

**Minnesota Public Utilities Commission**  
*Staff Briefing Papers*

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**Meeting Date:** February 11, 2016 ..... **Agenda Item #5**

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**Company:** Greater Minnesota Transmission, LLC (GMT)

**Docket Nos.** **PL-6580/M-15-967**

In the Matter of a Petition by Greater Minnesota Transmission, LLC’s Petition for Approval of a Firm Gas Transportation Agreement with Community Co-ops of Lake Park for Red Lake Falls, MN Community

and

**PL-6580/M-15-968**

In the Matter of a Petition by Greater Minnesota Transmission, LLC’s Petition for Approval of a Firm Gas Transportation Agreement with Community Co-ops of Lake Park for Beltrami and Fertile, MN Communities

**Issues:** Should the Commission approve Greater Minnesota Transmission, LLC’s petition for a Firm Gas Transportation Agreement providing intrastate pipeline services to Community Co-ops of Lake Park who will provide retail sales services to the:

- City of Red Lake Falls (15-967); and
- Cities of Beltrami and Fertile (15-968)?

**Staff:** Bob Brill ..... 651-201-2242

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***Relevant Documents***

Docket No. PL-6580/M-15-967

Greater Minnesota Transmission, LLC (GMT) - Petition (Non-Public) ..... November 5, 2015  
Department of Commerce (Department) – Comment (Non-Public) .....December 2, 2015  
City of Red Lake Falls, MN - Letter .....December 9, 2015  
Greater Minnesota Transmission, LLC (GMT) – Letter.....January 27, 2016

Docket No. PL-6580/M-15-968

Greater Minnesota Transmission, LLC (GMT) - Petition (Non-Public) ..... November 5, 2015  
Department – Comment (Non-Public).....December 3, 2015  
Greater Minnesota Transmission, LLC (GMT) – Letter.....January 27, 2016  
City of Fertile, MN - Letter ..... January 29, 2016<sup>1</sup>

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

**This document can be made available in alternative formats (e.g., large print or audio) by calling 651-296-0406 (voice). Persons with hearing loss or speech disabilities may call us through their preferred Telecommunications Relay Service.**

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<sup>1</sup> The Fertile letter was received by the Commission on December 31, 2015, but was not filed in eDockets until January 29, 2016.

## Statement of the Issue

Should the Commission approve Greater Minnesota Transmission, LLC's petition for a Firm Gas Transportation Agreement providing intrastate pipeline services to Community Co-ops of Lake Park who will provide retail sales services to the:

- City of Red Lake Falls (15-967); and
- Cities of Beltrami and Fertile (15-968)?

## Introduction

Greater Minnesota Transmission, LLC (GMT) is seeking Commission approval for its October 29, 2015 Firm Transportation Agreements (Agreements)<sup>2</sup> with Community Co-ops Transportation of Lake Park (the Co-op);<sup>3</sup> where GMT proposed to provide intrastate pipeline services for the Co-op's two natural gas distribution projects.<sup>4</sup> The proposed agreements between GMT and the Co-op will provide natural gas to customers who currently do not have access to natural gas.

(Previously, in Docket No. 14-1056, the Commission approved an agreement between GMT and the Co-op that provided the Co-op the ability to serve the Twin Valley and Mahnomen communities. The Commission also approved the Co-op's request for a small gas utility exemption, pursuant to Minn. Stat. § 216B.16, subd. 12, in Docket No. G-6956/M-15-856.)

The Department recommended that the Commission approve the GMT/Co-op Agreements that will provide natural gas services to Red Lake Falls, Beltrami, and Fertile communities. The Department believes the Agreements are in the public interest.

The City of Red Lake Falls and Fertile filed letters supporting the proposed GMT/Co-op Agreements for their communities.

PUC staff generally agrees with the Department's recommendation, but offers additional discussion, please see below.

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<sup>2</sup> Pursuant to Minn. Stat. § 216B.045, Subd. 4, the Agreement may not become effective until it is approved by the Commission.

<sup>3</sup> "Community Co-ops was established in 1907 as Lake Park Creamery. ... Since then, many changes have come about, including the sale and closing of the creamery division and the addition of the oil and propane departments ... Five convenience stores were added to our Co-op and in 2009. Community Co-ops merged with Farmer's Union Oil of Mahnomen and Twin Valley. Today, Community Co-ops of Lake Park serves the communities of Lake Park, Detroit Lakes, Mahnomen, Twin Valley and Flom and provides the following services: (1) Propane delivery for residential, commercial and agriculture. (2) Heating & AC Installation and Service. (3) Fuel delivery for home heating and farm use. (4) Bulk lube oil order and delivery. (5) Natural Gas available through our Mahnomen Office for Twin Valley/Mahnomen areas. (6) Auto shop with on-site tire truck services in Lake Park and Flom. (7) Four convenient C-store locations." (<http://communitycoops.com/index.html>)

<sup>4</sup> Represents a Red Lake Falls community agreement and a separate Beltrami and Fertile community agreement. GMT's asset portfolio includes several other intrastate pipelines throughout MN that delivers natural gas to MN Local Distribution Companies (LDC) and the Co-op's other communities.

## **Regulation of Intrastate Natural Gas Pipeline. Minn. Stat. § 216B.045.**

### Subd. 1. Definition of intrastate pipeline.

....."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.<sup>5</sup>

### 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.

### 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.<sup>6</sup>

### 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.<sup>7</sup>

## **Greater Minnesota Transmission, LLC**

On November 5, 2015, Greater Minnesota Transmission, LLC (GMT) filed its Petitions for approval of its Firm Gas Transportation Agreements (Agreements) to provide intrastate pipeline services to the Community Co-ops of Lake Park (the Co-op). The Agreement sets forth the terms and conditions of intrastate pipeline services including rates to be paid by the Co-op.<sup>8</sup>

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<sup>5</sup> Further, 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.

<sup>6</sup> To the extent the intrastate pipeline has available capacity, the owner or operator of the intrastate pipeline must provide firm and 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.

<sup>7</sup> 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.

<sup>8</sup> See GMT's November 5, 2015 petitions, Exhibit A. pp. 1-7, marked as "**Trade Secret**," p. 4.

For the Red Lake Falls community, GMT will construct approximately 20 miles of new transmission line from its new proposed Town Border Station (TBS) located on the Viking Gas Transmission interstate pipeline (VGT), near Crookston, MN and will transport natural gas to the Co-op's Red Lake Falls interconnection.

For the Beltrami and Fertile communities, GMT will construct approximately 16 miles of new transmission line from its new proposed Town Border Station (TBS) located on the Viking Gas Transmission interstate pipeline (VGT), near Beltrami, MN and will transport natural gas to the Co-op's Beltrami and Fertile interconnections.

GMT and the Co-op have entered into two 15-year agreements. The Co-op will procure its own natural gas supply and will construct the necessary distribution facilities to make retail sales services available to its customers.

GMT stated that it believes the proposed facilities should not be classified as a retail public utility and should not fall within the scope of the Commission's jurisdiction governing retail gas distribution companies because GMT proposed to provide only intrastate pipeline services. GMT's petitions provide its negotiated demand and commodity rates that the Co-op will pay for an hourly natural gas delivery commitment at each of the Co-op's city gates.<sup>9</sup>

GMT believed its agreements with the Co-op were a result of a cooperative effort to reach the unserved communities. That its negotiated rates were based on market conditions and represent arm's-length transactions between the parties and were reasonable.<sup>10</sup>

GMT further justified its intrastate pipeline status by stating:

- GMT would willingly enter into negotiations with other similarly situated distribution entities to discuss similar cooperative arrangements that would serve the public interest in other respective communities, thus there was no discriminatory element to the Agreement and GMT has complied with its statutory obligation to offer its service on an open-access basis; and
- The negotiated Agreements reflect a partnership between the entities working together to serve the public interest. The Agreements benefit the Co-op and its customers, the communities, and their local economy; and
- The Agreements will benefit GMT and its customers by contributing to GMT's economic viability and its ability to serve historically unserved and underserved populations.

In Docket No. 14-1056, GMT and the Co-op executed an Agreement that provided the Co-op the ability to serve Twin Valley and Mahnomen, the Commission approved this agreement. The Commission approved the Co-op's request for a small gas utility franchise exemption in Docket No. G-6956/M-15-856. GMT believes that each petitions' agreement will bring natural gas to

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<sup>9</sup> See GMT's initial petitions dated November 5, 2015, marked as "**Trade Secret**," p. 4.

<sup>10</sup> Both GMT and the Co-op have signed the transportation contract attached to GMT petitions as Exhibit A.

new areas, and will enhance the ability of the communities to compete in a new and changing economy.<sup>11</sup>

## **City of Red Lake Falls**

On December 7, 2015, Red Lake Falls filed its *Letter* supporting the GMT/Co-op agreement that will enable natural gas services to the Red Lake Falls area.

## **City of Fertile**

On December 31, 2015, the Commission received the City of Fertile's *Letter* supporting the GMT/Co-op agreement that will enable natural gas services in the Beltrami and Fertile communities. This letter was not filed in eDockets until January 29, 2016.

## **Department of Commerce**

The Department reviewed GMT's petitions and the Agreements to determine if GMT's proposed facilities should be classified as an "intrastate pipeline"<sup>12</sup> and further to determine if the Agreements were entered into as part of an arm's length negotiation.

The Department concluded that GMT is not a public utility since it does not furnish retail natural gas sales services. As such, GMT is not subject to the same Minnesota Rules and Statutes as regulated local distribution natural gas companies (LDCs) who provide retail sales services. Further, GMT must meet the conditions listed above in the Minnesota Statute §216B.045 discussion.

The Department noted that most regulated utility rates are based on cost of service. However, reasonable rates may be negotiated as part of an arm's length transaction. In simple terms, the reasonableness of the rate could be determined because all parties involved have agreed to the negotiated rate.

The Department was generally in agreement with GMT's reasoning that its proposed cost-recovery mechanisms were for the pipeline-related services associated with these projects and are similar to other GMT intrastate pipeline projects.<sup>13</sup>

The Department's primary concern was to determine if the proposed GMT projects would be financially viable and would not have a negative impact on GMT's overall financial health. The Department believes that its review of the proposed negotiated rates helps ensure that the rates provide reasonable benefit to the Co-op's customers and allows GMT an opportunity to earn an acceptable return.

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<sup>11</sup> The presence of natural gas is a benefit to attracting, creating, and maintaining commercial and industrial anchors, bringing a competitive advantage to the areas. Lower energy costs, increased returns to the Co-op's members, and commercial competitiveness will all serve to increase each area's prosperity.

<sup>12</sup> To determine if Minn. Stat. § 216B.045, Subd. 2 is applicable.

<sup>13</sup> Docket Nos. PL6580/M-06-1063; PL6580/M-13-91; PL6580/M-13-94; PL6580/M-14-386; G022/M-14-342; and PL6580/M-14-1056.

The Department developed several financial impact scenarios<sup>14</sup> for each project to test the economic viability of GMT's proposals. The Department concluded that if GMT's projects were constructed and operated in accordance with GMT's assumptions, GMT will earn a reasonable return over the term of the contracts.

The Department believes its negotiated rate concerns are relieved by Minn. Stat. § 216B.045, subd. 5,<sup>15</sup> which provides a Commission complaint process that could be used to resolve any rate disputes that may arise between GMT and its customers.

GMT is required to offer services on an open access, non-discriminatory basis.<sup>16</sup> GMT's petitions indicate that it would willingly enter into negotiations with other similarly situated entities to discuss similar agreements to serve other communities. The Department concluded that GMT is offering its services by contract on an open-access, non-discriminatory basis.

GMT stated that it wishes to start providing intrastate pipeline services beginning on the later of (i) September 1, 2016, or (ii) the date GMT completes the facilities construction. The Department believes the proposed effective dates are consistent with Minnesota Statutes.

## **Department Recommendation**

The Department recommended the Commission approve the GMT/Co-op Agreements in both of GMT's petitions, where GMT will provide intrastate pipeline services to the Co-op who will provide retail distribution services.

## **PUC Staff Comment**

PUC staff reviewed GMT's Petitions and appreciates the parties' comments. PUC staff believes that the Department's analysis addressed the relevant issues and will not repeat those comments.

PUC staff further appreciates the efforts of GMT, the City of Red Lake Falls, the City of Fertile, the City of Beltrami, and Community Co-ops of Lake Park who have worked together to develop

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<sup>14</sup> See the Department "Trade Secret" November 5, 2015 Comments, pp. 4-5 and its Attachments 3 and 4.

<sup>15</sup> Minn. Stat. § 216B.045, 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.

<sup>16</sup> Minn. Stat. § 216B.045, Subd. 3.

plans to bring natural gas into areas not previously served. With concern about the availability of propane in past winter heating seasons, PUC staff believes that natural gas distribution to those who currently do not have this option will provide additional benefits and stability to not only the Co-op and its customers, but also to the Red Lake Falls, Beltrami, and Fertile communities.

PUC staff believes that the GMT/Co-op agreements and resulting Red Lake Falls, and Beltrami and Fertile projects serve the public interest and generally agrees with the Department's recommendation to approve the Agreements between GMT and the Co-op.

However, PUC staff has a few additional comments about the proposed Agreements.

Community Co-ops of Lake Park, a retail natural gas provider

PUC staff believes that this Co-op is the same Co-op that is providing retail sales services to the communities of Twin Valley and Mahnomen that the Commission approved in Docket No. 14-1056. GMT is providing intrastate pipeline services to each project through different pipeline segments that are not connected to each other. The pipeline segments are connected to Viking Gas Pipeline (VGT), but at separate receipt points on VGT.

The Co-op opted to be regulated by the Commission, but requested a small gas utility exemption from Commission rate regulation, pursuant to Minn. Stat. § 216B.16, subd. 12.<sup>17</sup> In order to maintain its small gas utility exemption, the Co-op's total number of natural gas customers cannot exceed 2,000. PUC staff understands the Co-op plans to file a petition to confirm its status as an exempt small gas utility under Minn. Stat. § 216B.16, subd. 12 based on its total customer projections for all natural gas projects.<sup>18</sup> Further, the Co-op intends to pattern its petition after a similar filing made by Dooley Gas, in Docket No. G-6915/M-13-672, and in its Docket No. 15-856 petition.

Staff believes the best alternative for Community Co-ops of Lake Park is to submit a petition to amend its Gas Rate Book, approved in Docket No. 15-856, so that the Co-op's Gas Rate Book is updated to include rates for the communities of Red Lake Falls, Beltrami and Fertile.

Arm's Length Transaction

After reviewing GMT's Petitions and the Department's comments, PUC staff believes that all parties have acted independently of each other and in each parties' best interest, thus, the Agreement seems to be fairly negotiated. The jointly signed Agreements may be considered proof that the parties have negotiated in good faith and to serve the public interest.

Negotiated Rates Concerns

GMT's demand and commodity rates reflected in the Agreements *were not* based on an underlying cost of service calculation, but have been negotiated based on an arm's length transaction with the Co-op and will be in effect for a 15 year period. The Department stated that

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<sup>17</sup> See Docket No. 15-856.

<sup>18</sup> The Co-op will be providing service mainly within the municipal boundaries of Mahnomen, Twin Valley, Red Lake Falls, Beltrami, and Fertile, and plans to serve only incidental load occurring outside of these municipal boundaries.

it believes the rates were negotiated fairly based on the information in the record, PUC staff agrees.

*Subsequent New Contracts subsequent to the community's contracts*

Because the Commission approves all customer agreements for GMT's intrastate pipelines, PUC staff is not concerned that the Red Lake Falls, Beltrami, and Fertile communities will subsidize new customers once the intrastate pipelines are in-service.

*Load Utilization Factor*<sup>19</sup>

In its May 26, 2015 Order in Docket No. 14-1056, the Commission required GMT to file an annual letter stating the Co-op's annual load utilization factor separately for each pipeline segment. On January 6, 2016, GMT made its initial compliance filing for the intrastate pipeline segment that serves the Co-op's Twin Valley and Mahnomen areas.

Staff believes that the Commission may wish to consider requiring GMT to include in its future annual load utilization compliance reports, the annual load utilization factor for each of its Co-op's intrastate pipeline segments, including the Red Lake Falls and the Beltrami/Fertile projects, in addition to the Twin Valley and Mahnomen communities approved in Docket No. 14-1056.

Further, the Commission may wish to consider broadening GMT's annual load utilization factor report to include all of GMT's intrastate pipeline segments, which would include:

Docket No.	Project Name	Description
06-1063	Agreement between GMT and Xcel for Cannon Falls-Xcel will provide service to Invenergy Plant	Intrastate pipeline agreement
13-91 (13-266)	Agreement between GMT and Xcel to serve the Prairie Island Indian Community – lateral off 06-1063	Intrastate pipeline agreement
13-94	An affiliated interest agreement between GMT and GMG to serve 50 to 100 customer along the Lateral as described in Docket No. 13-91	
14-386	Agreement between GMT and Xcel to serve the area of Barnesville, MN	Intrastate pipeline agreement
14-578	Agreement between GMT and West Central Ag Services	Intrastate pipeline agreement
14-1056	Agreement between GMT and Community Co-op of Lake Park	Intrastate pipeline agreement

<sup>19</sup> An approximate load utilization factor can be calculated, but that information has been marked as "*Trade Secret*."



## **Decision Alternatives**

### GMT/Red Lake Falls - Docket No. PL-6580/M-15-967

1. Approve the GMT/Co-op Agreement. (GMT, DOC) or
2. Do not approve the GMT/Co-op Agreement.

### GMT/Beltrami & Fertile - Docket No. PL-6580/M-15-968

3. Approve the GMT/Co-op Agreement. (GMT, DOC) or
4. Do not approve the GMT/Co-op Agreement.

### Additional decision alternatives if the Agreement is approved

5. Require GMT to include in its annual letter stating the Co-op's annual load utilization factors for the Twin Valley and Mahnomen project, the annual load utilization factors for the Red Lake Falls, and Beltrami and Fertile projects. or
6. Do not require GMT to file an annual letter stating the Co-ops annual load utilization factor for each of its projects.
7. Require GMT to file an annual load utilization factor letter stating GMT's annual load utilization factors for each of its intrastate pipelines and pipeline segments, including the pipelines (projects) in these two dockets and the pipelines referenced in the docket numbers in the table on p. 7 and in footnote 13 of these briefing materials. or
8. Do not require GMT to file an annual load utilization factor letter stating GMT's annual load utilization factor for each of its intrastate pipelines.