

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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Chair  
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In the Matter of the Review of the 2000 Annual  
Automatic Adjustment of Charges for all Gas  
and Electric Utilities

ISSUE DATE: December 18, 2001

DOCKET NO. G,E-999/AA-00-1027

ORDER ACTING ON GAS AND ELECTRIC  
UTILITIES' 2000 ANNUAL AUTOMATIC  
ADJUSTMENT REPORTS AND SETTING  
FURTHER REQUIREMENTS

**PROCEDURAL HISTORY**

**I. Introduction**

Under Minn. Rules 7825.2390 through 7825.2920, rate-regulated gas and electric utilities may adjust their rates between general rate cases to reflect fluctuations in the prices they pay for gas or electricity purchased for delivery to ratepayers, or for fuel purchased to generate electricity for ratepayers. These adjustments are called automatic adjustments, since they normally take effect without prior Commission approval.

The rules require utilities to make detailed filings supporting each automatic adjustment. They also require utilities to make comprehensive annual filings reporting on all automatic adjustments made during the twelve-month period between July 1 of the previous year and June 30 of the reporting year.

At its meeting of November 8, 2001, the Commission took up the annual reports filed by all rate-regulated gas and electric utilities for the 1999-2000 reporting year.

**II. The Parties**

The electric utilities listed below were required to file, and did file, annual automatic adjustment reports for the 1999-2000 reporting year.

- Dakota Electric Association
- Interstate Power Company - Electric Utility
- Minnesota Power Company
- Otter Tail Power Company
- Northern States Power Company d/b/a Xcel Energy - Electric Utility

A sixth company, Northwestern Wisconsin Electric Company, has been exempted from the annual filing requirement since 1987 because it serves so few Minnesota customers. The company has again requested exemption. The Department of Commerce has conducted its own investigation into that utility's automatic adjustment practices.

The natural gas utilities listed below were required to file, and did file, annual automatic adjustment reports for the 1999-2000 reporting year.

- Great Plains Natural Gas Company
- Interstate Power Company - Gas Utility
- Northern Minnesota Utilities, a Division of UtiliCorp United, Inc.
- Peoples Natural Gas Company, a Division of UtiliCorp United, Inc.
- Reliant Energy Minnegasco
- Northern States Power Company d/b/a Xcel Energy - Gas Utility

There were two other parties to the case, Lakehead Pipe Line Company and the Minnesota Department of Commerce. Lakehead filed comments urging that electric utilities' automatic fuel cost adjustments vary with on-peak and off-peak usage.

The Department of Commerce examined the companies' filings in detail and filed both company-specific and broad-based policy comments and recommendations. Several companies revised or supplemented their filings based on the Department's comments, and the Department revised and supplemented its recommendations based on the companies' supplemental filings. Most contested issues had been resolved by the time the filings came before the Commission.

## **FINDINGS AND CONCLUSIONS**

### **III. The Filing Requirements**

The automatic adjustment rules require that each annual report include at least the information set forth below.

#### ***Minn. Rules 7825.2800***

- the utility's procurement policies;
- a summary of actions taken to minimize costs, including conservation actions.

#### ***Minn. Rules 7825.2810***

- detailed information on all automatic adjustments made during each month of the reporting year for each customer class;
- total cost of fuel, or total cost of gas delivered to customers, during the reporting year;
- total revenues collected from customers for energy delivered;
- detailed information on all billing adjustments, supplier refunds, and any refunds credited to customers;

- a list of all Purchased Gas Adjustment rule variances requested or in effect during the reporting year, together with an explanation of why they were necessary;
- a list of changes in contract demand which occurred during the reporting year and the reasons for those changes;
- disclosure of the levels of customer-owned gas volumes delivered through the utility's distribution system under retail transportation tariffs during the reporting year;
- an explanation of deviations between gas cost recovery and actual gas costs during the reporting year.

***Minn. Rules 7825.2820***

- an independent auditor's report evaluating the utility's accounting for automatic adjustments for the reporting year.

***Minn. Rules 7825.2830***

- for electric utilities, a five-year projection of fuel costs by energy source;
- for gas utilities, a brief statement of the utility's opinion on the impact of market forces on gas costs for the coming year.

***Minn. Rules 7825.2700, subp. 7 and 7825.2910, subp. 4***

- a plan to true-up, over the course of the next twelve months, discrepancies between gas costs actually incurred for each customer class and revenues collected from each customer class.

**IV. Action on the Electric Utilities' Filings**

**A. Filings Accepted**

The Department reported that all utilities were in substantial compliance with the annual filing requirements set forth in the rules and in previous Commission Orders; the agency recommended accepting the annual reports. The Commission will do so.

The Department also raised two company-specific issues and two industry-wide issues on which it recommended Commission action. Those issues are treated below, together with other issues raised by the parties.

**B. Northwestern Wisconsin Electric Excused from Annual Filings**

Since 1987 Northwestern Wisconsin Electric Company has been exempted from annual automatic adjustment reporting requirements because it serves so few Minnesota customers. On September 5, 2000, the company again requested exemption. The company stated that the cost of preparing and filing the annual report would be disproportionate to its regulatory benefits, since the company serves only 97 Minnesota customers, is effectively regulated by the Wisconsin commission, and files with this Commission the same automatic adjustment reports it files in Wisconsin.

Under Minn. Rules 7829.3200 the Commission may vary any of its rules upon making the following findings:

- (1) enforcing the rule would impose an excessive burden upon the applicant or others affected by the rule;
- (2) granting the variance would not adversely affect the public interest; and
- (3) granting the variance would not conflict with standards imposed by law.

The Commission will vary Minn. Rules 7825.2800 through 7825.2840 and exempt the company from annual reporting, based on the following findings:

- (1) enforcing the annual reporting requirement would impose an excessive burden on the company by forcing it to incur substantial costs (estimated by the company at \$5.46 per Minnesota customer) without proportionate benefit;
- (2) varying the annual reporting requirement would not adversely affect the public interest, which is adequately protected by the company's compliance with Wisconsin's reporting requirements and by its practice of filing its Wisconsin automatic adjustment reports with this Commission; and
- (3) varying the automatic reporting requirement would not conflict with any statutory or other legal requirement.

Finally, under Commission rules, variances expire in one year unless the Commission orders otherwise.<sup>1</sup> The Commission will grant an open-ended variance in this case, since the circumstances justifying this variance have existed since at least 1987 and appear unlikely to change in the foreseeable future. The Commission of course retains the authority to revoke the variance should circumstances change.<sup>2</sup>

### **C. Dakota Electric to Explore Mitigating Impact of Seasonal Mismatches Between Costs and Rates**

Dakota Electric Association is an electric cooperative that buys its entire supply from Great River Energy, a generation and transmission cooperative. Great River has recently begun charging seasonal rates for both capacity and energy, using a three-tier rate structure. Under the new rate structure rates are highest from June through August, second highest from December through February, and lowest during the remaining six months.

Since Dakota Electric does not have seasonal rates, it has incurred large over- and under-recoveries, depending upon the season, and its automatic rate adjustments have fluctuated markedly. Because of the time lag between when costs are incurred and when rates are adjusted,

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<sup>1</sup> Minn. Rules 7829.3200, subp. 3.

<sup>2</sup> Minn. Rules 7829,3200, subp. 3.

however, the company's automatic rate adjustments do not send accurate price signals and encourage customers to practice conservation when wholesale prices are high. In fact, the delays built into the automatic adjustment process have nearly the opposite effect.

The company is therefore considering developing seasonal rates or some other rate structure or automatic adjustment mechanism that would more closely match costs and rates. The Department supported this initiative and offered to work with the company on it.

The Commission agrees with the parties that the current mismatch between Great River's wholesale rate structure and Dakota Electric's retail rate structure results in retail price signals that are confusing at best and misleading at worst. The Commission will therefore require the company to explore ways to mitigate the adverse effects of this mismatch and to file a proposal for action within 60 days.

#### **D. Utilities to Explore Potential for Standardizing Treatment of PGA and Electric Supplier Refunds**

In its annual report, Xcel Energy, which provides both gas and electric service, noted that the automatic adjustment rules treat supplier refunds differently for gas and electric utilities. The company suggested that the requirements applicable to electric utilities may offer advantages, in terms of efficiency and flexibility, over those applicable to gas utilities.

Historically, supplier refunds to gas utilities have been larger and more frequent than supplier refunds to electric utilities, and these differences are reflected in the rules governing automatic rate adjustments. The rules for gas supplier refunds require greater precision in allocating refunds to and among customers, clearer customer notice, and prompter distribution of refunded amounts.

While the electric rules may hold potential for streamlining gas refund procedures, it seems more likely that the gas rules hold potential for improving the fairness, precision, and price signals of electric refund procedures. The Commission encourages utilities to study the issue of reconciling the regulatory treatment of gas and electric supplier refunds and to consider, on a case-by-case basis, adapting the refund procedures of the gas rules for use in distributing large electric supplier refunds.

#### **E. Utilities to Explore Using Forecasted Rather than Historical Fuel Clause Adjustment Mechanisms**

For the past year and a half, under variances granted by the Commission, Xcel Energy has been basing its automatic rate adjustments on forecasted fuel costs for the billing period, instead of historical costs. The Department examined the effects of using forecasted costs and concluded that it appeared to offer significant advantages over using historical costs:

On a monthly basis, Xcel Electric's forecasted adjusted costs correlated more closely to actual costs than did the lagged-month [historical] costs. . . . Overall, based on our preliminary analysis, we conclude that Xcel Electric's forecasted FCA method has achieved the goals of providing more accurate and timely rates and price signals than the lagged-month method. The Department recommends

that other electric utilities investigate the possibilities of implementing forecasted FCA methods.<sup>3</sup>

The Commission agrees that this strategy may hold promise and merits further consideration. The Commission will therefore direct all electric utilities to examine the possibility of using forecasted rather than historical fuel clause adjustment mechanisms and to report their findings in their next annual automatic adjustment filings.

**F. Department Asked to Investigate Otter Tail's Energy Adjustment Mechanism**

Historically, electric utilities' fuel costs have been much more stable than gas utilities' gas costs. The automatic adjustment rules for electric utilities therefore permit monthly rate adjustments based on historical costs, without periodic true-ups, in the belief that incidental over- and under-recoveries will offset one another over time. The facts have generally borne out this belief. One company, however – Otter Tail Power Company – despite applying the rules correctly, has over-recovered its fuel costs in twelve of the last fourteen years. This reporting year Otter Tail over-recovered its fuel costs by 2.9%, or some \$616,328.

Of course, over-recoveries in this range do not automatically translate into over-earnings – with fuel cost increases automatically recoverable, electric utilities tend to file fewer general rate cases and absorb non-fuel cost increases for longer periods. Nevertheless, the frequency of these over-recoveries suggests a need for further examination. The Commission will therefore ask the Department, which has been monitoring the situation, to continue to investigate and to include in next year's annual automatic adjustment report its recommendation on whether Otter Tail's automatic rate adjustment mechanism should include a true-up.

**G. Potential for On-Peak and Off-Peak Automatic Adjustment Rates Referred to Ongoing Docket**

Lakehead Pipe Line Company filed comments urging the Commission to require electric utilities to charge different automatic adjustment rates depending upon whether the usage being billed occurred on-peak or off-peak. The company stated that peak-sensitive pricing would promote conservation and energy efficiency by encouraging customers who could do so to reduce on-peak consumption or to shift load to off-peak periods.

Conservation and energy efficiency, of course, are central regulatory goals, and to the extent that Lakehead's proposal would further these goals, it merits careful consideration. This proceeding, however, lacks the detailed factual record and policy focus required to adequately develop the

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<sup>3</sup> Department comments of April 16, 2001, pp. 8-9.

issue. Furthermore, earlier this year, the Commission opened a proceeding to examine nearly identical issues – using rate and tariff design, especially time-of-use rates and real-time pricing, to achieve demand-side management savings and send appropriate price signals to ratepayers.<sup>4</sup>

The Commission will therefore refer Lakehead’s proposal to that proceeding. While the proceeding is specific to Xcel Energy, the efficiencies to be gained from joining an ongoing proceeding and the practical advantages of examining Lakehead’s proposal in a real-world context outweigh the limitations of the proceeding’s single-company focus.

#### **H. Department Asked to Provide Information on Overall Adequacy of Natural Gas Supplies**

The price and availability of natural gas supplies have always been critical to Minnesota gas utilities and the consumers they serve. The Department’s annual reports and its case-by-case review of the utilities’ individual pipeline entitlements, including its conclusions on whether those entitlements are sufficient to meet the needs of firm load, have long been a critical element in natural gas planning and regulation. As natural-gas-fired generation becomes more common, the price and availability of natural gas supplies become more important to electric utilities and the consumers they serve as well.

The Commission will therefore ask the Department, in its next annual automatic adjustment report, to provide whatever additional information it can on the overall adequacy of year-round natural gas supplies for electric generation and all other potential end-uses of natural gas.

#### **V. Action on the Gas Utilities’ Filings**

##### **A. Action on Two Companies’ Filings Deferred; Remainder Accepted and Approved**

The Department examined the gas utilities’ annual automatic adjustment reports and their true-up proposals in detail. Where required for clarity or to correct minor errors, the agency issued information requests or initiated discussions with the companies; several companies made revised or supplemental filings as part of this process.

By the date of hearing, the Department reported that all companies’ annual automatic adjustment reports, as revised and supplemented, met rule and Order requirements and should be accepted. The agency also reported that all true-up proposals, as revised and supplemented, met rule and Order requirements and should be implemented.

The Department cautioned, however, that it lacked the information necessary to reach a judgment about the reasonableness of the 1999-2000 gas purchasing practices of Northern Minnesota Utilities and Peoples Natural Gas Company. The agency asked to reserve its right to challenge

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<sup>4</sup> In the Matter of an Investigation into Using Rate Design to Achieve the Demand-side Management Goals of Xcel Energy, Docket No. E-002/CI-01-1024.

the reasonableness of these companies' gas purchasing practices until after the completion of an ongoing investigation into the reasonableness of their 1998-1999 purchasing practices.<sup>5</sup>

The Commission will accept and approve the annual automatic adjustment reports and true-up proposals of all companies but Northern Minnesota Utilities and Peoples Natural Gas Company. In the interest of procedural clarity, the Commission will defer action on the reports and true-up proposals of these two utilities until the ongoing investigation into their 1998-1999 gas purchasing practices has been completed.

**B. Rule Varied to Permit Xcel to Credit \$996 Residual Balance of Supplier Refund against Commodity Costs in the 1999-2000 True-up**

Under Minn. Rules 7825.2700, subp. 8, gas utilities must return supplier refunds to customers in the form of bill credits. Small refunds are to be accumulated and credited annually; refunds exceeding \$5.00 per customer and cumulative refund totals exceeding that amount are to be credited within 90 days of the company's receipt of the refund from the supplier.

In this docket Xcel Energy requested a rule variance to permit it to use the annual true-up to pass through the \$996 balance remaining from a supplier refund distributed to customers in bill credits earlier in the reporting year. The company proposed to credit the \$996 against the commodity costs it would be collecting from customers in the true-up.

The Commission will grant the requested variance under Minn. Rules 7829.3200 based upon the following findings:

- (1) enforcing the rule requirement literally and requiring an immediate refund of the \$996 would impose an excessive burden on the company by forcing it to incur substantial costs without proportionate benefit to anyone, since individual customer refunds would amount to approximately \$0.0029;
- (2) varying the rule would not adversely affect the public interest, which is adequately protected by crediting the \$996 due ratepayers against an amount that will be collected from ratepayers; and
- (3) varying the rule would not conflict with any statutory or other legal requirement.

**C. Miscellaneous Requirements Continued**

In the past the Commission has required gas utilities to meet with their independent auditors to review the requirements of Minn. Rules 7825.2820 and proposed auditing procedures before the auditors begin their review of the companies' annual automatic adjustment reports and related matters. The Commission finds that these pre-audit meetings have been helpful and will continue to require them.

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<sup>5</sup> In the Matter of an Investigation into UtiliCorp United Inc.'s 1998-99 Gas-Purchasing Practices, Docket No. G-007, 011/CI-01-295.

Similarly, in compliance with its responsibilities under the Data Practices Act<sup>6</sup> and in accordance with its commitment to open processes, the Commission will again remind and require all gas utilities to supply specific justification for each item of information for which they claim trade secret status.

### ORDER

1. The Commission accepts the 1999-2000 annual automatic adjustment reports as filed, revised, and supplemented by the electric utilities as being in general compliance with Minn. Rules 7825.2390 through 7825.2920.
2. The Commission varies Minn. Rules 7825.2800 through 7825.2840 to exempt Northwestern Wisconsin Electric Company from the annual reporting requirements of the automatic adjustment rules, under the same terms and conditions as those set forth in In the Matter of a Request for Approval by Northwestern Wisconsin Electric Company to be Excused from Filing the Automatic Adjustment of Charges Report, Docket No. E-017/M-97-1403. This variance shall not expire in one year but shall continue until revoked by the Commission.
3. The Commission encourages the electric utilities to study the issue of reconciling the treatment of electric supplier refunds and PGA supplier refunds and to consider, on a case-by-case basis, adapting the refund procedures of the gas rules (Minn. Rules, part 7825.2700, subp. 8) for use in distributing large electric supplier refunds.
4. Within 60 days of the date of this Order, Dakota Electric Association shall file a proposal for mitigating the adverse effects of expected over- and under-recovery of fuel costs in its power cost adjustment.
5. All electric utilities except Xcel Energy shall examine the possibility of using forecasted rather than historical fuel clause adjustment mechanisms and shall report their findings in their next annual automatic adjustment filings.
6. The Commission asks the Department of Commerce to investigate whether Otter Tail Power Company's automatic rate adjustment mechanism should include a true-up and to include its findings on this issue in its next annual automatic adjustment report.
7. The Commission refers the issue of the merits of charging on-peak and off-peak automatic adjustment rates, raised in this proceeding by Lakehead Pipe Line Company, to ongoing docket E-002/CI-01-1024, In the Matter of an Investigation into Using Rate Design to Achieve the Demand-side Management Goals of Xcel Energy.
8. The Commission asks the Department to continue reporting the information contained in its 1999-2000 annual automatic adjustment report and asks the agency, in its next annual automatic adjustment report, to provide whatever additional information it can on the overall adequacy of year-round natural gas supplies for electric generation and all other potential end-uses of natural gas.

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<sup>6</sup> Minn. Stat. §§ 13.01 *et seq.*; see also the Commission's Revised Procedures for Handling Trade Secret and Privileged Data, September 1, 1999.

9. The Commission accepts the 1999-2000 annual automatic adjustment reports as filed by all of the gas utilities except Peoples Natural Gas Company and Northern Minnesota Utilities, both Divisions of UtiliCorp United, Inc., as being in general compliance with Minn. Rules, parts 7825.2390 through 7825.2920.
10. The Commission defers review and acceptance of Peoples Natural Gas Company's and Northern Minnesota Utilities' annual reports until after the completion of the investigation into UtiliCorp's 1998-1999 gas purchasing practices, in Docket No. G-007, 011/CI-01-295.
11. The Commission accepts the 1999-2000 annual true up filings as filed by all of the gas utilities except Peoples Natural Gas Company and Northern Minnesota Utilities (both Divisions of UtiliCorp United, Inc.) and authorizes the implementation of true-up adjustment charges as specified in the Department's 2000 Report and errata.
12. The Commission defers review and acceptance of the annual true-up filings of Peoples Natural Gas Company and Northern Minnesota Utilities until after the completion of the investigation into UtiliCorp's 1998-1999 gas purchasing practices, in Docket No. G-007, 011/CI-01-295.
13. The Commission varies Minn. Rules 7825.2700 to permit Xcel Energy to credit a \$996 residual refund balance against the commodity costs in its annual true-up.
14. The Commission accepts Xcel Energy's statement in its May 17, 2001 reply comments that Attachment A provides a detailed response to the Department's eight specific recommendations, that Attachment B contains corrected schedules to Xcel's FY 2000 PGA true-up and correctly shows the impact of these corrections as they would be applied in the FY 2001 PGA true-up, effective September 1, 2001; and that Attachment C adequately demonstrates the correct handling of Northern Natural supplier refunds (and including all typos in the May 17, 2001 filing appropriately corrected).
15. The Commission accepts Xcel Energy's June 29, 2001 supplemental report containing a copy of official company correspondence with its external auditor, Arthur Anderson LLP, advising the auditors of the Commission's auditing requirements for the natural gas annual automatic reports and annual true-up filings.
16. All gas utilities shall meet with their independent auditors to review the requirements of Minn. Rules 7825.2820 and proposed auditing procedures before the auditors begin their review of the companies' annual automatic adjustment reports and related matters.
17. All gas utilities shall supply specific justification for each item of information for which they claim trade secret status, as required under Minn. Stat. §§ 13.01 *et seq.* and the Commission's Revised Procedures for Handling Trade Secret and Privileged Data, September 1, 1999.

18. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar  
Executive Secretary

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