

ISSUE DATE: May 28, 1998

DOCKET NO. G, E-999/AA-97-1212

ORDER REVIEWING 1997 ANNUAL AUTOMATIC ADJUSTMENT REPORTS AND
TRUE-UP FILINGS

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Edward A. Garvey
Joel Jacobs
Marshall Johnson
LeRoy Koppendrayer
Gregory Scott

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of the Review of the 1997 Annual
Automatic Adjustment of Charges for All Gas
and Electric Utilities

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PROCEDURAL HISTORY

On or before September 2, 1997, all Minnesota's gas and electric utilities with the exception of Northern Minnesota Utilities Corporation (NMU) and Northern Wisconsin Electric Power (Northwestern) filed 1) their 1996-97 Annual Automatic Adjustment Reports (required by Minn. Rules, parts 7825.2800 - 7825.2840) and 2) their Annual True-up Filings (required by Minn. Rules, Part 7825.2910, subpart 4).

- On September 2, 1997 NMU requested and was granted a 30-day extension for its 1997 Annual Report and true-up filing. NMU's annual reports and true-up filing were received on September 29, 1997.
- On November 20, 1997, the Commission issued an Order granting Northwestern a three year variance from the annual filing requirement. Given the small number of Northwestern customers in Minnesota (103) the annual filing requirement had become unduly burdensome.

On December 12, 1997, the Commission issued a Notice extending the initial comment filing deadline to January 5, 1998.

On January 5, 1998, the Minnesota Department of Public Service (the Department) submitted its Review of the 1997 Annual Automatic Adjustment Reports (1997 Review or Report), in this Docket No. G, E-999/AA-97-1212. The Department recommended acceptance as filed of all the electric utilities' 1996-97 annual reports and all the gas utilities' 1996-97 annual reports but made several recommendations concerning individual gas utilities' 1997 true-up filings. The Department's 1997 Review also provided a detailed comparative analysis of gas rates paid by Minnesota ratepayers during the 1996-97 gas year and supplemental information related to gas costs.

On January 6, 1998, the Commission issued an additional Notice extending the reply comment filing deadline in this matter beyond the normal 10 day time period to January 26, 1998.

- On January 27, 1998, Minnegasco submitted a reply to the Department's 1997 Review.
- On February 6, 1998, Interstate Power Company (Gas Utility) submitted a reply.

The Commission met on April 23, 1998 to review the utilities' automatic adjustment of charges pursuant to Minn. Rules, part 7825.2850.

FINDINGS AND CONCLUSIONS

I. LATE-FILED COMMENTS

Minnegasco's reply comments filing is dated January 26, 1998 and was date stamped as received by the Commission on January 27, 1998. Interstate Power's reply comments filing is dated February 5, 1998 and was date stamped as received by the Commission on February 6, 1998. According to Minn. Rules, part 7829.0400, subpart 1, documents are filed with the Commission when they are received in the Commission's offices during regular business hours.

Although these replies were not timely filed, the Commission will, on its own motion pursuant to Minn. Rules, Part 7829.3100, grant Minnegasco and Interstate extensions of the filing deadlines, to submit their filings after the Commission's January 26, 1998 deadline for reply comments. No party objected to receipt of these filings and the Commission finds that no party is prejudiced by the Commission's consideration of these filings.

II. ELECTRIC UTILITIES' ANNUAL AUTOMATIC ADJUSTMENT REPORTS

The Department reported that all of the Annual Reports filed by electric utilities for 1996-97 complied with the filing requirements of Minn. Rules, Part 7825.2810. The Department's review focused on whether the electric utilities have adjusted their energy rates since their most recent rate case to accurately reflect periodic changes in fuel costs. The Department's review included an analysis of procurement policies, dispatching procedures, cost-minimizing efforts, adjustment computations, auditor's reports, and fuel-cost projections.

Based on the Department's review and recommendations and the Commission's own review of the electric companies' 1996-97 annual automatic adjustment reports, the Commission will accept them as filed.

III. GAS UTILITIES' ANNUAL AUTOMATIC ADJUSTMENT REPORTS

In its Report, the Department stated at page 7:

..... all seven regulated gas utilities met the annual filing requirements, including information relating to fuel procurement and the annual true-up adjustment. The Department believes that the annual filings are complete and accurate as originally filed or subsequently amended and recommends that the Commission accept the utilities annual report filings.

Based on the Department's review and recommendations and the Commission's own review of the gas companies' 1996-97 annual automatic adjustment reports, the Commission will accept them as filed.

IV. GAS UTILITIES' ANNUAL TRUE-UP FILINGS

The Department raised concerns regarding several of the companies' annual true-up filings. Concerns meriting Commission action and/or discussion are addressed in this section.

A. Interstate: Docket No. G-001/AA-97-1330

1. MidCon Gas Services Contract

The Department recommended that the Commission not accept Interstate's 1997 true-up filing because the true-up did not properly reflect the Commission's required treatment of capacity release revenues. The Department argued that the amount of capacity release revenue reflected in the Company's true-up report was incorrect because it did not match the amount of capacity release revenue received from Northern Natural during the reporting period. The Department recommended that Interstate's true-up factors be adjusted to reflect the additional \$87,463 in capacity release revenues (\$143,095 less \$55,632 already credited to customers in the Company's 1996 and 1997 true-ups) which the Department believes are still owed to Minnesota customers.

Interstate did not object to the Department's recommendation. However, in response to the Department's similar recommendation regarding the 1996 true-up, Interstate asserted that it was in compliance with the Commission's September 20, 1994 Order regarding capacity release in Docket No. G-001/M-93-1219. Interstate objected to being required to try to accomplish all of its capacity release transactions with its current staffing levels. Interstate also argued that if it must return all capacity release revenue (credits) to ratepayers in Minnesota this would leave Interstate with unrecovered administrative costs from MidCon. Interstate stated that it would have to consider separating its Minnesota service territory from the rest of its service territory and to handle capacity release internally on a best efforts basis for Minnesota.

The Commission notes that its October 16, 1997 ORDER REVIEWING 1996 ANNUAL AUTOMATIC ADJUSTMENT REPORTS AND TRUE-UP FILINGS specifically directed Interstate to include in a revised 1996-97 true-up filing all capacity release revenue [from 1995-96 and 1996-97] received from customers. In that Order, the Commission stated:

While mathematically correct, Interstate's 1996 true-up filing does not properly reflect the Commission's required treatment of capacity release revenues. Under Interstate's treatment, firm customers, who pay for the firm capacity in the first place, do not receive all the money paid by those who purchase the released capacity. Specifically at issue are the costs of a contract with MidCon Gas Services Corp. (MidCon). In November 1995, Interstate contracted with MidCon to provide many gas procurement and supply functions. It is not appropriate to use revenue from capacity release to pay the costs of the MidCon contract which provides services to all customers. . . . As a consequence, Interstate will be required to incorporate these corrections in a revised 1996-97 true-up filing, i.e. include in the true-up calculation all capacity release revenue [from 1995-96 and 1996-97] . . . received from customers.

Order at page 2.

The Commission finds that Interstate has failed to do so, which leads to the current situation. In these circumstances, the Department's recommendation is well founded and will be accepted. The Commission will deny Interstate's 1997 true-up filing (Docket No. G-001/AA-97-1330) and require Interstate to adjust its true-up factors within 30 days of the date of the Order in this docket to reflect the additional \$87,463 in capacity release revenues.

2. Rule Variance Re: Synthetic Storage Gas

Interstate requested a variance to the true-up filing rule, Minn. Rules, Part 7825.2700, subpart 7, to include prior period gas costs in the true-up of gas costs for the July 1, 1996 through June 30, 1997 time period. Interstate explained that it had inadvertently omitted these costs (\$164,781 synthetic storage gas charges incurred during 1) November 1994 through March 1995 and 2) November 1995 through March 1996) from its 1995 and 1996 true-up filings.

Interstate argued that the necessary conditions for a rule variance (Minn. Rules, part 7829.3200) have been met:

- a) strict enforcement of the PGA true-up rule would impose an excessive burden on the Company and its stockholders due to an unequal sharing of gas cost for a service which customers have used;
- b) granting the variance would not adversely effect the public interest because it would resolve an existing inequity; and
- c) granting the variance would not conflict with any standards imposed by law.

The Department recommended the Commission approve Interstate's request for a variance from Minn. Rules, part 7825.2700, subpart 7 to allow the Company to recover \$164,781 from ratepayers through the 1997 annual true-up. The Department did not object to the prudence of Interstate incurring these costs at the time the gas was received at its city gate. The Department agreed with Company that the conditions for a rule variance have been met:

- a) the \$164,781 adjustment is significant and could adversely affect the Company if it is not allowed to recover the expense;
- b) the variance would not conflict with the public interest if the variance is considered in the context of a three year period, i.e. FYE 95, FYE 96 and FYE 97, because there would be no net impact on ratepayers; and
- c) the variance would not conflict with any other standard imposed by law.

The Commission recognizes that allowance of out-of-period costs is quite unusual, but agrees with Interstate and the Department that in the circumstances of this case, a variance from the requirements of the true-up filing rule (Minn. Rules, Part 7825.2700, subpart 7) is warranted.

As in a similar case involving NSP-Gas¹, the utility's error was inadvertent and the net impact upon ratepayers was zero. In these circumstances the Commission finds that denying recovery of these costs would impose an excessive burden upon Interstate and that allowing the recovery would not violate the public interest. Finally, allowing the requested recovery does not violate any standard imposed by law.

Accordingly, the Commission will grant Interstate's request for a variance to the true-up filing rule, (Minn. Rules, part 7825.2700, subpart 7) to include \$164,781.22 of prior period gas costs, i.e. synthetic storage gas charges, from November 1994 through March 1995 and November 1995 through March 1996, in the 1997 true-up of gas costs for the July 1, 1996 through June 30, 1997 time period.

3. Rule Variance Re: Large Volume Interruptible (LVI) Class

In its 1997 true-up filing, Interstate transferred the total un-collected balance from the LVI customer class to the Small Volume Interruptible (SVI) class.

The Department objected that Interstate's transfer of the unrecovered costs from one rate class to another is inappropriate in the absence of a variance to the true-up rule, Minn. Rules, part 7825.2700, subpart 7. The Department recommended that the Commission not accept Interstate's true-up as filed and require the Company to revise its true-up to separate and charge the current recoveries for Large Volume and Small Volume Interruptible Customer Classes within 30 days of the Commission's decision in this docket.

In a subsequent filing, Interstate requested a variance to Minn. Rules, part 7825.2700, subpart 7 to allow the transfer of the \$56,712 outstanding balance from the LVI class to the SVI class. Interstate explained that the under-recovery occurred during the low heating season months of July through September. Interstate stated that it would normally make up the under-collection during the heating season except that all of its LVI customers had migrated to the SVI customer class to obtain a lower rate. Interstate argued that this migration was caused by a Department-recommended rate design that was approved in its last rate case. Interstate addressed and argued that it has met the necessary conditions for a rules variance. See Minn. Rules, part 7829.3200

The Commission finds that the variance requested by Interstate is warranted and will grant it. Since there are no longer any members of the LVI customer class to whom the true-up adjustment could be applied, strict adherence to the true-up allocation procedure per the rule would impose an excessive burden on the Company. Second, granting the variance would not affect the public interest. In effect, under the Company's proposal, the unrecovered LVI costs that the LVI class members were responsible for incurring simply migrated along with these migrating LVI customers to the SVI customer class. Finally, the Commission finds that the requested variance would not conflict with a standard imposed by law.

¹ ORDER ACCEPTING ANNUAL AUTOMATIC ADJUSTMENT REPORTS, In the Matter of the Review of the 1994 Automatic Adjustment of Charges for All Gas and Electric Utilities, July 13, 1995, Docket No. G,E-999/AA-94-762

B. Minnegasco

1. Viking Area True-up: Docket No. G-008/AA-97-1320

The Department recommended that the Commission accept Minnegasco's Viking area true-up filing in Docket No. G-008/SAA--97-1320. The Commission will accept this recommendation.

2. Northern Area True-up: Docket No. G-008/AA-97-1319

In May 1997, Minnegasco discovered that it had mistakenly overbilled one of its Small Volume Dual Fuel (SVDF) in the amount of \$85,275 going back to January 1992. Minnegasco refunded the entire amount (\$85,275) to the customer. Minnegasco increased gas costs for its SVDF customers by \$61,792 to recover the gas portion of the refund and absorbed the difference.

The Department argued that Minnegasco exceeded the amount it is allowed to refund under Minn. Rules, part 7820.4000² without a rule variance. The Department stated that if Minnegasco were to ask for a rule variance, the Department would oppose granting a variance since it was Minnegasco's error that caused the billing problem. The Department argued that the refund should not be made at ratepayers' expense for more than the rule allows. The Department recommended approving recovery of the refund amount allowed by the rule (overcharges for one year: \$16,636), with the remainder (\$45,156) to be paid by Minnegasco's shareholders.

Subsequently, Minnegasco requested a rule variance, arguing that the conditions for granting such a variance have been met.

The Commission concludes that the conditions for granting such a variance have been met (see Minn. Rules, Part 7829.3200) and will, therefore, grant the variance requested by Minnegasco. The Commission bases its decision on the following findings:

1. This case involves an overcharge caused by inadvertent billing error, a good faith refund to the customer of the entire overbilling, and recovery of a portion of the amount refunded. Under these circumstances, limiting Minnegasco's recovery of the amount refunded to its customer in good faith (\$85,275) to one year's overcharge (\$16,636) would require the Company's shareholders to absorb a disproportionate amount of the refund. Such a requirement would impose an excessive burden upon the Company.
2. Under the circumstances of this case, allowing the proposed recovery would not conflict with the public interest. The Company does not seek to recover the non-gas cost portion of the refund (\$23,483) and, hence, will absorb a significant portion of the \$85,275 refund. This, together with the burden of seeking the variance, sends an appropriate corrective

² **Minn. Rules, part 7820.4000, Billing Errors.** When a customer has been overcharged or undercharged as a result of incorrect reading of the meter, incorrect application of rate schedule, incorrect multiplier or constant or other similar reasons, the amount of the overcharge shall be refunded to the customer or the amount of the undercharge may be billed to the customer. The refund or charge in no event shall exceed one year, unless the date the error occurred can be fixed with reasonable certainty, in which case the refund or charge shall be computed from that date, but in no event for a period longer than one year.

signal to the Company to be on guard for such billing errors. Indeed, failure to allow the partial recovery requested by the Company may well inhibit the Company in the future from fully remedying the injury done to overcharged customers. Further, recovery of part of the refund from other SVDF customers is reasonable and does not conflict with the public interest. During the overcharge, these other customers were receiving lower prices as a direct result of the overcharge. The lower prices experienced by the other SVDF customers, of course, did not correspond exactly to the amount overcharged. However, since the Company has not requested to recover the entire amount refunded and will be absorbing a substantial amount (\$23,483), the Commission finds the proposed amount to be recovered from the SVDF customers reasonable.

3. The requested variance does not conflict with any standard imposed by law. As noted, the Commission is authorized to vary its rules, based on the analysis and findings such as have been made here, as provided in Minn. Rules, Part 7829.3200.

Accordingly, the Company will be allowed to recover \$61,792, the gas cost portion of the amount refunded to the customer, from the other SVDF customers in the true-up.

C. Northern Minnesota Utilities: Docket No. G-007/AA-97-1309

The Commission has reviewed and will accept NMU's true-up filing as filed. In addition, consistent with the Commission's February 4, 1998 decision in Docket No. G-007/M-97-94,³ the Commission will require NMU to use the Department proposed true-up factors to charge some third-party demand costs to its customers through the commodity portion (as opposed to the demand portion) of the PGA.

D. NSP - Gas Utility: Docket No. G-002/AA-97-1329

NSP requested a one-year extension of its variance to Minn. Rules, part 7825.2700, subpart 7 to allow it to return margin revenue from its off-system sales to its firm customers through its annual PGA true-up. This variance was originally granted for the ten-month time period, of November 1996 through August 1997.⁴

The Department stated that the conditions for granting a rule variance continue to exist and recommended that the Commission grant NSP a twelve-month extension of its rule variance.

³ See In the Matter of Northern Minnesota Utilities' Petition for Approval of a Miscellaneous Rate Change to Reflect Requested Changes in Gas Transportation Demand Levels, Docket No. G-007/M-97-94, ORDER PARTIALLY GRANTING AND PARTIALLY DENYING PETITION FOR MISCELLANEOUS RATE CHANGES (February 4, 1998).

⁴ See In the Matter of a Request from Northern States Power-Gas Utility for a Ten Month Variance from the PGA True-up Rule, Docket No. G-002/M-96-1356, ORDER DETERMINING TREATMENT OF OFF SYSTEM SALES MARGINS (April 8, 1997).

The Commission will grant the requested variance. As found and discussed more fully in the previous Order,⁵ the Commission continues to find that 1) enforcement of Minn. Rules, Part 7825.2700, subpart 7 would impose an excessive burden on the Company and ratepayers, 2) granting the variance will not adversely affect the public interest, and 3) granting the variance will not conflict with applicable legal standards. Minn. Rules, Part 7829.3200. As a consequence, NSP-Gas will be able to continue crediting certain margin revenues from sales to resale in the computation of its annual PGA true-up factors.

E. Western: Docket No. G-012/AA-97-1328

In its true-up filing, Western reported that it over-recovered its gas costs, in total, by +2.01%. According to the Department's analysis, however, Western over-recovered its demand costs by \$168,178, or approximately +25.73%, and under-recovered its commodity costs by \$77,101, or approximately (-3.98%). Further, in its analysis of Western's true-up factors (rates), the Department found that Western allocated the entire cost of Daily Delivery Variance Charges (DDVC) penalties and System Management Service (SMS) to firm customers.

With respect to both DDVC penalties and the SMS commodity charges, the Department recommended that these costs be allocated between interruptible and firm customers, based on Western's forecasted monthly sales figures for the two customer classes for each month the DDVC and SMS commodity charges were incurred:

- **True-up factors:** the Department recommended that the Commission require Western to implement the Department's true-up factors and, on a going forward basis, to properly incorporate capacity release revenues, SBA billing credits or other demand cost/revenue adjustments in its true-up filings so that these adjustments are reflected in the Company's over-/under-recovery percentages by class and by total system.
- **Allocation of Cost of DDVC Penalties and SMS Commodity Charges:** the Department recommended that the Commission require Western to allocate the cost of DDVC penalties and SMS commodity charges between firm and interruptible customers based on the monthly sales figures of these two customer classes for each month that the DDVC penalties and/or SMS commodity charges were incurred.

The Department also expressed concern regarding Western's gas purchasing agent, U.S. Energy Services. The Department noted that U.S. Energy Services has consistently over-purchased gas for Western during the reporting period and that Western has been selling the extra gas (approximately 16 percent of Western's total commodity purchases) back to Northern Natural Gas at prices that were, on average, less than the Company's WACOG during the reporting period. The Department questioned whether Western's ratepayers are subsidizing U.S. Energy Services' consistent over-purchasing of gas volumes for Western during the reporting period. The Department recommended that the Commission require Western to put out for open bid its gas purchasing function. According to the Department, this would allow Western to select that gas purchasing agent that has the most reasonable nomination history and will provide the best commodity price for ratepayers.

Western did not respond to the Department's recommendations.

⁵ Supra, Order at page 3.

The Commission will accept the Department's recommendations regarding 1) Western's true-up filing and 2) the allocation of DDVC penalties and SMS commodity charges:

- The Commission will deny Western's 1997 true-up filing in Docket No. G-012/AA-97-1328 and require Western to implement the Department's recommended true-up factors. The Department's true-up factors properly incorporate capacity release revenues, SBA billing credits, and other demand cost/revenue adjustments in its true-up filings so that these adjustments are reflected in the Company's over-/under-recovery percentages by class and by total system.
- In addition, the Commission will require Western to allocate the cost of Daily Delivery Variance Charge (DDVC) penalties and System Management Service (SMS) commodity charges between firm and interruptible customers based on the monthly sales figures of these two customer classes for each month that the DDVC penalties and/or the SMS commodity charges were incurred.

Regarding Western's gas purchasing function, the Commission shares the Department's concern and will require Western to review alternatives to its present contractual gas purchasing function and to select the gas purchasing agent or process that has the most reasonable nomination history and will provide the best commodity price and most reliable gas supply portfolio to Western.

V. Future Annual Automatic Adjustment Reports - Gas Utilities

Based on its review and reflections, the Commission will adopt several other recommendations made by the Department relative to the gas companies' next annual automatic adjustment reports, due September 1, 1998. Specific directives for those reports are set forth in Ordering Paragraphs 17 to 18.

ORDER

1. The late-filed reply comments of Minnegasco and Interstate are accepted into the record of this case.
2. The 1996-97 annual automatic adjustment reports of all of the electric utilities are accepted as being in general compliance with Minn. Rules, parts 7825.2390 through 7825.2920.
3. The 1996-97 annual automatic adjustment reports of all of the gas utilities are accepted as being in general compliance with Minn. Rules, parts 7825.2390 through 7825.2920.
4. Great Plains' true-up filings in Docket Nos. G-004/AA-97-1387, G-004/AA-97-1388, and G-004/AA-97-1331 are accepted.
5. Interstate's 1997 true-up filing in Docket No. G-001/AA-97-1330 is denied. Within 30 days of this Order, Interstate shall adjust its true-up factors in this docket to reflect the additional \$87,463 in capacity release revenues.
6. Interstate's request for a variance to Minn. Rules, Part 7825.2700, subpart 7 (the true-up filing rule) to include \$164,781.22 of prior period gas costs, i.e. synthetic storage gas charges, from November 1994 through March 1995 and November 1995 through

March 1996, in the 1997 true-up of gas costs for the July 1, 1996 through June 30, 1997 time period, is granted.

7. Interstate's request for a variance to Minn. Rules, part 7825.2700, subpart 7, to allow the transfer of a \$56,712 outstanding under-collection balance from the LVI class to the SVI class is granted.
8. Minnegasco's Viking area true-up filing in Docket No. G-008/AA-97-1320 is accepted.
9. Minnegasco's Northern area true-up filing in Docket No. G-008/AA-97-1319 is accepted as filed. Minnegasco's request for a variance to the billing errors rule, Minn. Rules, part 7820.4000 is granted.
10. NMU's true-up filing in Docket No. G-007/AA-97-1309 is accepted as filed. NMU shall use the Department proposed true-up factors.
11. NSP's true-up filing in Docket No. G-002/AA-97-1329 is accepted. NSP is granted an extension to the variance to Minn. Rules, part 7825.2700, subpart 7 approved previously in Docket No. G-002/M-96-1356.
12. Peoples' true-up filings in Docket Nos. G-011/AA-97-1339, G-011/AA-97-1340, and G-011/AA-97-1311 are accepted.
13. Western's 1997 true-up filing in Docket No. G-012/AA-97-1328 is rejected. Western shall implement the Department's recommended true-up factors.
14. Western shall allocate the cost of Daily Delivery Variance Charge (DDVC) penalties and System Management Service (SMS) commodity charges between firm and interruptible customers based on the monthly sales figures of these two customer classes for each month that the DDVC penalties and/or the SMS commodity charges were incurred.
15. Western shall review alternatives to its present contractual gas purchasing function and select the gas purchasing agent or process that has the most reasonable nomination history and will provide Western with the best commodity price and most reliable gas supply portfolio.
16. The gas utilities shall direct their independent auditors to
 - a. include language in the auditors' reports filed with the companies' September 1, 1998, AAA Reports that verifies that the examination was done in compliance with the Commission's October 16, 1997 Ordering Paragraph number 25; or
 - b. alternatively, include language that gas costs reported in the utility's general ledger during the reporting period equal gas costs included in the true-up and that sales volumes used to calculate gas cost recovery in the true-up equal those upon which the revenues included in the utility's general ledger are based.
17. The gas utilities shall direct their independent auditors to include, as one of their procedures, an examination of any significant variations between purchased volumes (per

invoices) and sale volumes per the general ledger sales journal.

18. The gas utilities shall provide a specific justification for each piece of information for which the designation of proprietary or trade secret is claimed in their annual reports and true-up filings.
19. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

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