
**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

**IN THE MATTER OF THE APPLICATION OF MONTANA-DAKOTA UTILITIES CO. FOR AUTHORITY TO
INCREASE ITS NATURAL GAS RATES**

STAFF MEMORANDUM IN OPPOSITION TO REFUND PLAN

DOCKET NG12-008

Commission Staff (Staff) submits this Memorandum in opposition to the interim rate refund proposal of Montana-Dakota Utilities Co. (MDU or Company), submitted November 22, 2013, in the above-captioned matter. MDU submitted a refund plan to refund the difference between the final overall increase in distribution revenues effective December 1, 2013, and the interim increase in revenues implemented on July 22, 2013. MDU's refund plan would provide a refund through the Purchased Gas Adjustment (PGA). Staff does not believe that a refund through the PGA is allowable under the pertinent statutes.

BACKGROUND

On December 21, 2012, the Company filed an application with the South Dakota Public Utilities Commission (Commission) requesting approval to increase rates for natural gas delivery service to customers in its South Dakota retail service territory by approximately \$1.5 million annually, or approximately 3.3 percent. Under MDU's requested increase, a typical residential customer in the Black Hills area using 75 dkt on an annual basis would see an average increase of approximately \$3.00 per month, while a typical residential customer in the East River area using 61 dkt on an annual basis would see an average decrease of \$1.10 per month. MDU also proposed consolidation of the two rate areas.

On July 22, 2013, the Company implemented interim rates. Because an increase was not sought in the East River area, interim rates were exclusive to the Black Hills area. Therefore, a refund would apply only to the Black Hills area.

On November 5, 2013, the Commission issued an Order approving the Settlement Stipulation, authorizing MDU to increase rates by \$898,778 on an annual basis, or approximately 1.97%, and approving of the consolidation of rate areas. The approved rate increase is 41.939 percent less than the rate increase requested by MDU. MDU estimates the refund requirement to be \$205,721.

LEGAL AUTHORITY

SDCL § 49-34A-17 provides for the implementation of interim rates, subject to refund. SDCL § 49-34A-22 describes the refund methods available to the Company. SDCL § 49-34A-22 provides:

Future rate reduction or credit as alternative to refund of excess charges pending determination on increases. If, after a suspended schedule has been put into effect pursuant to § 49-34A-17, the rates are finally determined to be excessive, the commission may, as an alternative to ordering an immediate refund, reduce future rates that would otherwise be charged to offset such excessive rates; or as an alternative order that a credit on future electric or gas bills be given to all consumers based on the proportionate electric or gas bills paid by all consumers in the month prior to such order being entered.

MDU asserts that refund through the PGA is allowable under SDCL § 49-34A-22. Staff disagrees. SDCL § 49-34A-22 cannot be used to broaden the scope of the PGA.

The refund of excess interim rates falls outside the scope of the PGA, as established by SDCL § 49-34A-25. The stated purpose of the PGA is for the “automatic adjustment of charges for public utility service in direct relation to changes in wholesale rates for energy delivered, the delivered costs of fuel used in generation of electricity, the delivered cost of gas, ad valorem taxes paid, or commission approved fuel incentives.” Nothing in that statute provides for the adjustment the Company requests, and would, therefore, impermissibly expand the purpose of the PGA. Rates not specifically allowed by

statute to be allocated through the PGA should be neither charged nor refunded through that adjustment.

Furthermore, Staff is unaware of a circumstance in which a company in South Dakota has been allowed to distribute an entire rate case refund through the PGA. To now permit MDU to utilize the PGA for that purpose would greatly expand the scope of the PGA.

OTHER CONSIDERATIONS

In addition to the legal authority discussed above, Staff has additional concerns with using the PGA as a refund mechanism. The first concern is transparency. Using a bill credit allows all customers to clearly see they received a refund. Reducing the PGA Balancing Account by the amount of the refund as proposed by MDU provides no transparency for customers.

Second, customer usage varies from month to month. Therefore, a customer's usage during the interim rate period could differ greatly from that customer's usage during the refund period. This is important given the refund will be distributed during the heating season whereas the interim period involved months in where there was little to no heating. The refund process should be tied to each customer's usage during the interim rate period, allowing an accurate refund for each customer.

INTEREST RATE

MDU proposes the interest included in the final amount refunded to customers be based on the rate of interest for a three-month Treasury Bill as published monthly by the Federal Reserve Board for the preceding month. Staff recommends the interest rate be seven percent (7%) as required in ARSD 20:10:19:08. The seven percent interest rate has been used by both Black Hills Power and Xcel Energy when determining the interest due on refunds.

CONCLUSION

For the above-mentioned reasons, Staff respectfully recommends the Commission deny the Company's request to refund rates through the PGA. In the alternative, Staff proposes MDU implement a refund procedure reflective of that implemented by Black Hills Power in docket EL12-061. BHP utilizes a refund software program that calculates the amount of refund due to customers by billing component. BHP will calculate and issue refunds, including 7% annual interest. Refunds for existing customers will be in the form of a bill credit posted to the customer's account. A bill message will be developed to briefly describe the refund credit. Customers due a refund who are no longer BHP customers will receive a check if the refund amount is \$3.00 or more. Any residual un-refunded monies will be credited to all customers in the next BHP South Dakota Energy Cost Adjustment.

If MDU does not have the means to calculate the amount of refund due to customers by billing component, Staff recommends MDU follow a plan similar to Xcel Energy's refund plans in dockets EL11-019 and EL12-046.