

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

IN THE MATTER OF THE COMPLAINT)	ORDER FINDING NO
FILED BY DUANE MUXEN, DOLAND,)	PROBABLE CAUSE, DISMISSING
SOUTH DAKOTA, AGAINST PEOPLES)	COMPLAINT AND CLOSING
NATURAL GAS REGARDING SALES TAX)	DOCKET
EXEMPTION)	NG98-003

On May 5, 1998, the Public Utilities Commission (Commission) received a Complaint filed by Duane Muxen (Complainant), Doland, South Dakota, against Peoples Natural Gas (PNG). The Complainant explains that he has filed the certificate of [tax] exemption and has a letter from the Department of Revenue (Revenue) indicating that all requirements were met to qualify for a sales tax exemption. PNG has indicated that Revenue requires a separate meter owned by PNG.

On May 28, 1998, at a duly noticed meeting, Complainant explained his complaint against PNG regarding a sales tax exemption. Commission Staff (Staff) noted that representatives from Revenue elected not to attend the meeting and also recommended finding probable cause. The Commission deferred any action on the complaint in order for Staff to negotiate with Revenue and Complainant.

On July 23, 1998, at a duly noticed meeting, the Commission granted Complainant's request to defer any action on his complaint until the Commission's next regularly scheduled meeting.

Pursuant to ARSD 20:10:01:08.01 and 20:10:01:09, if a complaint cannot be settled without formal action, the Commission shall determine if the complaint shows probable cause of an unlawful or unreasonable act, rate, practice or omission to go forward with the complaint.

On August 4, 1998, at a duly noticed meeting, the Commission heard comments from the Complainant and PNG. Staff noted that pursuant to South Dakota Law, PNG collects and remits sales tax to Revenue on all their natural gas sales in South Dakota. In order to satisfy the Revenue's requirements, the Commission would have to order PNG to take possession of Complainant's submetering facilities which are located on the customer's side of the billing meter. Staff indicated that it has not been the Commission's practice to regulate customer owned facilities and recommended that the Commission not find probable cause of an unlawful or unreasonable act, rate, practice or omission by PNG to go forward with the complaint.

The Commission finds that it has jurisdiction over this matter pursuant to SDCL 49-34A-2, 49-34A-4, 49-34A-58 and ARSD 20:10:01:08.01 and 20:10:01:09.

Pursuant to ARSD 20:10:01:09, the Commission unanimously voted to find no probable cause of an unlawful or unreasonable act, rate, practice, or omission on the part of PNG and to dismiss the Complaint and close the docket. As the Commission's final decision in this matter, it is therefore

ORDERED that the complaint is dismissed and docket NG98-003 is hereby closed.

Dated at Pierre, South Dakota, this 14th day of August, 1998.

CERTIFICATE OF SERVICE	
The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.	
By:	<u><i>Melanie Kalbs</i></u>
Date:	<u>8/14/98</u>
(OFFICIAL SEAL)	

BY ORDER OF THE COMMISSION:

James A. Burg
JAMES A. BURG, Chairman

Pam Nelson
PAM NELSON, Commissioner

Laska Schoenfelder
LASKA SCHOENFELDER, Commissioner