

BEFORE THE PUBLIC SERVICE COMMISSION OF WYOMING

IN THE MATTER OF THE APPLICATION OF)
MONTANA-DAKOTA UTILITIES CO., FOR) DOCKET NO. 30013-GP-01-110
AUTHORITY TO PASS ON A GAS COST) (RECORD NO. 6374)
ADJUSTMENT INCREASE OF\$1.858/DK)

APPEARANCES

For the Applicant, Montana-Dakota Utilities Company:
BRUCE S. ASAY, of Associated Legal Group, LLC.

HEARD BEFORE

Chairman Steve Ellenbecker
Deputy Chair Steve Furtney
Commissioner Kristin H. Lee

Commissioner Lee presiding

MEMORANDUM OPINION, FINDINGS OF FACT, CONCLUSIONS OF LAW
AND ORDER ON REHEARING
(Issued August 23, 2001)

This matter is before the Public Service Commission of Wyoming ("Commission") upon rehearing of the application of Montana-Dakota Utilities Company ("MDU") for authority to pass on a gas cost adjustment increase of \$1.858 per decatherm, to its residential, general service and interruptible service customers.

The Commission, having heard the rehearing testimony, reviewed the record thereof, and its files concerning MDU, applicable Wyoming law, and being otherwise fully advised in the premises, hereby FINDS and CONCLUDES:

1. On January 11, 2001, MDU filed a monthly commodity balancing account application requesting authority to pass on, to its customers, a gas cost increase of \$1.858 per decatherm for its residential and general service customers and its interruptible service customers, proposed to be effective for bills rendered on or after February 1, 2001. MDU stated that the request was due to an increase in the market price of natural gas offset by a decrease in the commodity cost related to storage.

2. On January 30, 2001, the Commission received a facsimile transmission of a letter from Andy Hall, of Sheridan, Wyoming, requesting that the Commission change the method used by MDU in calculating consumer gas billings relative to MDU's monthly pass on applications. Commission Staff Attorney edna Young distributed copies of the FAX to the Commission, at the Commission's regular open meeting held that day.

3. At the January 30, 2001, regular open meeting, the Commission considered the application, the review and recommendations of its staff relating thereto, as well as Mr. Hall's FAX. The Commission approved the application, subject to notice, protest, opportunity for hearing, change, refund or other such order as the Commission may deem appropriate. The Commission also directed Ms. Young to contact MDU, directing it to address the concerns raised by Mr. Hall's FAX.

4. On January 31, 2001, pursuant to the open meeting action taken on January 30, 2001, the Commission issued a Notice and Order approving the application, effective for bills rendered on and after February 1, 2001, and subject to notice, protest, opportunity for hearing, change, refund or other such order as the Commission may deem appropriate. Notice was published in newspapers and broadcast on radio

stations within the service territory.

5. On January 31, 2001, the Commission received petitions from the Buffalo Senior Center, Buffalo, Wyoming, signed by more than 200 residents of Northeast Wyoming, opposing the application and requesting that the Commission delay further gas cost increases until some alternative could be found. The Consumer Complaints Section of the Commission provided additional documented complaints received by the Commission, concerning MDU's monthly pass on applications dating back as far as September, 2000. During approximately the same time frame, the Commission received a request for a public hearing on the application, from Wyoming Senator Tom Kinnison, of Sheridan.

6. February 22, 2001, the Commission issued a Notice and Order Setting Hearing and Establishing Procedural Schedule, which set a public hearing regarding the application beginning at 6:30 p.m., and ending by 8:50 p.m., on Monday, March 19, 2001, in the 2nd Floor Meeting Room of the new addition to the Sheridan County Courthouse, 224 S. Main Street, Sheridan, Wyoming. The Order directed that MDU prefile testimony and exhibits it intended to present at the public hearing, on or before March 5, 2001. The Notice was published in newspapers and broadcast on radio stations throughout MDU's Wyoming service territory. The Commission also issued a press release announcing the public hearing.

7. On March 2, 2001, MDU sent a FAX letter requesting an extension of time to prefile its testimony and exhibits, until March 7, 2001. The Commission received the original letter, by mail, on March 8, 2001.

8. On March 6, 2001, the Commission received MDU's prefiled testimony and exhibits.

9. On March 8, 2001, pursuant to open meeting action taken March 5, 2001, the Commission issued an Order Granting Extension of Time to Prefile Testimony, confirming its approval of the prefiling extension requested by MDU.

10. On March 8, 2001, the Commission also issued a Special Order Authorizing One Commissioner and/or Hearing Examiner to Conduct Public Hearing.

11. On March 12, 2001, MDU filed copies of a response to Mr. Hall's concerns relating to MDU's practice of seeking gas cost pass-on relief effective based on a "bills rendered" date, rather than on a prorated usage method.

12. Pursuant to its notice and in accordance with the Wyoming Administrative Procedure Act and the Commission's Rules, the Commission held the public hearing in this matter on March 19, 2001. MDU appeared and was given the opportunity to participate fully in the hearing. MDU presented the direct testimony of Don Ball and Donald Klempel.

13. At the conclusion of the public hearing, the Commission closed the record, subject to receipt of a late-filed exhibit from MDU, relating to specific supply sources for the Sheridan-to-Kaycee portion of the MDU system, and an analysis of storage field capacities.

14. On April 19, 2001, MDU filed its late-filed exhibit.

15. On May 8, 2001, the Commission conducted public deliberations.

16. On May 17, 2001, MDU petitioned for rehearing.

17. On May 18, 2001, the Commission issued its Memorandum Opinion, Findings of Fact, Conclusions of Law and Order, confirming its approval of the application for authority to pass on a gas cost adjustment increase of \$1.858 per decatherm, and directing MDU to begin prorating the implementation of rate changes arising from Commission-approved gas cost adjustments, on the basis of each customer's average daily usage for the adjustment period, for applications approved on and after the date of issuance of the Order.

18. On May 30, 2001, pursuant to open meeting action taken May 21, 2001, the Commission issued an Order Granting Rehearing on the Commission's decision that MDU prorate implementation of its pass on adjustments based on customer average daily usage. The Order set a public hearing beginning at 2:00 p.m., on June 27, 2001, in the Commission hearing room, at 2515 Warren Avenue, Suite 300, Cheyenne, Wyoming, and directed that MDU prefile testimony and exhibits it intends to present at the

rehearing, on or before June 22, 2001, as well as providing copies of its prefiled testimony and exhibits to Mr. Andy Hall.

19. On June 22, 2001, MDU prefiled rehearing testimony and exhibits of Donald R. Ball.

20. On June 25, 2001, the Commission issued another Special Order Authorizing One Commissioner and/or Hearing Examiner to Conduct Public Hearing.

21. Pursuant to its notice and in accordance with the Wyoming Administrative Procedure Act and the Commission's Rules, the Commission held the public hearing on the rehearing issue, on June 27, 2001. MDU appeared and was given the opportunity to participate fully in the hearing. MDU presented the direct testimony of Don Ball. Mr. Andy Hall participated via telephone conference call. At the conclusion of the public hearing, the Commission closed the record on rehearing, subject to the filing of post-hearing briefs by MDU and Mr. Hall.

22. On July 20, 2001, MDU filed Proposed Findings of Fact and Conclusions of Law.

23. On July 30, 2001, the Commission conducted public deliberations.

The Facts of the Case

24. Don Ball testified on behalf of MDU, as the Director of Regulatory Affairs. He testified that it was MDU's position that implementing the PGA on a bills rendered basis provides the best match between cost incurrence and cost recovery, and sends a more timely price signal to customers; that such a method complies with Wyoming law; and testified why MDU believes implementing the PGA on a prorated or service rendered basis is not appropriate. He first provided some background information concerning how the "bills rendered" methodology works, noting that the determining factor as to which rate applies is the date the bill is processed through the billing system, and that the whole consumption for the billing period is billed at the rate in effect as of the date of the bill. He testified that it is a relatively straightforward process, and customers can actually check their own bills by multiplying the consumption by the approved rate and adding in the base rate, because the details of the bill calculation are included on the bill that the customer receives. (Tr. pp. 13-14.)

25. Mr. Ball next testified to his understanding of how a prorated methodology would work. He testified that under the prorated or "service rendered" implementation method, the determining factor as to what rate or rates apply is the date of the meter read; that the billing system will determine the number of days in the billing period and apportion the total consumption to each month using the basic assumption that consumption was the same for each day in the billing period. He testified that customer's bill would then simply have a notation on it indicating the number of days at the new rate with an amount and the number of days at the old rate with an amount, with sum of the amounts being the total bill. (Tr. p. 14.)

26. Mr. Ball testified that implementing the PGA on a service rendered basis would move the company away from the intent of the monthly PGA, which is to pass on costs to customers in a timely manner and provide timely pricing signals to customers. He testified that the MDU Rate 88 tariff states that the gas commodity cost will be an estimate for the month the PGA will be in effect; that in practice, MDU has used actual gas costs for the prior month as an estimate. He testified that as a result, the customer whose bill is issued on the first of the month, for example May 1, for gas used in April, has all consumption billed at the May rate. The gas costs underlying that rate are those in effect in April so the gas costs billed to the customer match the consumption period. He testified that a customer who is billed in mid-month matches about half of consumption with costs, and a customer billed at the end of the month has nearly a one-month lag between consumption and costs. He testified that any differences between actual gas costs and amounts billed are placed in the deferred gas cost account. (Tr. pp. 15-16.)

27. Mr. Ball testified that, in contrast to the "bills rendered" method, the "service rendered" method creates a greater mismatch between consumption and actual cost. He testified that the same customer who is billed on May 1, under a service rendered formula, would see a prorated bill with all consumption at the April rate, which would really reflect March gas costs. He testified that the "service rendered" billing basis would increase the lag between consumption and gas costs for all customers, thus causing greater

balances, either positive or negative, in the deferred gas cost account, further pushing the recovery or refunding of those costs into the future. He testified that MDU does not know what proportion of the total volume of natural gas a customer uses in a billing period was actually used in one month versus the next; and that “service rendered” billing assumes equal consumption per day, while actual gas used per day may fluctuate significantly due to changes in weather on a day-to-day basis. (Tr. pp. 16-17.)

28. Mr. Ball testified that gas costs fluctuate with the seasons and the market, and go both up and down. He testified that, therefore, a customer billed at the beginning of the month will be the first to see both the increases and decreases in his bills. (Tr. p. 18.)

29. Mr. Ball testified that he had been advised by legal counsel that the “bills rendered” method was in compliance with W.S. § 37-3-101. He testified that MDU does not read all of its meters on the same day, nor does it bill all of its customers on the same day; and that because of the number of customers involved, approximately 14,800 customers in Wyoming, it is a reasonable business practice to stagger the meter reading and billing times. He testified that all customers in a billing group under a specific rate schedule are billed the same. He testified that a “bills rendered” method of implementing the monthly PGA changes is a reasonable business practice and within the intent of Wyoming Statute 37-3-101. (Tr. pp. 18-19.)

30. Upon examination by David M. Mosier, Commission Administrator and technical advisor assigned to this case, Mr. Ball testified that achieving the best match between cost occurrence and cost recovery was a major goal in using the “bills rendered” methodology. He testified that MDU believes matching costs with recovery of those costs is an important consideration. He testified, with regard to the normal timing of MDU’s pass on applications, that as part of the Commission’s approval of the monthly process several years ago, MDU is required to make each filing at a minimum 20 days in advance of the proposed effective date. He testified that MDU’s gas purchase contracts are priced on a basis relative to the Rocky Mountain Index price as published on the first of the month in *Inside FERC*. He testified that, therefore, MDU knows what it will be paying for gas that it purchased from the various producers during the month, so that is the price that MDU uses for the next month. He testified that a proposed effective date of the first of the next month is also the method MDU uses in Montana, North Dakota and South Dakota. He reiterated that the rate paid by the customers is the actual gas commodity prices MDU paid from the previous month. (Tr. pp. 21-22.)

31. Mr. Ball next testified as to his understanding of how other gas operations calculate their retail rates. He testified that, generally, they provide an estimate of what the gas commodity costs will be during the future period. He reiterated that MDU uses the prior month’s price as a proxy. He testified that forecasting a future gas price might be an option; but given that the market prices are quite volatile, the risk of missing the forecasted price is substantial, which would result in a higher balance in the deferred cost account. He testified that in North Dakota and Minnesota, some companies, who also prorate, file approximately the second day of the month, and implement the rate the next day, so that they are not really “estimating.” He testified that he would not oppose prorating the effective date under those conditions; but that he was prohibited by the minimum 20-day notice agreement adopted for MDU’s Wyoming filings. (Tr. pp. 23-24.)

32. Mr. Ball testified that, as a general rule, it is not practical or feasible to design retail rates that perfectly match either commodity costs or base rate costs; and that both the “bills rendered” and “service rendered” methods have shortcomings. (Tr. p. 26.)

33. Mr. Ball testified, with regard to the base rates, if a company’s retail rates are not recovering the actual costs, the company has to look for efficiencies--cut costs to bring the return up to a reasonable level; or file a rate case with the Commission and seek to increase the base rates. (Id.)

34. Mr. Ball testified concerning the match or mismatch between cost occurrence and cost recovery using a prorated methodology. He testified that under a prorated method, the customer billed at the first of the month would have a one-month lag; a customer billed mid-month would have a one-and-a-half month lag; and a customer billed at the end of the month would have a two-month lag. He clarified that

if a customer is billed mid-month, in this example mid-May, it would mean that half the bill would reflect the May rate/April costs, and half the bill would reflect the April rate/March costs. He testified that by the time you implement the rates, you are already half a month behind; so that the cost of gas in March will not be billed to that customer until May 15th. He testified that MDU runs approximately 20 bill days each month, perhaps with slightly but not significantly larger runs toward the end of the month. He admitted that there is no question that there is some mismatch, but not as much as with a prorated methodology. He testified that the mismatch is not unique to MDU, but the exact nature of the mismatch would depend upon how a company estimates its gas costs and the timing of rate adjustments. He admitted that, to some extent, it would be fair for customers to know that rate they are paying before they consume the gas; but he noted that the PGA method is contained in MDU's filed and approved tariffs. He added that he did not know of an exact way to notify customers of future costs, because MDU does not know the cost until the first of the month. He reiterated that implementing the cost adjustment was governed by the requirement that it be filed 20 days in advance. He testified that, given the fact that MDU operates under a stated adjustment process with stated effective dates, he thought the process is more important than the customer knowing the absolute price that he will be paying. He testified that it was true that the customer in the example would have used gas in April without knowing what the rate would have been for that gas because it would be billed at the May rate; but that the customer can know when the adjustment is filed and, conceivably, know the cost 20 days in advance. He testified that even from a customer's perspective, he favored a match between cost occurrence and cost recovery. He noted that people are very conscious of gas use: Some people turn their thermostats down; they do not leave the windows open and the lights on; they use energy as wisely as they can, because regardless of what the price is, it still costs money. (Tr. pp. 27-37.)

35. Mr. Ball testified that the real focus should be the process. He noted that in some states there are preapproved mechanisms, and in some states the company implements the adjustment on a day's notice. In Wyoming, the customers are notified by the tariff that the rate can change the first of every month. He testified that it is a different view of what notice really is, because MDU files and implements the pass on in a similar manner and the laws are very similar in other states. He testified that the legal publication of notice in Wyoming is confusing to customers because sometimes the legal ads do not hit the papers until after the rate is in effect. (Tr. pp. 37-39.)

36. Mr. Ball testified that he was aware that MDU could go to a customer choice program, and exit the merchant function. He testified that such a program would very likely increase the overall costs to customers; and that MDU is not willing to take that step at this point. (Tr. pp. 39-40.)

37. Mr. Ball next testified that wholesale gas costs are currently in a downward trend. He testified that, historically, gas costs have risen somewhat in the winter and fallen somewhat in the summer; but that MDU could not know whether that trend would continue in the future. He testified that on a ten-year average, gas prices trended down, bottomed out around 1998, and have been trending upwards since, based on annual averages. He testified that, in his opinion, customers are treated the same on a service rendered or on a bills rendered method, depending on the time frame. He testified MDU had not prepared a study of the effects of proration versus bills rendered over time; and that his statements concerning the effect over time on the deferred accounts were a result of his experience. (Tr. pp. 40-43.)

38. Mr. Ball next described the hypothetical bills contained in Exhibit DRB-2 and Exhibit DRB-3. He testified about MDU's concerns surrounding the format of its bills if the Commission were to order proration. He testified that MDU's printer does not have the capability to put detail on a bill about how MDU would calculate the proration. (Tr. pp. 43-45.) He stated:

So I mean, a direct answer to your question, could we ultimately show such detail on our bill? Yes, we probably can, but it is going to cost us some money to do that, and how much, I do not know. Just right out of the gate, I can tell you we probably have to get rid of the line printer and go to a laser printer which is a minimum of several million dollars. We're not talking the laser printer you put on your desk. (Tr. p. 45.)

39. Mr. Ball testified that he did not know how many other Wyoming utilities implemented their bills, specifically Kinder Morgan, Cheyenne Light, Fuel & Power, and Questar Gas Company; but that the Commission's recent orders permitted a bills rendered basis for Energy West Wyoming. He testified that he

would not be at all surprised to learn that Kinder Morgan, Cheyenne Light and Questar actually use a proration method rather than a bills rendered method. (Tr. p. 46.)

40. Upon examination by Deputy Chair Steve Furtney, Mr. Ball testified that the proration billing issue is important to MDU because of its goal to match costs with the time period in which the cost is incurred. He reiterated MDU's position that the bills rendered method provides a better match and is easier for customers to understand. He testified that there would be some additional cost, from an administrative standpoint, to making the change. He testified that MDU switched to a new CIS system not too long ago, and has not yet had the occasion to use the prorated basis billing option that is in that system; but that in tests, there were some bugs in it which were being worked out. He testified that in order to give customers the proper amount of information, MDU would have to beef up its bill stuffers so that the customers will actually be able to calculate their bills. He testified that the consumers would ultimately pay those costs. (Tr. pp. 46-48.)

41. Mr. Ball testified that a customer would be able to contact MDU ahead of time, and MDU could tell them what rates it would be proposing to charge for the upcoming month. He added it would be about the 9th or 10th of each month before MDU would have the information. (Tr. pp. 48-49.)

42. Upon examination by Chairman Ellenbecker, Mr. Ball testified that, concerning how a Wyoming customer would reasonably get information related to changes in gas costs, in a local Wyoming phone call, the Sheridan office is notified of the filing the instant it goes out the door; and as a practical matter, MDU could probably notify its local offices at least half a day before it ships out the filings. He testified that he had not done an estimate of the cost of the billing change that has been directed by the Commission. He reiterated that to show everything on a customer's bill that should be shown, MDU would incur probably a several-million-dollar investment in new printers; but that MDU can produce a bill just like his examples, on a prorated basis, right now, and perhaps supplement that with a bill stuffer that would show the customer what the new rate and the old rate was. (Tr. pp. 49-50.)

43. Mr. Ball testified that he could not present evidence that demonstrates as a matter of fact that bills rendered is more accurate than service rendered or proration over the 12-month period; and that he did not have any evidence to indicate the opposite. He testified that it was based upon the logic he had presented in his testimony. He testified that one of the primary purposes the company is attempting to retain through the bills rendered methodology is simplicity. (Tr. pp. 50-51.)

44. Mr. Andy Hall presented public comment. He testified that he has not in the past and was not now alleging that MDU had committed any wrongdoing in its billing method except for the inequity created by the billing dates. He testified that he did not object to the process by which MDU submits and gets PGA adjustments approved; he has no objection to MDU recovering the costs for its commodity. He testified that his objection is not related to the timeliness or lack of timeliness between billing and MDU's incurred costs for its gas. He testified that his objection was based solely on the difference between the cost of the gas that he used in a particular month, having his meter read at the first of the month and being billed at the first of the month, and another user whose meter was read near the end of the month and whose bill was sent at the end of the month. He testified to specific examples. He testified that MDU's argument relating to the effect of its ability or inability to estimate costs on its gas cost adjustment account simply falls on its face. He noted that Mr. Ball admitted he had no evidence of the effect on the deferral account. He testified that it was clear from Mr. Ball's statement that MDU is more interested in its own procedures than in providing service to its customers.

45. Mr. Hall testified that the Commission's rules require MDU to use a billing format with enough information on it that the customer can recalculate his own bill; and that there is no option to submit a bill such as the example Mr. Ball submitted in his exhibit. He testified that he suspected MDU would incur a cost to change its billing practice; but that he believed it would create an added service for MDU's customers. He noted that the EPA's Energy Star Billing Program proposes even more sweeping changes to billing formats to give customers information not only on their own usage, but other users either in their neighborhood or similar class services. He testified that this is the direction that the utility business is going toward in this country: more information, better information and more timely information, in order to help

customers who are becoming increasingly more knowledgeable about their own usage and about how to minimize it in light of the increases in costs in the past few years. (Tr. pp. 52-57.)

46. Upon examination by Mr. Asay, Mr. Hall testified that under the bills rendered basis, his billing was higher for the usage during the previous month than another user billed during the last days of the month for virtually the same usage. He admitted that the benefit falls to him when prices fall. He reiterated that the Commission rules would not allow a bill format similar to the format example in Mr. Ball's exhibit; but acknowledged that the Commission would be the proper party to determine billing format. He reviewed the language of Commission Rule 410 with Mr. Asay, reiterating that he did not believe that the MDU examples comply with the rule. He acknowledged that he is bound by the law of the land. He testified that he strongly disagreed with Mr. Ball's assertion that there really is no difference between the methodologies when you look at the factors that are identified in W.S. § 37-3-101; that he would not acknowledge there is no difference between the two methods. (Tr. pp. 57-64.)

47. Upon examination by Mr. Mosier, Mr. Hall testified that from his customer perspective it is important to match the retail rate which he pays for consumption in a given time period with that which other users pay for the same consumption in the same time period. He testified that he thought the proration or service rendered method accomplishes that goal. (Tr. p.64.)

48. Upon examination by Deputy Chair Furtney, Mr. Hall gave an example to clarify his assertion of how the bills rendered method creates an inequity. He testified that it was irrelevant to him as a customer what method MDU uses to project the price for a given month; but that it is important that he pays the same price for the usage in that month that every other customer pays. He testified that the gas balancing account will take care of MDU's ability or inability to estimate or to predict prices; that the gas balancing account is a very effective means of handling that overage and underage; and that the size or the inequity in the gas balancing account is not an issue. He testified that the inequity is between the customers who use gas on the same day and pay a different price. He testified that, with regard to the balancing of that inequity when the prices fall, the recent big price increases were when customers had huge usage and the current price decreases are coming during a period of low usage—as little as a third or a quarter of January and February usage; and therefore, he is getting back only a quarter of the beating that he took last January. He testified that it does not balance out for him, because typically, the price increases in the cold weather months and the price decreases in the hot weather months, when he has lower usage; and that the advantage of a smaller rate on a smaller usage does not balance out the disadvantage of the higher usage in the winter months. He testified that, for example, for the gas that is used in the month of May, all users should pay the May rate; and that is the very essence of his complaint. (Tr. pp. 65-69.) He stated:

Under the current method, if I am billed, let's say, on the 2nd of June, I will pay the June rate for the gas I used in May. My neighbor, who I referred to before, who is across the street is billed the 30th of May. He pays the May rate for the gas he used in May and that is not a just and equitable rate, which is what is required of the utility. (Tr. p. 70.)

49. Upon examination by Chairman Ellenbecker, Mr. Hall testified that the primary basis for his complaint is that he should be billed at a rate that was legally in effect in the tariffs of the Commission on the day he used the gas. He reiterated that the essence of his complaint is that all users who use gas on a given day should be billed the same rate for that gas. (Id.)

50. As a statement on redirect, Mr. Hall testified that by the first or second day of the billing period, MDU knows what price it will pay, and has the option to seek out some other means of acquiring gas; but for the customers, for example in his case in particular, when he gets his bill on the 2nd of the month and finds out what the price is now for the gas he used last month, he does not have the same option. He drew an analogy to the gas station attendant changing the price on the pump after the customer has already filled the car. He concurred with Mr. Ball that the Commission's legal notice is a pitifully inadequate way of advising customers what their price will be, because only a very small fraction of the people who read a legal notice in the paper can comprehend what the meaning is for them. (Tr. pp. 71-72.) He testified:

And that again goes back to my statement about customer service. It is now the 21st century. It is time to do something different. It's time to give people more information and let them make better decisions and get away from the past billing practices we've had. That's all I have to say. (Tr. pp. 72-73.)

51. Upon additional examination by Mr. Asay, Mr. Hall testified that it would be easy to shoot holes in his analogy to a gas station; but that the issue was not whether he has timely notification of price changes. (Tr. p. 74.)

52. Upon additional examination by Chairman Ellenbecker, Mr. Ball testified that MDU could physically accomplish the change in methodology. (Tr. p. 76.)

Legal Standards Applicable in this Case

53. Pursuant to the provisions of W.S. § 37-2-112, the Commission shall have general and exclusive power to regulate and supervise every public utility within the state of Wyoming, in accordance with state law.

54. W.S. § 37-2-214 governs rehearing before the Commission:

At any time after an order has been made by the commission any person interested therein may apply for a rehearing in respect to any matter determined therein and the commission shall grant and hold such rehearing if in its judgment sufficient reason therefor be made to appear, which rehearing shall be subject to such rules as the commission may prescribe. Applications for rehearing shall, as to the matter specified therein, stay the effect of any order or decision of the commission for thirty (30) days thereafter, or until the commission grants or denies said application. An order or decision made after such rehearing vacating, amending or modifying the original order or decision shall not, as to the matter considered on rehearing, be open to a further application for rehearing, and shall have the same force and effect as the original order or decision.

55. W.S. § 37-3-101 provides:

All rates shall be just and reasonable, and all unjust and unreasonable rates are prohibited. A rate shall not be considered unjust or unreasonable on the basis that it is innovative in form or in substance, that it takes into consideration competitive marketplace elements or that it provides for incentives to a public utility. Except as otherwise provided in W.S. 15-7-407, no public utility shall in any manner charge, demand, collect or receive from any person greater or less or different compensation for any service rendered or to be rendered by the public utility than is charged, demanded, collected or received by the public utility from any other person for a like and contemporaneous service under similar circumstances and conditions. The commission may determine that rates for the same service may vary depending on cost, the competitive marketplace, the need for universally available and affordable service, the need for contribution to the joint and common costs of the public utility, volume and other discounts, and other reasonable business practices. Nothing in this title shall prohibit any public utility from furnishing free or reduced rate service to its current or pensioned employees and dependent family members under rates approved by the commission.

Additional Findings of Fact

65. The Commission finds that the contested issue concerning this rehearing is:

Is MDU in violation of W.S. § 37-3-101, by making gas cost adjustments to rates effective on the basis of the date of bills rendered, rather than on the basis of prorated usage for the adjustment period?

66. The Commission finds that MDU's method of implementing changes to the gas cost portion of its rates on the basis of the date of bills rendered produces an inequity in rates between customers, as a result of the necessity to bill customers at different time intervals during the month. The Commission further finds that the inequity has increased as a result of the drastic increases in wholesale natural gas costs since

the Fall of 2000.

67. The Commission finds that the use of a prorated, "service rendered" method of implementing gas cost rate adjustments would minimize the inequity created by the current method of implementing such adjustments. While there are a number of methods by which MDU might prorate, the Commission finds that a method of prorating on average daily usage for the adjustment period balances the requirement that rates be uniform with the technical and financial feasibility of compliance. The Commission finds that MDU is capable of calculating and billing on a prorated basis. The Commission finds that MDU has presented no evidence, either in the original hearing or in this rehearing, that would support a determination that the "bills rendered" method of implementation is a better business practice than the "service rendered" method, under the circumstances presented in this case.

Conclusions of Law

68. MDU is a public utility as defined by W.S. § 37-1-101(a)(vi), and as such, subject to the Commission's jurisdiction pursuant to the provisions of W.S. § 37-2-112.

69. The Commission concludes that the inequity in rates for the same service which is created by the method of implementing gas cost adjustments on the basis of the date of bills rendered is not justified on cost, the competitive marketplace, the need for universally available and affordable service, the need for contribution to the joint and common costs of the public utility, volume and other discounts, or other reasonable business practices. Therefore, having found that it is technically and financially feasible for MDU to implement a change in methodology, the Commission further concludes that MDU should be required to implement such rate changes on a prorated basis.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. Pursuant to open meeting deliberations conducted July 30, 2001, the Commission's Memorandum Opinion, Findings of Fact, Conclusions of Law and Order, dated May 18, 2001, and the decision therein, should be, and the same is, hereby, upheld.

2. MDU is directed to begin prorating the implementation of rate changes arising from Commission-approved gas cost adjustments, on the basis of each customer's average daily usage for the adjustment period, for applications approved on and after the date of issuance of this Order.

3. This Order is effective immediately.

MADE and ENTERED at Cheyenne, Wyoming, this 23rd day of August, 2001.

PUBLIC SERVICE COMMISSION OF WYOMING

STEVE ELLENBECKER, Chairman

STEVE FURTNEY, Deputy Chair

KRISTIN H. LEE, Commissioner

(SEAL)

Attest:

EDNA YOUNG, Assistant Secretary