

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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In the Matter of the Proposed  
Adoption of Amendments to the  
Rules of the Minnesota Public  
Utilities Commission Governing  
Automatic Adjustment of Charges

STATEMENT OF NEED AND  
REASONABLENESS

I. INTRODUCTION

The Minnesota Public Utilities Commission (the Commission) has drafted this Statement of Need and Reasonableness to support and accompany the Commission's Proposed Amendments to the Rules governing automatic adjustment of charges.

The proposed changes are intended to amend the Commission's current rules Automatic Adjustment of Charges, Minnesota Rules, parts 7825.2400 to 7825.3000 (formerly PSC Rules 390-395, January 1, 1978), to incorporate changes in terminology which have occurred since the existing rules were made effective; to provide for the recovery of purchased demand costs of non-generating electric utilities; to allow for the recovery of peak shaving gas which was not explicitly provided for in the existing rules; and, to provide additional, comprehensive annual reporting requirements in order to improve the evaluation of the application and the impact of automatic adjustment of charges upon customers and regulated gas and electric utilities.

The proposed amendments governing the automatic adjustment of charges are necessary to provide uniformity in the application of automatic adjustment of charges authorized by Minn. Stat. §§ 216B.16, Subd. 7 (1982).

Minn. Stat. § 14.115 (Supp. 1983) requires a state agency to mitigate the effects of new rules or amendments to existing rules on small businesses and to aid the small business in participating in the rulemaking process. The

Commission has considered a number of factors in determining whether Minn. Stat. 14.115 (Supp. 1983) applies to this rulemaking procedure.

The Commission believes that utilities are not "small businesses" as defined by subdivision 1 of this section because they are dominant in their service area and generally have gross annual sales of \$4,000,000 or more.

Furthermore, the Commission notes that in Minn. Stat. Ch. 216B (1982), it has been authorized by the legislature to regulate gas and electric utilities. Some of the basic tenets of utility regulation are: utilities are affected with a deep public interest; utilities are obligated to provide satisfactory service to the entire public on demand; utilities are obligated to charge fair, non-discriminatory rates. A general freedom from substantial direct competition and the opportunity to make a fair return on investment are among the benefits utilities receive from regulation. Given this regulatory scheme, it is clear that the legislature views utilities differently from other concerns defined as small businesses. The degree of government intervention in the operations of a public utility is considerably higher than in other types of businesses.

Even if some small utilities could be viewed as "small businesses" as that term is defined, they, nevertheless, would be excepted from this statute.

The Commission finds that Minn. Stat. § 14.115, subd. 7 (Supp. 1983) establishes exceptions to the general obligations created by the statute and applies to rules promulgated by the Commission. In pertinent part, it states:

Subd. 7. Applicability. This section does not apply to:  
(c) service businesses regulated by government bodies, for standards and costs, such as nursing homes, long-term care facilities, hospitals, providers of medical care, daycare centers, group homes and residential care facilities;

The Commission finds that utilities fall within this broad definition. They are certainly service businesses regulated by government bodies for standards and costs. The words following the phrase "such as" merely provide some examples of government regulated businesses and are not exclusive.

While the Commission recognizes that these automatic adjustment amendments will add to the administrative burden of all regulated utilities, the added burden is not significant. The new reporting requirements are not measurably greater than the filings that the utility is already making for purchased gas adjustments which clearly benefit the utility. For the foregoing reasons, the Commission finds that Minn. Stat. § 14.115 (Supp. 1983) is not applicable to this rulemaking procedure.

The Minnesota Office of the Revisor of Statutes has made some editorial changes to these amendments as originally proposed. The Commission believes that these changes are not substantive and were made to achieve uniformity within Minnesota Rules.

This Statement follows the numerical organization of the Proposed Amendments. Only the amended rules are provided, followed by the Commission's discussion of why the amendment is necessary and reasonable.

This Statement of Need and Reasonableness is designed to comply with Minnesota Rules, part 1400.0500 (formerly 9 MCAR §§ 2.104). It contains a summary of the evidence and argument which the Commission intends to present and rely upon at the hearing on the proposed rules.

In the Commission's opinion, this Statement supports the need for the proposed amendments and the reasonableness thereof.

## II. DISCUSSION OF PROPOSED AMENDMENTS

### 7825.2390 Purpose

The purpose of parts 7825.2390 to 7825.3000 is to allow a means by which regulated gas and electric utilities may adjust for increases and decreases in the cost of energy delivered to customers that are different from those costs authorized by the Commission in the utility's most recent general rate case. Energy costs included in rate schedules are subject to evidentiary hearings in general rate cases filed by the utility. Proposed energy cost adjustments must be evaluated before billing by the Department of Public Service. Annual evaluation of energy cost adjustments must be made by the Department of Public Service and others as provided for in parts 7825.2390 to 7825.3000.

The addition of a preamble to the existing rules was recommended by the Commission in order to clarify the purpose of the rule and to introduce the general conditions under which automatic adjustment of charges are to be examined.

7825.2400 Definitions

Subp. 1. Scope. For the purpose of parts 7825.2390 to 7825.3000, the following definitions apply.

Subp. 2. Annual sales volume. "Annual sales volume" is the sum of the Mcf, Ccf or Btu of gas delivered during the most recent 12 months of the 14-month period preceding a change in the city gate rate or end of the heating season for which actual data is available.

Subp. 4. Base cost. "Base cost" is the peak shaving gas volumes or the cost of fuel consumed in the manufacture of gas or generation of electricity and purchased gas or purchased power in the base period expressed as a cost per kilowatt-hour sold or cost per Mcf, Ccf or Btu sold.

The changes to Subp. 2 and Subp. 4 propose to include the term Btu (British Thermal Units) and to allow for the inclusion of peak shaving gas. The addition of the term Btu is proposed because most regulated gas companies within the State are now billed Btu charges from gas suppliers based on the heat content of gas, in addition to Mcf or Ccf charges provided for in the existing rule. The inclusion of Btu within these definitions gives recognition to the universal application of the term.

The need for the inclusion of peak shaving gas volumes is discussed under Subp. 10.

Subp. 10. Cost of fuel consumed in the manufacture of gas; peak shaving gas volumes. "Cost of fuel consumed in the manufacture of gas" or "peak shaving gas volumes" is the withdrawals, during the heating season, from account 151 as defined by the Minnesota uniform system of accounts, class A and B gas utilities. All gas public utilities shall use this definition regardless of class.

This change proposes to include peak shaving gas volumes in the definition. The purpose of the existing rule is to allow for recovery of fuel consumed in the manufacture of gas which is used as peak shaving gas to supplement the daily natural gas requirements of utilities during the coldest weather when the available quantity of natural gas is insufficient to meet customer demand. However, liquid propane gas has most commonly been used for peak shaving purposes and included in automatic adjustments under this rule. Therefore, by amending the rule to specify both the cost of fuel consumed in the manufacture of gas and peak shaving gas, the rule will recognize other types of gas used for peak shaving in addition to gas manufactured for the purpose:

Subp. 13. Current period. "Current period" is the most recent two-month moving average used by electric utilities in computing an automatic adjustment of charges. Upon approval of the commission, a self-billing utility may use a longer period, not to exceed 12 months, provided that the provision contains a settlement procedure.

This amendment proposes to include the phrase "by electric utilities" in the definition. The definition currently defines "current period" as the most recent two-month average used in computing an automatic adjustment of charges. The only utilities which use a two-month moving average in computing adjustments are electric utilities. Consequently, the addition of the phrase "by electric utilities" is a grammatical change which assists in clarifying the application of the rule.

An additional proposed change to the existing rule would strike the sentence: "All electric utilities shall use this definition." With the inclusion of the phrase "by electric utilities," as described above, the existing ending sentence is no longer required.

7825.2500

- B. Changes in cost resulting from changes in the federally regulated wholesale rate for purchased gas and changes in the cost of fuel consumed in the manufacture of gas or peak shaving gas volumes. This provision is entitled purchased gas adjustment.

See explanation for Minnesota Rules, part 7825.2400, subp. 10.

7825.2600 Electric Energy Adjustment

The computations of the automatic adjustment to charges must conform to the procedures set forth below.

The amount of the billing period adjustment to charges must be determined by extending Kwh of sales in the billing period by an adjustment per Kwh. The adjustment per Kwh or the amount of the adjustment must be stated on the customer's bill to comply with parts 7820.3500 and 7820.3600.

The adjustment per Kwh is the sum of the current period cost of energy purchased and cost of fuel consumed per Kwh less the base cost per Kwh; except that upon commission approval, a utility that purchases at least 75 percent of its annual total Kwh sales may also separately add an additional adjustment per Kwh equal to the difference between the purchased demand cost and the base cost of purchased demand. This purchased demand cost adjustment is to be computed annually for the previous year less the demand base cost per Kwh.

The adjustment to charges must be made in the next complete billing period succeeding the determination of the adjustment per Kwh provided the adjustment has been filed as defined by part 7825.2900, subpart 1. The adjustment factor must be calculated monthly. Except, upon commission approval, a self-billing utility may calculate the adjustment less frequently but at least annually and shall provide for a settlement procedure. The adjustment amount must be rounded such that the projected recovery is within two percent of the change in total cost.

The existing rule does not specifically indicate that purchased demand costs are includable in calculating the electric energy adjustment for those utilities which predominantly rely upon purchased power and are charged a purchased demand cost. In some electric cooperative rate cases the issue has been raised as to whether or not the existing rule allows for a purchased demand cost adjustment. This change proposes to amend the rule to allow non-generating regulated

electric utilities to charge an adjustment for purchased demand costs and, thereby, to eliminate the confusion about the existing rule.

The proposed change will allow a utility that purchases at least 75 percent of its total annual Kwh sales to recover increases in purchased demand costs on a historical annual basis. Currently, most non-generating electric utilities purchase all of their power requirements. Clearly, these utilities purchase at least 75 percent of total annual Kwh sales and incur a purchased demand cost. However, under unusual circumstances, it is possible that a generating electric utility could also have a requirement to purchase at least 75 percent of total annual Kwh sales and incur a purchased demand cost. A benchmark of 75 percent of total annual Kwh sales is reasonable to distinguish all non-generating electric utilities from generating electric utilities, and to also allow for a possible application of this adjustment to generating electric utilities under unusual circumstances.

The other changes propose only to make a clarifying grammatical change by combining two sentences at the word "except" and to promote uniformity in the use of the words "must" and "shall".

7825.2700 Purchase Gas Adjustment Provision

The computation of the automatic adjustment to charges must conform to the procedures set forth below.

The amount of the billing period adjustment to charges must be determined by extending Mcf, Ccf or Btu sales in the billing period by an adjustment per Mcf, Ccf or Btu. The adjustment per Mcf, Ccf or Btu or the amount of the adjustment must be stated on the customer's bill to comply with parts 7820.3500 and 7820.3600.

The adjustment per Mcf, Ccf or Btu is the sum of the commodity adjustment, demand adjustment, peak shaving gas adjustment, and manufactured gas adjustment as computed below:

- A. The commodity adjustment is the difference between the commodity cost which results from a change in the city gate rate and the commodity base cost. To properly reflect adjustment per Mcf, Ccf or Btu billed, the divisor for a particular class of customer must include total sales volume delivered to that class of customer. The adjustment must be applied to billings after the effective date of the commodity rate change provided the adjustment has been filed as defined by part 7825.2900, subpart 1.

The foregoing changes propose to amend the rule to incorporate the term Btu into the rule as previously described in part 7825.2400, and to incorporate the term peak shaving gas as previously described in part 7825.2400, subp. 10.

- C. The peak shaving adjustment or the manufactured gas adjustment is the difference between the cost of propane and or fuel consumed in the manufacture of gas during the heating season and the peak shaving or manufactured gas base cost. The peak shaving or manufactured gas adjustment must be computed annually for the heating season ending April 30 of each year on the basis of firm annual sales volume adjusted to the extent peak shaving gas or manufactured gas is used to serve interruptible customers. The cost of peak shaving gas or manufactured gas must be applied to interruptible customers. The adjustment must be applied to billings during the next 12-month period commencing on June 1 of each year provided the adjustment has been filed as defined by part 7825.2900, subpart 1.

Refunds and interest thereon received from the suppliers of purchased gas that are attributable to the cost of gas previously sold must be refunded by credits to bills or check within a period not to exceed 90 days from the date the refund is received from a supplier, provided the refund amount per customer is equal to or greater than five cents. Upon approval of the commission, refunds of less than five cents per customer may be retained by the utility and separately accounted for until such time as the balance, together with additional supplier refunds, produces a refund of five cents or more per customer. Refunds must be made to each customer class on the same basis as previously charged to customers. If a supplier refund cannot be accurately distributed to customers because of seasonal usage patterns, then upon commission approval, refunding may be delayed for a period of up to 12 months. The utility shall add interest to the unrefunded balance at the prime interest rate.

The foregoing changes propose to amend the rule to incorporate the term Btu into the rule as previously described in part 7825.2400,



and to incorporate the term peak shaving gas as previously described in part 7825.2400, subp. 10.

This amendment proposes to change the period during which utilities shall refund to customers amounts received as gas supplier refunds from 12 months to 90 days; and, to specify a minimum amount per customer which must be refunded. This rule is also amended to clarify that refunds are made on the same basis as increased adjustments were previously charged to customers. Gas utilities attempt to refund to customers during the heating season when gas sales volumes or seasonal usage patterns are commensurate with periods during which increased adjustments were charged to customers. Consequently, this addition to the rule is for the purpose of formally recognizing in the rule what has been done in actual practice. It appears that gas utilities can reasonably refund gas supplier refunds to customers in 90 days; and so, the change in the refunding period of the rule from 12 months to 90 days is for the purpose of assuring that customers receive gas supplier refunds at the earliest practical opportunity. The rule is also revised to provide for exception to the 90-day refunding period in the event a gas utility is unable to accurately refund gas supplier refunds to customers in a 90-day period if seasonal usage patterns do not permit equitable distribution of the refund.

78235.2800 Annual Reports; Policies and Actions

All public utilities shall file annually on September 1 of each year, the procurement policies for selecting sources of fuel and energy purchased, dispatching policies, if applicable, and a summary of actions taken to minimize cost.

This proposal changes the date of annual filing requirements from October 31 to September 1. The purpose of this change is to provide for the opportunity to review the reports, which are required to be filed under the rules, prior to the commencement of the heating season.

7825.2810 Annual Report; Automatic Adjustment Charges

By September 1 of each year, all gas and electric utilities shall submit to the commission an annual reporting by month of all automatic adjustment charges for each customer class for the prior year commencing July 1 and ending June 30. This report must include:

- A. the commission-approved base cost of fuel or gas as defined by part 7825.2400, subpart 4;
- B. billing adjustment amounts, such Kwh, Mcf, Ccf or Btu, charged customers for each type of energy cost, such as nuclear, coal, purchased power, purchased gas, peak shaving gas, or manufactured gas;
- C. billing adjustment amounts, by gas supplier, that were used to bill the utility during the reporting period;
- D. the total cost of fuel or gas delivered to customers;
- E. the revenues collected from customers for energy delivered;
- F. the amount of supplier refunds received as defined by part 7825.2700; and
- G. the amount of refunds credited to customers.

The existing rule provides that each utility report proposed changes in automatic adjustments prior to the effective date of a change. Each automatic adjustment for each reporting utility is monitored on a change by change basis prior to implementing the change. There currently is no provision in the rules to require the commission to annually review the entire effect of automatic adjustments upon customer rates, consumption patterns, utility revenues and distribution of supplier refunds; nor is there any provision to review projected fuel and gas costs. Therefore, the intent of the proposed additions is to make information about automatic adjustment of charges available for annual review by the commission, intervenors and the public, to provide a means by which the commission may determine the appropriateness and reasonableness of the separate charge and refund transactions during a prior year.

Currently utilities submit periodic automatic adjustment reports to the Minnesota Department of Public Service (DPS). These reports are reviewed by the DPS to determine that the rates are in compliance with Commission rules and approved rates. An annual report filed directly with the Commission will enable the Commission to more effectively discharge its duties to review and monitor rates pursuant to Minn. Stat. § Ch. 216B (1982).

The materials required to be submitted will allow the Commission to make an independent, accurate evaluation of the automatic adjustment charges of each utility.

The information required by the Commission for the annual report of automatic adjustment of charges is needed to fully evaluate the impact these charges have had upon the ratepayers of each utility during the reporting period. The Commission-approved base cost of fuel or gas is calculated from the customer sales and cost of fuel or gas included in the utility's most recent general rate case. It is this base cost from which the periodic automatic adjustment billing amounts are increased or decreased. The adjustment amounts billed by each gas supplier are the federally regulated wholesale rates charged to each utility which are used to determine the adjustment amounts charged to the utility's ratepayers. In order to provide a check as to whether the utility is recovering the costs it is entitled to through the automatic adjustments, a comparison should also be made between the total cost of fuel or gas delivered to customers and the actual revenues collected from customers for energy delivered. In the case of gas utilities, it is necessary to compare the amount of supplier refunds received by these utilities with the actual refund amounts credited to customers in order to assure that all supplier refunds have been properly credited to customers.

7825.2820 Annual Auditor's Report

By September 1 of each year, all gas and electric utilities shall submit to the commission an independent auditor's report evaluating accounting for automatic adjustments for the prior year commencing July 1 and ending June 30.

This addition to existing rules is necessary and reasonable because the existing rules provide that certain accounts included in the uniform system of accounts will be used in the calculation of automatic adjustments. An independent auditor's report will provide, in addition to the checks on the computation of automatic adjustment charges done by the DPS and the Commission, a further check that the charges and credits used in the computation are in compliance with the uniform system of accounts as required by these rules.

7825.2830 Annual Five-Year Projection

By September 1 of each year, all gas and electric utilities shall submit to the commission a five-year projection of fuel and gas costs by energy source by month for the first two years and on an annual basis thereafter.

The overall purpose of a five-year projection of fuel and gas costs is to aid the Commission in anticipating potential rate impacts upon Minnesota ratepayers. These projections will provide the Commission with a state-wide perspective on future energy requirements and costs which may affect customer consumption, the level of rates, facility expansion requirements, and rate design proposals. In addition, for gas suppliers, these projections will give the Commission an indication of cost differences between suppliers and the impact these differences may have on Minnesota customers receiving natural gas from more than one supply source.

The Commission realizes that a month-by-month projection of fuel and gas costs by energy source for a two-year period can be accomplished with reasonable accuracy and to a lesser degree of accuracy for a period beyond two years. However, the projected

information will provide reasonable advance notice of cost changes so that the Commission and regulated utilities can be better prepared to respond.

7825.2840 Annual Notice of Reports Availability

By September 1 of each year, all gas and electric utilities shall provide notice of the availability of the reports defined in parts 7825.2800 to 7825.2830 to all intervenors in the previous two general rate cases.

This change gives intervenors in the utility's previous two general rate cases notice and an opportunity to review the reports required in this rule. This will provide the Commission with a broad source of opinion and fact which will assist it in evaluating the reports.

7825.2850 Annual Commission Meeting

The commission shall annually conduct a separate meeting to review the automatic adjustment of charges reported herein.

This addition to the rule will allow the Commission an opportunity to review and evaluate all utilities' automatic adjustments at one time, giving the Commission a broad perspective for its analysis of the application and impact of automatic adjustments. This meeting will also give the Commission an opportunity to review any cost changes in gas or electric utility fuel purchases and will allow the public and utilities to address to the appropriateness of changes in automatic adjustments during the reporting period.