

ISSUE DATE: August 21, 1995

DOCKET NO. G-001/M-94-633

ORDER DENYING RECONSIDERATION

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Don Storm	Chair
Tom Burton	Commissioner
Joel Jacobs	Commissioner
Marshall Johnson	Commissioner
Dee Knaak	Commissioner

In the Matter of a Request by Interstate Power Company for Deferral of Expenses Associated with Former Manufactured Gas Plants

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**PROCEDURAL HISTORY**

On April 13, 1995, the Commission issued its ORDER APPROVING REQUEST FOR AUTHORITY TO DEFER COSTS AND REQUIRING FILINGS in the above-captioned docket. In that Order the Commission granted authority to Interstate Power Company (Interstate or the Company) to defer actual cleanup costs for certain former manufactured gas plant (MGP) sites. Deferred accounting would allow Interstate to request Commission consideration of the Company's non-test year MGP cleanup costs in the Company's next general rate case. Recovery of costs would be subject to the Commission's normal scrutiny of prudence and reasonableness.

Although most issues related to MGP cleanup would be resolved in the Company's next general rate case, the Commission made one determination regarding ratemaking treatment in the April 13 Order: the Commission would not allow allocation of MGP costs between the Company's gas and electric ratepayers. The Commission stated:

MGP costs are associated with the provision of gas service. There is no nexus between costs of remediation of MGP sites and provision of electric service. For this reason, the Commission will here state that it will not approve cost allocation between the gas and electric ratepayers. Order at p. 5.

On May 3, 1995, Interstate filed a petition for reconsideration of the Commission's determination on cost allocation. On June 8, 1995, Interstate submitted a brief in support of its petition.

On May 10 and June 19, 1995, the Residential Utilities Division of the Office of Attorney General (RUD-OAG) filed comments opposing Interstate's petition.

On May 12 and June 19, 1995, the Department of Public Service (the Department) filed comments recommending that the Commission deny the Company's petition.

The matter came before the Commission for consideration on June 1 and August 3, 1995.

## **FINDINGS AND CONCLUSIONS**

### **I. THE POSITIONS OF THE PARTIES**

#### **A. Interstate**

In its petition Interstate declared that the allocation of MGP costs between gas and electric ratepayers must be decided through contested case proceedings. According to Interstate, a factual dispute exists--is there or is there not a nexus between MGP site cleanup expenses and the provision of electric service.

Interstate stated further that a nexus between the MGP cleanup and current electric service does exist because environmental cleanup costs represent current operating costs for both gas and electric customers. In addition, Interstate argued, electric service displaced some of the uses of manufactured gas, chiefly lighting, cooking and heating. The displacement created a nexus between manufactured gas and electric service.

Finally, Interstate stated that the Commission has previously allowed gas utilities to recover MGP cleanup costs through rates when the land on which the cleanup sites exist is used and useful for utility purposes and services.

For these reasons, the Company asked the Commission to reconsider its April 13, 1995, allocation decision and defer determination of the proper allocation of MGP cleanup costs to the Company's next rate case.

#### **B. RUD-OAG**

The RUD-OAG stated that Interstate's electric ratepayers never received benefits from MGP operations and should therefore not be forced to bear any costs for MGP cleanup. The fact that MGP cleanup costs are environmental in nature does not distinguish them from other costs--they must be related to the provision of electric service in order to be recovered from electric ratepayers.

The RUD-OAG also refuted Interstate's theory based on displacement of MGP service by electric service. If this theory were logically applied, the RUD-OAG argued, an all-electric utility could be required to reimburse an all-gas utility for MGP cleanup costs if electric lighting was used to replace any manufactured gas lighting. This is an illogical result the Commission

could not intend.

### **C. The Department**

The Department argued that there is no suggestion that manufactured gas was used in the provision of electric service at any point in time.

The Department noted that electric service is provided through a completely different generation, transmission, and distribution system than manufactured gas. Different fixtures and appliances were required in homes and businesses that switched from manufactured gas to electric service.

The Department argued that allowing MGP cleanup costs to be imposed on electric ratepayers would confuse the distinction between Interstate's gas and electric operations for ratemaking purposes. Allowing Interstate to place some of the MGP cleanup costs on its electric ratepayers would be unfair to other gas utilities, such as Minnegasco and Peoples, who do not have electric customers to absorb their MGP cleanup costs.

## **II. COMMISSION ACTION**

### **A. Necessity for Contested Case Proceedings**

The Commission finds that Interstate has not raised a material fact in dispute which would require contested case consideration of the cost allocation issue.

Parties are not disputing the facts surrounding the allocation of MGP cleanup costs. The Department and the RUD-OAG do not dispute that electric service has in some cases superseded the use of manufactured gas for lighting, cooking, and heating. The dispute lies in the significance of the displacement, not in the fact that it occurred.

It is entirely within the Commission's authority, and part of its statutory duty, to determine the proper policy to be applied to the facts presented here. Minn. Stat. § 216B.03 states in relevant part:

Every rate made, demanded, or received by any public utility, or by any two or more public utilities jointly, shall be just and reasonable. Rates shall not be unreasonably preferential, unreasonably prejudicial or discriminatory, but shall be sufficient, equitable and consistent in application to a class of customers.

In this matter the proper allocation of MGP costs is a policy issue which the Commission has the authority and discretion to decide. The fact that Interstate has alleged a nexus between MGP cleanup and electric service, based upon the partial displacement of MGP service by electric, does not constitute a material fact in dispute which would take this determination outside the Commission's discretion.

## **B. The Proper Allocation of MGP Cleanup Costs**

Strong public policy reasons exist for the Commission's traditional insistence upon proper accounting between utilities' operating companies. The Commission's duty to set rates which are just and reasonable underlies the Commission's requirement that utilities keep operating companies' accounting separate, with clear and proper allocations of costs and revenues.

Without proper cost allocations between operating companies, there would be no assurance that the mandate of Minn. Stat. § 216B.03 would be applied: "Rates shall not be unreasonably preferential, unreasonably prejudicial or discriminatory, but shall be sufficient, equitable and consistent in application to a class of customers." Equity requires that the proper burdens and benefits are assigned to distinct sets of ratepayers. Without this separation, cost of service analysis could not be applied, and the Commission could not set just and reasonable rates.

Interstate has not raised any argument which would cause the Commission to abandon this traditional cost allocation policy.

Interstate's displacement argument is not persuasive. As the Department noted, electric service uses a completely different generation, transmission, and distribution system from manufactured gas service. Wholly different fixtures and appliances were required for customers to make the switch from manufactured gas service to electric. The factual nexus is too strained to support allocating cleanup costs to electric customers.

Neither does the Commission agree with Interstate's argument that the character of these costs as environmental means that they must be treated differently from other costs, allocated to both electric and gas ratepayers if the MGP site was at one time used and useful to the utility. The Company cites nothing in statute, rule, or Commission precedent which sets allocation of environmental costs apart from other cost allocations. Electric customers have not been benefited by the MGP generation, distribution, or transmission system, and should not be burdened by the costs of MGP cleanup.

Interstate cites the 1993 Peoples Natural Gas Company rate case<sup>1</sup>, in which the Commission allowed recovery of MGP cleanup costs at a site which was now used as a utility parking lot, as precedent for allocation of cleanup costs to both electric and gas customers if the property was once used and useful. The used and useful analysis is drawn from Minn. Stat. § 216B.16, subd. 6, which requires the Commission to consider utility assets depreciable if the property was “used and useful in rendering service to the public.” While this test is useful in rate base analysis, there is no logic or statutory support for extending it to allocations between ratepayers. The Company can provide no rationale for its proposal that if property was used and useful to the utility, traditional cost apportionment no longer applies.

**C. Conclusion**

Interstate has not raised any material fact in dispute which would require determination of these issues in contested case proceedings.

Interstate has not advanced any argument which would support reconsideration of the Commission’s decision in its April 13, 1995, Order. The Commission reaffirms that Order in every respect.

**ORDER**

1. Interstate’s May 3, 1995, petition for reconsideration is denied.
2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar  
Executive Secretary

(S E A L)

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<sup>1</sup> In the Matter of the Application of Peoples Natural Gas Company, a Division of UtiliCorp United, Inc., for Authority to Increase Its Rates for Natural Gas Service in the State of Minnesota, Docket No. G-011/GR-92-132, FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER (February 22, 1993).