

Staff Briefing Papers

Meeting Date	March 22, 2018	Agenda Item *5
Company	Lake Region Energy Services, Inc.	
Docket No.	G-6977/M-17-829	
	In the Matter of a Petition by Lake Region Energy Services, Inc. for a Small Gas Utility Franchise Exemption to Provide Natural Gas Services to the Municipalities of Dent and Miltona	
Issue	Should the Commission approve Lake Region Energy Services, Inc.'s request for a small gas utility franchise exemption under Minnesota Statute § 216B.16, subdivision 12, to serve the communities of Dent and Miltona?	
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Relevant Documents

Date

Lake Region Energy Services, Inc. – Initial Filing	November 30, 2017
Department of Commerce – Comments	February 1, 2018
Lake Region Energy Services, Inc. – Reply Comments	February 12, 2018
Department of Commerce – Response to Reply Comments	February 16, 2018

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I. Statement of the Issues

- Should the Commission approve Lake Region Energy Services, Inc.'s request for a small gas utility franchise exemption under Minnesota Statute § 216B.16, subdivision 12, to serve the communities of Dent and Miltona?

II. Background

Lake Region Energy Services, Inc. (LRES) is a wholly owned subsidiary of Lake Region Electric Cooperative organized to distribute natural gas in Minnesota. On July 13, 2017, LRES received approval from the Commission for a small gas utility franchise exemption to provide service to the cities of Deer Creek and Parkers Prairie.¹

On November 7, 2017, LRES and Greater Minnesota Transmission, LLC (GMT) entered into a firm transportation agreement. GMT proposes to construct natural gas pipelines to the cities of Dent, MN² and Miltona, MN³ in which LRES will operate as the local distribution company (LDC).

On November 30, 2017, LRES filed a petition with the Commission seeking approval for a small gas utility franchise exemption for the cities of Dent and Miltona.

On February 1, 2018, the Minnesota Department of Commerce, Division of Energy Resources (Department) filed comments recommending conditional approval of the petition. The conditions focused on ensuring LRES was subject to certain Minnesota Statutes regarding the Cold Weather Rule, payment arrangements, medical necessity, and other measures related to consumer protections.

LRES submitted a letter on February 12, 2018 acknowledging its continued compliance with Minnesota Statutes and offered modified language for its rate book. The Department filed a response to the reply comments on February 16, 2018 recommending approval of LRES' petition.

III. Relevant Statutes

A. Minn. Stat. § 216B.02, subd. 4. Public utility. [Defined]

“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.... 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

¹ Docket G-6977/M-17-186

² Docket PL-6580/M-17-809

³ Docket PL-6580/M-17-810

customers within a city pursuant to a franchise granted by the city, provided a resolution of the city council requesting exemption from the 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.

...

B. Minn. Stat. § 216B.16, 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.

IV. Parties' Comments

A. Department

On February 1, 2018, the Department submitted Comments discussing whether LRES request satisfies Minn. Stat. § 216B.16, subd. 12 exemption requirements. The Department based its review on three measures for determining whether LRES's proposed level of incidental service met the statute's requirements:

- Number of customers located within and outside the Municipalities' boundaries;

- The expected design-day requirements within and outside the Municipalities' boundaries; and
- The level of consumption within and outside the Municipalities' boundaries.

The Department concluded that LRES's service to the Municipalities, including incidental customers located outside of the Municipalities, meets the statutory criteria for an exemption.

The Department also notes that the LRES, in its petition, acknowledged its duty to comply with the following statutory requirements:

- Annual Cold Weather Rule reports will be filed as required under Minn. Stat. § 216B.096, subd. 11 and Minn. Stat. § 216B.16, subd. 12 (c);
- Annual tariff updates with municipally approved rates will be submitted to the Commission (Minn. Stat. § 216B.16, subd. 12 (c));
- Any subsequent changes in rates, tariffs and contracts for service outside the Municipalities will be filed at least 30 days in advance of implementation (Minn. Stat. § 216B.16 subd. 12 (b));
- Annual Minnesota Natural Gas Utility Information reporting to be made under Minn. Rules 7610.0800 – 7610.0860 is to be made on or before July 1 of each year;
- Notification to the Commission should its customer base expand beyond the 5,000 customer threshold (Minn. Stat. § 216B.16, subd. 12 (a)); and
- Notice to cities of utility disconnection (Minn. Stat. § 216B.0976).

The Department requested LRES propose tariff language to fulfill the obligations contained in Minn. Stat. § 216B.098 – Residential Customer Protections as it relates to:

- payment agreements for payment of arrears;
- payment agreements for undercharges, and,
- special provisions for customers requiring medically necessary equipment.

Finally, the Department noted that it requested and received a detailed Emergency Management Plan from LRES.

B. LRES

In its reply comments, LRES confirmed its understanding that it is obligated to conform to all statutory requirements and regulations pertaining to the operations described in its Petition and as ordered by the Commission, specifically including Minn. Stat. §§ 216B.16, Subd. 12(b); 216B.16, Subd. 12(c); 216B.096; 216B.0976; and 216B.098.

LRES noted that its Rate Book does provide that it shall offer a payment agreement for undercharges or arrears for customers requiring medically necessary equipment, as required by Minn. Stat. § 216B.098, Subd. 4 and 5. LRES also provided additional language to expand its scope and would comply with the payment agreement requirements found in Minn. Stat. § 216B.098, Subd. 3 (arrears) and Subd. 4 (undercharges).

The Department agrees with the proposed language and recommends approval of LRES's request for exemption for a small gas utility franchise.

V. Staff Analysis

Currently, LRES provides natural gas service to Deer Creek and Parkers Prairie. For LRES to maintain its small gas utility franchise exemption from state regulation, the requirements of Minn. Stat. § 216B.16, subd. 12, Exemption for small gas utility franchise, (a) and (b) must continue to be fulfilled.

Pursuant to Minn. Stat. § 216B.16, subd. 12 (a), the Municipalities requested Commission approval for a small gas utility franchise exemption from rate regulation within their boundaries. Further, the Municipalities filed the required franchise agreements granting LRES the license to operate within their boundaries. The Company will serve fewer than 650 customers in each of the Municipalities and LRES will not exceed the total 5,000-customer statutory limit. The Company is requesting Commission approval for its proposed statutory exemption for natural gas services provided within the Municipal boundaries and the surrounding areas.

Pursuant to Minn. Stat. § 216B.16, subd. 12 (b), the Commission has the discretion to determine what constitutes incidental service to areas outside the boundaries of the Municipalities on a case-by-case basis.

The Company states that the ability to serve the incidental areas with existing infrastructure by adding customers will result in lower rates for all customers. This is due to the "one-system rate structure" that has been adopted by LRES. The rate structure is based on system-wide costs. The same rate for distribution service would apply to all customers within a specific customer rate class. For example, the rate for residential sales service will be the same in each Municipality and the incidental areas.

LRES provided Table 1 detailing its anticipated customer count for both municipalities:

Table 1: Estimated Customer Count (Dent and Miliona)

	2018	2019	2020	2021	2022
Residential (city)	110	121	133	147	161
Residential (rural)	68	75	83	91	100
Sm. Volume Commercial (city)	28	29	30	32	34
Lg. Volume Commercial (city)	3	3	3	3	4
Lg. Volume Commercial (rural)	2	2	2	2	2
Total Customers by Year	211	230	251	275	301

LRES also provided Table 2 and 3 showing its forecasted usage by customer class in Dent, MN and Miltona, MN, respectively:

Table 2: Forecasted Usage by Customer Class (Dent, MN)

Customer Usage 2019 (dkt)	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
Residential City	426	372	319	186	133	80	80	80	118	177	353	442	2,765
Residential Rural	274	239	205	120	86	51	51	51	72	108	217	271	1,745
Sm. Commercial City	400	400	400	400	400	400	400	400	433	433	433	433	4,933
Lg. Commercial City	0	0	0	0	0	0	0	0	0	0	0	0	0
Lg. Volume Rural	833	833	833	833	833	833	833	833	833	833	833	833	10,000
Grand Total	1933	1845	1758	1539	1452	1364	1364	1364	1457	1552	1837	1979	19,444

Customer Usage 2020 dkt	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
Residential City	471	412	353	206	147	88	88	88	129	194	388	485	3,050
Residential Rural	289	253	217	126	90	54	54	54	76	114	228	285	1,840
Sm. Commercial City	433	433	433	433	433	433	433	433	467	467	467	467	5,333
Lg. Commercial City	0	0	0	0	0	0	0	0	0	0	0	0	0
Lg. Volume Rural	833	833	833	833	833	833	833	833	833	833	833	833	10,000
Grand Total	2027	1932	1837	1599	1504	1409	1409	1409	1505	1608	1916	2070	20,224

Customer Usage 2021 dkt	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
Residential City	517	452	388	226	162	97	97	97	144.4	216.6	433	542	3,371
Residential Rural	304	266	228	133	95	57	57	57	80	120	239	299	1,935
Sm. Commercial City	467	467	467	467	467	467	467	467	467	467	467	467	5,600
Lg. Commercial City	0	0	0	0	0	0	0	0	0	0	0	0	0
Lg. Volume Rural	833	833	833	833	833	833	833	833	833	833	833	833	10,000
Grand Total	2121	2018	1916	1659	1557	1454	1454	1454	1524	1636	1973	2141	20,906

Table 3: Forecasted Usage by Customer Class (Miltona, MN)

Customer Usage 2019 dkt	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
Residential City	1246	1091	935	545	390	234	234	234	342	513	1026	1283	8,071
Residential Rural	760	665	570	333	238	143	143	143	213	319	638	798	4,961
Sm. Commercial City	500	500	500	500	500	500	500	500	533	533	533	533	6,133
Lg. Commercial City	572	572	572	572	572	572	572	572	572	572	572	572	6,864
Lg. Volume Rural	0	0	0	0	0	0	0	0	0	0	0	0	0
Grand Total	3078	2828	2577	1950	1699	1448	1448	1448	1660	1938	2770	3186	26,029

Customer Usage 2020 dkt	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
Residential City	1368	1197	1026	599	428	257	257	257	376.2	564.3	1129	1411	8,866
Residential Rural	851	745	638	372	266	160	160	160	239	359	718	898	5,566
Sm. Commercial City	533	533	533	533	533	533	533	533	567	567	567	567	6,533
Lg. Commercial City	572	572	572	572	572	572	572	572	572	572	572	572	6,864
Lg. Volume Rural	0	0	0	0	0	0	0	0	0	0	0	0	0
Grand Total	3325	3047	2770	2076	1799	1521	1521	1521	1754	2062	2985	3447	27,830

Customer Usage 2021 dkt	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
Residential City	1505	1317	1129	658	470	282	282	282	414	621.3	1243	1553	9,757
Residential Rural	958	838	718	419	299	180	180	180	266	399	798	998	6,231
Sm. Commercial City	567	567	567	567	567	567	567	567	600	600	600	600	6,933
Lg. Commercial City	572	572	572	572	572	572	572	572	572	572	572	572	6,864
Lg. Volume Rural	0	0	0	0	0	0	0	0	0	0	0	0	0
Grand Total	3601	3293	2985	2216	1908	1600	1600	1600	1852	2192	3213	3723	29,785

Staff notes that the two large volume rural customers, both located in Dent, make up approximately 50% of the estimated usage for that municipality. The Department considers the rural customers to be incidental because the customer count is only 17.3% of the total customers being served.⁴ The Commission may wish to consider the potential impact of two customers making up half of the usage for Dent and consider whether or not it is still reasonable to consider these services to be incidental.

If the Commission approves LRES' Petition, the customers located outside the Municipalities would not be completely without recourse or protection against LRES charging unfair or unreasonable rates. The following safeguards are in place:

- First, no one is required to switch to natural gas.
- Second, under the small gas utility exemption statute (Minn. Stat. § 216B.16, subd. 12), the Commission may initiate an investigation of LRES under Minn. Stat. § 216B.17, on the Commission's own motion or upon complaint from a customer.
- Third, LRES is still subject to annual Cold Weather Rule reports (Minn. Stat. § 216B.16, subd. 12 (c)), notice to cities of utility disconnection (Minn. Stat. § 216B.0976), and residential customer protections (Minn. Stat. § 216B.098).

⁴ DOC DER - Comments, Table 4

VI. Decision Alternatives

1. Approve LRES's petition for a small gas utility franchise exemption under Minn. Stat. § 216B.16, subd. 12. (LRES, Department)

or

2. Deny LRES's petition for a small gas utility franchise exemption under Minn. Stat. § 216B.16, subd. 12.

3. If the Commission adopts decision alternative one, then clarify in its Order that LRES is subject to the following statutes, rules and reporting requirements:

- Annual Cold Weather Rule reports will be filed as required under Minn. Stat. § 216B.096, subd. 11 and Minn. Stat. § 216B.16, subd. 12 (c);
- Annual tariff updates with municipally approved rates will be submitted to the Commission (Minn. Stat. § 216B.16, subd. 12 (c));
- Any subsequent changes in rates, tariffs and contracts for service outside the Municipalities will be filed at least 30 days in advance of implementation (Minn. Stat. § 216B.16 subd. 12 (b));
- Provide annual Minnesota Natural Gas Utility Information reporting to the Department (required by Minn. Rules 7610.0800 – 7610.0860 to monitor reliability and costs of energy service in Minnesota) on July 1 of each year;
- Notification to the Commission should its customer base expand beyond the 5,000 customer threshold (Minn. Stat. § 216B.16, subd. 12 (a));
- Notice to cities of utility disconnection (Minn. Stat. § 216B.0976); and
- Residential customer protections (Minn. Stat. § 216B.098). (LRES, Department)

4. Require LRES to file an annual compliance filing on March 1st of each year with the following information to be filed in this docket:

- Customer count by customer class, including the applicable rates for each customer class; and
- The associated annual gas and non-gas revenues by customer class; and
- Net Plant in Service by year and on an accumulated basis from when LRES' began construction on their natural gas system. (Net Plant in Service = Total Plant in Service – Accumulated Depreciation – Deferred Income Taxes)