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STATE OF MINNESOTA
PUBLIC UTILITIES COMMISSION

In the Matter of the Proposed Rules Governing Automatic Adjustment of Charges, Minn. Rules, parts 7825.2390 to 7825.3000.

ISSUE DATE: March 7, 1989

DOCKET NO. G-999/R-85-789

STATEMENT OF NEED AND REASONABLENESS

I. INTRODUCTION

The Minnesota Public Utilities Commission's (Commission's) permanent rules governing Automatic Adjustment of Charges, and specifically governing the Purchased Gas Adjustment (PGA) for gas utilities, are currently in effect. See Minn. Rules, parts 7825.2390 to 7825.3000. The PGA is a means by which regulated gas utilities may adjust for increases and decreases in the cost of gas delivered to customers that are different from those costs authorized by the Commission in the utility's most recent general rate case. Under the Commission's rules, gas utilities may automatically adjust gas rates in response to changes in the federally regulated wholesale rate for gas.

The Commission proposes to amend its Automatic Adjustment Rules. The proposed amendments, however, will only affect the PGA and gas utilities. There is no proposed change in the Electric Energy Adjustment or effect on electric utilities at this time.

On October 9, 1985, the Federal Energy Regulatory Commission (FERC) issued its Final Rule, Order No. 436. In this order, the FERC determined that an interstate natural gas pipeline which offers to provide carriage of natural gas on behalf of any customer must provide such services on a non-discriminatory basis to all customers. As a result, local natural gas distribution companies (LDC's), such as Northern States Power Company, now have the opportunity to purchase natural gas directly from producers and require a natural gas pipeline to deliver that gas to the LDC distribution system. Furthermore, large end-users of gas could purchase gas directly from producers and contract with LDC's to transport that gas through their system. The intent of Order 436 is to extend the benefits of competition among natural gas producers to the captive monopoly customers of the LDC's. Subsequent to this, the FERC issued its Interim Rule, Order 500, which addressed deficiencies in Order 436 concerning take-or-pay crediting procedures.

In 1986, Northern Natural Gas Company, the major pipeline serving Minnesota, opened its system for non-discriminatory transportation, enabling Minnesota gas utilities to purchase unregulated gas to supplement or replace existing system supply. As a result of this, Minn. Stat. section 216B.16, subdivision 7 (1988) was amended to give a gas utility authority to automatically adjust rates in direct relation to changes in direct cost for natural gas delivered.

However, current PGA rules only allow gas utilities to pass through costs associated with changes in the price of federally regulated gas. The Commission has granted rule variances to allow gas utilities to treat unregulated gas purchases as they do regulated gas purchases. (See Docket Nos. G-008/M-86-511, G-002/M-86-675, and G-011/M-86-690.) Because these variances have addressed problems that exist in the current rules, the Commission proposes to amend the existing rules.

The Commission began the process of amending its PGA rules by soliciting outside comment on November 8, 1985. The Commission received many outside comments and carefully considered the suggestions received in the comments. Additional outside comments were solicited on January 5, 1988. On January 15, 1988, the Commission invited interested parties to serve on an Advisory Task Force to draft proposed amendments to the PGA rules. The Advisory Task Force included representatives from the affected utilities, the Department of Public Service (DPS), the Office of the Attorney General (OAG), Minnesota Citizens Organizations Acting Together (COACT), and a large volume user. Discussion was facilitated by members of the Commission staff. The Commission reviewed the draft rule amendments, finds them to be reasonable, and proposes them for adoption.

II. STATEMENT OF COMMISSION'S STATUTORY AUTHORITY

The Commission's statutory authority to adopt these rules is set forth in Minn. Stat. Ch. 216B (1988), governing gas and electric utilities. Specifically, Minn. Stat. sections 216B.08, 216B.03, 216B.05, and 216B.16, subd. 7 (1988) provide:

> 216B.08 DUTIES OF THE COMMISSION
>
> The Commission is hereby vested with the powers, rights, functions, and jurisdiction to regulate in accordance with the provisions of Laws 1974, chapter 429 every public utility as defined herein. The exercise of such powers, rights, functions, and jurisdiction is

prescribed as a duty of the Commission. The Commission is authorized to make rules in furtherance of the purposes of Laws 1974, chapter 429.

216B.03 REASONABLE RATE

Every rate made, demanded or received by any public utility, or by any two or more public utilities jointly, shall be just and reasonable. Rates shall not be unreasonably preferential, unreasonably prejudicial or discriminatory, but shall be sufficient, equitable and consistent in application to a class of customers. To the maximum reasonable extent, the Commission shall set rates to encourage energy conservation and renewable energy use and to further the goals of sections 116J.05, 216B.164, and 216B.241. Any doubt as to reasonableness should be resolved in favor of the consumer. For rate making purposes a public utility may treat two or more municipalities served by it as a single class wherever the populations are comparable in size or the conditions of service are similar.

216B.05 PUBLISH SCHEDULES; RULES; FILES; JOINT RATES

Subdivision 1. Every public utility shall file with the commission schedules showing all rates, tolls, tariffs, and charges which it has established and which are in force at the time for any service performed by it within the state, or for any service in connection therewith or performed by any public utility controlled or operated by it.

Subd. 2. Every public utility shall file with and as part of the schedule all rules that, in the judgement of the commission, in any manner affect the service or product, or the rates charged or to be charged for any service or product, as well as any contracts, agreements, or arrangements relating to the service or product or the rates to be charged for any service or product to which the schedule is applicable as the Commission may by general or special order direct.

Subd. 3. Every public utility shall keep copies of the schedules open to public inspection under rules as the commission may prescribe.

216B.16 RATE CHANGES; PROCEDURE; HEARING.

Subdivision 7. **Energy cost adjustments.** Notwithstanding any other provision of this chapter, the Commission may permit a public utility to file rate

schedules containing provisions for the automatic adjustment of charges for public utility service in direct relation to changes in: (1) federally regulated wholesale rates for energy delivered through interstate facilities; (2) direct costs for natural gas delivered; or (3) costs for fuel used in generation of electricity or the manufacture of gas.

Under these statutes the Commission has the necessary statutory authority to adopt the proposed rules. Minn. Stat. section 216B.08 (1988) grants the Commission authority to promulgate rules governing certain gas and electric utilities. Minn. Stat. sections 216B.03 and 216B.05 (1988) require that rates charged by these utilities be fair and reasonable, and that these rates be filed with the Commission. Minn. Stat. section 216B.16, subd. 7 (1988) provides for the automatic adjustment of charges for direct cost of natural gas delivered. The proposed rules are intended to enable the Commission to carry out its duties under these statutes.

III. STATEMENT OF NEED

Minn. Stat. Ch. 14 (1988) requires the Commission to make an affirmative presentation of facts establishing the need for and reasonableness of the rules as proposed. In general terms, this means that the Commission must set forth the reasons for its proposal, and the reasons must not be arbitrary or capricious.

However, to the extent that need and reasonableness are separate, need has come to mean that a problem exists which requires administrative attention, and reasonableness means that the solution proposed by the Commission is appropriate. The need for the rules is discussed below.

The proposed rule amendments are intended to make the rules consistent with FERC Orders No. 436 and No. 500 and Minn. Stat. section 216B.16, subd. 7 (1988). The amendments cover two main areas: the actual computation of the automatic adjustment to allow gas utilities to recover gas costs from customers, and the additional filing requirements needed for the Commission to ensure sufficient regulatory oversight over unregulated gas purchases.

The PGA can, under the current rules, only be adjusted in response to a change in the federally regulated wholesale rate for natural gas. However, under federal and state law, Minnesota LDC's can now contract to purchase some or all of their gas supply from unregulated producers and transport that supply to local distribution systems through interstate pipelines. Because the cost of unregulated gas differs from the federally regulated

wholesale rate and the LDC must also contract to transport its unregulated purchases, LDC's are at risk for over- or under-recovery of actual gas costs if they are purchasing unregulated gas. This is detrimental to the LDC's customers, as they are unable to benefit from the pass-through of cost savings when an LDC purchases cheaper, unregulated gas.

Over the past year, the Commission has granted variances to the PGA rules to comply with federal and state law and allow for the pass-through of actual gas costs to six of eight shareholder-owned gas utilities in the state. These variances were granted for one-year periods and will have to be refiled if the rules are not amended. The filing of variances on an individual utility basis has created a hardship for the Commission, the DPS, and the utilities.

To change the PGA to pass through unregulated gas costs will require procedural changes in calculating the adjustment of rates. The cost of gas will change more frequently for utilities; in some cases several times each month as utilities alter their mix of regulated and unregulated gas to achieve the most favorable gas price possible. It would be costly, time-consuming and confusing to customers to change rates every time the utility's gas cost changes. Procedures must be changed to provide utilities with an orderly process for making adjustments, yet ensure that costs are not over- or under-recovered through billings to customers.

In changing the PGA to pass through unregulated gas costs, the Commission will require additional information in both the automatic adjustment filings and the annual report. The information required includes costs and levels of unregulated gas purchases by month and cumulatively; any variances to the PGA rules in effect or requested; and any changes in demand level. This information will enable the Commission and the DPS to monitor the utility's purchases of unregulated gas and investigate any appearance or allegation of imprudence on the part of the utility. Monitoring is necessary because gas utilities will be purchasing from unregulated producers. Unregulated gas costs are currently lower than regulated gas, but in a period of restricted supply market forces may drive the price above that of regulated gas. It is important for the Commission to closely monitor unregulated gas purchases to protect the ratepayer's interest and ensure that costs being passed through to customers are reasonable.

Based on the foregoing discussion and the reasons given therein, the proposed PGA rule amendments are needed.

IV. STATEMENT OF REASONABLENESS

The Commission is required by Minn. Stat. Ch. 14 (1988) to make an affirmative presentation of facts establishing the reasonableness of the proposed rules. Reasonableness is the opposite of arbitrariness or capriciousness. It means that there is a rational basis for the Commission's proposed action.

However, the proposed rule need not be the most reasonable solution to the situation which created the need for the rule. The proposed rule is not unreasonable simply because a more reasonable alternative exists or a better job of drafting might have been done.

Nevertheless, for the reasons given below, the Commission believes that its proposed rule is the most reasonable approach to the issue presented based on its own experience and expertise, the Task Force recommendations, and comments from interested parties.

A. Reasonableness of the Rules as a Whole

The overall approach taken by the Commission to solve the problems described above has been to use the solutions that have worked well in the past or are a balancing of the affected parties' interests. For instance, the computation and timing of the PGA have been successfully worked out through rule variances granted to individual gas utilities over the past year.

The rule amendments in the computation of the PGA to include unregulated gas purchases and associated costs involved to bring those purchases to the city gate, and anticipated more frequent filings for adjustment, makes it reasonable for the Commission to require additional information to adequately monitor the performance of gas utilities in gas purchasing. As gas purchasing is no longer restricted to federally regulated wholesale rates, the Commission must take more of the regulatory burden upon themselves to ensure that gas utilities are making appropriate purchasing decisions. There is no other way for the Commission to do this but to require detailed information from the utilities regarding purchasing practices. Therefore, the rule amendments were chosen by the Commission because they are satisfactory solutions or equitable resolutions to the problems created by the current PGA rules.

B. Reasonableness of Individual Rules

The following discussion addresses the specific provisions of the proposed rules.

Part 7825.2390 PURPOSE.

The editorial changes to this part are designed to clarify the language and to make the purpose a useful explanation of the PGA. These changes are reasonable because they do not change the basic meaning of the rule part, they simply make it more clear.

The Commission further proposes to amend this rule part to eliminate the requirement that proposed energy cost adjustment be submitted before billing to the DPS. Prior to the availability of unregulated gas, the FERC allowed gas costs to change only a few times each year, with advance notice; making this requirement administratively reasonable for the gas utilities. Current experience indicates that large changes in the pipeline rates can occur with very little notice. The gas utilities will remain better reconciled with their customers if they are able to pass these changes on immediately, with approval contingent upon proper filing as provided for in proposed part 7825.2920, subpart 1. Furthermore, other amendments to the PGA rules enable a gas utility to make several adjustments during a month, with only one monthly filing required to explain those adjustments. (See proposed part 7825.2910, subpart 1, item A.) This change is consistent with those amendments and serves to protect the utilities' customers. It is therefore reasonable to make this amendment.

The elimination of this requirement will not affect electric utilities. Parts 7825.2600 and 7825.2900, which outline the requirements for the Electric Energy Adjustment, specifically state when the adjustment must be calculated and filed with the DPS. The purpose section of the rules is consistent with these rule parts. Therefore, removing the phrase "before billing" does not change what the electric utilities are required to do under the current rules.

Finally, a sentence has been added to the purpose section of the rules. The sentence states that "when a utility proposes new or revised electric energy or purchased gas adjustment provisions, the proposal is considered a change in rates and must be reviewed according to commission rules and practices relating to utility rate changes". This language currently appears in part 7825.3000 of the rules, the existing section on implementation. The current implementation section has been amended to reflect the proposed changes to the rules. In reviewing the implementation section, it became apparent that the sentence concerning rate changes more logically belonged in the purpose section since the purpose section similarly refers to one type of rate changes, general rate changes. Therefore, this amendment is reasonable because it results in a more coherent rule.

Part 7825.2400 DEFINITIONS.

The Commission proposes to amend this rule by modifying or eliminating several definitions, and adding four new definitions. All modifications are intended to clarify the rules and provide guidance to the user.

Subpart 1, the scope subpart, has been amended by the Office of the Revisor of Statutes to conform to the appropriate language used by that office. Subpart 1 has also been amended to reflect the changes in rule part numbers that result from the proposed rules.

Subpart 2 is modified to eliminate the words "of the 14 month period". This amendment is intended to simplify language. The phrase "most recent 12 months of the 14 month period" is simply the most recent 12 months; the 14 month period carries no significance with the gas utilities for purposes of calculating their annual sales volume. It is therefore reasonable to eliminate this portion of the phrase and simplify the definition. This definition is further amended to change the term "city gate rate" to "demand delivered gas cost". This change reflects the elimination of the use "city gate rate" from these rules and the substitution of "demand delivered gas cost" in part 7825.2400, proposed subpart 13b. The reasons for this change are discussed under those parts.

Also in subpart 2, the Commission proposes the elimination of the words "or end of the heating season" in calculating the annual sales volume. The alternative of "end of the heating season" is no longer necessary because under the proposed rules the utilities will update their annual sales volume each time the delivered demand gas cost changes. By requiring them to update annual sales volume each time, it will ensure that all PGA filings are uniform and will be easier for the DPS to process and compare.

The third definition, in subpart 3, eliminates the word "sales" from "Annual demand sales volume". The definition as previously written can be easily confused with subpart 2, "Annual sales volume". "Annual demand volume" is more commonly used in the industry and is therefore more understandable.

The next modification, in subpart 4 and proposed subpart 4a, splits the definition of base cost into base <u>electric</u> cost and base <u>gas</u> cost. This is reasonable because it clarifies the use of "base cost" in both the automatic electric adjustment and the PGA. The substance of both definitions remains the same.

Four new definitions have been added to the definition section. Proposed subparts 5a, 6a, 15a, and 15b define abbreviations used

throughout the existing and proposed rules. "Btu" means British thermal unit; "Ccf" means 100 cubic feet; "Kwh" means kilowatt-hour; and "Mcf" means 1,000 cubic feet. These definitions are standard terms that are commonly known and understood in the industry. Adding them to the proposed rules is reasonable because it results in a clearer, more readable and comprehensive rule, especially for those who are not familiar with these terms.

Two other clarifying definitions have been added to the proposed rules. Subparts 6b and 13C define "Commission" and "Department". These terms are used extensively in the existing and proposed rules. For participants and readers new to energy adjustments, these definitions make it clear who the actors are in the process.

The next modification is to eliminate the current subpart 6, "City gate rate" and create two new definitions, proposed subpart 6d, "Commodity delivered gas cost" and proposed subpart 13b, "Demand delivered gas cost". The current definition refers only to the cost of gas itself, which under federally regulated wholesale rates includes costs incurred to bring the gas to the city gate. In purchasing unregulated gas, utilities must contract for other costs, such as gathering, transportation, and storage. Under the current definition, gas utilities are unable to pass these costs through to customers. Gas utilities can realize significant savings by purchasing non-regulated gas supply and supply-related services. The proposed new definitions allow for the pass-through of these gas costs. This is reasonable because it will allow gas utilities to take advantage of lower-cost unregulated gas and services and pass their savings on to the customer. Moreover, Minn. Stat. section 216B.16, subd. 7 (1988) allows gas utilities to pass through the "direct" costs for natural gas delivered. The costs allowed in these rule amendments are direct costs and are therefore reasonable.

The reason for splitting this definition into two parts is to make it clear that there are two components (commodity and demand) to delivered gas cost and that certain kinds of costs are included in one part or the other. Commodity costs refer to those costs which are a function of the amount of gas taken, such as the actual usage charge. Demand costs refer to costs incurred to assure a sufficient daily gas supply. This distinction clarifies the computation of the PGA in part 7825.2700, subparts 4 and 5. Previously this definition referred to commodity or demand costs and assumed that the reader understood which was being used in subsequent rule parts. This change is reasonable because it eliminates confusion in deciding which costs are included in which component when calculating the PGA.

To further clarify the difference between the commodity and demand components of gas costs, two new definitions have been added to the proposed rules. Subpart 6c defines "commodity" and

subpart 13a defines "demand". These definitions are consistent with the definitions of commodity delivered gas cost and demand delivered gas cost, described above. Commodity refers to the volume of gas delivered and demand refers to the maximum daily volumes of gas delivered and contracted for by the utility. These terms are commonly accepted and used by the industry. Adding them to the proposed rules serves to make the rules more consistent and more easily understood.

The next modification eliminates reference to "federally regulated wholesale rates" for gas in subpart 12, the cost of purchased gas. This change reflects the intention of FERC Orders 436 and 500 and Minn. Stat. section 216B.16, subd. 7 (1988), which allows gas utilities to purchase unregulated as well as regulated gas. It is reasonable because restrictions to the purchase of unregulated gas no longer exist, and therefore the cost of purchased gas should not refer to just federally regulated purchases.

New account numbers have also been added to this definition. The account numbers include the types of unregulated gas and services which utilities can currently purchase and should be allowed to pass through the PGA. The most recent version of these account numbers is found in the April 1, 1988 edition of Title 18, Part 201 of the Code of Federal Regulations. These accounts refer to the types of gas costs which are passed through. Accounts which refer to power are not passed through and, therefore, were not included in the definition.

A new subpart 13d has been added to the rules. "Design day" means a 24-hour-day period of the greatest possible gas requirement to meet firm customer needs. "Design day" is used in proposed part 7825.2910, subp. 2, Filing upon change in demand. Under that part, the gas utility's filing must include the design-day demand by customer class and the change in design-day demand, if any, necessitating the demand revision (item B). The proposed definition of "design-day" is commonly understood within the industry and, therefore, is reasonable.

This rule part is further amended to eliminate the definition in current subpart 14, "Heating season". This deletion is reasonable because other amendments to these rules have deleted any reference to heating season. This subpart has been replaced by proposed subpart 13b, "demand delivered gas cost", which is discussed above.

Two new definitions define "test year" (subpart 18) and "test year demand volume" (subpart 19) as used in the proposed rule amendments for computing the PGA demand adjustment. The definition for "test year" is used in other Commission rules and is consistent and widely known. See Minn. Rules, part 7825.3100, subpart 17, Definitions for Changes in Rates. "Test year demand

volume" is used in the context of gas utility general rate cases and is understood and accepted by utilities and regulators. These additions are reasonable because they simplify and clarify terminology throughout the rules.

Part 7825.2500 APPLICABILITY AND TYPES OF AUTOMATIC ADJUSTMENT OF CHARGES

This part has been amended to reflect the proposed changes in numbering. A new part 7825.2920 is proposed and the current part 7825.3000 has been proposed for repeal.

The proposed amendment to item B of this part would again remove reference to "federally regulated wholesale rate for purchased gas" and replace it with "commodity delivered gas cost and demand delivered gas cost". This is reasonable because it ensures that the PGA encompasses both regulated and unregulated gas. This change is also consistent with federal and state law and the rule definition amendments discussed above.

Part 7825.2600 ELECTRIC ENERGY ADJUSTMENT

This rule part is amended to change "base cost" to "base electric cost". This is reasonable because it clarifies which base cost is to be used to calculate the electric energy adjustment. This change is consistent with the rule definition amendments discussed above, and does not substantively amend the rules affecting electric utilities.

The Revisor's Office has made editorial changes to this rule part. As editorial changes, they do not change the substantive meaning of the rule. For instance, "subpart 1" in the description of where to find filing requirements has been deleted. Amendments to the filing requirements create a new part 7825.2900 which lists the current filing requirements for electric utilities. The remaining subparts of part 7825.2900 are being repealed and replaced by new rule parts. These amendments are reasonable because they make the rules consistent and easier to understand.

Part 7825.2700 PURCHASED GAS ADJUSTMENT

This rule part governs the calculation of the PGA. There are several proposed amendments to this part of the PGA rules. Basically, the amendments require that:

- the PGA be zeroed out and a new base gas cost established when the utility files a general rate case, and again when final rates go into effect (Subp. 2);

- automatic adjustment of charges must take place whenever the change in delivered gas cost exceeds $0.03/MMBtu, but at least once every three months. The utility may opt to adjust charges each time its gas cost changes if it provides for this in its tariff (Subp. 3);

- the adjustments be based on forecasted rather than historic volumes (Subp. 4);

- the demand charge to customers must be calculated on the basis of test-year volume until it has been three years since the utility's last general rate case, and annual demand sales volume thereafter (Subp. 5);

- the demand adjustment to demand-billed customers must be made through the demand charge rather than the commodity charge (Subp. 5);

- The peak-shaving or manufactured gas adjustment must be applied to billings on September 1, to coincide with the annual true-up (Subp. 6);

- an annual true-up or balancing account must be established to reconcile differences between actual and recovered gas costs (Subp. 7); and

- refunds must be issued annually based on the usage of customer classes during the period the refund covers. Customers within each class will be refunded on the basis of individual usage over the previous 12-month period (Subp. 8).

Proposed subpart 1 contains the current rule language, with one clarifying amendment. The second sentence addresses the determination of the billing period adjustment. The phrase "extending" Mcf, Ccf, or Btu sales in the billing period by an adjustment per Mcf, Ccf, or Btu" (Emphasis supplied) did not clearly explain the adjustment. Therefore, the phrase was replaced with "applying an adjustment per Mcf, Ccf, or Btu to Mcf, Ccf, or Btu sales in the billing period" (Emphasis supplied). The new phrase more clearly describes how the adjustment is determined. This amendment does not change the substance of the current rule. It is reasonable because it results in a more readable rule.

When a utility files a general rate case, it must zero out its PGA and establish a new base gas cost both at the implementation of interim and final rates. See Minn. Stat. section 216B.16 (1988). Proposed subpart 2 has been added to these rules to clarify existing practice.

There is currently no rule provision which sets forth the necessity of and method for establishing a new base gas cost. This has resulted in confusion and incomplete rate case filings from several utilities in the past. For example, in Docket No. G-011/GR-86-144, Peoples Natural Gas Company filed a general rate case on March 17, 1986. The filing was not accompanied by a miscellaneous filing to establish a new base gas cost, which is needed to set interim rates. The DPS notified Peoples of this omission and a new base gas cost was filed in Docket No. G-011/MR-86-203 on April 14, 1986.

An amendment to require the establishment of a new base gas cost and explain how to determine it is reasonable because it will eliminate these problems and provide important information to utilities. Proposed subpart 2 accomplishes these goals in a reasonable manner. It clearly states the appropriate procedure and calculation necessary for a new base gas cost when a gas utility requests a general rate case under Minn. Stat. section 216B.16 (1988).

The current PGA rule part 7825.2700 requires that the automatic adjustment of charges be applied to billings after the effective date of the commodity and demand rate change. This rule was appropriate when federally regulated wholesale rates changed only twice a year. With the gas utilities' new ability to combine regulated gas purchases with third-party purchases, the delivered gas cost for a utility will change more frequently; in some cases several times a month. Changing gas rates this frequently would create confusion for customers and excessive administrative work for gas utilities. Changing too infrequently, however, would not allow for accurate matching of gas costs and rates and force a large reconciliation between the utility and the customer at the end of the year.

It is therefore reasonable to require gas utilities to automatically adjust their rates whenever the change in their total delivered gas cost (the sum of the commodity and demand adjustments) is greater than $0.03/MMBtu, but at least every three months, as this rule has been amended in subpart 3. The use of the $0.03 threshold was derived in a simulation by the DPS and Minnegasco, where several thresholds were tested. $0.03 was chosen because it provided a balance between too frequent and too infrequent changes. It is currently being used by gas utilities through rule variances approved by the Commission and has worked well. The requirement of a change every three months is to ensure that utilities do not carry changes less than the threshold indefinitely and are over-recovering their actual cost of gas from customers.

Proposed subpart 3 also allows utilities to make adjustments on a more frequent basis if they provide for it in their tariff. A utility may seek Commission approval to do this if they feel it

is important to track gas costs more closely and is not administratively burdensome. For example, Midwest Gas is owned by a holding company which changes its PGA monthly. It is easier for Midwest to change when the holding company changes; so it may request permission to do so under the amended rules. These amendments will provide a balance between too frequent filings and the need to ensure that customers pay rates that reflect the current delivered gas cost.

Proposed subpart 4 requires gas utilities to base the PGA on forecasted rather than historic sales volume. This is reasonable because the PGA is proactive to the time that it is filed, and therefore the adjustment will be more accurate if it is based on estimated rather than past volumes of delivered gas. More accurate volumes for the PGA will provide for better matching of rates with costs, making the annual true-up smaller and giving consumers an accurate picture of gas costs on which to base consumption decisions.

Proposed subparts 4 and 5 change the term "city gate rate" to "commodity delivered gas cost" (subpart 4) and "demand delivered gas cost" (subpart 5). This change is consistent with the definition amendments (see page 8) and clarifies that subpart 4 constitutes an adjustment to the commodity rate and subpart 5 describes an adjustment to the demand rate.

Proposed subparts 4 and 5 are also altered to clarify the wording of the first sentence of each item. The terms "difference between" and "change in" have been interchanged. This makes the sentences read more logically and does not alter their meaning or intent. These sentences have further been altered to change the word <u>cost</u> to <u>rate</u> when referring to commodity cost and demand cost. The word "cost" generally refers to a set amount whereas "rate" refers to an amount per unit. The commodity and demand adjustments will both result in a figure which is expressed as a rate rather than a cost. This change is reasonable because it clarifies the intent of the rule and substitutes a term which is widely used throughout the industry.

Proposed subparts 4 and 5 are also altered to delete the requirements as to when the PGA is applied to customer billings. These requirements were consolidated and amended in proposed subpart 3. It is reasonable to eliminate these statements because they are redundant given the rule amendments.

Moreover, proposed subpart 5 requires that the demand adjustment be computed on the basis of test year sales volumes until three years have elapsed since the utility's last general rate case, and annual demand volume thereafter. This is reasonable because the test year demand volume has been previously determined by the Commission in the context of a general rate proceeding and incorporates more current information than the annual demand

volume. The use of the test year demand volume will also be administratively easier for the utilities to use in calculating the demand allocation to each customer class. When the utility has collected annual sales volume data for three years beyond the test year, the annual demand volume contains more current information and therefore becomes the appropriate basis to use.

Finally, proposed subpart 5 governs the demand adjustment for those customers who are billed separately for demand. Current PGA rules do not allow gas utilities to automatically adjust demand charges in response to a change in the cost of demand. Instead, the demand adjustment is passed through to these customers in their commodity rate, just as it is for customers who are not billed separately for demand. It is reasonable to amend this rule to allow utilities to automatically adjust demand contracts in response to a change in demand cost because the current method does not charge customers accurately for their contract demand, particularly those customers who reserve demand but are not currently taking any commodity from the system. These charges are unfairly passed on to the general ratepayers in their gas rates. The proposed rule solves this problem by requiring an adjustment to the demand component of a demand-billed customer when demand cost changes.

The next amendment to this rule part, proposed subpart 6 (which amends the current item C) concerns the peak shaving or manufactured gas adjustment. The Commission proposes to eliminate the separate dates of April 30 and June 1 for applying the peak-shaving adjustment to bills and set a new date, September 1. The intent of this change is to allow the date for applying the peak-shaving adjustment to firm customer's bills to coincide with the timing of the annual true-up (proposed subpart 7). This is reasonable because it will simplify gas utility billing and eliminate customer confusion if all annualized adjustments are applied to bills commencing on the same date.

The Commission proposes, in subpart 7, to establish an annual true-up or balancing procedure for gas utilities to reconcile the differences between actual and recovered gas costs at the end of each year. By requiring utilities to file quarterly or when delivered gas cost changes more than $0.03/MMBtu, there will be periods during a year where gas costs are not being accurately reflected in gas rates. It is reasonable to establish the true-up because such a procedure will eliminate the need for gas utilities to file for each change in delivered gas cost, but not leave them at risk for over- or under-recovery of fuel costs. The ratepayers will benefit from this procedure because it will ensure that, in any given year, they are paying in their rates the exact cost of the gas they consumed.

Finally, the Commission proposes several changes in the item concerning refunds, proposed subpart 8. Refunds will be

accumulated over the year and distributed to customers annually, instead of when the refund amount is at least five cents. With the availability of unregulated gas supply, the Commission anticipates there will be more frequent refunds than in the past, when the pipeline rate was regulated and refunds were infrequent and predictable. The five cent threshold of the current rule was found to be too low to administer refunds cost-effectively. Numerous refunds during the year would result in erratic bills which would confuse customers. Along with eliminating expense and confusion, an annual refund would also allow the DPS to maintain more control over the refund process, as they would know when refunds are to be filed and be prepared to handle them.

The exception to the annual refund would be cumulative refunds averaging five dollars or more per customer. Cumulative refunds mean that the total refund amount which has been accumulated divided by the total number of customers would be greater than or equal to five dollars. As this would be a very large refund, the Commission proposes that these refunds be distributed within 90 days from the date the most recent refund resulting in a cumulative refund greater than $5.00 is received from the supplier or transporter.

The refund rule is further amended to establish a specific method for allocation of a refund. The current rule is ambiguous on this subject and regulated gas utilities have been using several different methods of distribution. This causes inconsistencies in refund filings and makes it very difficult for the DPS to analyze refunds on a uniform basis.

The proposed method will allocate refunds to each customer class in proportion to their previously charged fuel costs. Within the class, refunds will be distributed to current customers based on their individual 12-month usage. This amendment is proposed to enable the gas utilities to handle all refunds equally and in the same manner as surcharges.

Some refunds and most surcharges are made by suppliers through gas cost adjustments. These are passed on to current customers through adjustments in the PGA. Similarly, when a supplier makes a lump-sum adjustment to a utility, it is reasonable to recognize these amounts as assets (or liabilities) of current customers. Utilities experience frequent customer turnover on their system and it is time-consuming and costly to locate past customers in order to make refunds. Furthermore, it is implausible to expect utilities to go back and charge former customers for lump-sum surcharges; these are passed on to current customers. Trying to locate and refund former customers would involve complex record keeping and an enormous amount of time and expense. Even then, many refunds would be unable to be distributed because forwarding addresses would be unavailable or refund amounts would be too small to distribute cost-effectively by check.

It is therefore reasonable to refund to current customers on the basis of individual 12-month usage by credits to bills. This will result in a more efficient refund system, with minimum costs incurred in record keeping, administration and distribution of the refunds. Customers will get the full benefit of any refund, and will not incur any extraordinary expenses involved in distributing the refund.

Part 7825.2800 ANNUAL REPORTS; POLICIES AND ACTIONS

This rule part has been amended to require gas utilities to report on conservation actions when they summarize actions taken to minimize cost. The Legislature has found that conservation is an important alternative to new supplies of natural gas. See Minn. Stat. section 216B.241 (1988). Conservation actions are also in the best interests of the ratepayers because conservation results in lower consumption and, therefore, lower gas bills for the ratepayers.

If applicable, the gas utility could reference its Conservation Improvement Program filed under Minn. Rules, chapter 7840, or the Conservation Plan it filed with its last general rate case. Therefore, this requirement is not duplicative or burdensome to the gas utility.

Part 7825.2810 ANNUAL REPORT: AUTOMATIC ADJUSTMENT OF CHARGES

The proposed changes to this rule part request additional information from gas utilities when they file annual reports. All of the additional reporting requirements apply specifically to gas utilities and will not affect the annual reports for the Automatic Electric Adjustment.

The first sentence in subpart 1 has been amended by the Revisor's Office. The term "all" has been removed because it is redundant and, therefore, unnecessary. The term "prior" has been replaced by "previous" because it is the preferred term. These are editorial changes which do not affect the substance of the rule.

An editorial change to subpart 1, item A, was necessary to make this item consistent with amendments to the definitions. The addition of part 7825.2400, subpart 4a reflects the amendment which creates definitions for "base gas cost" and "base electric cost".

Amended item B requires the reporting of purchased gas by major component. The amended PGA rules allow for the pass-through of all gas costs, which include the gas commodity and supply-related costs. It is reasonable to require the utilities to file reports

of the changes in each component of purchased gas which results in an adjustment. For instance, a large increase in commodity cost and a corresponding decrease in firm transportation cost could offset each other and make an adjustment look minor if they were reported as one adjustment. The large increase in commodity cost could, however, be the result of a questionable purchasing decision. It is important for the DPS and the Commission to know the adjustment of each component in order to determine if the Commission should fix at current levels, discontinue or modify the PGA for a gas utility pursuant to part 7825.2920, subpart 3.

The next amendment to this part, in item D, includes the cost of supply-related services in the reporting of the total cost of gas delivered to customers. This is reasonable because it is consistent with the definition of delivered gas cost, which includes the cost of supply-related services as those costs which may be passed through the PGA.

Proposed subpart 2 designates filing requirements for gas utilities only. This is noted in the rule part so that electric utilities know that the new requirements do not affect them. First, the amendment in proposed item A requires reporting of any rule variances to the PGA requested or in effect during the 12-month reporting period. This is reasonable because, in the face of rapidly changing market conditions and regulatory environment, reporting of variances will allow the Commission to gauge the effectiveness of current PGA rules and evaluate the need for rule revisions.

The next amendments to this part, in proposed items B and C, require gas utilities to report any changes in demand over the past year and the reasons for those changes, and the level of end-user transportation volumes delivered under transportation tariffs during the previous year. This information is reasonable to require because it will allow the Commission to monitor sales growth and declines in conjunction with the level of transportation activity on the utility's system.

Current customers of the LDC, particularly large industrial users, can now contract for their own third party gas. They would then contract with the LDC for transportation of this gas. In many cases, the utility will act as an agent or a broker in arranging these gas purchases. If the utility does not charge correct prices for this service, retail customers may be subsidizing the service through higher rates. Knowing the level of transportation activity on the system will allow Commission to examine whether a utility's transporting of gas on behalf of end-users could potentially harm the utility's retail sales customers in the form of higher rates.

Proposed item D requires an explanation of each deviation between gas cost recovery and actual costs for the reporting period. As

the Commission proposes to allow utilities to file the PGA on estimated volumes, it is important to examine how accurate forecasts were and why deviations occurred. If a utility is consistently overestimating volumes, they are systematically overcollecting gas costs from consumers. If they are underestimating, then they are likewise undercollecting, which could cause a large financial burden on customers in the true-up. Ideally, deviations from actual cost should balance out to near zero over the reporting period.

It is reasonable to require an explanation for these deviations because it will aid the Commission in protecting the ratepayers from utilities who are systematically over- or undercollecting on their PGAs. It is not an excessive burden on the utility to provide a brief summary as to why a deviation occurred; for example, an unusually warm winter or an unexpected purchase.

Part 7825.2830 ANNUAL FIVE-YEAR PROJECTION

The proposed amendment to this part would eliminate the requirement for an annual five-year projection for gas utilities. This is reasonable because the marketplace currently governs utility gas costs and neither the utilities nor suppliers are able to accurately predict the cost of future supply. The companies typically use the same forecast agency to predict as the DPS uses to evaluate the accuracy of the prediction, so the projection actually provides no information which is not already available to the DPS and is very time-consuming for the companies to prepare. Since these forecasts can provide little meaningful information to the Commission, they should no longer be required.

At the same time, the Commission would like some outside opinion on the current state of the gas market and where utilities feel it is going. The Commission proposes to amend this section to require the utilities to submit a brief statement of their opinion. This is reasonable because it will help the Commission plan the amount of regulatory oversight needed in the future, which could be based upon how much unregulated gas is available to utilities for purchase. The availability of more unregulated gas could require greater Commission oversight to ensure that utilities are acting in the best interest of their customers. This information could further help explain to the Commission some of the reasons for a utility's purchasing practices, although the opinion is not binding on the companies and the Commission would not be able to enforce it if their position changed in a future proceeding.

The Commission notes that the elimination of the five-year projection requirement is for gas utilities only. While it is possible that electric utilities may face some of the same problems in making projections in the future, that issue has not

been examined by the Commission as the revision of these rules are intended to overhaul the PGA and only gas utilities have been involved in the process.

Part 7825.2900 FILE UPON CHANGE OF AUTOMATIC ADJUSTMENT OF CHARGES

The Commission proposes to eliminate this rule part and create three new rule parts under the general heading "Filing for Automatic Adjustment of Charges". The three new parts are 7825.2900, "Filing By Electric Utilities"; 7825.2910, "Filing By Gas Utilities"; and 7825.2920, "Approval for Automatic Adjustment of Charges".

In the current rules, the filing requirements are identical for gas and electric utilities and are therefore not differentiated in part 7825.2900, subpart 1. As the Commission proposes to alter the filing requirements for the PGA but not for the Automatic Electric Adjustment, it is reasonable to separate the filing requirements into two parts. The nature of the proposed PGA filing requirements do not lend themselves to a subpart under 7825.2900. As a solution, the Commission separated existing subparts 2, 3 and 4 of part 7825.2900 into their own rule part, constituting the approval of automatic adjustments. The three new parts are proposed as follows:

Part 7825.2900 FILING BY ELECTRIC UTILITIES

This part is proposed to be identical to the current part 7825.2900, subpart 1, with the exception that all references to gas utilities have been removed. The base cost has been changed to read "base electric cost" as is consistent with the definitions. This is reasonable because this part has been redesigned to apply only to electric utilities. The electric utilities will not be affected by the amendments in part 7825.2900, item B because the language removed pertains to the filing requirements for gas utilities. The requirements for electric utilities remain the same and the language of this part reflects that.

Part 7825.2910 FILING BY GAS UTILITIES

Subpart 1 of this proposed part requires that gas utilities submit monthly PGA filings rather than filing each time their PGA changes. As the utilities exercise more control over their delivered gas cost, it will be important for the Commission to closely monitor the utilities' gas purchases to ensure that costs are being managed in a reasonable manner. It is administratively efficient for the DPS if filings are made on a monthly basis,

even though the adjustment may only occur when the $0.03 threshold is reached or every three months. In the event that several adjustments must be made in a one-month period (in times of rapidly rising or falling prices, for example), gas utilities could sum up all adjustments occurring during the month and the DPS would not be burdened with the numerous filings that would occur under the current rule. Longer intervals between filing are undesirable because unreasonable gas purchases would go on longer before detection, possibly passing imprudent costs on to ratepayers.

The monthly filings will further enable the DPS to track all of the utilities' gas purchases on an equal basis for comparison purposes. It is not possible to compare filings when they occur at different times, which would happen if utilities file only when they need to change their PGA. It is reasonable for the Commission to require monthly filings because information will be changing frequently, as utilities alter their price mix using regulated and unregulated gas purchases in pursuit of lower gas costs. This information should be reported in a timely manner in order to maintain sufficient regulatory oversight.

The monthly filings will be reviewed by the DPS and are subject to automatic approval, as provided for in part 7825.2920, subpart 1, unless the DPS finds errors or requests Commission action under part 7825.2920, subpart 3. The DPS will summarize each utility's PGA reports quarterly for the Commission to review. This will keep the Commission current on the PGA and alert it to potential problems much earlier than the annual reports.

Items A to D of subpart 1 state the specific reporting requirements to be included in the monthly filings. Item A is similar to the current part 7825.2900, subpart 1, item A. It has been amended to allow for filing more than one adjustment (or no adjustments if none occurred) in the monthly filing. Item B merely restates requirements that already exist in the current rules. It is reasonable to include these because the need for this information has not changed. The Commission proposes to eliminate item C from the current part 7825.2900, subpart 1, because the requirement applies to electric companies only.

Proposed item C requires the reporting of the gas utilities' estimated commodity cost in the previous month and cumulatively. Proposed item D requires reporting of third-party gas purchases. Proposed item E requires reporting of prices paid as a percentage of all gas purchases for the month. The third-party gas market is the market through which utilities can purchase unregulated gas.

The information in items C, D, and E will be used to monitor the gas utilities' activity in the third-party gas market and its effect on commodity costs. This will provide the Commission with

a clear picture of the third-party gas market and whether that market is being used efficiently to lower ratepayers' gas costs. If a utility's commodity price is much higher or lower than other utilities, it would be possible for the Commission to see if very good or very bad purchases on the third-party gas market caused this discrepancy instead of factors which the utility could not control. It is therefore reasonable for the Commission to require this information.

This subpart also requires the DPS to submit filings to the Commission every three months which summarize each utility's PGAs. This is reasonable because it will keep the Commission current on PGA filings, but reduce duplication of efforts by the Commission staff and the DPS in reviewing monthly filings.

Subpart 2 of this proposed part requires that gas utilities file with the DPS when they desire to increase or decrease their demand level, to redistribute demand among classes, or to exchange one form of demand for another. The Commission currently handles this change as a miscellaneous rate change on an individual utility basis. There is, therefore, no standard reporting mechanism to request these changes and the evidence presented to demonstrate need for a change can vary considerably among petitions. With the ability to purchase unregulated gas supplies, the Commission anticipates that utilities will be making more requests to change the level and allocation of demand.

The Commission recognizes the need for greater flexibility to change demand in response to changing markets and competition. Therefore, the Commission proposes to require gas utilities to file changes in demand level with the DPS. Pursuant to part 7825.2920, subpart 1, these filings will be provisionally approved and may be placed into effect without Commission action, subject to refunding for errors and Commission action after investigation, notice and hearing.

Under current practice, when a utility files for a change in demand, the DPS suspends review of the utility's PGA until the miscellaneous rate change is approved by the Commission. Although most changes are handled expediently, occasionally Commission action is delayed due to crowded schedules or an incomplete filing. In one recent case, review of a demand change took longer than usual due to an incomplete filing. Upon commission-ordered investigation of the demand change, the DPS discovered a calculation error in the PGA which had caused a large overcollection during the delay. These monies were refunded to customers, but in the meantime the customers' best interests were not being served (because they were paying more than they should for their gas) and the refund put considerable strain on the utility's cash flow.

The Commission proposes to prevent this problem from occurring again by making a request for a change in demand an automatic adjustment rather than a miscellaneous rate change. The proposed rule would still allow for the demand change to be closely reviewed for appropriateness; however, the review of the PGA would not have to be suspended pending approval of the demand change.

The Commission also sees a need for specific reporting requirements in order to make demand changes into an automatic adjustment, as a demand change could put some utilities at risk of not being able to serve firm customers on peak days and would therefore be inappropriate. The proposed revisions will provide the Commission with a uniform process for making these changes in a timely manner while requiring sufficient information to ensure that the changes are appropriate.

Item A of subpart 2 requires that the utility file a description of the factors contributing to the need for changing demand level. Examples of these would be a decrease in customer base, a change in peak day demand, or a conversion to firm transportation. It is reasonable for the Commission to require this information because it will allow it to determine if the need for demand change represents a change in customer usage patterns or was brought about by inappropriate gas purchasing.

Item B requires that the utility report its design-day demand by customer class and the changes therein necessitating the demand change. Item D requires reporting on how the utility plans to meet design-day needs under the requested demand level. This information is reasonable to require because it will enable the Commission to ensure that the requested level or allocation of demand is sufficient to meet the needs of the utility's customers and that firm customers are assured a reliable gas supply.

Item C requests information regarding winter versus summer usage of all customer classes. This information is important in the event that a utility wishes to exchange one form of demand for another (e.g. contract demand for winter service). The Commission must be assured that a change in type of demand, if not level, would not put firm customers at risk for a reliable gas supply.

Proposed subpart 3 governs the notice requirements for a change in demand filing. Currently, a miscellaneous rate filing provides notice of a proposed change in demand level to interested parties (generally all intervenors in the utility's last two general rate cases). The Commission proposes to require that this notice still be provided. This requirement is reasonable because it is current practice, and because a change in demand level could potentially seriously affect these interested parties; therefore, they should receive adequate notice of the change and should be allowed to comment.

Subpart 4 in the rule part is proposed to set forth filing requirements for the annual true-up. Previous amendments in part 7825.2700, proposed subpart 7, allow for the existence and computation of an annual true-up, and this subpart dictates when it should be filed. This is reasonable because it is necessary for the utilities to know when this must be filed and for the Commission and the DPS to know when to expect the true-up filing and when it will be applied to customer bills.

Part 7825.2920 APPROVAL FOR AUTOMATIC ADJUSTMENT OF CHARGES

Subparts 1, 2, and 3 of this part are identical to subparts 2, 3, and 4 of the current rule part 7825.2900. It is reasonable to include these parts because the need for approval requirements has not changed. They are merely being grouped into their own section. These subparts are compatible with the proposed rule amendments. Although this rule part does not propose new language, the Revisor's Office underlined the text because that office made minor editorial changes and because the text is contained in a new rule part.

IMPLEMENTATION

This rule part has been amended so that PGA rule variances for gas utilities in effect on the date that these rules go into effect, are modified to eliminate conflicts with these proposed rule amendments. Since the variances were granted for only one year, the Revisor's Office did not number this rule part.

Rule variances were granted because the current rules are obsolete. The proposed rule amendments update the rules. However, recession of all the rule variances is not appropriate because that could be interpreted to require each gas utility to recalculate its PGA. Therefore, it is reasonable to modify only that portion of each rule variance that conflicts with the proposed rule amendments.

V. SMALL BUSINESS CONSIDERATIONS IN RULEMAKING

Minn. Stat. section 14.115, subd. 2 (1988) requires the Commission, when proposing rules which may affect small business, to consider the following methods for reducing the impact on small businesses:

(a) the establishment of less stringent compliance or reporting requirements for small businesses;

(b) the establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;

(c) the consolidation or simplification of compliance or reporting requirements for small businesses;

(d) the establishment of performance standards for small businesses to replace design or operational standards required in the rule; and

(e) the exemption of small businesses from any or all requirements of the rule.

Minn. Stat. section 114.115, subd.1 (1988) defines small business as:

Definition. For purposes of this section, "small business" means a business entity, including its affiliates, that (a) is independently owned and operated; (b) is not dominant in its field; and (c) employs fewer than 50 full-time employees or has gross annual sales of less than $4,000,000. For purposes of a specific rule, an agency may define small business to include more employees if necessary to adapt the rule to the needs and problems of small businesses.

The proposed rules may affect small businesses as defined in Minn. Stat. section 14.115 (1988). The small businesses that may be affected are the small gas utilities. As a result, the Commission has considered the above-listed methods for reducing the impact of the rule on small businesses.

Methods (a), (b), and (c) address compliance and reporting requirements. The reporting requirements as they are currently written are the least amount of information on which the Commission can determine whether the utilities have complied with the rule. This is especially important now that utilities have more control over their gas costs by purchasing unregulated gas. Because the federal government has eased restriction on natural gas costs, the Commission feels it must now take more regulatory burden upon itself to ensure that the gas utilities are acting in the public's best interest.

Nor can the Commission make compliance requirements themselves less restrictive. Proof of compliance with the rule is necessary so that the Commission is assured that companies in fact satisfy the rule requirements.

Method (d) does not apply to the proposed rules because the rules do not contain design or operational standards.

Method (e) addresses the exemption of small businesses from any or all rule requirements. Because all gas utilities are now allowed by statute to purchase unregulated gas, the Commission could not exempt some of the smaller gas utilities. Exempting the small gas utilities from some of the rule requirements would result in the Commission lacking sufficient information to make well-reasoned decision concerning those utilities' PGAs. Moreover, exempting small gas utilities would also result in discrimination against their customers because their customers would not have the safeguards afforded the customers of large gas utilities. Therefore, the rules apply equally to large and small gas utilities.

The Commission notes that it has been authorized by Minn. Stat. Ch. 216B (1988) to regulate gas utilities in Minnesota. The basic tenets of regulation include: gas utilities are affected with a deep public interest; they are obligated to provide satisfactory service to the entire public on demand; and they are obligated to charge fair, non-discriminatory rates. In return, the gas utilities receive a general freedom from substantial direct competition and the opportunity to make a fair return on investment. Given this regulatory scheme, it is clear that the legislature views gas utilities differently from other concerns identified as small businesses. That is, the degree of government intervention in the operations of a gas utility is considerably higher than in other types of businesses.

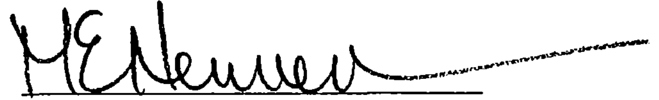
Finally, though some small gas utilities fall within the definition of small businesses as that term is defined in Minn. Stat. section 14.115 (1988), they are excepted from this statute. Minn. Stat. section 14.115, subd. 7 (1988) establishes exceptions to the general obligations created by the statute 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.

Gas 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. For the foregoing reasons, Minn. Stat. sec. 14.115 (1988) is not applicable to this rulemaking procedure.

VI. CONCLUSION

Based on the foregoing, the proposed Minn. Rules, parts 7825.2390 to 7825.3000 are both needed and reasonable.



Mary Ellen Hennen
Executive Secretary