

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Gregory Scott	Chair
Ellen Gavin	Commissioner
Marshall Johnson	Commissioner
LeRoy Koppendrayner	Commissioner
Phyllis A. Reha	Commissioner

In the Matter of a Petition of Reliant Energy  
Minnegasco for Approval of Affiliated Interest  
Agreements Between REM and Entex  
Gas Resources Corp., a Reliant Energy  
Company

ISSUE DATE: December 24, 2002

DOCKET NO. G-008/M-01-1378

ORDER APPROVING SETTLEMENT

**PROCEDURAL HISTORY**

On September 7, 2001, Reliant Energy Minnegasco (REM) filed a petition for approval of a Firm Natural Gas Agreement (Firm Contract) and a Variable Volume Firm Natural Gas Agreement (Swing Contract) both effective November 1, 2001 through October 31, 2002.

On November 13, 2001, the Minnesota Department of Commerce (the Department) filed comments recommending approval of both agreements.

On November 14, 2001, the Residential and Small Business Utilities Division of the Office of the Attorney General (RUD-OAG) filed comments recommending that the Agreements not be approved because they are not reasonable and in the public interest.

On January 30, 2002, the Commission issued an Order expanding the scope of this docket to incorporate a review of the competitiveness and reasonableness of Minnegasco's bidding process for its system supply. This Order approved the affiliated interest agreement in Docket No. G-008/AI-01-1647 but not the agreement in this (01-1378) docket.

On March 21, 2002, the Department filed a letter stating that it retracted its original recommendation to approve the REM/Entex affiliated interest Agreement pending further investigation.

On April 19, 2002, REM filed a correction to its filing.

On April 30, 2002, the Department filed its Examination Comments, concluding that REM mishandled the contracting in this case.

On May 6, 2002, the RUD-OAG filed its comments on the examination of the bidding process for this contract. The RUD-OAG recommended the Commission deny the petition and fashion appropriate remedies and sanctions to prevent future affiliate abuse.

On May 24, 2002, the Department filed its final recommendations. Among other things, the Department recommended that the Commission deny REM's request for approval of an affiliated interest agreement between the Company and Entex.

On June 4, 2002, the Company filed reply comments to the Department's and RUD-OAG's comments. The Company argued that the record of this proceeding demonstrates that Minnegasco has fully complied with the law related to affiliated interest contracts. The resulting contracts are market-based and consistent with the public interest.

Subsequently, the Company, the Department, the RUD-OAG, the Suburban Rate Authority (SRA), and the Energy Cents Coalition agreed to pursue mediation of the issues raised regarding the affiliated interest agreement with Entex and certain issues related to the No Surprise Bill program.

On August 12-14, 2002, the parties participated in session with a mediator.

On September 20, 2002, the parties filed a settlement which they said resolved all the outstanding issues.

On October 31, 2002 the Department filed comments on Minnegasco's overall bidding process.

The Commission met on November 21, 2002 to consider this matter.

## **FINDINGS AND CONCLUSIONS**

### **I. SETTLEMENT**

The parties' proposed settlement (the Settlement) is attached and made part of this Order. Principal provisions of the Settlement include the following:

- Minnegasco's petition for approval of affiliated interest agreements in this docket will be denied for regulatory purposes but that with the exception of the refund and cost reduction discussed below, Minnegasco will be allowed recovery of the gas costs associated with the affiliated interest contracts.
- Minnegasco will provide financial relief to customers enrolled in its No Surprise Bill (NSB) program in the following manner:

1. Year One Refund - Minnegasco will refund to customers enrolled in the NSB program at the end of the current program year a total sum of \$350,000; and
  2. Relief for Years Two through Four - Minnegasco will reduce the administrative fee to be paid by future NSB customers in years two through four of the program from 6% to 5%. To the extent that the total dollar amount in fee reductions does not equal \$250,000 in year two of the NSB program, the Company will issue a one time bill credit to NSB customers totaling the difference between \$250,000 and the amount of actual fee reductions. To the extent that the total dollars in fee reductions does not equal \$225,000 in years three and four of the NSB program, the Company shall issue a one time bill credit to NSB customers totaling the difference between \$225,000 and the amount of actual fee reductions.
- If the NSB program is terminated prior to the expiration of the pilot program, then, through the annual purchased gas true up mechanism, Minnegasco will return to the classes of customers eligible for the NSB program, had it continued, sufficient funds to cover the fee credit obligations set forth above for Years Two through Four.
  - The Department and RUD-OAG agreed not to challenge Minnegasco's Annual Automatic Adjustment Report filing for the year July 1, 2001 - June 30, 2002 to the extent that a portion of the gas costs stemming from Minnegasco's affiliated interest contract with Entex for the 2001-2002 NSB program is reflected in the weighted average cost of gas; and agreed not to challenge for the duration of the 4-year pilot program, the administrative fee collected from NSB participants and remitted by Minnegasco to WeatherWise so long as Minnegasco's contract with WeatherWise remains unchanged with respect to the administrative fee, with the exception of reducing the overall fee from 6% to 5%.
  - Minnegasco agreed to implement prospective changes to its purchasing practices for fixed price gas in accordance with specified criteria.

Minnegasco, the Department and the RUD- OAG stated that the Settlement Agreement was consistent with the public interest and provided a just and reasonable resolution of all issues in this docket (the Affiliated Interest Docket, G-008/M-01-1378) and the identified issues in the No Surprise Bill Docket, G-008/M-01-974.

## **II. COMMISSION ANALYSIS AND ACTION**

The Commission finds that the Settlement is in the public interest and is supported by the record in this docket. The Commission, therefore, will approve it and require the parties to abide by its terms.

As with any settlement, the resolution of issues provided in this Settlement creates no precedent as to how those issues would be resolved in any future case. In that regard, the Commission specially notes the Commission's acceptance of the Settlement's call to deny for regulatory purposes the

affiliate interest contacts in question but to allow recovery of the gas costs associated with those contracts and emphasizes that its approval of the Settlement may not be used as a precedent for this treatment in any other docket.

**ORDER**

1. The Settlement Agreement filed with the Commission on September 20, 2002 in this matter is accepted, adopted, and incorporated herein. Copy attached. The parties shall abide by the terms of the Settlement.
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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