

April 12, 2022

Will Seuffert
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, Minnesota 55101

RE: **Supplemental Comments of the Minnesota Department of Commerce, Division of Energy Resources**
Docket No. G7066/EX-21-693

Dear Mr. Seuffert:

Attached are the Supplemental Comments of the Minnesota Department of Commerce, Division of Energy Resources (Department) in the following matter:

Petition of Paul Bunyan Natural Gas, LLC for Exemption for Small Gas Utility Franchise

The Petition was filed on September 20, 2021, by:

Rachel Sorrentino
Paul Bunyan Natural Gas LLC
9519 St 371
Walker, MN 56484

The Department recommends the Commission issue a Notice and Request for Comments from interested parties on the question of whether the policy change the Leech Lake Band of Ojibwe recommended in its Reply Comments is in the public interest.

The Department concludes Paul Bunyan Natural Gas LLC has otherwise met the requirements for Exempt Small Gas Utility status under Minn. Stat. § 216B.12 subd. 12. However, the Department will refrain from making a recommendation regarding the Company's request for ESGU status until the Commission has resolved the issue identified in the Leech Lake Band of Ojibwe's Reply Comments.

The Department is available to answer any questions the Minnesota Public Utilities Commission may have.

Sincerely,

/s/ JOHN KUNDERT
Financial Analyst

JK/ja
Attachment



Before the Minnesota Public Utilities Commission

Supplemental Comments of the Minnesota Department of Commerce Division of Energy Resources

Docket No. G7066/EX-21-693

I. INTRODUCTION

On September 20, 2021, Paul Bunyan Natural Gas LLC (PBNG or the Company) filed a petition (Petition) for Minnesota Public Utilities Commission (Commission) approval of an exemption as a small gas utility (ESGU) franchise from the requirements of Minn. Stat. § 216B.16, subd. 12 (a) for service provided to the city of Walker, Minnesota (the Municipality).

On January 21, 2022, the Minnesota Department of Commerce, Division of Energy Resources (Department) filed comments containing its analysis of the Company's request and asked PBNG provide the following information in its Reply Comments:

- Were there any rate changes to PBNG's tariff in 2021 that were approved by the Walker City Council?
- Does the Company have a specific form that it sends to customers who are in arrears that are not covered by the Cold Weather Rule?
- Was the customer count information PBNG provided in its Petition based on the number of customers and not the number of meters?

In addition, the Department requested the Company provide a map of its current service territory and explain how it would comply with the complaint record requirement included in Minn. Rule 7820.0400, or in the alternative, request the Commission grant a variance from this rule.

On February 7, 2022, the Leech Lake Band of Ojibwe (LLBO, Band) filed Reply Comments. The LLBO explained:

Our goal of engaging with the Minnesota Public Utilities Commission (PUC) is to follow-up on a consultation between the PUC and the Leech Lake Band of Ojibwe which took place in the fall of 2021 and to specifically respond to the above dockets. The PUC at that time expressed an interest in reviewing how the Band Tribal Employment Rights Ordinance (TERO) might be used under similar conditions as experienced with the PUC order under which Enbridge agreed to observe the Bands TERO ordinance for decommissioning of line three which runs through its reservation. The current request for exemption from the PUC regulation by the Northwestern Natural Gas Company and its affiliates presented an opportunity for the PUC to test how TERO law can be expanded for other uses outside of Enbridge as a matter of their regulatory authority over utilities traversing the Leech Lake Reservation.

The LLBO continued:

As stated at the outset our goal is to develop a broader approach to advancing the employment and business opportunities for Band members through the assistance and observance of Band laws by the PUC in its future regulation determinations.

On March 18, 2022, PBNG filed its Reply Comments. The Company provided the information the Department requested in its Comments. Regarding the Band's request that the Commission consider using the instant docket to test how the Band's Tribal Employment Rights Ordinance (TERO) law can be expanded for other uses outside of Enbridge's Line 3 Project, the Company stated:

While we respect the Band's right to seek compliance with their TERO laws, we do not believe such compliance affects our eligibility for ESGU status. We therefore request that, if the Commission does grant ESGU status to PBNG, our ESGU status will not be contingent upon any express or implied agreement to compliance with TERO laws.

II. ANALYSIS

The Department initially will address the issues identified in our Comments. We will then provide suggestions of how the Commission might address the issue identified by the Leech Lake Band of Ojibwe in its Reply Comments.

A. DEPARTMENT ISSUES

The Company's Reply Comments provided the following responses to the Department's questions:

- The Walker City Council did not approve any rate changes to PBNG's tariff in 2021.
- PBNG provided a copy of the form letter it sends to customers who are in arrears that are not covered by the Cold Weather Rule.
- The customer count information PBNG provided in its Petition was based on the number of customers.

In addition, the Company provided a map of its current and proposed service territory as an attachment to its Reply Comments. Finally, PBNG explained it is currently tracking complaints in accordance with Minn. Rule 7820.0400.

The Company has provided all the information the Department requested in its Comments and appears to be in compliance with Minnesota Statutes and Rules regarding eligibility for ESGU status.

B. LEECH LAKE BAND OF OJIBWE REQUEST

The Band asks the Commission to condition PBNG's exemption for small gas utility status on the Company's compliance with TERO because the Company seeks to conduct operations within the Leech Lake Reservation.

The Department recognizes the Band as a sovereign entity and understands that this decision before the PUC may affect tribal interests.¹ The Department also recognizes that the Band's request for consideration of a tribal ordinance in this type of proceeding is a novel one. The Department supports the LLBO's request to develop a record regarding this issue. A notice and request for comments, perhaps in a separate docket, that would elicit contributions from a wide variety of commenters could provide the Commission with a robust record which would be of value in its process for making this decision. Therefore, the Department recommends the Commission issue a Notice and Request for Comments on this issue in the near future as to whether the policy change the Band's recommendation would require is in the public interest.

III. SUMMARY AND RECOMMENDATION

The Department recommends the Commission issue a Notice and Request for Comments from interested parties on the Leech Lake Band of Ojibwe's request that PUC regulatory determinations consider compliance with TERO when utilities operate within the reservation, and whether such consideration is in the public interest.

The Department also concludes Paul Bunyan Natural Gas LLC has met the requirements for Exempt Small Gas Utility status under Minn. Stat. § 216B.12 subd. 12. However, the Department will refrain from making a recommendation regarding the Company's request for ESGU status until the Commission has resolved the issue identified in the Leech Lake Band of Ojibwe's Reply Comments.

¹ The Department of Commerce adopted a Tribal Consultation Policy on January 22, 2020. See [2020-commerce-tribal-consultation-policy-signed.pdf \(mn.gov\)](#).

CERTIFICATE OF SERVICE

I, Sharon Ferguson, hereby certify that I have this day, served copies of the following document on the attached list of persons by electronic filing, certified mail, e-mail, or by depositing a true and correct copy thereof properly enveloped with postage paid in the United States Mail at St. Paul, Minnesota.

**Minnesota Department of Commerce
Supplemental Comments**

Docket No. G7066/EX-21-693

Dated this 12th day of April 2022

/s/Sharon Ferguson

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Tommy	Brown	Tommy.brown@llojibwe.net	Leech Lake Band of Ojibwe	190 Sailstar Dr NW Cass Lake, MN 56633	Electronic Service	No	OFF_SL_21-693_Official
Generic Notice	Commerce Attorneys	commerce.attorneys@ag.state.mn.us	Office of the Attorney General-DOC	445 Minnesota Street Suite 1400 St. Paul, MN 55101	Electronic Service	Yes	OFF_SL_21-693_Official
Sharon	Ferguson	sharon.ferguson@state.mn.us	Department of Commerce	85 7th Place E Ste 280 Saint Paul, MN 551012198	Electronic Service	No	OFF_SL_21-693_Official
Generic Notice	Residential Utilities Division	residential.utilities@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012131	Electronic Service	Yes	OFF_SL_21-693_Official
Will	Seuffert	Will.Seuffert@state.mn.us	Public Utilities Commission	121 7th Pl E Ste 350 Saint Paul, MN 55101	Electronic Service	Yes	OFF_SL_21-693_Official
Rachel	Sorrentino	rachel@nwgas.com	Northwest Gas	801 Twelve Oaks Center Dr Ste 815B Wayzata, MN 55391	Electronic Service	No	OFF_SL_21-693_Official
Rachel	Sorrentino	Info.pbng@gmail.com	Paul Bunyan Natural Gas	9519 Hwy 371 Walker, MN 56484	Electronic Service	No	OFF_SL_21-693_Official