

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendraye	Chair
Marshall Johnson	Commissioner
Ken Nickolai	Commissioner
Phyllis Reha	Commissioner
Gregory Scott	Commissioner

In the Matter of a Petition by Great Plains
Natural Gas Company, a Division of MDU
Resources Group, Inc., for Authority to
Increase Natural Gas Rates in Minnesota

ISSUE DATE: October 9, 2003

DOCKET NO. G-004/GR-02-1682

ORDER ACCEPTING AND ADOPTING
SETTLEMENT

PROCEDURAL HISTORY

On October 7, 2002, Great Plains Natural Gas Company, a Division of MDU Resources Group, filed a general rate case, proposing to increase its rates for natural gas service by approximately 6.9% or \$1.6 million annually. On November 19, 2002, the Commission issued Orders finding the Company's filing substantially complete, suspending the proposed rates, setting interim rates, and referring the case to the Office of Administrative Hearings for contested case proceedings.

There were two parties to the case, the Company and the Minnesota Department of Commerce. The Company was represented by Lisa Pritchard Bayley and Byron E. Starns, Leonard Street & Deinard, Suite 2300, 150 South Fifth Street, Minneapolis, Minnesota 55402 and by Donald R. Ball, Montana-Dakota Utilities Company, 400 North 4th Street, Bismarck, North Dakota 58501.

The Department of Commerce was represented by Ginny Zeller, Assistant Attorney General, 1500 NCL Tower, 445 Minnesota Street, St. Paul, Minnesota 55101, and by Vince Chavez, Public Utilities Rates Evaluation Supervisor, 85 7th Place East, Suite 500, St. Paul, Minnesota 55101-2198.

On March 19, 2003 and April 8, 2003, the Administrative Law Judge assigned to the case issued pre-hearing orders extending the procedural schedule under Minn. Stat. § 216B.16, subd. 1a (a) to accommodate the parties' settlement efforts. Together, the two orders extended the procedural schedule by 53 days.

On April 10, 2003, the Administrative Law Judge held a public hearing by video conference in the Company's assigned service area to take testimony from members of the public on the proposed rate increases. The hearing originated in St. Paul, with live links to locations in Crookston, Fergus Falls, and Marshall.

On May 13, 2003, the parties filed a Stipulation and Agreement resolving all issues in the case. On June 13, 2003, the Administrative Law Judge held an evidentiary hearing to permit inquiry into the factual and evidentiary basis for the settlement. Commission staff attended the hearing and explored the evidentiary support for the settlement's disposition of several issues, chiefly the application of the Company's main extension tariff and the cost justification for new main and service extensions. On July 2, 2003, the parties filed several affidavits addressing issues raised by Commission staff.

On July 17, 2003, the Administrative Law Judge returned the record to the Commission, reported that the parties had reached a settlement on all issues, and submitted the settlement for Commission consideration. Under Minn. Stat. § 14.61, subd. 2, the record closed on August 1, 2003.

On September 18, 2003, the settlement came before the Commission.

FINDINGS AND CONCLUSIONS

I. The Settlement

Overall, the settlement agreement reduced the proposed increase in Great Plains' annual revenue requirement from \$1,587,202, a 6.9% increase, to \$1,093,619, a 4.65% increase. This overall reduction came from numerous discrete adjustments over the course of negotiations.

For example, projected labor costs, rate case expenses, corporate cost allocations, and regulated/unregulated cost allocations were all reduced. The Company's proposed rate of return on equity was reduced from 13% to 11.13%. Projected annual sales volumes, and the projected revenues that result, were increased by \$661,246.

The parties also reached agreement on rate design issues, which were complicated by two factors – the 19-year interval between rate cases and the decision to integrate the rate schedules for customers in the North-4 and Crookston rate areas. These customers are served by the same interstate pipeline and the same gas supply, but they continue to pay different rates based on historical differences in their cost of service. The parties agreed to phase-in a consolidated rate structure.

The parties also agreed that the Company would refine its depreciation accounting procedures, its cost allocation procedures, and its service extension policies, tariffs, and record-keeping practices, to increase accuracy and simplify future rate cases.

At hearing, in response to concerns raised by the Commission and its staff, the parties made minor modifications to their settlement agreement and agreed that the Company would include specific items in its rate case compliance filing. Among other things, the parties agreed

- to refine the phase-in plan for consolidating the Crookston and North-4 rate structures;
- to develop and submit for Commission review a customer bill insert clearly explaining the reasons for any increase in the customer's basic service charge (formerly called the customer charge) and explaining how the customer can get further information about the increase;
- to explore in the Company's next rate case two alternative methods for recovering Conservation Improvement Program costs;
- to clarify and reduce customer deposit requirements; and
- to further refine and clarify the Company's policies, practices, and tariffs on service and main extensions.

II. The Legal Standard

Under the Public Utilities Act, companies seeking a rate increase have the burden of proof to show that the proposed rate change is just and reasonable. Minn. Stat. § 216B.16, subd. 4. Any doubt as to reasonableness is to be resolved in favor of the consumer. Minn. Stat. § 216B.03.

The Act also encourages settlements. Before beginning contested case proceedings on a general rate case, Administrative Law Judges are required to convene a settlement conference for the purpose of encouraging settlement of some or all of the issues in the case. They are authorized to reconvene the settlement conference at any point before the case is returned to the Commission, at their own discretion or at the request of any party. Minn. Stat. § 216B.16, subd. 1a (a).

The Commission is authorized to accept, reject, or modify any settlement. It can accept a settlement only upon finding that to do so is in the public interest and is supported by substantial evidence. Minn. Stat. § 216B.16, subd. 1a (b).

While the Commission recognizes that compromise is a key ingredient of any settlement, it also recognizes that resolving disputed issues in rate cases is fundamentally different from resolving disputes between private litigants:

In deciding whether to accept the Offer of Settlement, the Commission must apply a different standard than is normally used by the courts. Unlike the traditional function of civil courts, the Commission's primary function is not to resolve disputes between litigants. Instead, it is an affirmative duty to protect the public interest by ensuring just and reasonable rates.

In the Matter of a Petition by the U.S. Department of Defense, the General Services Administration, and All Other Federal Executive Agencies of the United States Challenging the Reasonableness of the Rates Charged by Northwestern Bell Telephone Company, Docket No. P-421/CI-86-354, ORDER ACCEPTING OFFER OF SETTLEMENT (February 10, 1988) at 3.

Because rate case decisions can have far-reaching consequences for persons who were not at the negotiating table, the Commission has long required settling parties to document that all issues have been settled within the zone of regulatory reasonableness:

In non-ratemaking settlement negotiations it is common for parties to concede some issues to obtain a more favorable resolution of others they value more highly. This is reasonable and appropriate in private disputes, where the goal of the settlement process is to reach a result satisfactory to all parties. In Commission proceedings, however, the goal of the process is to serve the public interest.

This requires protecting the interests of the Company, the public, and all customer classes, whether or not their interests are vigorously represented. It requires resolving every issue within the bounds of acceptable regulatory practice, since future rate structures are built on the foundations established in past rate cases. For these reasons the Commission scrutinizes settlements with care and requires documentation of the reasonableness of the disposition of all issues.

In the Matter of the Application of Interstate Power Company for Authority to Change its Rates for Natural Gas Service in the State of Minnesota, Docket No. G-001/GR-90-700, ORDER ACCEPTING AND ADOPTING STIPULATION AND OFFER OF SETTLEMENT (June 27, 1991), at 6-7.

III. Commission Action

The Commission finds that the final settlement submitted by the parties, including the modifications made at hearing, is supported by substantial evidence, is in the public interest, and should be approved.

The Stipulation and Agreement filed by the parties cites to record evidence to support and explain its disposition of every issue, and the June 13 hearing clarified and expanded the record at several key points. The Commission concurs with the parties that all issues have been settled within the zone of regulatory reasonableness, in a manner supported by substantial evidence, and on terms consistent with the public interest.

The Commission will accept and adopt the settlement.

IV. Financial Schedules

Rate Base Summary

Based on the foregoing findings regarding the Stipulation, the Commission concludes that the appropriate rate base for the test year is \$9,376,991 as shown below:

Gas Plant in Service	
Intangible	\$ 91,564
Production	949,394
Transmission	1,155,418
Distribution	17,583,325
General	4,468,907
Common	783,610
Plant in Service	<u>\$ 25,032,218</u>
Accumulated Reserve for Depreciation	
Intangible	\$ 76,871
Production	745,210
Transmission	966,675
Distribution	10,696,057
General	2,799,553
Common	332,626
Accumulated Reserve	<u>\$ 15,616,992</u>
Net Gas Plant in Service	9,415,226
Other Rate Base Items	
Materials and Supplies	175,124
Fuel Stocks	65,466
Gas in Underground Storage	408,536
Prepayments	32,512
Accumulated Deferred Income Taxes	(710,717)
Accumulated Investment Tax Credits	<u>(9,156)</u>
Total Rate Base	<u>\$ 9,376,991</u>

Operating Income Summary

Based on the foregoing findings regarding the stipulation, the Commission concludes that the appropriate operating income for the test year under present rates is \$291,822 as shown below:

Operating Revenues	
Sales	\$ 23,204,101
Transportation	328,520
Other	98,910
Total Revenues	<u>\$ 23,631,531</u>
Operating Expenses	
Operation and Maintenance	
Cost of Gas	\$ 17,418,280
Other O&M	4,488,720
Total O&M	<u>\$ 21,907,000</u>
Depreciation	953,061
Taxes Other Than Income	541,412
Current Income Taxes	(70,866)
Deferred Income Taxes	9,102
Total Expenses	<u>\$ 23,339,709</u>
Operating Income	<u><u>\$ 291,822</u></u>

Gross Revenue Deficiency

The above Commission findings and conclusions result in a gross revenue deficiency for the test year of \$1,093,619 as shown below:

Rate Base	\$ 9,376,991
Required Rate of Return	9.950%
Required Income	<u>\$ 933,011</u>
Operating Income	<u>\$ 291,822</u>
Income Deficiency	\$ 641,189
Gross Revenue Conversion Factor	<u>1.705611</u>
Revenue Deficiency	<u><u>\$ 1,093,619</u></u>

V. Compliance Filing; Customer Billing Format

The Commission will require the Company to make a compliance filing within 30 days of the date of this Order showing the final rate effects of the decisions made here and proposing a plan for refunding the difference between the amounts it collected in interim rates and the amounts it is authorized to collect in final rates. The Commission will establish a brief comment period to give interested persons a chance to review and comment on that filing.

The Company and the Department have been working together both to simplify customer bills and to increase the amount of useable information they contain. This is a challenging and increasingly important project. The Commission will require the Company to include in its compliance filing the revised billing format resulting from these working sessions, which will ultimately also include Commission staff.

ORDER

1. The Commission accepts and adopts the Stipulation and Agreement filed by the parties, as modified in their subsequent filings and comments, including those modifications and clarifications set forth below:
 - (a) The stipulated calculation of the CCRC is approved, with the understanding that the stipulation includes the agreement that the CCRA will be calculated in the same manner as the CCRC, i.e., by dividing the costs by the total throughput resulting in the same per-unit rate for all customers.
 - (b) In applying its main and service extension tariff, the Company shall mark the property line on all drawings. The drawings shall also include the meter location, the footage from the property line to the meter, the footage from the property line to the standard meter location if the meter is placed elsewhere, a detailed calculation of any excess footage fee charged.
 - (c) In applying its main and service extension tariff in individual cases, the Company shall keep records of any information it took into consideration in applying the tariff that is not obvious from the drawings.
 - (d) In applying its main and service extension tariff, the Company shall bill for excess footage charges in excess of \$3.00.
 - (e) The Company shall revise its customer deposit policies to require deposits, where permissible, in the amount of two average months' bills, instead of two winter months' average bills.
 - (f) The Stipulation and Agreement is corrected as to item 30, p. 29, to refer to Minn. Rule 7820.4000 instead of Minn. Rule 7820.3800.
 - (g) The Company shall modify the two-step, three-year phase-in of the consolidation of the Crookston and the North-4 rate structures so that the first step occurs one-and-a-half years from the date final rates go into effect and the second step occurs at the end of three years. The Company is authorized to consolidate the Crookston and North-4 area gas costs and to begin charging new basic service charge amounts when final rates go into effect.

2. In the course of Great Plains' next rate case, the parties shall discuss the advantages and disadvantages of two alternative methods of recovering Conservation Improvement Program costs: on the basis of dekatherms and on the basis of an equal percentage of operating revenues or margins.
3. Within 30 days of the date of this Order the Company shall make a compliance filing including the following items:
 - (a) a proposed customer notice clearly explaining the reasons for any increase in the customer's basic service charge (formerly called the customer charge) and explaining how the customer can get further information about the increase;
 - (b) a detailed explanation of its three-year phase-in plan for consolidating the rate structures of the Crookston and North-4 service areas;
 - (c) revised schedules of rates and charges reflecting the revenue requirement and the rate design decisions herein, along with the proposed effective date, and including the following information:
 - a. a breakdown of Total Operating Revenues by type;
 - b. schedules showing all billing determinants for the retail sales (and sale for resale) of gas. These schedules shall include but not be limited to:
 - i. total revenue by customer class;
 - ii. total number of customers, the customer charge and total customer charge revenue by customer class; and
 - iii. for each customer class, the total number of commodity and demand related billing units, the per unit commodity and demand cost of gas, the non-gas unit margin, and the total commodity and demand related sales revenues.
 - c. revised tariff sheets incorporating authorized rate design decisions;
 - d. proposed customer notices explaining the final rates, the monthly basic service charge, and the revised customer bill format.
4. Within 30 days of the date of this Order the Company shall file a revised base cost of gas and supporting schedules incorporating any changes made as a result of this rate case, and automatic adjustments establishing the proper adjustments to be in effect at the time final rates become effective.

5. Within 30 days of the date of this Order the Company shall file a calculation of the CIP CCRCs based on the decisions made herein and schedules detailing the CIP tracker balance at the beginning of interim rates, the revenues (CCRC and CIP Adjustment Factor) and costs recorded during the period of interim rates, and the CIP tracker balance at the time final rates become effective.
6. Within 30 days of the date of this Order the Company shall file copies (revised as necessary) of all standard customer service agreements and contracts for inclusion in its tariff book.
7. Within 30 days of the date of this Order the Company shall file a proposal to make refunds of interim rates, including interest calculated at the average prime rate, to affected customers.
8. Within 30 days of the date of this Order the Company shall file the revised customer bill format developed in conjunction with the Department and Commission staff; the Company shall implement the new format at the same time as the final rates approved herein.
9. Comments on the filings required above shall be filed within 15 days of the date that the filing to which the comments relate was made.
10. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

(S E A L)

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