

Staff Briefing Papers

Meeting Date October 3, 2019 Agenda Item 5*

Company Community Co-ops of Lake Park (Community Co-ops)
 United Natural Gas, LLC (UNG)
 Lake Region Energy Services (LRES)
 Dooley Natural Gas I, LLC (Dooley I)
 Dooley Natural Gas II, LLC (Dooley II)

Docket Nos. G-6956/M-15-856 (Community Co-ops)
 G-6960/M-16-214 (UNG)
 G-6977/M-17-186 (LRES)
 G-6915/M-13-672 (Dooley's I)
 G-6915/M-16-756 (Dooley's II)

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

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

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

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

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

Issue Should the Commission approve the annual compliance filings from Community Co-ops, UNG, LRES, Dooley's I, and Dooley's II?

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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.



Relevant Documents

Date

All Exempt Small Gas Utilities – Docket Nos. 15-856, 16-214, 17-186, 13-672 and 16-756

PUC – Order Determining Compliance with Commission Orders and Establishing Filing Requirements

November 9, 2018

Community Co-ops – Docket No. G-6956/M-15-856

Compliance Filing & Attachments A, B & C

April 30, 2019

UNG - Docket No. G-6960/M-16-214

Compliance Filing, Parts 1 through 6

April 26, 2019

LRES – Docket No. G-6977/M-17-186

Compliance Filing – Annual Report

May 6, 2019

Comments

August 8, 2019

Dooley's I and II - Docket Nos. G-6915/M-13-672 and G-6915/M-16-756

Compliance Filing (Re-Submission) (TS)

February 28, 2019¹

Compliance Filing, Parts 1, 2 and 3

June 4, 2019

All Exempt Small Gas Utilities – Docket Nos. 15-856, 16-214, 17-186, 13-672 and 16-756

PUC – Notice of Comment Period

July 5, 2019

Department of Commerce – Comments (TS)

August 9, 2019

Department of Commerce – Letter

September 12, 2019

¹ Documents are dated February 26, 2019 but were resubmitted on February 28, 2019.

I. Statement of the Issues

Should the Commission approve the annual compliance filings from Community Co-ops, UNG, LRES, Dooley I, and Dooley II?

II. Introduction & Background

Each of the above listed exempt natural gas utilities filed for and received Commission approval and confirmation for a small gas utility franchise exemption to provide natural gas service inside the municipalities' borders and permission to serve incidental load outside of these borders without Commission rate regulation. The served municipalities represent the governing regulatory body. In some instances, a Local Rate Board is established which could consist of municipality officers, township officers, and/or natural gas utilities' employees.

On November 9, 2018 the Minnesota Public Utilities Commission (Commission), after its September 13, 2018 meeting in Parkers Prairie, Minnesota, issued its ORDER DETERMINING COMPLIANCE WITH COMMISSION ORDERS AND ESTABLISHING FILING REQUIREMENTS (Compliance Filing Order) which provided each of the exempt small gas utilities with a set of uniform annual compliance filing requirements.

The Compliance Filing Order, ordering point 3, states:

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 5 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.

Between April 26, 2019 and June 4, 2019, the exempt small gas utilities made their compliance filings.

On August 9, 2019 the Department of Commerce, Division of Energy Resources (Department) filed comments recommending the Commission approve the compliance filings. None of the exempt small gas utilities submitted replies to the Department's comments.

III. Relevant Statutes

Minn. Stat. § 216B.02, subd. 4 defines what constitutes a public utility and 216B.16, subd. 12 defines a small natural gas utility franchise exemption from section 16 of Minn. Stat., Ch. 216B.²

Minn. Stat. § 216B.02, subd. 4 grants a gas utility a small gas utility franchise exemption if the served municipality grants the utility a franchise license to operate within its borders – exempts the utility from Commission regulation. In addition, the natural gas utility cannot have more than 650 customers in a municipality and must have less than 5,000 total customers.

Minn. Stat. § 216B.16, subd. 12(b) grants the natural gas utility who receives the small gas utility franchise exemption limited authority to serve customers outside the municipalities' border if the Commission considers the service to be incidental.³

Minn. Stat. § 216B.16, subd. 12(c), however, direct the Commission to require exempt utilities to adopt the Commission's policies and procedures governing disconnection during cold weather.

In addition, Minn. Stat. § 216B.0976, subd. 1 **Notice to Cities of Utility Disconnection** requires the public utility to provide to the city (cities) granting the franchise license a notice of disconnection of a customer's gas or electric service upon the city requesting the information.

Minn. Stat. § 216B.098 **Residential Customer Protections** provides certain consumer protections, such as budget billing plans, payment agreements for bills in arrears, and undercharges made by the utility.

² Minn. Stat. § 216B.02, subd. 4 is included with Staff Briefing Papers as Attachment A

³ Minn. Stat. § 216B.16, subd. 16 is included with Staff Briefing Papers as Attachment B

IV. Parties' Comments

A. Department of Commerce – Comments

The Department used a standardized checklist to ensure all of the compliance items were present in each of the exempt small gas utility compliance filings.

1. Community Co-ops of Lake Park

Table 1 demonstrates that all of the required information was present in Community Co-ops' compliance filing.

Table 1⁴ - Community Co-Op of Lake Park's Compliance Filing Checklist

Requirement	Information Included	Notes/Comments
Customer Count	Yes	Summary information only.
Non-discrimination statement or explanation	Yes	
List of municipality approve rate changes	Yes	No rate changes.
List of municipality approve tariff changes	Yes	No tariff changes.
Copy of Cold Weather disconnection notice	Yes	
Date and delivery method for Cold Weather disconnection notice	Yes	August 21, 2018, U.S. mail.
Copies of any utility disconnection reports served to any of the municipalities required by statute	Yes	Stated: "As per statute since none of the municipalities request notice of disconnection we currently are not sending any notices to them."
Copy of customer past due/arrearage forms	Yes	
Copy of any policy not included in tariff related to budget billing plans, payment arrangements and under-charge repayment	Yes	

⁴ Appears as Table 2 on page 4 of the Department's August 9, 2019 comments.

2. United Natural Gas

Table 2 demonstrates that all of the required information was present in UNG's compliance filing.

Table 2⁵ - United Natural Gas's Compliance Filing Checklist

Requirement	Information Included	Notes/Comments
Customer Count	Yes	Customer information provided by class and by municipal/incidental jurisdiction.
Non-discrimination statement or explanation	Yes	
List of municipality approve rate changes	Yes	No approved rate changes.
List of municipality approve tariff changes	Yes	No approved tariff changes.
Copy of Cold Weather disconnection notice	Yes	
Date and delivery method for Cold Weather disconnection notice	Yes	October 2, 2018 by U.S. Mail
Copies of any utility disconnection reports served to any of the municipalities required by statute	Yes	United stated that it didn't disconnect any customers in 2018 or 2019.
Copy of customer past due/arrearage forms	Yes	
Copy of any policy not included in tariff related to budget billing plans, payment arrangements and under-charge repayment	Yes	

⁵ Appears as Table 3 on page 5 of the Department's August 9, 2019 comments.

3. Lake Region Energy Services

Table 3 demonstrates that all of the required information was present in LRES's compliance filing.

Table 3⁶ - Lake Region Energy Services LLC Compliance Filing Checklist

Requirement	Information Included	Notes/Comments
Customer Count	Yes	Customer by class information provided
Non-discrimination statement or explanation	Yes	
List of municipality approve rate changes	Yes	No approved rate changes.
List of municipality approve tariff changes	Yes	No approved tariff changes.
Copy of Cold Weather disconnection notice	Yes	
Date and delivery method for Cold Weather disconnection notice	Yes	LRES Fall Newsletter, no date and delivery method
Copies of any utility disconnection reports served to any of the municipalities required by statute	Yes	Stated: "LRES has provided no municipalities with disconnection reports pursuant to Minn. Stat. § 216B.0976. No municipality served by LRES has requested any such reports."
Copy of customer arrearage forms	Yes	
Copy of any policy not included in tariff related to budget billing plans, payment arrangements and under-charge repayment	No	

The Department spoke to LRES about the last row of its table and confirmed that there are no policies that are not included in the tariff. Therefore, the Department concluded that LRES has met its compliance filing requirements.

⁶ Appears as Table 5 on page 7 of the Department's August 9, 2019 comments.

4. Dooley's Natural Gas I

Table 4 demonstrates that all of the required information was present in Dooley's I compliance filing.

Table 4⁷ – Dooley's Natural Gas LLC Compliance Filing Checklist

Requirement	Information Included	Notes/Comments
Customer Count	Yes	Summary information only. Also included statement that no municipality has more than 650 customers.
Non-discrimination statement or explanation	Yes	Company supplemented in an email.
List of municipality approve rate changes	Yes	No rate changes.
List of municipality approve tariff changes	Yes	No tariff changes.
Copy of Cold Weather disconnection notice	Yes	
Date and delivery method for Cold Weather disconnection notice	Yes	Company supplemented in an email
Copies of any utility disconnection reports served to any of the municipalities required by statute	Not in initial filing	Company provided generic copies of disconnection notices sent to customers. Identified by email the number of customers disconnected.
Copy of customer arrearage forms	Yes	
Copy of any policy not included in tariff related to budget billing plans, payment arrangements and under-charge repayment	Not in initial filing	Company supplemented in an email.

Commission Staff requested the information noted as being supplemented in an email to be efiled as part of the record. The Department filed a letter containing the requested information on September 12, 2019.

⁷ Appears as Table 1 on page 3 of the Department's August 9, 2019 comments.

5. Dooley's Natural Gas II

Table 4 demonstrates that all of the required information was present in Dooley's II compliance filing.

Table 5⁸ – Dooley's Natural Gas II LLC Compliance Filing Checklist

Requirement	Information Included	Notes/Comments
Customer Count	Yes	Summary information only. Also included statement that no municipality has more than 650 customers.
Non-discrimination statement or explanation	Yes	Company supplemented in an email.
List of municipality approve rate changes	Yes	No rate changes.
List of municipality approve tariff changes	Yes	No tariff changes.
Copy of Cold Weather disconnection notice	Yes	
Date and delivery method for Cold Weather disconnection notice	Yes	Company supplemented in an email
Copies of any utility disconnection reports served to any of the municipalities required by statute	Not in initial filing	Company provided generic copies of disconnection notices sent to customers. Identified by email the number of customers disconnected.
Copy of customer arrearage forms	Yes	
Copy of any policy not included in tariff related to budget billing plans, payment arrangements and under-charge repayment	Not in initial filing	Company supplemented in an email.

Commission Staff requested the information noted as being supplemented in an email to be e-filed as part of the record. The Department filed a letter containing the requested information on September 12, 2019.

V. Staff Analysis

The Department's comments expressed support for all five of the compliance filings. No party responded to the Department's comments. Commission Staff supports the Department's recommendation to approve the compliance filings.

The Commission's Compliance Filing Order does not require the exempt small gas utilities to make the same or a similar compliance filing next year if there are no changes. The utilities are only required to report on changes or to file a letter stating that there are no changes. There was considerable discussion on this point at the Commission's September 13, 2018 meeting in

⁸ Appears as Table 4 on page 6 of the Department's August 9, 2019 comments.

Parkers Prairie. The Commission may want to consider whether the annual filing and notice requirements set forth in the Compliance Filing Order continue to be sufficient. If not, the Commission may want to consider requiring the utilities to provide the same information as was required on May 1, 2019 in subsequent years.

VI. Decision Options

1. *Approve the compliance filings made by Community Co-ops of Lake Park, United Natural Gas, LLC, Lake Region Energy Services, Dooley Natural Gas I, LLC, and Dooley Natural Gas II, LLC on or about May 1, 2019.*

Compliance Filing Requirements

2. *Require Community Co-ops of Lake Park, United Natural Gas, LLC, Lake Region Energy Services, Dooley Natural Gas I, LLC, and Dooley Natural Gas II, LLC to submit the following compliance information on or before May 1 of **every year**:*
 - 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 5 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.

Or

3. *Take no action*



Staff Briefing Papers for Docket Nos. 15-856 (Community Co-ops), 16-214 (UNG), 17-186 (LRES), 13-672 (Dooley's I), and 16-756 (Dooley's II) on October 3, 2019

Minn. Stat. § 216B.02, Subd. 4

Subd. 4. **Public utility.** "Public utility" means persons, corporations, or other legal entities, their lessees, trustees, and receivers, now or hereafter operating, maintaining, or controlling in this state equipment or facilities for furnishing at retail natural, manufactured, or mixed gas or electric service to or for the public or engaged in the production and retail sale thereof but does not include (1) a municipality or a cooperative electric association, organized under the provisions of chapter 308A, producing or furnishing natural, manufactured, or mixed gas or electric service; (2) a retail seller of compressed natural gas used as a vehicular fuel which purchases the gas from a public utility; or (3) a retail seller of electricity used to recharge a battery that powers an electric vehicle, as defined in section 169.011, subdivision 26a, and that is not otherwise a public utility under this chapter. Except as otherwise provided, the provisions of this chapter shall not be applicable to any sale of natural, manufactured, or mixed gas or electricity by a public utility to another public utility for resale. In addition, the provisions of this chapter shall not apply to a public utility whose total natural gas business consists of supplying natural, manufactured, or mixed gas to not more than 650 customers within a city pursuant to a franchise granted by the city, provided a resolution of the city council requesting exemption from regulation is filed with the commission. The city council may rescind the resolution requesting exemption at any time, and, upon the filing of the rescinding resolution with the commission, the provisions of this chapter shall apply to the public utility. No person shall be deemed to be a public utility if it furnishes its services only to tenants or cooperative or condominium owners in buildings owned, leased, or operated by such person. No person shall be deemed to be a public utility if it furnishes service to occupants of a manufactured home or trailer park owned, leased, or operated by such person. No person shall be deemed to be a public utility if it produces or furnishes service to less than 25 persons.



Staff Briefing Papers for Docket Nos. 15-856 (Community Co-ops), 16-214 (UNG), 17-186 (LRES), 13-672 (Dooley's I), and 16-756 (Dooley's II) on October 3, 2019

Minn. Stat. § 216B.16, Subd. 12

Subd. 12. Exemption for small gas utility franchise. (a) A municipality may file with the commission a resolution of its governing body requesting exemption from the provisions of this section for a public utility that is under a franchise with the municipality to supply natural, manufactured, or mixed gas and that serves 650 or fewer customers in the municipality as long as the public utility serves no more than a total of 5,000 customers.

(b) The commission shall grant an exemption from this section for that portion of a public utility's business that is requested by each municipality it serves. Furthermore, the commission shall also grant the public utility an exemption from this section for any service provided outside of a municipality's border that is considered by the commission to be incidental. 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) However, the commission shall require the utility to adopt the commission's policies and procedures governing disconnection during cold weather. The utility shall annually submit a copy of its municipally approved rates to the commission.

(d) In all cases covered by this subdivision in which an exemption for service outside of a municipality is granted, the commission may initiate an investigation under section 216B.17, on its own motion or upon complaint from a customer.

(e) If a municipality files with the commission a resolution of its governing body rescinding the request for exemption, the commission shall regulate the public utility's business in that municipality under this section.