

## Natural Gas Orders - Issued 1997

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

<b>IN THE MATTER OF THE COMPLAINT FILED BY PAM ) NATURAL GAS AGAINST MIDAMERICAN ENERGY ) COMPANY REGARDING CONFIDENTIALITY OF PGA ) FACTORS )</b>	<b>FINDINGS OF FACT, CONCLUSIONS OF LAW, ORDER AND NOTICE OF ENTRY OF ORDER  NG96-016</b>
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On July 8, 1996, the Public Utilities Commission (Commission) received a complaint against MidAmerican Energy Company (MidAmerican) from PAM Natural Gas (PNG) regarding purchased gas adjustment (PGA) factors. Also on July 8, 1996, PNG filed a request with the Commission to receive all underlying workpapers of MidAmerican's June PGA filing which were submitted as confidential.

On July 30, 1996, a regularly scheduled meeting, the Commission deferred action in this matter at the request of the parties. On November 1, 1996, a regularly scheduled meeting, the Commission considered the complaint. The Commission voted to defer action in this matter in order to allow the parties to review MidAmerican's proposal. [Commissioner Schoenfelder dissenting]. PNG had also requested that they be allowed to receive MidAmerican's workpapers that are filed under confidential seal with the Commission. The Commission unanimously voted to establish a procedural schedule for a hearing on PNG's request for confidential information. On December 31, 1996, a duly noticed meeting, the Commission voted to not find probable cause, to dismiss the complaint and to close the complaint portion of the docket.

By order dated January 22, 1997, the Commission gave notice of a hearing on MidAmerican's request to treat workpapers underlying the June PGA as confidential. A hearing on this matter was held on February 12, 1997.

The Commission having examined the evidence in the record and being fully informed in the matter now makes the following Findings of Fact and Conclusions of Law:

### FINDINGS OF FACT

I

In June of 1996, MidAmerican filed its monthly PGA workpapers with the Commission and requested that the information contained in them be designated as confidential.

## II

PNG requested MidAmerican's PGA workpapers which were filed with the Commission in June, 1996.

## III

PNG is a customer of MidAmerican for local distribution company transport; PNG is a competitor of MidAmerican for gas sales. (Transcript 68-72).

## IV

MidAmerican's PGA workpapers, as exemplified by hearing Exhibit 1, contain, among other things, composite commodity factors, information regarding gas commodity contracts and gas transportation contracts, and accounting adjustments typically used within the industry for PGA calculations such as reservation charges, refund credits, under collections and reconciliation factors.

## V

Information contained in MidAmerican's PGA workpapers are time sensitive in that they reveal: costs to MidAmerican at any given point in time due to obligations to buy specific gas quantities, costs to store specific gas quantities (Transcript 72, 73), costs for contracted pipeline capacity including negotiated discounts, locations of gas purchased, gas delivery points, and the reliability of the point the pipeline can serve. (Transcript 54).

## VI

In a competitive gas market, knowing when a competitor purchases gas presents a competitive advantage. (Transcript 73).

## VII

Composite commodity prices which appear on MidAmerican's PGA provide a benchmark of knowing the deals that are being struck in a competitive gas market and they further indicate that gas is being sold at a competitively lower price. (Transcript 36).

## VIII

Information gained from a composite commodity cost, when combined with other readily available information, may indicate gas storage amounts, draw from gas storage, spot market purchases, the use of fixed term contracts at any point in time, and may allow a competitor to deduce more specific information. (Transcript 57).

## IX

By having a competitor's composite commodity price information, a competitive advantage is gained through knowing how, when, where, for how long, and in what quantity, a competitor is buying its gas supplies and enables competitors to determine what market strategies it is employing. (Transcript 26, 143).

X

Information contained on Exhibit 1, if divulged to a competitor, has the potential effect of increasing MidAmerican's prices. (Transcript. 53).

XI

The underlying calculations of MidAmerican's PGA are a trade secret. (Transcript 143).

XII

Disclosure of MidAmerican's PGA filing would damage its financial and competitive position in a competitive gas market.

XIII

Disclosure of the underlying calculations of MidAmerican's PGA would reveal a trade secret.

XIV

Disclosure of MidAmerican's PGA would impair the public interest by frustrating competition.

XV

MidAmerican has the burden of proof by a preponderance of the evidence that its monthly PGA filings with the Commission are confidential.

Based upon the foregoing Findings of Fact, the Commission makes the following Conclusions of Law:

#### CONCLUSIONS OF LAW

I

The Commission has jurisdiction over this matter pursuant to SDCL Chapters 1-26, 49-34A and ARSD 20:10:01:39, 20:10:01:41 and 20:10:01:42.

II

MidAmerican, as the party requesting confidential treatment of its PGA filing with the Commission, has the burden of proving by a preponderance of the evidence that the PGA filing is confidential by showing that disclosure would result in material damage to its financial or competitive position, reveals a trade secret or impairs the public interest.

III

MidAmerican has the burden of proof.

IV

MidAmerican's monthly PGA workpapers as filed with the Commission are confidential.

Based on the foregoing Findings of Fact and Conclusions of Law, it is therefore

ORDERED, that MidAmerican's monthly PGA workpapers as filed with the Commission are confidential and shall be treated as such.

Pursuant to SDCL 1-26-32, this Final Decision and Order becomes effective 10 days after the date of receipt or failure to accept delivery of the decision of the parties.

**NOTICE OF ENTRY OF ORDER**

PLEASE TAKE NOTICE that this Final Decision and Order in Docket NG96-016 was duly entered on this 18th day of April, 1997, and filed in the Commission's docket.

Dated at Pierre, South Dakota, this 18th day of April, 1997.

**CERTIFICATE OF SERVICE**

BY ORDER OF THE COMMISSION:

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.

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JAMES A. BURG, Chairman

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PAM NELSON, Commissioner

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LASKA SCHOENFELDER, Commissioner

By: \_\_\_\_\_

Date: \_\_\_\_\_

(OFFICIAL SEAL)

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