

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application of) Application No. NG-0023
Kinder Morgan, Inc., Lakewood, Colo-)
rado, seeking a waiver of notice and)
publication and to implement supply)
cost adjustment rate schedules)
applicable to Nebraska Rate Schedules) ORDER GRANTING APPLICATION
CGS (Choice Gas Service), ACGS-NSS)
(Agricultural Choice Gas Service Non-)
Seasonal Service), and ACGS-SS)
(Agricultural Choice Gas Service)
Seasonal Service).) Entered: May 26, 2004

BY THE COMMISSION:

By letter dated May 5, 2004, Kinder Morgan, Inc. (KMI) has requested a waiver of the 30-day notice requirement set forth in The State Natural Gas Regulation Act, Neb. Rev. Stat. § 66-1854(2) (2003 Supp.) for its annual Gas Supply Cost Adjustment (GSCA). Notice of the application was published in the Daily Record, Omaha May 7, 2004. Furthermore, KMI asserts that it published notice of the change in a newspaper of general circulation.

O P I N I O N A N D F I N D I N G S

By letter dated April 29, 2004, KMI submitted to the Commission for filing its annual GSCA, calculated pursuant to the Gas Supply Cost Adjustment (GSC) of the Choice Gas Service (CGS) program included in Section 7 of its Nebraska Tariff No. 1. The GSCA includes an "Other Services Charge" affecting jurisdictional residential and commercial customers located in KMI's Nebraska Rate Areas 1-11 and served under KMI's Rate Schedules CGS, Agricultural Choice Gas Service Non-Seasonal Service (ACGS-NSS), and Agricultural Choice Gas Service Seasonal Service (ACGS-SS) effective June 1, 2004. Due to the Arbor Day holiday, the Commission office was closed on April 30, 2004, and the GSC containing the Other Services Charge was not filed with the Commission until May 3, 2004.

Unless the commission otherwise orders and except as otherwise provided in this section, no change shall be made by any jurisdictional utility in any purchased gas adjustment schedule, except after **thirty days' notice** to the commission and to the public as provided in this section...The utility may propose and the commission, for good cause shown, may allow changes without requiring the thirty days' notice, by an order specifying the changes to be made and the time when they shall take effect and the manner in which they shall be filed and published.

Neb. Rev. Stat. § 66-1854(2) (emphasis added). KMI has requested a waiver of the thirty-day notice requirement so that the GSCA may become effective June 1, 2004.

One component of the GCSA that requires particular attention is the Other Services Charge. The Other Services Charge represents KMI's efforts to recover costs associated with recent changes in legislation. Due to the passage of LB 790 in 2003, fourteen (14) specific users no longer qualified as "high-volume ratepayers" pursuant to the definition in Neb. Rev. Stat. § 66-1802 and would have been required to become customers in the Kinder Morgan Choice Program. To address this unintended consequence, LB 499 was introduced on March 17, 2004, which enabled the Commission to:

Waive application of the definition of high-volume ratepayer for all ratepayers (a) who prior to the effective date of this act obtained natural gas service from a jurisdictional utility pursuant to subsection (3) of former section 19-4604, as such section existed prior to May 24, 2003, and (b) whose current consumption of natural gas would qualify such ratepayers to receive natural gas service pursuant to such former section if the section had not been repealed.

Although LB 499 was pending, KMI was required to acquire the necessary upstream transportation for the fourteen new customers created by LB 790. According to the contract between Kinder Morgan Retail and KMI, the deadline for KMI to indicate the upstream transportation needed for the upcoming year was April 2, 2004. KMI acquired the necessary transportation for those additional customers on that date. Subsequently, on April 15, 2004, LB 499 passed on final reading and was signed by the Governor. The previously excluded "high-volume ratepayers" are now permitted to contract independently for their natural gas needs and the additional capacity acquired by KMI is no longer needed.

KMI acted reasonably in acquiring the additional capacity based upon the status of the law at the time. Failing to do so would have placed KMI at risk of having insufficient capacity to cover consumer demand. By letter filed May 24, 2004, KMI has also provided the Commission with additional information regarding the calculation of the Maximum Daily Delivery Quantity and the capacity cost determination for all transportation customers. The Commission finds that the capacity purchased for the additional customers was also reasonable.

KMI intends to allocate the costs of the additional upstream transportation to all ratepayers. In its letter of May 24, 2004, KMI stated that it will make a good faith effort to release the additional capacity for the upcoming twelve-month period commencing June 1, 2004. However, such sales will likely not fully recover the cost of the excess capacity. KMI further stated that within 15 days of the end of any calendar month, KMI will recalculate the Other Services Charge to reflect any proceeds received from releasing the excess capacity and will file with the Commission the resulting adjustment to the charge.

The Commission finds that the delay in the filing of the proposed change in KMI's gas cost adjustment due to the Arbor Day holiday was minimal and has not prejudiced ratepayers.

The Commission further finds that KMI's actions in purchasing the additional capacity and its plan for recouping the costs are reasonable in light of the change in legislation regarding high-volume ratepayers.

O R D E R

IT IS THEREFORE ORDERED by the Commission that Kinder Morgan, Inc. has demonstrated good cause for permitting the change in its gas cost adjustment without the thirty-day notice.

IT IS FURTHER ORDERED that Kinder Morgan, Inc.'s application for a waiver of the thirty-day notice requirement is granted and the changes in its gas cost adjustment will take effect on June 1, 2004, pursuant to the terms set forth above.

IT IS FINALLY ORDERED that within 15 days of the end of any calendar month, KMI shall recalculate the Other Service Charge to reflect the impact of all revenues received from releasing the upstream capacity and shall file with the Commission the resulting adjustment.

MADE AND ENTERED at Lincoln, Nebraska, this 26th day of May, 2004.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Executive Director