

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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|-------------------|--------------|
| LeRoy Koppendraye | Chair |
| Marshall Johnson | Commissioner |
| Ken Nickolai | Commissioner |
| Thomas Pugh | Commissioner |
| Phyllis A. Reha | Commissioner |

In the Matter of a Petition by Greater
Minnesota Gas, Inc. for Authority to Establish
Natural Gas Rates in Minnesota

ISSUE DATE: September 14, 2004

DOCKET NO. G-022/GR-04-667

NOTICE AND ORDER FOR HEARING

PROCEDURAL HISTORY

In September 2002, Greater Minnesota Gas, Inc. (GMG or the Company) notified the Department and the Commission that it would no longer qualify for an exemption from Commission rate regulation, under Minn. Stat. § 216B.16, subd. 12, because the Company had reached the 2,000 customer mark.¹ GMG is the first exempt gas utility in Minnesota to come under Commission rate regulation after reaching the 2,000 customer level.

On August 28, 2003, the Commission issued an Order requiring GMG to file a general rate case no later than February 2004.

On February 13, 2004, GMG submitted its request for a two month extension and the Commission issued an Order granting GMG's two month extension request until April 2004.

On April 30, 2004, GMG filed a request for authority to establish its current rates as base natural gas rates. While noting that it has a \$528,000 test-year revenue deficiency, GMG did not propose to change its rates up or down nor did it ask to collect interim rates.

On May 14, 2004, the Minnesota Department of Commerce (the Department) filed comments.

On May 21, 2004, GMG filed reply comments.

The Commission met on June 10, 2004 to consider this matter.

¹ Prior to this notification, GMG's rates were regulated and approved by the local governing bodies (i.e. the municipalities and townships) of the areas in which the Company provides service.

On June 18, 2004 the Commission issued its ORDER ACCEPTING FILING EFFECTIVE WHEN COMPLETED. In its Order, the Commission stated that GMG's rate case filing would be accepted as complete and the ten-month rate case period would commence when the Company filed certain additional specified items. The Commission authorized its Executive Secretary to determine whether and when the additional items were filed.

On August 26, 2004, GMG filed additional rate case materials and on September 10, 2004 the Commission's Executive Secretary determined that the Company had filed all the additional items identified in the June 18, 2004 Order.

On September 14, 2004, contemporaneously with this NOTICE AND ORDER FOR HEARING, the Commission issued its ORDER SUSPENDING PROPOSED RATES AND ADOPTING INTERIM RATES.

FINDINGS AND CONCLUSIONS

I. Jurisdiction and Referral for Contested Case Proceedings

The Commission has jurisdiction over proposed rate changes under Minn. Stat. § 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 the Company's filing. The Commission will therefore refer the matter to the Office of Administrative Hearings for contested case proceedings with the expressed hope that this matter can proceed to Settlement.

At the same time, however, as the Commission noted in its June 18, 2004 Order in this matter, it is the expressed hope of all parties that the matter can proceed in settlement mode to public hearings in GMG's service territory and thereafter to the Commission for review and approval.

II. Proposed Rates

GMG proposed to maintain the rates that it currently charges. The following rates are from the Company's proposed tariff.

| Greater Minnesota Gas, Inc. Schedule of Non-Gas Rates | Customer Charge (per month) | Non-Gas Distribution Charge (per Ccf) |
|---|--|--|
| Firm: ≤1,999 Ccf per year Rate Area 1 Rate Area 2 Rate Area 3 | \$7.50 \$7.50 \$7.50 | \$0.1900 \$0.2000 \$0.2100 |
| Firm: >1,999 ≤4,999 Ccf per year Rate Area 1 Rate Area 2 Rate Area 3 | \$12.50 \$12.50 \$12.50 | \$0.1600 \$0.1700 \$0.1800 |
| Firm: >4,999 ≤9,999 Ccf per year Rate Area 1 Rate Area 2 Rate Area 3 | \$25.00 \$25.00 \$25.00 | \$0.1400 \$0.1500 \$0.1600 |
| Firm: >9,999 Ccf per year Rate Area 1 Rate Area 2 Rate Area 3 | \$37.50 \$37.50 \$37.50 | \$0.1300 \$0.1400 \$0.1500 |
| Interruptible Sales (all areas) ≤ 9,999 Ccf per year | \$35.00 | \$0.1050 plus interruptible demand and gas supply costs |
| Interruptible Sales-Agricultural (all areas) ≤ 9,999 Ccf per year | \$75.00 - Oct. & Nov. | \$0.0850 plus interruptible demand and gas supply costs |
| | \$7.50 - all other mos. | |
| Transportation - all areas | applicable sales rate based on usage less base cost of gas | |
| Flexible Rates - all areas | applicable sales rate based on usage | can flex down to \$0.0300 based on competition |

A copy of GMG’s rate proposal is on file in the offices of the Department of Commerce, 121 Seventh Place East, Suite 200, St. Paul, Minnesota 55101-2145, and is open for public inspection during regular office hours. Copies are also available for public inspection at GMG’s offices at 315½ South Minnesota Street, Suite 201, St. Peter, MN 56082.

The Commission, by separate Order, has accepted the filing and suspended the Company's proposed rates. By further Order, the Commission will direct the Company 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

Parties shall address the following issues in the course of the contested case proceedings ordered herein:

- (1) Is the test year revenue increase sought by the Company reasonable or will it result in unreasonable and excessive earnings by the Company?
- (2) Is the rate design proposed by the Company reasonable?
- (3) Is the Company's proposed capital structure and return on equity reasonable?

The Commission further identifies the following issues as requiring special attention:

- a. service extensions and service extension policy as discussed in the Commission March 31, 1995 service extension order;
- b. cost allocations;
- c. whether gas costs should be unbundled on customer bills;
- d. the Company's Gas Rate Book; and
- e. the Company's monthly service charge.

The parties may also raise and address other issues relevant to the Company's rate proposal.

IV. Procedural Outline

A. Administrative Law Judge

The Administrative Law Judge assigned to this case is Allan Klein. His address and telephone number are as follows: Office of Administrative Hearings, Suite 1700, 100 Washington Square, Minneapolis, Minnesota 55401-2138; (612) 341-7609.

B. Hearing Procedure

- *Controlling Statutes and Rules*

Hearings in this matter will be conducted in accordance with the Administrative Procedure Act, Minn. Stat. §§ 14.57-14.62; the rules of the Office of Administrative Hearings, Minn. Rules, parts 1400.5010 to 1400.8400; and, to the extent that they are not superseded by those rules, the Commission's Rules of Practice and Procedure, Minn. Rules, parts 7829.0100 to 7829.3200.

Copies of these rules and statutes may be purchased from the Print Communications Division of 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. Under Minn. Rules, part 1400.7000, they may 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 Minn. Rules, parts 1400.6700 to 1400.6800 or informal disposition under Minn. 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 Minn. Stat. § 14.60, subd. 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 Commission staff 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 the Company, the Minnesota Department of Commerce, and the Staff of the Environmental Quality Board. 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 Wednesday, September 22, 2004 at 1:30 p.m. in the Small Hearing Room, Public Utilities Commission, 121 7th Place East, Suite 350, St. Paul, Minnesota 55101.

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 the Company's filing within ten months, or the proposed rates are deemed approved. Minn. Stat. § 216B.16, subd. 2. This ten-month period began on August 26, 2004, the date the Company completed its initial filing, and can be extended for brief periods to permit the negotiation and consideration of settlements. Minn. Stat. § 216B.16, subds. 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 within eight months of the date the Company's completed filing (i.e. on or before April 26, 2005) in order to allow the Commission adequate opportunity for thorough consideration of the case.

V. Application of Ethics in Government Act

The lobbying provisions of the Ethics in Government Act, Minn. Stat. §§ 10A.01 *et seq.*, apply to certificate of need cases. 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.

VI. 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 Minn. 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 regarding the issues identified above in Section III and any other issues relevant to the Company's rate proposal.
2. The contested case proceeding shall begin with a prehearing conference on Wednesday, September 22, 2004, at 1:30p.m. in the Small Hearing Room, Public Utilities Commission, 121 7th Place East, Suite 350, St. Paul, Minnesota 55101-2147.
3. This Order will be served on the Company, which shall mail copies of the Order to all municipalities and counties in its service area and to such other persons as the Department of Public Service may request.
4. The Commission requests that the ALJ assigned to this case conduct two public hearings in this matter, hopefully on the reasonableness of a proposed Settlement, at locations within the service area of the Company.
5. The Company shall give the following notices of any evidentiary and public hearings:
 - 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. 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 the Company's service area. These advertisements shall appear at least ten days before the first day of hearings. They shall include the heading **RATE SETTING NOTICE**, which heading shall appear in bold face type no smaller than 30 points.
 - d. The Company shall submit proposed notices for Commission approval prior to publication or service.
3. 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) 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 a Petition by Greater
Minnesota Gas, Inc. for Authority to Establish
Natural Gas Rates in Minnesota

MPUC Docket G-022/GR-04-667

OAH Docket No.

NOTICE OF APPEARANCE

Name, Address and Telephone Number of Administrative Law Judge:

Allan Klein, Office of Administrative Hearings, Suite, 1700,
100 Washington Square, Minneapolis, Minnesota 55401; (612) 341-7609

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: _____