations for future years. Deferred accounting is therefore an exception to the general principles of the USOA.

Commission rules allow exceptions to the USOA under limited circumstances:

A public utility may petition the commission for approval of an exception to a provision of the system of accounts. Such exception shall be granted to the public utility for good cause shown.

Minn. Rules, part 7825.0300, subp. 4.

NSP's petition was filed pursuant to this provision of the rules.

### **III. Comments of the Parties**

#### **A. NSP**

NSP proposed to accumulate the Company's MGP cleanup costs in FERC Account 186 (Miscellaneous Deferred Debits) beginning January 1, 1994. The Company asked to begin deferring as of January 1 because its February 3, 1994, petition was filed before the January books were closed.

The Company stated that it intends to seek Commission approval to amortize the deferred costs in its next general rate case.

NSP stated that deferred accounting is appropriate in this case because the MGP cleanup costs are unusual and nonrecurring, substantial in size, and not representative of normal operation and maintenance expenditures.

In its petition NSP stated that it cannot predict with accuracy the eventual costs for the cleanup. Insurance recovery is also an unknown factor. Although the Company will pursue insurance recovery for remediation costs, eventual recovery cannot be predicted. Any insurance award obtained would be used to offset the deferred account when the Company proposes amortizing the account.

NSP argued that allowing deferral would promote an important social policy. Deferral of MGP costs would allow NSP to pursue the most advantageous timing for environmental cleanup because the Company would not be driven by the need to include costs in a specific test year.

Finally, while NSP has already experienced MGP cleanup costs, no MGP costs are currently reflected in the Company's rates.

#### **B. The Department**

The Department argued that deferred accounting should be avoided when possible because it amounts to single-issue ratemaking.

According to the Department, of the four cleanup sites mentioned in NSP's petition, only Red Wing has costs which are significant enough to warrant deferral.

The Department stated that MGP cleanup is becoming more common. At some time the Commission will need to declare that these costs are no longer extraordinary; it is within the Commission's discretion to declare the costs common (and thus ineligible for deferral) at this time.

The Department stated that any deferral should begin as of February 1, 1994. NSP should be required to file annual reports on current and projected remediation activities, accounting for MGP costs, and insurance recovery efforts.

#### **C. The RUD-OAG**

The RUD-OAG stated that permitting deferred accounting weakens the test year concept by allowing too many exceptions to it. Deferred accounting creates a test year mismatch, because non-test year costs are deferred for consideration in the test year but non-test year revenues are not.

The RUD-OAG advised the Commission not to allow deferred accounting for the MGP cleanup

costs. If the Commission does allow deferral, it should not allow it for Kopper's Coke Pipeline or the High Bridge Levee Station, which were not ever MGP sites. Any deferral should be considered from February 3, 1994, the date of the petition, rather than from January 1, 1994.

#### **IV. Commission Action**

The Commission finds that deferral of the Company's environmental cleanup costs is appropriate. The Commission's reasoning follows.

##### **A. The Commission Has Allowed Deferral of MGP Costs in Previous Decisions**

The Commission has allowed deferred accounting for MGP investigation and cleanup costs for Peoples Natural Gas Company (Peoples)<sup>1</sup> in 1991 and for Minnegasco<sup>2</sup> in 1992.

In these cases the Commission allowed the utilities to place the costs of investigating, monitoring, and remediating MGP sites in deferred accounts. The companies were later allowed to seek recovery of these costs in general rate cases.

The Commission notes that Minnegasco is no longer deferring MGP costs but is expensing them as normal expenses. This fact is not relevant, however, because Minnegasco's accounting treatment for MGP costs is a product of settlement negotiations. The Minnegasco and NSP situations are also factually dissimilar because Minnegasco is currently recovering costs of MGP cleanup in rates, while NSP is not.

##### **B. NSP's MGP Cleanup Costs Are within the Parameters for Deferred Status**

In a May 19, 1994, Order<sup>3</sup> the Commission granted NSP's request for deferred accounting for certain interest payments on tax liabilities. In that Order the Commission applied several deferral parameters or guidelines from the final Order in NSP's 1993 rate case. The Commission found that deferral of the interest payments was appropriate because the items were significant, unusual, and related to utility operations, and they had benefitted ratepayers.

In this case the Company is seeking deferral of MGP cleanup costs instead of interest on tax liabilities. The Commission finds, however, that the guidelines cited in the tax interest case are useful in analyzing the Company's request for deferral in this case.

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<sup>1</sup> In the Matter of a Request by Peoples Natural Gas Company for Approval of Accounting Procedures for Its Manufactured Gas Plant Site Investigation and Cleanup Costs, Docket No. G-011/M-90-1135, ORDER (March 26, 1991).

<sup>2</sup> In the Matter of a Request by Minnegasco for Approval of Deferred Accounting for Manufactured Gas Plant Site Investigation, Monitoring, and Remediation Costs, Docket No. G-008/M-91-1015, ORDER ALLOWING DEFERRED ACCOUNTING TREATMENT AND REQUIRING INFORMATION (August 11, 1992).

This Order was confirmed upon reconsideration in ORDER DENYING PETITION FOR RECONSIDERATION IN THE MATTER OF A REQUEST BY MINNEGASCO FOR APPROVAL OF DEFERRED ACCOUNTING FOR MGP SITE INVESTIGATION, MONITORING, AND REMEDIATION COSTS (November 24, 1992).

<sup>3</sup> In the Matter of the Request of Northern States Power Company for Approval of Deferred Accounting Treatment of Interest Paid on Income Tax and Sales Tax Changes, Docket No. E-002/M-93-1328, ORDER APPROVING DEFERRED ACCOUNTING.

Applying these general guidelines, the Commission finds that deferral is appropriate because the proposed items are unusual and significant, related to utility operations, and likely to provide a ratepayer benefit.

The MGP cleanup costs proposed for deferral are unusual, extraordinary, and unforeseen. NSP's costs do not become common because the Commission has seen similar costs in previous unrelated dockets. The fact that the Commission has dealt with requests by Minnegasco and Peoples for deferral of MGP cleanup costs does not change the circumstances or history for NSP. NSP has a limited number of cleanup sites which will be dealt with on a project by project basis. The decisions regarding the cleanup are largely out of the control of the utility and in the hands of state and federal agencies. NSP cannot be held accountable for acquiring or misusing these sites, because their acquisition and use predate the current environmental laws. The Commission finds that the costs in this case are unusual, extraordinary, and unforeseen.

The costs for NSP's MGP cleanup are significant. Costs for the Red Wing cleanup are estimated at up to \$3.5 million. Even the lowest estimate, for the Stillwater site cleanup, is only for preliminary investigative work. The actual remedial action necessary for development of the land will logically have much higher costs.

No party argued that the MGP cleanup costs are unrelated to utility operations. Although some properties are no longer owned by NSP, the sites were all owned and used at one time by NSP or its predecessor. NSP remains liable for cleanup under current state and federal environmental laws.

Ratepayers benefit from the cleanup costs because the Company is under obligation to remediate the sites and would face fines and penalties if the cleanup did not occur.

**C. The Commission is Unconvinced by Other Arguments against Deferral Raised by the Parties**

The Commission disagrees with the RUD-OAG's assertion that deferral of the cleanup costs should not be allowed because it weakens the test year concept. Although the test year is an important and sound rate-setting principle, exceptions to the test year are sometimes permitted for good cause shown. If an exception to normal accounting methods is the product of close and careful scrutiny, as is here the case, it will not unduly weaken the test year concept.

Any arguments raised regarding test year mismatch can only be answered in a rate case setting, not in this proceeding on deferred accounting.

The Commission disagrees with the RUD-OAG's argument that only two of the four sites in NSP's petition (Stillwater and Red Wing) should be considered for deferral because they are the only sites which actually produced manufactured gas. The other sites, Kopper's Coke Pipeline and the High Bridge Levee Station, were either used for the transport of manufactured gas or were contaminated with byproducts of the manufacturing process. They are thus closely associated with manufactured gas. Costs for cleanup of these sites should not be distinguished from costs for the MGP sites. All four locations are closely related to manufactured gas cleanup, for which costs may be deferred in this case.

**D. Conclusion**

The Commission finds that NSP has shown good cause for an exception to the USOA. The Commission will allow the Company to defer costs of MGP cleanup for the proposed sites as of February 3, 1994, the date of the Company's petition. Deferral from this date is consistent with Commission precedent and the prospective nature of the request for deferral.

Deferred accounting for these costs will allow the Company to pursue environmental cleanup in the most productive and cost-efficient manner possible. It will also allow the Commission to consider actual, final costs and insurance recovery when the Company requests rate case recovery of cleanup costs.

The Commission notes that granting the Company's request for deferral does not guarantee the Company eventual rate case recovery of these costs. The costs will be subject to the normal rate case review of prudence and reasonableness.

**ORDER**

1. The Commission grants NSP's request for approval of deferred accounting, as of February 3, 1994.
2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar  
Executive Secretary

(S E A L)