

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendrayer	Chair
Marshall Johnson	Commissioner
Ken Nickolai	Commissioner
Thomas Pugh	Commissioner
Phyllis A. Reha	Commissioner

In the Matter of the Application of CenterPoint Energy Minnegasco, a Division of CenterPoint Energy Resources Corp., for Authority to Increase Natural Gas Rates in Minnesota

ISSUE DATE: September 7, 2004

DOCKET NO. G-008/GR-04-901

NOTICE AND ORDER FOR HEARING

PROCEDURAL HISTORY

On July 14, 2004, CenterPoint Energy Minnegasco (Minnegasco), a Division of CenterPoint Energy Resources Corp., filed a petition for a general increase in gas rates. Minnegasco seeks to increase revenues by \$21,772,000, or approximately 1.8%. For the test year Minnegasco proposed to use the forecasted test year ending September 30, 2005, adjusted for certain known and measurable changes. Minnegasco proposed that rates be effective within ten months of the filing.

On July 15, 2004, the Commission issued a notice requesting comments on whether Minnegasco's filing complies with the requirements in Minnesota Statutes § 216B.16, Minnesota Rules parts 7825.3100 to 7825.4400 and prior Commission Orders. The Commission also requested comments on whether the matter should be referred to the Office of Administrative Hearings (OAH) for a contested case proceeding.

On July 26, 2004, the Minnesota Department of Commerce (the Department) filed comments. Based on its review of Minnegasco's petition, and on Minnegasco's commitment to file certain additional information, the Department recommended that the Commission accept Minnegasco's filing as complete and refer this matter to the OAH for a contested case proceeding.

On August 9, 2004, Minnegasco filed supplemental exhibits setting forth various assumptions underlying its petition, especially regarding the allocation of costs and revenues among Minnegasco, CenterPoint Energy Resources Corp. and affiliated entities.

This matter came before the Commission on August 26, 2004.

FINDINGS AND CONCLUSIONS

I. JURISDICTION AND REFERRAL FOR CONTESTED CAST PROCEEDINGS

The Commission has jurisdiction over proposed rate changes under Minnesota Statutes § 216B.16. If the Commission is unable to resolve all significant issues regarding the reasonableness of the proposed rates on the basis of the filing itself, the Commission is to refer the matter to the Office of Administrative Hearings for contested case proceedings. Minn. Stat. § 216B.16, subd. 2.

The Commission finds that it cannot satisfactorily resolve all questions regarding the reasonableness of the proposed rates on the basis of Minnegasco's filing. The Commission will therefore refer the matter to the Office of Administrative Hearings for contested case proceedings.

II. PROPOSED RATES

In the current case, Minnegasco proposed an overall rate increase of 1.8%, increasing the revenues recovered from each customer class as follows:

	Present Billing Rate Revenue	Proposed Billing Rate Revenue Increase (Decrease)	Cost of Gas Changes	Net Percentage Change
Small Volume General Sales				
Residential Sales	\$ 648,275,000	\$ 26,834,664	\$ (1,635)	4.1%
Commercial & Industrial - A	18,397,000	659,961	1,697	3.6%
Commercial & Industrial - B	45,759,000	950,763	1,851	2.1%
Commercial & Industrial - C	215,046,000	(3,316,007)	(272)	-1.5%
Small Volume Dual Fuel - A	74,291,000	(1,631,366)	(161)	-2.2%
Small Volume Dual Fuel - B	56,193,000	(1,163,621)	(224)	-2.1%
Large Volume Dual Fuel	127,738,000	(563,426)	-	-0.4%
 Total	 \$ 1,185,699,000	 \$ 21,770,968	 \$ 1,256	 1.8%

A copy of Minnegasco's rate increase proposal is on file in the offices of the Department of Commerce, 85 Seventh Place East, Suite 500, St. Paul, Minnesota 55101-2198, and is open for public inspection during regular office hours. Copies are also available for public inspection at Minnegasco's offices at 800 LaSalle Avenue – Eleventh Floor, Minneapolis, Minnesota 55402.

The Commission, by separate Order, has accepted the filing and suspended Minnegasco's proposed rates. By further Order, the Commission will direct Minnegasco to place an interim rate schedule into effect. Interim rates are subject to refund if the Commission ultimately orders a lower overall revenue increase than is recovered through interim rates. Minn. Stat. § 216B.16, subd. 3.

III. ISSUES TO BE ADDRESSED

The Commission will direct the Administrative Law Judge and the parties to thoroughly address and develop a complete record in testimony, at hearing, and in settlement documents if applicable, regarding the following issues:

- A. Is the test year revenue increase sought by Minnegasco reasonable or will it provide Minnegasco with unreasonable and excessive earnings?
- B. Is the rate design proposed by Minnegasco, including the monthly basic service charge, reasonable?
- C. Are Minnegasco's proposed capital structure and return on equity reasonable?
 - Should the Commission calculate Minnegasco's revenue requirement based on an imputed divisional capital structure that is significantly different from the parent organization's actual capital structure?
 - How does the proposed basic service charge affect the required rate of return?
 - How does the proposed Highway and Street Infrastructure Cost Recovery Rider affect the required rate of return?
- D. Is the proposed Highway and Street Infrastructure Cost Recovery Rider appropriate and reasonable?
- E. Is the proposed Large Commercial/Industrial Credit Policy Rider appropriate and reasonable?
- F. What service quality standards should the Commission adopt, if any, for Minnegasco?¹
- G. Is Minnegasco's marginal class cost-of-service study adequate?

The parties may also raise and address other issues relevant to Minnegasco's proposed rate increase.

¹ In order to assist its deliberations on the service quality issue, the Commission will require that, at a minimum, Minnegasco file supplemental direct testimony concerning a service quality plan. (See ORDER ACCEPTING FILING, SUSPENDING RATES, AND REQUIRING FURTHER FILINGS issued this date.)

IV. NOTICE AND OPPORTUNITY TO PARTICIPATE

To ensure that the public has adequate notice of Minnegasco's rate case, and an opportunity to participate, the Commission will take the following steps.

First, the Commission will direct Minnegasco to mail copies of this Order to all municipalities and counties in its Minnesota service area and to such other persons as the Department may request.

Second, the Commission will direct that public hearings be held in this matter at locations within Minnegasco's service area.

Third, the Commission will direct Minnegasco to develop notices for the evidentiary and public hearings, obtain Commission approval of its notices, and then mail or publish the notices as set forth below:

- A. Individual written notice to each customer, which may be in the form of a bill insert, and shall be served at least ten days before the first day of hearings.
- B. Written notice to the governing bodies of all municipalities and counties in the area affected and to all parties in Minnegasco's last two rate cases. These notices shall be mailed at least ten days before the first day of hearings.
- C. Display advertisements in legal newspapers of affected counties and other newspapers of general circulation within Minnegasco's Minnesota service area. These advertisements shall appear at least ten days before the first day of hearings. They shall include the heading **RATE INCREASE NOTICE**, which heading shall appear in bold face type no smaller than 30 points.

V. PROCEDURAL OUTLINE

A. Administrative Law Judge

The Administrative Law Judge assigned to this case is Richard C. Luis. His address and telephone number are as follows: Office of Administrative Hearings, Suite 1700, 100 Washington Square, Minneapolis, Minnesota 55401-2138; (612) 349-2542.

B. Hearing Procedure

- *Controlling Statutes and Rules*

Hearings in this matter will be conducted in accordance with the Administrative Procedure Act, Minnesota Statutes §§ 14.57-14.62; the rules of the Office of Administrative Hearings, Minnesota Rules, parts 1400.5100 to 1400.8400; and, to the extent that they are not superseded by those rules, the Commission's Rules of Practice and Procedure, Minnesota Rules, parts 7829.0100 to 7829.3200.

Copies of these rules and statutes may be purchased from Minnesota's Bookstore in the Department of Administration, 660 Olive Street, St. Paul, Minnesota 55155; (651) 297-3000. These rules and statutes also appear on the State of Minnesota's website at www.revisor.leg.state.mn.us.

The Office of Administrative Hearings conducts contested case proceedings in accordance with the Minnesota Rules of Professional Conduct and the Professionalism Aspirations adopted by the Minnesota State Bar Association.

- *Right to Counsel and to Present Evidence*

In these proceedings, parties may be represented by counsel, may appear on their own behalf, or may be represented by another person of their choice, unless otherwise prohibited as the unauthorized practice of law. They have the right to present evidence, conduct cross-examination, and make written and oral argument. Minnesota Rules, part 1400.7000, provides for parties to obtain subpoenas to compel the attendance of witnesses and the production of documents.

Parties should bring to the hearing all documents, records, and witnesses necessary to support their positions.

- *Discovery and Informal Disposition*

Any questions regarding discovery under Minnesota Rules, parts 1400.6700 to 1400.6800 or informal disposition under Minnesota Rules, part 1400.5900 should be directed to Robert Harding, Public Utilities Rates Analyst, Minnesota Public Utilities Commission, 121 7th Place East, Suite 350, St. Paul, Minnesota 55101-2147, (651) 296-7125; or Kari Zipko, Assistant Attorney General, 1100 NCL Tower, 445 Minnesota Street, St. Paul, Minnesota 55101, (651) 296-1408.

- *Protecting Not-Public Data*

State agencies are required by law to keep some data not public. Parties must advise the Administrative Law Judge if not-public data is offered into the record. They should take note that any not-public data admitted into evidence may become public unless a party objects and requests relief under Minnesota Statutes § 14.60, subdivision 2.

- *Accommodations for Disabilities; Interpreter Services*

At the request of any individual, this agency will make accommodations to ensure that the hearing in this case is accessible. The agency will appoint a qualified interpreter if necessary. Persons must promptly notify the Administrative Law Judge if an interpreter is needed.

- *Scheduling Issues*

The times, dates, and places of public and evidentiary hearings in this matter will be set by order of the Administrative Law Judge after consultation with the Commission and intervening parties.

- *Notice of Appearance*

Any party intending to appear at the hearing must file a notice of appearance (Attachment A) with the Administrative Law Judge within 20 days of the date of this Notice and Order for Hearing.

- *Sanctions for Non-compliance*

Failure to appear at a prehearing conference, a settlement conference, or the hearing, or failure to comply with any order of the Administrative Law Judge, may result in facts or issues being resolved against the party who fails to appear or comply.

C. Parties and Intervention

The current parties to this case are Minnegasco and the Minnesota Department of Commerce. Other persons wishing to become formal parties shall promptly file petitions to intervene with the Administrative Law Judge. They shall serve copies of such petitions on all current parties and on the Commission. Minn. Rules, part 1400.6200.

D. Prehearing Conference

A prehearing conference will be held in this case on September 17, 2004, at 9:30 a.m. in the Small Hearing Room, Public Utilities Commission, 121 7th Place East, Suite 350, St. Paul, Minnesota 55101-2147. Persons participating in the prehearing conference should be prepared to discuss time frames, scheduling, discovery procedures, and similar issues. Potential parties are invited to attend the pre-hearing conference and to file their petitions to intervene as soon as possible.

E. Time Constraints

The Commission is required to act on Minnegasco's filing within ten months, or the proposed rates are deemed approved. Minn. Stat. § 216B.16, subd. 2. This ten-month period can be extended for brief periods to permit the negotiation and consideration of settlements. Minn. Stat. § 216B.16, subs. 1a and 2.

The Commission asks the Office of Administrative Hearings to conduct contested case proceedings in light of these time constraints and requests that the Administrative Law Judge submit his final report by April 9, 2005, in order to allow the Commission adequate opportunity for thorough consideration of the case.

VI. APPLICATION OF ETHICS IN GOVERNMENT ACT

The lobbying provisions of the Ethics in Government Act, Minn. Stat. §§ 10A.01 *et seq.*, may apply to this case. Persons appearing in this proceeding may be subject to registration, reporting, and other requirements set forth in that Act. All persons appearing in this case are urged to refer to the Act and to contact the Campaign Finance and Public Disclosure Board, telephone number (651) 296-5148, with any questions.

VII. EX PARTE COMMUNICATIONS

Restrictions on *ex parte* communications with Commissioners and reporting requirements regarding such communications with Commission staff apply to this proceeding from the date of this Order. Those restrictions and reporting requirements are set forth at Minnesota Rules, parts 7845.7300-7845.7400, which all parties are urged to consult.

ORDER

1. The Commission hereby refers this case to the Office of Administrative Hearings for contested case proceedings, as set forth above, with the request that the Administrative Law Judge issue his report by April 9, 2005.
2. The Administrative Law Judge and the parties shall thoroughly address and develop a complete record in testimony, at hearing, and in settlement documents if applicable, regarding the following issues:
 - A. Is the test year revenue increase sought by Minnegasco reasonable or will it result in unreasonable and excessive earnings for Minnegasco?
 - B. Is the rate design proposed by Minnegasco, including the monthly basic service charge, reasonable?
 - C. Are Minnegasco's proposed capital structure and return on equity reasonable?
 - Should the Commission calculate Minnegasco's revenue requirement based on an imputed divisional capital structure that is significantly different from the parent organization's actual capital structure?
 - How does the proposed basic service charge affect the required rate of return?
 - How does the proposed Highway and Street Infrastructure Cost Recovery Rider affect the required rate of return?

- D. Is the proposed Highway and Street Infrastructure Cost Recovery Rider appropriate and reasonable?
 - E. Is the proposed Large Commercial/Industrial Credit Policy Rider appropriate and reasonable?
 - F. What service quality standards should the Commission adopt, if any, for Minnegasco?
 - G. Is Minnegasco's marginal class cost-of-service study adequate?
3. Public hearings shall be held in this matter at locations within Minnegasco's service area.
 4. Minnegasco shall --
 - A. Mail copies of this Order to all municipalities and counties in its Minnesota service area and to such other persons as the Department may request.
 - B. Participate in public hearings in this matter held at locations within Minnegasco's service area.
 - C. Develop and obtain Commission approval for notices for the evidentiary and public hearings, and then give the notices, as follows:
 - Individual written notice to each customer, which may be in the form of a bill insert, and shall be served at least ten days before the first day of hearings.
 - Written notice to the governing bodies of all municipalities and counties in the area affected and to all parties in Minnegasco's last two rate cases. These notices shall be mailed at least ten days before the first day of hearings.
 - Display advertisements in legal newspapers of affected counties and other newspapers of general circulation within Minnegasco's Minnesota service area. These advertisements shall appear at least ten days before the first day of hearings. They shall include the heading **RATE INCREASE NOTICE**, which heading shall appear in bold face type no smaller than 30 points.
 5. The Administrative Law Judge will convene a prehearing conference on September 17, 2004, at 9:30 a.m. in the Small Hearing Room, Public Utilities Commission, 121 7th Place East, Suite 350, St. Paul, Minnesota 55101-2147.

6. Minnegasco shall work with the Executive Secretary to meet notice requirements of Minnesota statutes and rules. The Commission hereby delegates to the Executive Secretary the authority to approve notices for the duration of this proceeding.
7. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

(S E A L)

This document can be made available in alternative formats (i.e., large print or audio tape) by calling (651) 297-4596 (voice), (651) 297-1200 (TTY), or 1-800-627-3529 (TTY relay service).

BEFORE THE MINNESOTA OFFICE OF ADMINISTRATIVE HEARINGS
100 Washington Square, Suite 1700
Minneapolis, Minnesota 55401-2138

FOR THE MINNESOTA PUBLIC UTILITIES COMMISSION
121 Seventh Place East Suite 350
St. Paul, Minnesota 55101-2147

In the Matter of the Application of CenterPoint Energy Minnegasco, a Division of CenterPoint Energy Resources Corp., for Authority to Increase Natural Gas Rates in Minnesota MPUC Docket No. G-008/GR-04-901
OAH Docket No.

NOTICE OF APPEARANCE

Name, Address and Telephone Number of Administrative Law Judge:

Richard C. Luis, Office of Administrative Hearings, Suite, 1700, 100 Washington Square, Minneapolis, Minnesota 55401; (612) 349-2542.

TO THE ADMINISTRATIVE LAW JUDGE:

You are advised that the party named below will appear at the above hearing.

NAME OF PARTY:

ADDRESS:

TELEPHONE NUMBER:

PARTY'S ATTORNEY OR OTHER REPRESENTATIVE:

OFFICE ADDRESS:

TELEPHONE NUMBER:

SIGNATURE OF PARTY OR ATTORNEY: _____

DATE: _____