MINNESOTA
PUBLIC UTILITIES COMMISSION

Staff Briefing Papers

Meeting Date	September 13, 2018	Agenda Item #4 *
Company	Greater Minnesota Transmission, LLC (GMT)	
Docket Nos.	PL-6580/M-06-1063 PL-6580/M-13-91 PL-6580/M-13-94 PL-6580/M-14-386 G-022/M-14-342 (Greater Minnesota Gas) PL-6850/M-14-578 PL-6580/M-14-1056 PL-6580/M-15-967 PL-6580/M-15-968 PL-6580/M-15-1041 PL-6580/M-16-936 PL-6580/M-16-1026	

GMT's Annual Load Factor Utilization Report, by Pipeline Segment

Issues

1. Should the Commission accept Greater Minnesota Transmission's January 12, 2018 annual load factor utilization report as compliant with Commission Orders?
2. Should the Commission require additional analysis on Greater Minnesota Gas' high utilization of Greater Minnesota Transmission overrun capacity service?
3. Should the Commission require Greater Minnesota Gas to demonstrate that it holds sufficient Northern Natural Gas and Greater Minnesota Transmission mainline and lateral capacity to serve its retail firm sales customers located on these pipeline segments?

Staff			
	Bob Brill	bob.brill@state.mn.us	651-201-2242
	Jason Bonnett	jason.bonnett@state.mn.us	651-201-2235
	Eric Bartusch	eric.bartusch@state.mn.us	651-201-2259

✓ **Relevant Documents** | **Date**

Relevant Documents	Date
Commission Order – Docket Nos. 15-967 & 15-968[1]	February 18, 2016
Commission Order – Docket No. 15-1041	March 1, 2016
Commission Order – Docket No. 16-936	May 26, 2017
Commission Order – Docket No. 16-1026	May 26, 2017
GMT – 2017 Annual Load Factor Utilization Report (Trade Secret)[2]	January 12, 2018
GMT - Response to Commission Data Requests (Trade Secret)[3]	June 25, 2018

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The attached materials are work papers of the Commission Staff. They are intended for use by the Public Utilities Commission and are based upon information already in the record unless noted otherwise.

[1] The Commission's February 16, 2016 Order in Docket No. 15-967 incorporated Docket Nos. 06-1063, 13-91, 13-94, 14-386, 14-342, and 14-1056 into its decision requiring GMT to file an annual load factor utilization compliance report for all of its pipeline segments.

[2] Filed in all the above docket numbers.

[3] Ibid.

I. Statement of the Issues

1. Should the Commission accept Greater Minnesota Transmission's January 12, 2018 annual load factor utilization report as compliant with Commission Orders?

2. Should the Commission require additional analysis on Greater Minnesota Gas' high utilization of Greater Minnesota Transmission overrun capacity service?

3. Should the Commission require Greater Minnesota Gas to demonstrate that it holds sufficient Northern Natural Gas and Greater Minnesota Transmission mainline and lateral capacity to serve its retail firm sales customers located on these pipeline segments?

II. Background

Pursuant to Minn. Stat. § 216B.045 and Natural Gas Act Section 1(c), Greater Minnesota Transmission, LLC (GMT) is classified as an *intrastate pipeline* – providing transportation services for natural gas within the State of Minnesota (MN).

Natural Gas Act (NGA) (1938) Section 1 establishes federal regulations for natural gas companies. Section 1(a) states:

> ……it is hereby declared that the business of transporting and selling natural gas for ultimate distribution to the public is affected with a public interest, and that ***Federal regulation*** in matters relating to the transportation of natural gas and the sale thereof in interstate and foreign commerce is necessary in the public interest. [Emphasis Added]

Section 1(a) made all natural gas utilities involved in the transportation or selling of natural gas subject to federal regulation. By virtue of the NGA Section 1(a), GMT would have been federally regulated, subject to all Federal Energy Regulatory Commission (FERC) rules and regulations that current interstate pipelines, such as Northern Natural Gas (NNG) are subject too. However, Section 1(c) states:[4]

> The provisions of this Act **shall not** apply to any person engaged in or legally authorized to engage in the transportation in interstate commerce or the sale in interstate commerce for resale, of natural gas received by such person from another person within or at the boundary of a State if all the natural gas so received is ultimately consumed within such State, or to any facilities used by such person for such transportation or sale, provided that the rates and service of such person and facilities **be subject to regulation by a State commission**. The matters exempted from the provisions of this Act by this

[4] The Federal Power Commission was renamed FERC.

> subsection are hereby declared to be matters primarily of local concern and subject to regulation by the several States. A certification from such State commission to the Federal Power Commission that such State commission has regulatory jurisdiction over rates and service of such person and facilities and is exercising such jurisdiction shall constitute conclusive evidence of such regulatory power or jurisdiction. [Emphasis Added]

GMT qualifies as an intrastate pipeline under NGA section 1(c), exempt from FERC jurisdiction, making it a *Hinshaw Pipeline*. A Hinshaw Pipeline is defined as a company engaged in the transportation in interstate commerce, or the sale in interstate commerce for resale, of natural gas received by that company from another person within or at the boundary of a state, if all the natural gas so received is ultimately consumed within such state, provided that the rates and service of such company and its facilities are subject to regulation by a state commission.

In 1987[5], the Minnesota Legislature enacted into law Minn. Stat. § 216B.045 Regulation of Intrastate Natural Gas Pipeline. This statute gave the Minnesota Public Utilities Commission (Commission) the authority to review and approve agreements between intrastate pipelines and Local Distribution Companies (LDC) customers, where intrastate pipelines, like GMT, can transport natural gas within Minnesota to an LDC who provided retail distribution services.

Minn. Stat. § 216B.045 Regulation of Intrastate Natural Gas Pipeline states:

> Subdivision 1. Definition of intrastate pipeline. For the purposes of this section "intrastate pipeline" means a pipeline wholly within the state of Minnesota which transports or delivers natural gas received from another person at a point inside or at the border of the state, which is delivered at a point within the state to another, provided that all the natural gas is consumed within the state. An intrastate pipeline does not include a pipeline owned or operated by a public utility, unless a public utility files a petition requesting that a pipeline or a portion of a pipeline be classified as an intrastate pipeline and the commission approves the petition.
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> Subd. 2. Reasonable rate. Every rate and contract relating to the sale or transportation of natural gas through an intrastate pipeline shall be just and reasonable. No owner or operator of an intrastate pipeline shall provide intrastate pipeline services in a manner which unreasonably discriminates among customers receiving like or contemporaneous services.
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> Subd. 3. Transportation rate; discrimination. Every owner or operator of an intrastate pipeline shall offer intrastate pipeline transportation services by contract on an open access, nondiscriminatory basis. To the extent the intrastate pipeline has available capacity, the owner or operator of the intrastate pipeline must provide firm and

[5] Later modified in 1990 and 1992.

> interruptible transportation on behalf of any customer. If physical facilities are needed to establish service to a customer, the customer may provide those facilities or the owner or operator of the intrastate pipeline may provide the facilities for a reasonable and compensatory charge.
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> Subd. 4. Contract; commission approval. No contract establishing the rates, terms, and conditions of service and facilities to be provided by intrastate pipelines is effective until it is filed with and approved by the commission. The commission has the authority to approve the contracts and to regulate the types and quality of services to be provided through intrastate pipelines. The approval of a contract for an intrastate pipeline to provide service to a public utility does not constitute a determination by the commission that the prices actually paid by the public utility under that contract are reasonable or prudent nor does approval constitute a determination that purchases of gas made or deliveries of gas taken by the public utility under that contract are reasonable or prudent.
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> Subd. 5. Complaint. Any customer of an intrastate pipeline, any person seeking to become a customer of an intrastate pipeline, the department, or the commission on its own motion, may bring a complaint regarding the rates, contracts, terms, conditions, and types of service provided or proposed to be provided through an intrastate pipeline, including a complaint that a service which can reasonably be demanded is not offered by the owner or operator of the intrastate pipeline. If a complaint involves the question of whether or not an intrastate pipeline has capacity available, the commission shall after hearing make a determination of the available capacity but shall not impair the owner or operator of the intrastate pipeline contractual obligation to provide firm transportation service. If a complaint concerns the use of available capacity by one or more customers of an intrastate pipeline, the commission shall after hearing determine the reasonable use of the available capacity by the customers. The commission shall not require an owner or operator of an intrastate pipeline to expand its available capacity but may require the owner or operator to maintain a reasonable quality of service. The commission may dismiss any complaint without a hearing if in its opinion a hearing is not in the public interest. Complaints brought under this subdivision shall be governed by section 216B.17.

Minn. Stat. § 216B.045 substantially reduces the administrative burden that would otherwise exist if the intrastate pipeline was subject to FERC regulation. GMT qualifies for the Hinshaw exemption because the Commission reviews and approves all transportation agreements GMT has entered into, making GMT subject to MN Commission regulation.

III. Staff Analysis

On January 12, 2018, GMT submitted its annual pipeline segment utilization compliance filing.[6] GMT's 2017 utilization compliance filing reflected customer load utilization factors that ranged from near-zero percent to 159 percent.[7] The identified customer operating at 159 percent is Greater Minnesota Gas (GMG), GMT's sister company. Greater Minnesota Synergy, Inc. is the parent corporation of both GMT and GMG. The capacity used by GMG was approved by the Commission in Docket Nos. 06-1063 and 13-94. These Commission approved petitions granted GMT intrastate pipeline status. In accordance with Minn. Stat. § 216B.48, subd. 3 (affiliated interest), in Docket No. 13-94, the Commission found GMT's agreement with GMG to be reasonable and in the public interest, the Commission's Order stated:

> *Minn. Stat. § 216B.48, subd. 3, requires that contracts between utilities and affiliated interests be reasonable and consistent with the public interest. The Commission finds that the Agreements meet that standard, so long as it is clear to potential customers along the lateral pipeline that utilities besides Greater Minnesota Gas may be able to provide natural gas distribution service. This disclosure will serve the public's interest in open-access and nondiscriminatory service on the proposed pipeline.*

Staff's concern with GMT compliance filing is caused by GMG's 159 percent load utilization factor. In an attempt to resolve its concerns, staff issued GMT information requests 1 through 4, dated June 12, 2018. Staff received GMT's responses on June 25, 2018. Staff's information requests and GMT's responses are discussed below:[8]

1. In the 06-1063 and 13-94 dockets, provide an explanation of how Greater Minnesota Gas' (GMG) load utilization factor of 159% was calculated. Were other GMT customers able to use their subscribed capacity at the same time GMG was using 159% of its capacity? Explain how GMT was operationally able to accommodate this utilization of these two pipeline segments.

In response, GMT provided GMG's load utilization factor calculation:

> *Annual volume of 58,150 Dth divided by the result of annual contract entitlement of 100 Dth/day multiplied by 365 days: 58,150/36,500 = 159.32%*

As reflected above, GMG contract entitlements are 100 Dth/day for both GMT's mainline (06-1063) and lateral (13-94) pipeline segments. GMT states that GMG has contracted for 0.1 percent of GMT's mainline entitlements and 8 percent of GMT lateral's entitlements that

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[6] As part of its Docket 15-967 Order requirements, the Commission required GMT to submit an annual compliance filing stating its load utilization factors for all of the above listed dockets.

[7] See GMT's January 12, 2018 Compliance Filing, marked as "**Trade Secret.**"

[8] GMT's public responses are attached to these briefing papers.

provide service to GMG's customers. From this information, GMT's 06-1063 mainline capacity would be equal to 100,000 Dth/day (100 Dth/day divided by 0.1 percent) and its 13-94 lateral capacity would be equal to 1,250 Dth/day (100 Dth/day divided by 8 percent). The Commission may wish to verify these calculations with GMT at the September 13, 2018 Commission Meeting.

GMT asserts that if its customers do not fully use their daily contract entitlements, its mainline and lateral pipeline segments will have excess capacity. GMT claims that, pursuant to its customer agreements approved in the 06-1063 and 13-94 dockets, all GMT system customers have access to this capacity by overrunning their daily contract entitlements on an interruptible basis. For these system overruns, GMT charges a daily overrun rate pursuant to its customer agreements. GMT clarified that if all of its customers are using their full contract entitlements during the day, overrun capacity is not available. GMT states that its transport customers always have access to their full contract entitlements on a daily basis.

[Staff note: Based on GMT's load utilization report, it appears that GMG is the only GMT customer using the capacity overrun service.]

GMT asserts that GMG uses its overrun service to serve GMG's grain drying customers along GMT's mainline and lateral pipeline systems; during the non-peak months of September through November. GMT states that it is operationally able to accommodate GMG's request for overrun service because it has excess capacity during these non-peak months when GMT's other subscribing customers are not using their full daily contract entitlements for electric generation or space heating.

As illustrated by the above calculation, GMG overran its GMT 2017 annual contract entitlement by 21,650 Dth (58,150 Dth – 36,500 Dth).

2. Because GMG used more than its subscribed capacity on GMT, was GMG assessed penalties? If so, provide the assessed 2017 penalties amounts and the applicable tariff sheets that reflects GMT's penalty provisions. If not, provide a discussion that explains why GMG was not assessed penalties for its over-utilization of GMT's system.

Pursuant to Section 3.4 of its customer agreements, GMT assessed GMG its daily overrun volume charge when actual deliveries to GMG exceeded its contract entitlements. For example, if GMG takes 150 Dth for a day, the additional 50 Dth for that day is billed the overrun charge.

During 2017, GMT billed GMG $4,782 for overrun charges and GMG paid the amount.

3. Did GMG use other shippers' released capacity, if so, did GMG pay GMT's maximum rates[9] for the capacity release or did GMG receive a discount from GMT's maximum rates? Please explain.

GMT states that GMG used its overrun capacity service authorized under Section 3.4 of its customer agreements and that GMG did not purchase capacity release from other GMT shippers.

4. Provide a list the GMG customers causing this over-utilization of capacity.

GMT stated that the capacity overruns were caused by its grain dryer customers, and marked its response to information request #4 as "***Trade Secret***".[10]

GMG purchases its natural gas at NNG supply points and NNG transports the natural gas through its system to GMT's mainline interconnections, then GMT transports the natural gas through its system, and delivers the natural gas to GMG's receipt points. FERC requires NNG to maintain an electronic bulletin board, where all unsold capacity is listed and NNG's shippers are able to release their unused capacity for others to purchase. This creates a secondary capacity market where shippers have the ability to recoup some of their daily capacity costs by releasing (selling) their excess capacity. It is important to note that GMG retains title (ownership) to the natural gas once it purchases the gas at the supply point. Neither NNG nor GMT sell natural gas to their customers, they only provide transportation service.

FERC requires NNG to maintain a tariff book where all rates and service terms and conditions are listed. Minnesota statutes and Commission regulations do not require GMT to offer capacity release nor is GMT required to maintain a tariff book. GMT operates its pipeline system and pipeline segments through its customer agreements.

Staff reviewed GMT's calculation of GMG's 159% load utilization factor, and believes that the calculation appears to be correct. Staff also reviewed the customer agreements from the 06-1063 (mainline) and 13-94 (lateral) dockets and the agreements appear to be consistent with each other except for the overrun rates and other rates charged.

GMG appears to hold 100 Dth/day (per 06-1063 and 13-94 customer agreements) of GMT's mainline and lateral capacity. Staff assumes that GMG also holds 100 Dth/day of NNG's capacity. GMG appears to use both NNG's and GMT's overrun capacity services to provide natural gas to its grain dryer customers. Staff is concerned about GMG's use of overrun capacity service because it appears that GMG has not purchased sufficient pipeline capacity to

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[9] Because GMT does not have a rate book or tariffs, the only rates GMT may charge are the rates in the contracts it has with its customers (customer agreements).

[10] See GMT's June 25, 2018 response, p. 5, marked as "***Trade Secret***"

serve its grain dryer customers. The Commission may wish to address this concern during the September 13, 2018 Meeting or by asking for information in a compliance filing.

In Docket No. 13-94, GMT's lateral customer agreement with GMG, section 3.4 states the following:[11]

> **<u>Contract Article 3.4.</u> DAILY OVERRUN VOLUME CHARGE.** A volume charge shall be assessed equal to the product of $0.095 per dekatherm and the actual deliveries made daily by the Company to the Customer in excess of Daily Demand Volume listed in Article 2.1.[12]

As noted above, GMG paid $4,782 in GMT overrun charges in 2017. By dividing this amount by the overrun volume of 21,650 Dth, staff's calculated overrun rate is $0.221 per Dth (considerably higher than GMT's approved lateral overrun rate of $0.095/Dth). From GMT's information responses, staff could not determine whether GMG's overruns occurred on GMT's mainline or lateral pipeline segments, which are billed at different rates.[13] If GMG's grain dryer customers are located off GMT's lateral pipeline segment, staff believes that GMT should be billing GMG both the mainline and lateral overrun capacity charges. GMT did not provide its calculation detail for the $4,782, thus staff cannot verify GMT's calculation. The Commission may wish to require GMT to provide its $4,782 overrun charge calculation in spreadsheet format with calculations and formulas intact in a compliance filing to these dockets.

In addition, staff cannot determine if GMG's $4,782 overrun charges flowed-back to the other shippers or if GMT retained the funds. If all of GMT's capacity is sold, an argument could be made that GMT's other shippers should receive all of GMT's capacity overrun charge revenue because their capacity is being used by GMT to make the deliveries to GMG's customers. This is similar to how capacity release works, in that, the shipper releasing its capacity receives a credit from the pipeline for the capacity sold. The releasing shipper retains the financial responsibility for its capacity purchase from the interstate pipeline, which is why the shipper received a credit for capacity released and purchased by another shipper.

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[11] In Docket No. 06-1063, GMT marked Section 3.4 of its agreement with Invenergy as "***Trade Secret***."

[12] **<u>Contract Article 2.1.</u> REQUIREMENTS AND DELIVERIES: POINT OF DELIVERY.** Company agrees to accept delivery of Customer's gas at the inlet of Company's Coates, MN town border station and to transport and to re-deliver said gas to Customer in volumes up to 100 dekatherms per day ("Daily Demand Volume"), at a minimum operating pressure of 120 psig or such other volumes and pressure as mutually agreed. Customer's point of delivery shall be the outlet of the meter installation at the current GMT midline valve location on 250th St East (the "Point of Delivery").

[13] In Docket No. 06-1063, GMT marked Section 3.4 of its agreement with Invenergy as "***Trade Secret***."

GMT asserts that GMG's use of NNG's overrun capacity service is an efficient, cost effective supply management tool and is a general benefit to society.[14] Staff believes that GMT may be referring to NNG's Daily Variance Charges (DDVC), NNG's tariff, Section 48. A. states:

> *Shippers are required to take actual daily volumes at their delivery point(s) as close to daily scheduled volumes as possible.* In the event that actual daily volumes vary from daily scheduled volumes, Shippers are subject to Daily Delivery Variance Charges (DDVC), after a tolerance has been considered…..

As clearly stated by NNG's tariff, "*Shippers are required to take actual daily volumes at their delivery point(s) as close to daily scheduled volumes as possible.*" Staff believes that overrun services are generally reserved for the occasional overruns as NNG's tariff indicates, not for overruns that occur on a daily basis. Therefore, it is difficult for staff to believe NNG would be tolerant of GMG's constant use of NNG's overrun service. NNG will not discriminate against its other customers by allowing one customer to overrun its scheduled volumes, while not allowing its other customers to overrun their scheduled volumes. If all of NNG's customers are using its overrun service, NNG would not be able to keep its system in balance.

Staff has not determined which NNG and GMT services GMG is paying for, whether GMG is paying for transportation services and overrun services or if GMG is only paying for overrun services on the additional volumes used for the overrun service and no transportation charges.

The Commission may wish for further discussion on GMG's use of NNG's and GMT's overrun services at the September 13, 2018 Commission Meeting. Or, in the alternative, the Commission may wish to require GMT to respond to its questions in a compliance filing.

<u>The Commission may wish to ask GMT to address the following questions</u>

1. Discuss and verify staff's calculations, this includes staff's mainline and lateral capacity calculations and its overrun capacity service rates calculation.

2. Provide an explanation of GMT's daily nomination process used for its customers, including a discussion on:

    a. how GMT determines that there is available capacity to provide its overrun service;
    b. how GMT is able to use other customers purchased capacity to provide overrun capacity service; and
    c. why GMT does not require GMG to purchase sufficient capacity to serve its customers instead of using overrun capacity.

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[14] See GMT's information response to staff information request #4, marked as "***Trade Secret***."

3. Require GMT to provide its $4,782 overrun charge calculation in spreadsheet format with calculations and formulas intact in a compliance filing to these dockets.

4. Provide a discussion of who receives the $4,782 in overrun charges, GMT or the remaining GMT shippers who own the capacity.

IV. Decision Options

1. Accept GMT's 2017 annual utilization load factor compliance report.

2. Accept GMT's 2017 annual utilization load factor compliance report, subject to GMT providing the following information in a compliance filing, 60 days after the Commission's Order is issued.

   a. Discuss and verify staff's calculations, this includes staff's mainline and lateral capacity calculations and its overrun capacity service rates calculation.
   b. Provide an explanation of GMT's daily nomination process used for its customers, including a discussion on:

      i. how GMT determines that there is available capacity to provide its overrun service;
      ii. how GMT is able to use other customers' purchased capacity to provide overrun capacity service; and
      iii. why GMT does not require GMG to purchase sufficient firm capacity to serve its customers instead of using overrun capacity.
   c. Require GMT to provide a discussion on how it bills GMG for transportation services provided by GMT to GMG:

      i. does GMG pay transportation rates on *all* volumes (including overruns) transported and GMT's overrun rate for volumes that exceed GMG daily entitlements of 100 Dth/day; or
      ii. does GMG only pay transportation rates on the nominated volumes (up to 100 Dth/day) and pays only the overrun rate on volumes that exceed GMG's daily entitlements of 100 Dth/day.

   d. Require GMT to provide a discussion on GMG's use of NNG's and GMT's overrun services.
   e. Require GMT to provide its $4,782 overrun charge calculation in spreadsheet format with calculations and formulas intact.
   f. Require GMT to provide a discussion indicating who retains the $4,782 collected as overrun charges, whether GMT retains the amount or is it GMT's remaining shippers on its mainline and lateral pipeline segments.

3. Open an investigation into GMG's use of NNG's and GMT's overrun service.