

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Nancy Lange
Dan Lipschultz
Matthew Schuenger
Katie J. Sieben
John A. Tuma

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of Community Coops of Lake Park's Petition for an Exemption for a Small Gas Utility Franchise

ISSUE DATE: November 9, 2018

DOCKET NO. G-6956/M-15-856

In the Matter of a Petition by United Natural Gas, LLC for Approval of its Request for a Small Gas Utility Franchise Exemption

DOCKET NO. G-6960/M-16-214

In the Matter of a Petition by Lake Region Energy Services, Inc., for a Small Gas Utility Franchise Exemption

DOCKET NO. G-6977/M-17-186

In the Matter of the Petition of Dooley's Natural Gas LLC for Exemption for a Small Gas Utility

DOCKET NO. G-6915/M-13-672

In the Matter of a Petition by Dooley's Natural Gas II, LLC for a Small Gas Utility Franchise Exemption

DOCKET NO. G-6915/M-16-756

ORDER DETERMINING
COMPLIANCE WITH COMMISSION
ORDERS AND ESTABLISHING
FILING REQUIREMENTS

PROCEDURAL HISTORY

I. Introduction and Background

Under Minn. Stat. § 216B.16, subd. 12(a), a municipality can request that a public utility under franchise with the municipality be exempt from the Commission's rate regulation if the public utility serves fewer than 650 customers within the municipality and has fewer than 5,000 customers total. The Commission must grant any exemption that meets the statutory requirements.¹

¹ Minn. Stat. § 216.B, subd. 12(b).

The Commission must also exempt the public utility's service to customers outside of the municipality's limits if the Commission concludes that the service is "incidental." The exempt public utility must file all changes in rates and tariffs for this incidental service prior to implementation of the changes.² An exempt public utility is still subject to various consumer-protection statutes, including the Annual Cold Weather Rule,³ and the Commission maintains the authority to investigate rates charged to customers receiving incidental service (incidental-service customers).⁴

Further, while exempt small gas utilities are exempt from rate regulation, they are still subject to applicable Minnesota statutes and rules for its incidental service. These include:

- Annual tariff updates with municipally-approved rates. (Minn. § 216B.16, subd. 12(c));
- Any subsequent changes in rates, tariff, and contracts for service outside the municipalities are required to be filed at least 30 days in advance of implementation. (Minn. Stat. § 216B.16, subp. 12, subd. 12(b));
- Notification to the Commission should its customer base expand beyond the 5,000 customer threshold. (Minn. Stat. § 216B.16, subp. 12 (a)).
- Annual Minnesota Natural Gas Utility Information reporting to the Department under Minn. Rules 7610.0800-7610.0860 is to be made on or before July 1 of each year.

II. This Proceeding

Each of the above-listed natural gas utilities filed for and received Commission approval for a small gas utility exemption to provide natural gas service inside the municipalities' borders and permission to serve incidental load outside of the borders without Commission regulation. Through its orders, the Commission placed certain requirements on each small gas utility. While many of the orders' requirements were uniform, certain orders evidenced differing compliance requirements with respect to statutes and rules.

The Commission evaluated the compliance requirements and the small gas utilities' responses in each docket to determine whether they comply with the prior orders. The Commission finds that all the small gas utilities' responses comply with the applicable Commission orders' requirements. The Commission also reviewed each utility's responses to assess regulatory consistency and financial soundness. To further that goal, on June 12 and 13, 2018, the Commission issued information requests in an attempt to obtain consistent financial information regarding each of the small gas utilities.

On September 13, 2018, the Commission met to consider the matter.

² *Id.*

³ *Id.*, subd. 12(c); *see also* Minn. Stat. §§ 216B.096, subd.12(c).

⁴ Minn. Stat. § 216B.16, subd. 12(d); *see also* Minn. Stat. § 216B.17.

FINDINGS AND CONCLUSIONS

I. Small Gas Utilities' Responses to Information Requests

A. Customer Count

On review, the Commission found that the small gas utilities' initial petitions did not include revenues and throughput information; thus, there was insufficient data to allow a comparison other than customer count. Information requests 1 through 4 asked that each small gas utility provide its original and 2017 updated customer counts, revenues, and throughput information.

	Initial Petition Projected Count	2017 Updated Customer Count	Percentage Acquired
Community Co-ops⁵	1,150	699	52.75%
UNG⁶	602	470	78%
LRES⁷	231	156	68%

The Commission then compared the customer counts contained in the parties' initial petitions seeking exemption with the 2017 updates for Community Co-ops, United Natural Gas, and Lake Region Energy Services (LRES).⁸ The Commission found that these small gas utilities are achieving their projections for customer counts. The Commission also found that the percentage of customers outside the municipalities' borders was small in comparison to the total customers projected to receive service.

The Commission also compared the 2017 updated customer counts, revenues, and throughput information received to determine whether the small gas utilities should be allowed to continue to serve customers outside the municipalities' borders, with these customers still being considered incidental so as to maintain their exemption from Commission regulation.

B. Additional Information Requests

Additional information requests covered the following topics:

⁵ Includes total residential and commercial and agricultural customers.

⁶ Includes total residential, small and large commercial, and industrial customers.

⁷ Includes total residential, small and large commercial, agricultural, and interruptible customers.

⁸ The Dooley utilities did not provide customer counts in their initial petitions.

- A discussion of whether the utility met its initial projections;
- Whether different rates exist for customers inside or outside the municipalities' border;
- Customer complaints received;
- Service extension policy;
- Incidental service policy where service extension exceeds the allowance;
- The highest service extension paid and the average amount paid for service extensions; and
- Future annual compliance requirements.

The utilities' responses to these queries were summarized in Attachment C to Staff's November 13, 2018 briefing papers. After review, the Commission finds the annual compliance filings of LRES, Dooley's Natural Gas LLC, and Dooley's Natural Gas II, LLC satisfy the applicable order requirements and will approve them.

II. Commission Action

At the Commission meeting, the Commission discussed its regulatory goal to make uniform, streamline, and consolidate the small gas utilities' annual filings. After discussion with the small gas utilities, the Commission finds that an annual compliance filing should be made on May 1, 2019.

Thereafter, in lieu of the inconsistent prior filing requirements used in these dockets, all small gas utilities will be required to file a report on May 1, 2019, which includes the information set forth below. Each year thereafter, all small gas utilities will be required to provide any updates to the data filed for 2019. If there are no changes to the data submitted in the 2019 report, the small gas utility shall file a letter saying there are no changes.

ORDER

1. The Commission finds that all small gas utilities are compliant with Commission order requirements.
2. The annual compliance filings of LRES, Dooley's Natural Gas LLC, and Dooley's Natural Gas II, LLC are approved.
3. In lieu of prior filing requirements, each small gas utility shall file a report on May 1, 2019, including the information set forth below. Each year thereafter, all small gas utilities shall provide any updates to the data filed for 2019. If no changes, the utilities shall file a letter saying there are no changes.
 - A. Updated customer counts, plus a statement that the utility does not discriminate between in-muni/out-muni customers, and if it does, why;
 - B. Any municipality-approved rate changes that occurred in the prior year and when these changes went into effect. All small gas utilities must comply with Minn. Stat. § 216B.16, subp. 12 (b), which states "The public utility shall file with the commission

and the department all initial and subsequent changes in rates, tariffs, and contracts for service outside the municipality at least 30 days in advance of implementation;”

- C. All changes to its tariff book in redlined and final revised tariff form;
 - D. A copy of its cold weather disconnection notice sent to the customers, including how the notice was communicated and date communicated (Minn. Stat. § 216B.096, Minnesota’s Cold Weather Rule);
 - E. A copy of any utility disconnection reports served to any of the municipalities as required by Minn. Stat. § 216B.0976 – Minnesota’s Notice to Cities of Utility Disconnection;
 - F. A copy of its notice form sent to customers who are in arrears pursuant to the utility’s obligation under Minn. Stat. § 216B.098 – Minnesota’s Residential Customer Protections, along with any policy not clearly identified in the tariffs regarding budget billing plans, payment arrangements, and under-charge repayment.
4. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Daniel P. Wolf
Executive Secretary



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