

ISSUE DATE: February 1, 2000

DOCKET NO. G-007, 011/M-99-1586

ORDER DENYING VARIANCE AND ORDERING REFUNDS

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of a Request by Peoples Natural Gas Company and Northern Minnesota Utilities, Divisions of UtiliCorp United, Inc., for a Variance Granting Additional Time to Make a Northern Natural Gas Refund

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PROCEDURAL HISTORY

On November 8, 1999 Peoples Natural Gas Company (Peoples) and Northern Minnesota Utilities (NMU), Divisions of UtiliCorp United Inc., requested a variance allowing additional time to pass through a refund made by Northern Natural Gas (NNG). Minn. Rules¹ require gas utilities to make annual refunds to customers of the total amounts refunded to them by suppliers and transporters of purchased gas. The rules further require that cumulative refund amounts of \$5.00 or more per customer must be refunded within 90 days of when the refund is received from the supplier or transporter.

On December 8, 1999 the Department of Commerce(DOC) submitted comments recommending that the variance request be approved.

On January 11, 2000 the matter came before the Commission.

¹ Minn.Rules 7825.2700 subp.8

FINDINGS AND CONCLUSIONS

I. Background

On September 13, 1999 NNG refunded to Peoples and NMU the following amounts:

Peoples

- For customers served off the NNG Pipeline \$1,344,735.61
- For customers served off the Viking Pipeline \$7,812.03

NMU

- For customers served off the NNG Pipeline \$229,056.75

These refunds are based on the difference between NNG's interim and final rates in a recently concluded rate case before the Federal Energy Regulatory Commission (FERC).²

The DOC estimated the refunds per customer to be \$10.40 for customers served off the Peoples - NNG Pipeline, \$1.94 for customers served off the Peoples - Viking Pipeline and \$6.50 for customers served off the NMU - NNG Pipeline.

II. The Rule at Issue

Subp. 8. **Refunds.** Refunds and interest on the refunds, that are received from the suppliers or transporters of purchased gas and attributable to the cost of gas previously sold, must be annually refunded by credits to bills, except that cumulative refund amounts equal to or greater than \$5 per customer must be refunded within 90 days from the date the refund is received from a supplier or transporter. Refunds must be allocated to customer classes in proportion to previously charged costs of purchased gas. Within classes, the refund amount per unit must be applied to bills on the basis of individual 12-month usage. The utility shall add interest to the unrefunded balance at the prime interest rate.³

In brief, the rule requires gas utilities to return to customers within 90 days supplier and transporter refunds of \$5.00 or more. Smaller refunds are to be accumulated and returned once a year. Interest is to be added to the unrefunded balance at the prime interest rate. Pursuant to this rule the refunds for Peoples -NNG pipeline customers and NMU customers received by the Companies September 13,1999 were to be paid by December 12, 1999.

² Docket RP-98-203

³ Minn. Rules 7825.2700, Subp. 8.

III. The Request of Peoples and NMU

Peoples and NMU requested a variance from the provisions of the above cited Minnesota Rule to allow Peoples and NMU additional time to pass through these refunds because of changes being made to their billing system as part of their Y2K preparations. The Request for Variance by Peoples and NMU indicated that at the present time the billing system is unable to make the necessary refunds and the date on which the refunds can be made is unknown. Peoples' and NMU's request proposed paying interest on the unrefunded balance at the prime rate beginning December 12, 1999.

IV. The Standard for a Variance

The Commission shall grant a variance to its rules when it determines that the following requirements are met:

- enforcement of the rule would impose an excessive burden upon the applicant or others affected by the rule;
- granting the variance would not adversely affect the public interest; and
- granting the variance would not conflict with standards imposed by law.⁴

V. Positions of the Parties

Peoples and NMU believe that enforcement of the rule will impose an excessive burden on them because of the need to apply their resources to Y2K activities rather than to developing an effective refund program within the 90 day required time period. They deny harm to the public since interest would be paid at the prime rate. Further, they contend that interest at the prime rate will be an incentive for Peoples and NMU to make the refund as quickly as possible since the Companies would not be able to earn interest at the prime rate on these funds.

The DOC recommended that the variance be granted to allow UtiliCorp to address Y2K compliance issues. At the time of the Commission meeting on January 11, 2000 the DOC stated it did not oppose the denial of the variance.

⁴ Minn Rule 7829.3200 Subp.1

VI. Commission Analysis

The Commission has in the past and continues to support the prompt and precise payment of refunds. In a 1996 Order ⁵ denying a variance to NSP to delay a refund the Commission stated:

As monopoly providers of essential services, utilities have a special duty to refund inadvertent overcharges promptly. Even the promptest refunds do not reach all ratepayers, due to deaths, changes of address, and other intervening circumstances. The public interest requires achieving the closest match possible between the customers who paid the overcharges and the customers who receive the refunds.

Neither does the interest paid on accumulated refunds always compensate ratepayers adequately for the loss of the use of their money. This is especially true of low income customers, who may have forgone other necessities to meet their utility bills, and business customers, who often prefer to make their own decisions on how and when to deploy their capital.

For these reasons, the Commission has long encouraged utilities to develop and perfect their ability to make prompt, precise refunds, instead of requesting relief from refund requirements. For the same reasons, the Commission will deny the Company's request.

The Commission denied a variance to NSP when the amount at issue was under \$500,000. In the present case the amount to be refunded exceeds \$1.5 million. The effect on customers would clearly be that much greater. The Commission continues to support its policy of prompt refunds and for these reasons will deny the variance request.

VII. Interest on the delayed refund

The Commission will set interest on the refund at the prime rate from September 13, 1999 until the date of this order. From the date of this order and continuing until the refund is made the interest shall be at 14.67% for Peoples and 12.89% for NMU, the rate applied to each companies' CIP Tracker account.

Minn. Rules⁶ require that interest be paid at the prime rate from the date the refund is received by the Company from its supplier or transporter, in this case September 13, 1999. This rate assumes disbursement within the 90 days as set forth in the rules. Since the disbursement will not take place until well after the 90 days fairness requires an adjustment. Setting the interest rate at the same rate the Companies would theoretically earn on the amounts held is reasonable.

ORDER

⁵ In the Matter of a Petition by Northern States Power Company - Gas Utility for a Variance from Minn. Rules 7825.2700, Subp.8, Docket No. G-002/M-96-625.

⁶ Minn. Rules 7825.2700 Subp.8

1. The request for a variance from Minn. Rules 7825.2700, subp. 8 by Peoples Natural Gas Company and Northern Minnesota Utilities is denied.
2. The Companies shall distribute the refund as soon as practicable.
3. Interest shall be applied at the prime rate from September 13, 1999 until the date of this Order.
4. Interest shall be applied at the rate of 14.67% for Peoples and at the rate of 12.89% for NMU from the date of this Order until the refund is made.
5. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

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