

December 7, 2016

Daniel P. Wolf
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, Minnesota 55101-2147

RE: **Comments of the Minnesota Department of Commerce, Division of Energy Resources**
Docket No. G6960/M-16-317

Dear Mr. Wolf:

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

Petition of United Natural Gas LLC for Approval of Firm Gas Transportation Agreement.

The Petition was filed on April 13, 2016 by:

Joel Dahlgren
United Natural Gas LLC
705 East 4th Street
Winthrop, Minnesota 56396

The Department recommends that the Commission **approve** the petition and is available to answer any questions that the Minnesota Public Utilities Commission may have.

Sincerely,

/s/ JOHN KUNDERT
Financial Analyst

JK/ja
Attachment

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

COMMENTS OF THE
MINNESOTA DEPARTMENT OF COMMERCE
DIVISION OF ENERGY RESOURCES

DOCKET No. G6960/M-16-317

I. SUMMARY OF THE UTILITY'S PROPOSAL

On April 13, 2016, United Natural Gas LLC (UNG) filed a Petition for Approval of Firm Gas Transportation Agreement. UNG is a wholly-owned for-profit subsidiary of United Farmers Cooperative (UFC). UFC is a cooperative association organized and existing under the laws of Minnesota (Minn. Stat. ch. 308A). UFC provides a wide range of services to its members and other individuals in the area around Lafayette. Both UNG and UFC have their principal place of business located in Winthrop, Minnesota. UNG was initially formed in 2012 to deliver natural gas via a high-pressure line to UFC's new grain facility and grain dryer located outside of the City.

Subsequently, in 2013 the City approached UNG about supplying natural gas to its residents, who at that time did not have access to natural gas, via a to-be-built intrastate natural gas line from UNG's terminus at the grain facility into the City. UNG entered into the Agreement with the City to transport natural gas over UNG's facilities and deliver to the City.

As discussed in its April 7, 2016 Comments in Docket No. G6960/M-16-214,¹ the Minnesota Department of Commerce (Department) learned about UNG's Agreement and identified UNG's legal requirement to file a petition with the Commission, which UNG did shortly thereafter, on April 13, 2016.

On May 24, 2016, the Commission issued its Order approving UNG's petition in G6960/M-16-214, with modifications. In part, that Order stated that the "Commission will review the UNG/Brownton and UNG/UGS agreements in Docket G-6960/16-317 and not in this docket."

¹ *In the Matter of a Petition by United Natural Gas LLC for Approval of its Request for a Small Gas Utility Franchise Exemption.*

II. THE DEPARTMENT'S ANALYSIS

Under the Agreement, UNG is to transport up to 600 dekatherms (Dth) per day of firm transportation of natural gas and up to 60,000 Dth per year, from the Hutchinson Transmission Pipeline to the City, which the City then uses this supply to serve homes and businesses located in the City. The initial term of the Agreement is just over 9 years (through 2022), subject to extensions. Similar to most interstate pipelines, UNG is responsible solely for transporting natural gas; it is not responsible for procuring natural gas supplies.

The Department's analysis is divided into the following sections: 1) the statutory requirements of an intrastate natural gas pipeline; and 2) cost recovery associated with the Agreement.

A. *REQUIREMENTS OF MINNESOTA STATUTES*

Statutory requirements are as follows. First, the Commission has authority over intrastate pipelines, which are defined as:

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.

Minn. Stat. § 216B.045, subd. 1 (2016). UNG agrees in the Petition that as the owner of an intrastate pipeline, it must comply with the provisions of section 216B.045.

Second, Minn. Stat. section 216B.045 requires that the owner of an intrastate pipeline must provide service under the following three conditions:

- Contract at rates that are just and reasonable and do not unreasonably discriminate among customers receiving like or contemporaneous services (Minn. Stat. § 216B.045, subd. 2);
- Offer services by contact on an open access, nondiscriminatory basis (Minn. Stat. § 216B.045, subd. 3); and
- Obtain Commission approval in order for any contract for service provided by an intrastate pipeline to be effective (Minn. Stat. § 216B.045, subd. 4).

The Department separately discusses these statutory requirements below.

1. Contract for Service Must Be Provided at Reasonable Rates

The Agreement identifies the rate and responsibilities of UNG and the City. As stated in the cover letter to the Petition, the rate for UNG's transportation service to the City is "the result of an arm's length negotiated transaction between UNG and the City. Since both UNG and the City executed the Agreement ..., it is a foregone conclusion that both UNG and the City determined that each party will benefit from the Agreement."

The Department agrees. Under most circumstances, a reasonable rate is based on a utility's cost of service. This reasonableness check is generally associated with the review of retail rate-regulated utilities. In this instance, however, the City represents the interests of its residents and businesses. Moreover, review of the terms of the Agreement confirms the reasonableness of the arrangement of UNG's provision of firm natural gas transportation, with interruption only under extreme conditions² and with the goal of ensuring that UNG is also able to provide reasonable service to the grain drying customer. The Department also assumes that UNG's management has set a rate that is reasonably recovering the facility's costs, including the design of charging higher rates if the City's use of UNG's pipeline exceeds the level identified in the Agreement.

2. Obligation to Offer Service on an Open Access, Non-Discriminatory Basis

As previously noted, UNG is required to offer services by contract on an open access, non-discriminatory basis. § 216B.045, subd. 3. UNG stated in the Petition that since it would willingly enter into negotiations with other similarly situated private entities or to discuss similar cooperative agreements that would serve the public interest in other respective communities. Thus, there is no discriminatory element to the Agreement and UNG has complied with its statutory obligation to offer its terms on an open-access basis.

3. Approval of the Agreement

Agreements for service of natural gas on intrastate pipelines are not effective unless approved by the Commission. § 216B.045, subd. 4. UNG agrees that the Agreement is a contract for such services.

UNG and the City signed the Agreement on September 10, 2013. The Agreement states that UNG will begin providing service commencing on August 1, 2013. UNG formally submitted the Agreement to the Commission for approval on April 13, 2016 and also asked that the Commission approve the Agreement retroactively to June 26, 2013.

² This review is only of the transportation service; the City obtains natural gas supplies from other entities.

As to the delay in seeking Commission approval for the Agreement, UNG stated in the Petition that “UNG was unaware of this legal requirement and its deficiency in timely petitioning for approval of the agreement was not intentional.”

UNG also noted that the Agreement has provided benefits to both UNG and the City in that it has allowed for the development of natural gas as a heating fuel in Brownton.

The Department agrees with UNG’s assessment that the introduction of natural gas service in Brownton has provided societal benefits. Going forward, if UNG provides similar transportation service, UNG would be expected to file a petition in a more-timely manner, showing that the service was provided on a non-discriminatory basis for similarly situated customers.

III. DEPARTMENT RECOMMENDATION

Based on its review, the Department recommends that the Commission approve the Agreement.

/ja

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
Comments

Docket No. G6960/M-16-317

Dated this 7th day of December 2016

/s/Sharon Ferguson

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Julia	Anderson	Julia.Anderson@ag.state.mn.us	Office of the Attorney General-DOC	1800 BRM Tower 445 Minnesota St St. Paul, MN 551012134	Electronic Service	Yes	OFF_SL_16-317_M-16-317
Dustan J	Cross	dcross@gislason.com	Gislason & Hunter LP	PO Box 458 2700 S Broadway New Ulm, MN 56073	Electronic Service	No	OFF_SL_16-317_M-16-317
Joel	Dahlgren	dahlgren@blackdogcoopla w.com	United Farmers Cooperative	705 E. 4th Street, PO Box 461 Winthrop, MN 55396	Electronic Service	No	OFF_SL_16-317_M-16-317
Joel	Dahlgren	joel.dahlgren@ufcmn.com	United Natural Gas, LLC	PO Box 461 Winthrop, MN 55396	Electronic Service	No	OFF_SL_16-317_M-16-317
Sharon	Ferguson	sharon.ferguson@state.mn.us	Department of Commerce	85 7th Place E Ste 500 Saint Paul, MN 551012198	Electronic Service	No	OFF_SL_16-317_M-16-317
Ella	Kruse	brownton@centurylink.net	City of Brownton	335 3rd St S Brownton, MN 55312	Electronic Service	No	OFF_SL_16-317_M-16-317
John	Lindell	john.lindell@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012130	Electronic Service	Yes	OFF_SL_16-317_M-16-317
Douglas	Lund	doug.lund@ufcmn.com	United Natural Gas, LLC	705 E. 4th Street PO Box 461 Winthrop, MN 55396	Electronic Service	No	OFF_SL_16-317_M-16-317
John C.	Webster	jwebster@ci.hutchinson.mn.us	Hutchinson Utilities Commission	225 Michigan St. SE Hutchinson, MN 55350	Electronic Service	No	OFF_SL_16-317_M-16-317
Daniel P	Wolf	dan.wolf@state.mn.us	Public Utilities Commission	121 7th Place East Suite 350 St. Paul, MN 551012147	Electronic Service	Yes	OFF_SL_16-317_M-16-317