

Minnesota Attorney General: Administrative Rules Proceedings

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September 22, 1977

RULES GOVERNING NATURAL GAS UTILITIES AND INTERSTATE NATURAL GAS PIPELINE COMPANIES INFORMATION REPORTING

EA 301 to EA 315

EA 301 PURPOSE

A. The purpose of these rules is to implement the forecasting, statistical and informational reporting requirements of Minn. Stat. §§ 116H.10 and .11. These rules are adopted pursuant to the powers of the director conferred by Minn. Stat. §§ 116H.08(a), and are designed to identify emerging energy trends based on supply and demand, conservation and public health and safety factors and to determine the level of state-wide and service area energy needs.

B. Each gas utility serving ultimate consumers in the State of Minnesota and each interstate gas pipeline company serving any gas utility located in the State of Minnesota or ultimate consumers in the State shall submit the information required by these rules to the director in the form specified by him.

Any entity which is both a gas utility company and an interstate gas pipeline company shall file one report on its pipeline operations and one report on its utility operations.

EA 302 DEFINITIONS

For purposes of these rules, the following definitions shall apply:

A. "Agency" means the Minnesota Energy Agency;

B. "Annual gas consumption" means the total amount of gas used or disposed of in Minnesota for all purposes by

either a gas utility or interstate pipeline company. This definition shall not include natural gas in storage at the end of the reporting year;

C. "Annual sales to ultimate consumers" means gas sales to end-use customers in a utility's or pipeline company's Minnesota service area;

D. "Basic forecast" refers to that more elementary, less documented forecast required of all Minnesota gas utilities. While all utilities must file a basic forecast, only specifically designated utilities must, in addition, file an extended forecast which requires additional data and greater documentation;

E. "Construction" means any significant physical alteration of a site to install or enlarge a large energy facility but shall not include activities incident to preliminary engineering or environmental studies;

F. "Curtailment" means a reduction or cutoff of supply to firm or interruptible customers which is related directly to deficiencies in gas supply;

G. "Design day" means the 24-hour period of the greatest theoretical gas demand at a given 24-hour average temperature;

H. "Design day availability" means the volume of each type of gas available on the design day and the maximum total volume of such supplies;

I. "Director" means the director of the Minnesota Energy Agency;

J. "Firm contract customers" means customers served under schedules or contracts which neither anticipate nor permit interruption;

K. "Gas" means any form of gaseous fuel distributed as a vapor through distribution systems to ultimate consumers including natural gas and all gaseous fuels equivalent in performance to natural gas;

L. "Gas volume" means the volume of gas as measured at 14.73 psia at 60° Fahrenheit. All volumes shall be in thousands of cubic feet (MCF) unless otherwise stated;

M. "Interruptible contract customers" means customers served under schedules or contracts which anticipate or permit interruption of service during the term of the contract;

N. "Large energy facility" means any pipeline for transporting natural or synthetic gas at pressure in excess of 200 pounds per square inch with more than 50 miles of its length in Minnesota, any facility designed for or capable of storing on a single site more than 100,000 gallons of liquefied natural gas or synthetic gas, or any underground gas storage facility requiring a permit pursuant to Minn. Stat. §§ 84.57;

O. "Last calendar year" means the calendar year immediately preceding the year in which reports are required to be filed;

P. "Liquefied natural gas" means natural gas stored as a liquid at or near atmospheric pressure at a temperature of approximately -260° Fahrenheit;

Q. "Minnesota service area" means the geographical area within the State of Minnesota where a gas utility or interstate pipeline company serves ultimate consumers. The Minnesota service area for an interstate pipeline company shall also include all Minnesota utilities which it services;

R. "Natural gas" means a naturally occurring mixture of hydrocarbons and nonhydrocarbon gases found in porous geologic formations beneath the earth's surface, the principal constituent of which is methane;

S. "Peak day" means the 24-hour period of greatest gas send-out;

T. "Interstate gas pipeline company" means an entity which operates an interstate gas pipeline which provides gas to any utility located in Minnesota (also referred to in these rules as "pipeline company" or "interstate pipeline company");

U. "Substitute natural gas" means any gaseous fuel equivalent in performance to natural gas which is

created from other gases, liquids, or solid hydrocarbons. Substitute natural gas shall include manufactured gas, gas produced from liquid petroleum gases, such as propane, butane, and gas produced from naphtha. Whenever the term synthetic gas is used within these rules it shall be construed to mean the same as substitute natural gas.

V. "Ultimate consumer" means end-use customers who do not sell gas for resale;

W. "Utility" means any entity in Minnesota whose primary business is the distribution of gas to ultimate consumers including, but not limited to, a private investor-owned utility or a public or municipally owned utility.

EA 303 REGISTRATION

Each gas utility serving ultimate consumers and each interstate gas pipeline company serving any utility in Minnesota must file a registration statement with the director. Any utility or interstate pipeline company which commences operation in the state after June 1, 1975, shall file a registration statement with the director within 30 days after commencing operation. Each registration statement shall be on forms issued by the director and available from the Agency and shall contain the name and headquarters address of the utility or interstate pipeline company, the names and addresses of all officers of the utility or interstate pipeline company, and the name, address and telephone number of a person who may be contacted for information about the utility or interstate pipeline company.

EA 304 REPORTING DATES

A. Gas Utilities.

1. Except as provided by the director or in these rules, each utility shall file with the director the information required by EA 303, 305, 306, 307, 309, and 313 by November 1, 1977, and by July 1 of each year thereafter.

2. Except as provided by the director, each utility shall file with the director the information required by EA 311 on a quarterly basis as follows:

a. the information for the period of January 1 to March 31 shall be filed by April 30;

b. the information for the period of April 1 to June 30 shall be filed by July 31;

c. the information for the period of July 1 to September 30 shall be filed by October 31;

d. the information for the period of October 1 to December 31 shall be filed by January 31 of the following year.

B. Interstate Gas Pipeline Companies. Except as provided by the director, each interstate pipeline company shall file with the director the information required by EA 305, 308, 310, and 312 by July 1 of each year.

EA 305 FEDERAL REPORTS FILED BY GAS UTILITIES AND INTERSTATE GAS PIPELINE COMPANIES

Each utility and interstate pipeline company shall identify to the director all forms and reports pertaining to gas supply and demand which it regularly filed with the Federal Power Commission, Bureau of Mines and other federal agencies. Upon request of the director, any utility or pipeline company shall make copies of any forms or reports available to the director.

EA 306 BASIC FORECASTS AND CURRENT STATISTICS FOR GAS UTILITIES

A. Each gas utility shall submit annually to the director for the last calendar year, the present calendar year, the subsequent first five, tenth and fifteenth years, actual data and forecasts of anticipated annual gas consumption and supply.

B. The basic forecast and current data shall contain the following data for each year cited in rule EA 306 A:

1. Annual sales to ultimate consumers within the utility's Minnesota service area;

2. The annual volume of gas delivered or expected to be delivered to other utilities for resale;

3. The annual volume of gas used in the operation of the utility within its Minnesota service area;

4. The annual volume of gas used in the utility's Minnesota service area but unaccounted for in EA 306 B 1 through 3;

5. The total annual gas consumption, for all purposes, in the utility's Minnesota service area. (total consumption equals items 1 + 2 + 3 + 4 = 5). Exclude gas held in storage at year's end;

6. The total annual volume of substitute natural gas provided by the utility to supplement the utility's supply of natural gas for use in its Minnesota service area;

7. The total annual volume of liquefied natural gas supply withdrawn from storage by the utility for use in its Minnesota service area;

8. The total volume of natural gas withdrawn from underground storage by the utility for use in its Minnesota service area;

9. The total annual volume of gas received or estimated to be received from the interstate pipeline company for use in its Minnesota service area;

10. The design day maximum gas demand volume for the utility's Minnesota service area firm customers;

11. The maximum winter peak day volume of gas sent out or expected to be sent out in the utility's Minnesota service area;

12. The design day availability of each type of gas and the maximum one-day volume of gas such supplies will provide;

13. The amount of substitute natural gas the utility can produce from the feedstock it will have in storage at the beginning of the winter heating season for

use in its Minnesota service area;

14. The amount of liquid natural gas the utility will have for use in storage at the beginning of the winter heating season for use in its Minnesota service area;

15. The amount of natural gas the utility will have in underground storage for use at the beginning of the winter heating season;

16. The type and amount of fuel used or to be used in Minnesota to produce substitute natural gas; and

17. The actual historic data and a forecast of direct sales to ultimate customers and the number of such customers in each of the following categories:

a. residential firm;

b. commercial firm customers who use less than 200 MCF on peak day;

c. commercial firm customers who use 200 MCF or greater on peak day;

d. commercial interruptible;

e. industrial firm customers who use less than 200 MCF on peak day;

f. industrial firm customers who use 200 MCF or greater on peak day;

g. industrial interruptible;

h. other consumers firm;

i. other consumers interruptible;

j. own company use;

k. unaccounted for gas;

l. gas delivered to other utilities for sale, and

m. total annual gas consumed in Minnesota (total a-l should equal EA 306 B 5).

C. For the last calendar year historical data shall be supplied. For each other reporting year, the forecasts shall be made using the utility's or pipeline company's best estimate for each of the items requested. The Agency recognizes 5 to 15 year forecasts can be difficult to calculate and subject to considerable error but utilities

shall prepare these forecasts to the best of their ability and knowledge. The forecasts shall be based on those assumptions and factors which the reporting utility deems most likely to occur. The assumptions and factors used in deriving the forecasts shall be stated in writing. Each utility shall evaluate the size of the estimating error, given the conditions and factors used in the estimate. Each utility shall comment on possible deviations from the forecast and what factors might create such changes. Any utility required to file an extended forecast pursuant to rule EA 307 need not file forecast documentation required in rule EA 306 C.

EA 307 EXTENDED FORECAST AND DOCUMENTATION

A. The following utilities must file an extended forecast with documentation: Minnesota Gas Company, North Central Public Service Company, Northern States Power Company, and Peoples Natural Gas Company. Each utility required to file its extended forecast pursuant to rule EA 307 shall identify or estimate the demand for gas by ultimate consumer categories listed in rule EA 306 B 17 on the peak send-out day for each of the reporting years cited in rule EA 306 A.

B. Forecast Documentation for rule EA 306 and 307 A.

1. Forecast methodology. Each utility may use whatever forecast methodology it believes is most appropriate for its Minnesota service area. However, those utilities required under rules EA 306 and 307 A to file forecasts shall describe the forecast methodology employed by providing the following documentation:

a. the overall methodological framework used;

b. the specific analytical techniques used, their purpose, and the component(s) of the forecast to which they have been applied;

c. the manner in which these specific techniques are related in producing the forecast;

d. where statistical techniques have been used, the purpose of the techniques, typical computations (e.g., computer printouts, formulas used), specifying variables and data and the results of appropriate statistical tests;

e. forecast confidence levels or ranges of accuracy for annual peak demand and annual gas consumption;

f. a brief analysis of the methodology used, including its strengths and weaknesses, its suitability to the utility's service area, cost considerations, data requirements, past accuracy and any other factors considered significant by the utility, and

g. an explanation of any discrepancies between the forecasts presented by the utility and forecasts submitted in past years.

2. Data base for forecasts. The utility shall provide a written discussion of the data base used in arriving at the forecast presented in rules EA 306 and 307 A including:

a. a complete list of all data sets used in making the forecast, including a brief description of each data set and an explanation of how it was obtained, (e.g., monthly observations, billing data, consumer survey, etc.) or a citation to the source (e.g., population projection from the state demographer); and

b. a clear explanation of any adjustments made to raw data to adapt them for use in forecasts, including the nature of the adjustments, the reasons for the adjustments and the magnitude of the adjustments.

3. Assumptions and special information

a. Discussion. The utility shall discuss in writing each essential assumption made in preparing the forecasts, including the need for the assumption,

the nature of the assumption, and the sensitivity of forecast results to variations in the essential assumption.

b. Subject of assumption. The utility shall discuss the assumptions made regarding the availability of alternative sources of energy, any expected conversion from other fuels to gas or vice versa, future prices of gas for customers in the utility's Minnesota service area and the effect that such price changes will likely have on demand, the assumptions made in arriving at any data requested in EA 306 or 307 A which are not available historically or not generated by the utility in preparing its own internal forecast, the effect of existing energy conservation programs under federal or state legislation or long-term gas demand, the projected effect of new conservation programs which the utility deems likely to occur through future state and federal legislation on long-term gas demand, and any other factor considered by the utility in preparing the forecast.

EA 308 BASIC FORECAST AND CURRENT STATISTICS FOR INTERSTATE GAS PIPELINE COMPANIES

A. Each interstate pipeline company shall annually submit to the director for the last calendar year, the present calendar year and the subsequent first five, tenth and fifteenth years, actual data and forecasts of anticipated annual Minnesota service area consumption and supply of natural gas.

B. The basic forecast and current data report shall contain the following data for each year cited in rule EA 308 A:

1. The annual sales to Minnesota gas utility distribution companies for resale;

2. The maximum one-day amount of gas that must be provided to the Minnesota service area to meet contractual obligations to the gas utilities served.

C. In meeting the requirements of EA 308 A, historical data for the last calendar year shall be supplied. For each other reporting year the forecasts shall be made using the interstate pipeline company's best estimate for each of the items. The Agency recognizes 5 to 15 year forecasts can be difficult to calculate and subject to considerable error, but interstate pipeline companies should prepare these forecasts to the best of their ability and knowledge. The forecasts shall be based on those assumptions and factors which the reporting utility deems most likely to occur. The assumptions and factors used in deriving the forecasts shall be stated in writing. Each interstate pipeline company shall evaluate the size of estimating error possible given the conditions and factors used in the estimate. Each utility company shall comment on possible deviation from the forecast and what factors might create such changes.

EA 309 FACILITY REQUIREMENTS FOR GAS UTILITY COMPANIES

A. Present facilities. Each gas utility shall provide the following information with regard to existing facilities serving its Minnesota service area as of January 1 of the current year:

1. The name and geographic location of all underground storage facilities for natural gas. For each facility include:

a. the total storage capacity of the facility in MCF minus the required reserves of gas;

b. the actual volume of gas in storage in MCF at the beginning of the winter heating season not including required reserves of gas;

c. the maximum single-day withdrawal capacity of the facility in MCF; and

d. the anticipated facility retirement date.

2. The name and geographic location of all liquefied natural gas facilities. For each facility include:

a. the total storage capacity of the facility in MCF of natural gas minus the required reserves;

b. the actual equivalent volume in MCF of natural gas in storage in the facility at the beginning of the winter heating season minus the required reserves;

c. the maximum single-day withdrawal capacity of natural gas in MCF; and

d. the anticipated facility retirement date.

3. The name and geographic location of all substitute natural gas facilities. For each facility include:

a. the maximum storage capacity of the substitute natural gas facility in converted MCF of substitute natural gas;

b. the volume in storage at the beginning of the winter heating season in MCF;

c. the maximum single-day production capacity in MCF that can be injected into the utility's pipeline;

d. the anticipated facility retirement year; and

e. the type of fuel to be converted to substitute natural gas.

4. A map, on which the general scale is indicated, of the utility's Minnesota service area, identifying municipalities served, substitute natural gas facilities, underground natural gas storage facilities, liquefied natural gas facilities, major distribution lines, interconnections with other utilities and delivery points with interstate pipeline companies.

B. Future facility requirements. Each utility shall estimate the additional facilities or additions to existing facilities necessary to meet the level of gas consumption predicted in its forecast in EA 306. Each utility shall supply the following information:

1. The name and geographic location of all new underground natural gas storage facilities or additions to existing facilities. For each facility include:

   a. the anticipated year and month the facility will be ready for operation;

   b. the estimated storage capacity of the new facility in MCF minus necessary reserves that must be kept in storage;

   c. the estimated actual storage in MCF of the volume that will be available for usage at the beginning of each heating season. This figure should not include necessary reserves of gas; and

   d. the maximum single-day withdrawal capacity of the proposed facility.

2. The name and geographic location of all new liquefied natural gas storage facilities or additions to existing facilities. For each facility include:

   a. the anticipated year and month the facility will be ready for operation;

   b. the estimated storage capacity in equivalent MCF of natural gas of the new facility minus reserves that must be kept in storage;

   c. the estimated actual storage in equivalent MCF of natural gas that will be available at the beginning of each heating season when the facility is in operation; and

   d. the maximum single-day withdrawal capacity of the proposed facility.

3. The name and geographic location of all new substitute natural gas facilities or additions to existing facilities. For each facility include:

   a. the type of fuel which will be converted to substitute natural gas;

   b. the month and year in which the plant is predicted to begin operation;

c. the storage capability of the facility in equivalent MCF of substitute natural gas;

d. the estimated actual storage in equivalent MCF of substitute natural gas that will be available for use at the beginning of each heating season when plant begins operation; and

e. the maximum daily volume of substitute natural gas that can be produced by the facility and injected into the utility's system.

EA 310 FACILITY REQUIREMENTS FOR INTERSTATE PIPELINE COMPANIES

A. Present facilities. Each interstate pipeline company shall provide the following information with regard to existing facilities serving its Minnesota service area as of January 1 of the current year:

1. The name and geographic location of all underground storage facilities owned, operated or leased by the interstate pipeline company in Minnesota. For each facility include:

a. the total storage capacity in MCF of the facility minus the required reserves of gas;

b. the actual volume of gas in storage in MCF at the beginning of the winter heating season, not including required reserves of gas;

c. the maximum single day withdrawal capacity of the facility in MCF; and

d. the anticipated facility retirement date.

2. The name and geographic location of all liquefied natural gas facilities owned, operated or leased by the interstate pipeline company in Minnesota. For each facility include:

a. the total storage capacity of the facility in MCF of natural gas minus required reserves;

b. the actual volume of natural gas in MCF in storage at the beginning of the winter heating season minus the required reserves;

c. the maximum single day withdrawal capacity in MCF of natural gas; and

d. the anticipated facility retirement date.

3. The name and geographic location of all substitute natural gas facilities owned, operated or leased by the interstate pipeline company in Minnesota. For each facility include:

a. the maximum storage capacity of the facility in MCF of converted substitute natural gas;

b. the maximum volume in storage in converted MCF of substitute natural gas at the beginning of the winter heating season;

c. the maximum single day withdrawal capacity of the facility in MCF that can be injected into the pipeline;

d. the anticipated date of facility retirement; and

e. the type of fuel to be converted to substitute natural gas.

4. A map, on which the general scale is indicated, of the utility's Minnesota service area identifying distribution utility companies served, underground natural gas storage facilities, underground liquid natural gas facilities, substitute natural gas facilities, major transmission lines, and interconnection with other interstate pipeline companies.

B. Future facility requirements. Each interstate pipeline company shall estimate the additional facilities or additions to existing facilities necessary to meet the level of gas consumption predicted in its forecast in EA 308. Each interstate pipeline company shall supply the following information regarding its own planned or projected operations or facilities:

1. The name and geographic location of all new underground natural gas storage facilities or additions to existing facilities. For each facility include:

a. the anticipated year and month the facility will be in operation;

b. the estimated storage capacity in MCF of the new facility minus necessary reserves of gas;

c. the estimated actual storage in MCF that will be available for usage at the beginning of each heating season, not including necessary reserves of gas; and

d. the maximum single-day withdrawal capacity of the proposed facility.

2. The name and geographic location of all new underground liquefied natural gas storage facilities or additions to existing facilities. For each facility include:

a. the anticipated year and month the facility will be ready for operation;

b. the estimated storage capacity in converted MCF of natural gas of the new facility minus any necessary reserves that must be kept in storage;

c. the estimated actual storage in converted MCF of natural gas that will be available at the beginning of each heating season when the facility is in operation, not including necessary reserves that must be kept in storage; and

d. the maximum single-day withdrawal capacity of the proposed facility in converted MCF of natural gas.

3. The name and geographic location of all new substitute natural gas facilities or additions to existing facilities. For each facility include:

a. the type of fuel which is to be converted into substitute natural gas;

b. the month and year in which the plant is predicted to begin operation;

c. the theoretical storage capability of the facility in MCF of converted substitute natural gas;

d. the estimated actual storage in converted MCF of substitute natural gas that will be available

at the beginning of each heating season not including required reserves; and

e. the maximum daily volume of substitute natural gas in MCF that will be available to be withdrawn from the facility and injected into the pipeline.

4. Based on your 15-year forecast, provide a Minnesota service area map identifying future transmission lines, natural gas storage facilities, liquefied natural gas storage facilities, substitute natural gas storage facilities, any additional distribution utility companies to be served and any additional interconnections with other interstate natural gas pipeline companies.

EA 311 QUARTERLY DISPOSITION OF GAS BY UTILITIES

Beginning in the year 1976, all utilities shall report quarterly the monthly volume of gas delivered to ultimate consumers, broken down by customer class and geographic area.

A. Geographic areas shall be defined by county;

B. Customer class shall be defined by standard industrial classification (SIC) codes;

C. In each customer class and geographic area combination, the utility shall report the number of customers and the total gas volume consumed;

D. Said information shall be in the form determined by the director. Upon written application, the director may allow a utility to report said information in a different form.

EA 312 DISPOSTIION OF GAS BY INTERSTATE PIPELINE COMPANIES

Each interstate pipeline company shall file a copy of its annual FPC forms 2 and 16 with the Agency.

EA 313 OTHER INFORMATION TO BE REPORTED BY GAS UTILITIES

A. An annual load curve for the last calendar year consisting of a single graph and accompanying data table indicating the total monthly consumption of gas in the following classifications:

1. residential firm;
2. commercial industrial firm;
3. small volume interruptible;
4. large volume interruptible;
5. electric generation;
6. gas to storage;
7. other dispositions and losses; and
8. level of contract demand;

B. Any additional municipalities or geographic areas outside the utility's current service area which it expects to serve and the year when service will begin.

C. A list of customers who will be curtailed or completely phased out in the five years following the year of filing;

D. The criteria used to determine the classification of a customer as a firm or interruptible customer;

E. Its total sales in MCF to ultimate customers by county for the last calendar year;

F. For the last calendar year provide a list of customers and their addresses:

1. Who have gas requirements in excess of 200 MCF on their peak day each year. For each customer so identified list:
    a. annual actual sales;
    b. annual estimated curtailment;
    c. annual estimated requirements (sum of a and b should equal c);
    d. alternative fuel used; and
    e. curtailment priority rank.
2. Who are small volume interruptible users. For each small volume interruptible user identify the volume of gas consumed during the last calendar year and the curtailment priority rank.
3. Who are firm customers and consume 6,000 MCF or greater annually. For each customer so identified list the volume of gas consumed during the last calendar year and the curtailment priority rank.

EA 314 CORRECTIONS

Corrections of a substantial nature to any report or statement which pertain to historical data and not forecasts shall be filed with the Agency within 10 days following the date of the event prompting the change in reported information or the date upon which the person filing became aware of the inaccuracy. The change or correction shall identify the form and the paragraph of the information to be changed or corrected.

EA 315 FEDERAL OR STATE DATA SUBSTITUTION FOR ENERGY AGENCY DATA REQUIREMENTS

Upon written request by any utility, the director may allow it to substitute data provided to the federal government or another state agency in lieu of data required by these regulations if the data required by both agencies is substantially the same.

APPROVED AS TO FORM AND LEGALITY
NOV 0 4 1977 19
WARREN SPANNAUS, ATTORNEY GENERAL
BY /s/ Michael B. Miller
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
NOV 4 1977
Joan Anderson Growe
Secretary of State

12:30 P.M.

STATE OF MINNESOTA
OFFICE OF THE ATTORNEY GENERAL
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WARREN SPANNAUS
ATTORNEY GENERAL

TELEPHONE
(612) 296-6196

September 23, 1977

Michael B. Miller
Special Assistant Attorney General
Department of Administration
G-19-K Administration Building
50 Sherburne Avenue
Saint Paul, Minnesota 55155

Re: In the Matter of the Proposed Adoption of Amended Rules of the Minnesota Energy Agency Governing Natural Gas Utilities and Interstate Natural Gas Pipeline Companies Information Reporting - Minn. Regs. EA 301-315, Docket No. EA-77-007-WS.

Dear Mr. Miller:

Enclosed for your review pursuant to Minn. Stat. § 15.0412 subd. 4 (1976) and Minn. Regs. Atty. Gen. 301 et seq. is the entire record of the subject proceeding.

Because the reports required by the amended rules are being delayed pending effectiveness of the amended rules and because the contents of these reports are needed to prepare the biennial report required of the Agency by Minn. Stat. § 116H.11 (1976), we urge your expeditious review and approval. Thank you.

Very truly yours,

Dwight S. Wagenius

DWIGHT S. WAGENIUS
Special Assistant
Attorney General

DSW/bw
Encl.

STATE OF MINNESOTA

MINNESOTA ENERGY AGENCY

In the Matter of the Proposed Adoption of Amended Rules of the Minnesota Energy Agency Governing Natural Gas Utilities and Interstate Natural Gas Pipeline Companies Information Reporting - Minn. Regs. EA 301-315,	Docket No. EA-77-007-WS STATEMENT OF COMPLIANCE WITH MANUAL OF RULEMAKING PROCEDURES

I, Special Assistant Attorney General Dwight S. Wagenius, do hereby declare that I have examined the proposed rules and all related documents and that, based on them and my personal familiarity with the applicable procedures, the Manual of Rulemaking Procedures has been followed.

Dated: September 23, 1977.

Dwight S. Wagenius

Special Assistant
Attorney General

ATTACHMENT A.

RECEIVED
JUL 13 1977
OFFICE OF HEARING EXAMINERS

STATE OF MINNESOTA

MINNESOTA ENERGY AGENCY

In the Matter of the Proposed Adoption of Amended Rules of the Minnesota Energy Agency Governing Natural Gas Utilities and Interstate Natural Gas Pipeline Companies Information Reporting - Minn. Regs. EA 301-316.	Docket No. EA-77-007-WS MEMORANDUM OF LAW

INTRODUCTION

At the public rulemaking hearing held in the above-entitled matter on June 23, 1977, objections to the imposition of information reporting requirements on interstate pipeline companies were raised by two of those companies. Counsel for the Agency responded orally. The Hearing Examiner suggested that briefs on the matter by those objecting and by the Minnesota Energy Agency ("Agency") be submitted to him. This memorandum of law is hereby submitted in response to that suggestion.

STATEMENT OF FACTS

The Minnesota Energy Agency was created by the Legislature in the executive branch of the state's government in April of 1974, Minn. Stat. § 116H.03 (1976). The Director of the Agency was given duties of, inter alia, managing the Agency as the central repository within the state government for the collection of data on energy, undertaking a continuing assessment of trends in the consumption of all forms of energy and analyzing the social, economic, and environmental consequences of those trends, collecting and analyzing data relating to present and future demands and resources for all sources of energy, and specifying energy needs for the state and various service areas. Minn. Stat. § 116H.07 subd. 1(a), (c), and (e) (1976). Rules Minn. Regs. EA 300-311 were promulgated in 1975 to satisfy the above listed duties and to implement Minn. Stat. §§ 116H.10-.11.

The Agency, in the spring of 1977, published its proposed amended rules on information reporting by natural gas utilities and interstate natural gas pipeline companies, Minn. Regs. EA 301-316. The proposed amendments were drafted for the purpose of refining the implementation of Minn. Stat. §§ 116H.10-.11 (1976) and are designed to identify emerging energy trends based on supply and demand, conservation and public health and safety factors to determine the level of state-wide and service area energy needs.

A rulemaking hearing was ordered by the Director and held before a State Hearing Examiner on June 23, 1977. At that time, Northern Natural Gas Company and Great Lakes Gas Transmission Company stated their opinion that the regulations are outside the scope of state authority and unenforceable in light of federal jurisdiction conferred by the Natural Gas Act, 15 U.S.C. §§ 717-717w (1970). They argue that the states are precluded from regulating interstate pipelines at all because the authority granted to the Federal Power Commission ("FPC") has preempted the field. Moreover, to the extent that the state's reporting requirements go beyond those imposed by federal authorities, the companies contend that the proposed regulations are unduly burdensome and would constitute an impermissible restriction on interstate commerce. This Memorandum is the Agency's response to the companies' arguments.

STATEMENT OF THE ISSUE

The issue is whether the Energy Agency has the authority to compel interstate pipeline companies to report under the proposed regulations. For purposes of analysis, the issue may be articulated as follows:

A. Does the Natural Gas Act totally preempt state regulation of interstate pipeline companies?[1]

B. Can the State of Minnesota impose reporting requirements, such as those contained in the proposed Energy Agency rule amendments, upon interstate pipeline companies?

State authority over interstate pipeline companies has not been totally preempted by the Natural Gas Act. This conclusion is supported by the traditional court tests for preemption. Case law interpreting the Natural Gas Act expressly holds that Congress intended a dual state-federal regulatory scheme for natural gas companies. In addition, the Natural Gas Act specifically delineates the areas of federal jurisdiction and, by logical inference, the areas of state authority. Although more recent cases tend to recognize broader FPC jurisdiction and to jealously guard existing federal rate-setting authority, there is little support for a contention that state authority has been totally preempted.

Language in both the Natural Gas Act and the Emergency Natural Gas Act of 1977 supports the state's authority to impose reporting requirements on interstate pipeline companies. Case law on state reporting requirements either precedes enactment of the Natural Gas Act or is not precisely on point; yet such authority as exists in the case law also supports state authority, suggesting that a state may require information from interstate pipeline companies even when its jurisdiction is otherwise lacking. As regards the argument that the state's proposed regulations are unduly burdensome, an argument outside

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[1] It is possible that the reader may be confused by references to "interstate pipeline company" and "natural gas company" throughout this memorandum. "Interstate pipeline company" under the proposed rules means "an entity which operates an interstate gas pipeline which provides gas to any utility located in Minnesota." Proposed Energy Agency Rule EA 302 S. Synonyms for this term under the rules are "interstate gas pipeline company" and "pipeline company." Under the Natural Gas Act, a "natural gas company" means "a person engaged in the transportation of natural gas in interstate commerce, or the sale in interstate commerce of such gas for resale." 15 U.S.C. § 717a(6), and "person" includes an individual or a corporation. Id., (1). Linguistic rigor notwithstanding, "interstate pipeline company" and "natural gas company" are virtually synonymous terms in the context of the present discussion.

the context of the Natural Gas Act, far more evidence should be required of the pipeline companies to support such a finding. This is particularly true given the logical implications of federal statutory language, the importance to the public welfare of the information being sought, and the Supreme Court's holding that comprehensive reports required of an interstate pipeline company do not "materially burden or unduly interfere with the free flow of commerce between the States." Arkansas Louisiana Gas Co. v. Department of Public Utilities, 304 U.S. 61, 63 (1938).

ARGUMENT

A. Does the Natural Gas Act, 15 U.S.C. §§ 717-717w (1970), totally preempt state regulation of natural gas companies?

1. The Preemption Test

The Supreme Court's articulation of the preemption test is set forth most succinctly in Florida Lime & Avocado Growers, Inc. v. Paul, 373 U.S. 132 (1963).

> [F]ederal regulation of a field of commerce should not be deemed preemptive of state regulatory power in the absence of persuasive reasons - either [1] that the nature of the subject matter permits no other conclusion, or [2] that the Congress has unmistakably so ordained.

373 U.S. at 142 (emphasis and numbers added). This approach was reaffirmed as recently as March of this year in Jones v. Rath Packing Co., 97 S.Ct. 1305 (1977), a case involving labeling of packaged foods. The Court first addressed the second question of the Florida Lime test - whether Congress "has prohibited state regulation of the particular aspects of commerce involved in this case," noting that the congressional command can be either "explicitly stated in the statute's language or implicitly contained in its structure and purpose." 97 S.Ct. at 1309. Having answered this inquiry with regard to the relevant federal statutes, the Court then sought to determine "whether under the circumstances of this particular case, [the state's] law stands as an obstacle to the accomplishment and

execution of the full purposes and objectives of Congress." 97 S.Ct. at 1309 [quoting Hines v. Davidowitz, 312 U.S. 52, 67 (1940)].

In a case interpreting the Natural Gas Pipeline Safety Act of 1968, 49 U.S.C. §§ 1671-1684 (1970) (to be distinguished from the 1938 Natural Gas Act under consideration here), the Fourth Circuit set forth its preemption standards in a two-part test virtually identical to that of the Florida Lime case. In Tenneco, Inc. v. Public Service Commission of West Virginia, 489 F.2d 334 (4th Cir. 1973), cert. denied, 417 U.S. 946 (1974), the court said that the first test of preemption was whether the "nature of the regulated subject matter permits no other conclusion but preemption." 489 F.2d at 337. It indicated that a relevant factor was whether any state law on the subject would obstruct the congressional objective of the federal act. This application of the first preemption test is well-established; in Florida Lime, the Supreme Court expressed its meaning in a similar manner:

> A holding of federal exclusion of state law is inescapable and requires no inquiry into Congressional design where compliance with both federal and state regulations is a physical impossibility for one engaged in interstate commerce.

373 U.S. at 142-43.

In applying this preemption test, however, the Supreme Court has emphasized repeatedly that a finding of preemption is not to be arrived at hastily: "Our analysis is also to be tempered by the conviction that the proper approach is to reconcile the operation of both statutory schemes with one another rather than holding one completely ousted." Merrill, Lynch, Pierce, Fenner & Smith, Inc. v. Ware, 414 U.S. 117, 127 (1973).

The crux of the first test then, according to the leading cases, appears to be the possibility of "peaceful coexistence" between the two regulatory schemes. If the federal purpose is not frustrated by the state law, and the state law does not

make compliance with both sets of law impossible, the first test of preemption is not met.

The second and last test of preemption, as illustrated by the Tenneco case, is whether Congress has unmistakably ordained that state regulation of the subject matter is barred. In Florida Lime, the Court looked to legislative history and to explicit statements of congressional intent within the federal statute itself. In Tenneco, the Fourth Circuit found a congressional design of complementary state and federal authority to be set out expressly in the Natural Gas Pipeline Safety Act:

> Thus, it is apparent that, instead of preempting every feature of interstate gas pipeline safety, the federal government has invited the states to participate in the program . . . .

489 F.2d at 337 (emphasis added). Tenneco, a relatively recent case dealing with the same general subject matter, provides an instructive analogy to the issue under consideration here.

2. The Natural Gas Act and Federal Preemption

The preceding discussion of the preemption test clearly suggests that the Natural Gas Act has not totally preempted state regulation and the major treatises on gas and oil law unequivocally agree, e.g.,

> The Natural Gas Act does not represent a full extension by the Congress of federal powers under the commerce clause . . . Intrastate transportation and sales are not jurisdictional even though the person or entity is a jurisdictional natural gas company with regard to other transportations and sales. Local distribution is expressly exempted. So too, by necessary implication, are direct sales from a producer to a consumer because the Natural Gas Act is limited to sales for resale even when jurisdictional transportation is involved.

W. Flittie, 5 Summers, The Law of Oil and Gas, § 925 at 11-12 (1966).

The question, then, is just which aspects of state regulation have been preempted. Federal jurisdiction under the Natural Gas Act is set forth in section 1(b) of the Act [15 U.S.C. § 717b (1970)]:

> The provisions of this chapter shall apply to

> [1] the transportation of natural gas in interstate commerce, [2] to the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial or any other use, and [3] to natural gas companies engaged in such transportation or sale, but shall not apply to any other transportation or sale of natural gas or to the local distribution of natural gas or to the facilities used for such distribution or to the production or gathering of natural gas.

(Emphasis and numbers added.) This wording indicates rather clearly that certain areas are reserved for state regulation, and state authority is explicitly recognized in other sections of the Act. Sections 717j (a) and (b), for example, provide for FPC cooperation with state compacts regarding conservation, production, transportation, or distribution of natural gas.

Case law on federal preemption under the Natural Gas Act illustrates this dual jurisdiction. The earliest and most definitive cases are two which involve the same pipeline company - Panhandle Eastern Pipe Line Co. v. Public Service Commission of Indiana, 332 U.S. 507 (1947), and Panhandle Eastern Pipe Line Co. v. Michigan Public Service Commission, 341 U.S. 329 (1951). The first recognized state power to regulate rates of retail sales because such sales did not fit within the "sale for resale" language of § 717b. The Court outlined the three federal jurisdictional areas embodied in that section and acknowledged that federal regulation had been thereby extended, but it stressed that the Act "had no purpose or effect to cut down state power."

> The Natural Gas Act created an articulate legislative program based on a clear recognition of the respective responsibilities of the federal and state regulatory agencies. It does not contemplate ineffective regulation at either level. We have emphasized repeatedly that Congress meant to create a comprehensive and effective regulatory scheme, complementary in its operation to those of the states and in no manner usurping their authority.

332 U.S. at 520. Although the Court explicitly recognized that state regulations might conflict with federal authority, it held that possibility insufficient as a basis for finding preemption, reserving the question for some future case.

Before reaching the substantive issue, however, the Court considered a procedural question - whether the Indiana Public Service Commission had to order the company to do more than report information before the company could challenge the Commission's authority. The Court concluded, given the facts, that the orders for information constituted an assertion of state power to regulate rates and service, observing, "[W]e cannot say that the only thing presently involved is the state's power to require the filing of information without reference to its further use for controlling these sales." 332 U.S. at 511 (emphasis added). The implication of that language is that when the only thing involved is the state's authority to require information reports, as in the case at issue, the state is unquestionably acting within its proper authority.

In the second Panhandle case the Court took a similar approach, recognizing that there are vital public welfare concerns for the state in the area of natural gas regulation. The Court held that an interstate pipeline must comply with state law and obtain a Michigan Public Service Commission certificate of need before selling to direct use consumers. The fact that the Panhandle company was engaged in interstate commerce, said the Court, did not relieve it from state regulation of local aspects of its business.

These two Panhandle cases stand for the principle that the Natural Gas Act is not preemptive of all state authority over interstate pipeline companies. The question underlying the issue at hand still remains - where does one draw the line between federal and state jurisdiction?

In Federal Power Commission v. Louisiana Power & Light Co., 406 U.S. 621 (1972), the Supreme Court reached a decision which in effect recognizes broader authority for the FPC. The central issue in that case was whether the FPC had authority to effect curtailment plans involving direct sales of interstate gas as well as sales for resale. The company contended

that FPC authority was limited under section 1(b) of the Act (quoted above at pages 6 and 7) to "sales for resale." The Court, recognizing that the FPC lacked authority to set rates for direct sales, held that curtailment regulations pertain not to rate-setting but rather to the "transportation" of natural gas and are thus within FPC jurisdiction. Thus, where transportation is over an interstate pipeline, the FPC arguably has authority to regulate nonjurisdictional direct sales in all respects except rate setting.

In recognizing broader FPC authority, however, the Court discussed the 1947 Panhandle case and gave no indication whatsoever that it considered that case to be now invalid. Louisiana Power & Light is best seen as one of those cases, envisioned by the Panhandle Court, where state regulations conflict with federal authority. In Louisiana Power & Light, the Court took special note of "the unavoidable conflict between producing States and consuming States [that] will create contradictory regulations." 406 U.S. at 633-34. State regulations, said the Court, would indeed protect state interests, but at the cost of the national interest. To resolve this problem, the Court reiterated its blueprint for judicial interpretation of FPC jurisdiction:

> [W]hen a dispute arises over whether a given transaction is within the scope of federal or state regulatory authority . . . we must ask whether state authority can practicably regulate a given area and, if we find that it cannot, then we are impelled to decide that federal authority governs.

406 U.S. at 631 [quoting FPC v. Transcontinental Gas Pipe Line Corp., 365 U.S. 1, 19-20 (1961)]. Recognizing, however, that the need for federal regulation did not in itself establish FPC jurisdiction, the Court proceeded to a statutory analysis and found the requisite authority in the "transportation" wording of section 1(b) of the Act.

It would seem fair, then, to limit Louisiana Power & Light, despite the breadth of its holding, to extraordinary circumstances in which state regulation would be impracticable. Seen

from that perspective, the case does not diminish the dual jurisdiction articulated in the 1947 and 1951 Panhandle cases. However, a number of recent cases under the Natural Gas Act have tended to place careful limits on state authority, and have found it preempted whenever its exercise would affect sale-for-resale rates. See, e.g., Federal Power Commission v. Corporation Commission of Oklahoma, 362 F.Supp. 522 (W.D. Okla. 1973), affirmed 415 U.S. 961 (1974); Northern Natural Gas v. State Corporation Commission of Kansas, 372 U.S. 84 (1963).

As the preceding discussion indicates, there are distinct spheres of authority for state regulation. Difficulties arise when state regulation in any way interferes with FPC jurisdiction, especially, as a multitude of cases makes clear, when state action affects FPC rate-setting authority. The issue under consideration here, however, concerns the reporting of information to the state, an issue extremely remote from rate-setting. Although it can be argued that almost any state authority encroaches upon and affects interstate pricing, such reasoning would tend to negate state authority altogether. It is axiomatic that information reporting is a necessity for effective exercise of state or federal authority.

B. Can the State of Minnesota impose reporting requirements, such as those contained in the proposed Energy Agency rule amendments, upon interstate pipeline companies?

There are persuasive arguments, based both on statute and case law, for concluding that a state can impose information reporting requirements on interstate pipeline companies. Section 717g of the Natural Gas Act provides the FPC with power to require record keeping by jurisdictional pipelines. That section also contains an important proviso relating to state authority:

> Provided, however, that nothing in this chapter shall relieve any natural-gas company from keeping any accounts, memoranda, or records which such natural-gas company may be required to keep by or under the authority of the laws of any State.

It should be noted, in reading this provision, that "natural-gas company" is defined by the Act as an individual or corporation "engaged in the transportation of natural gas in interstate commerce, or the sale in interstate commerce of such gas for resale." 15 U.S.C. § 717a (6) (1970).

This language implies that a state may impose information reporting requirements on an interstate pipeline different from those levied by federal authorities. Such an interpretation finds added support in the Emergency Natural Gas Act of 1977, Pub. L. 95-2, §§ 1-14, 91 Stat. 4-10, which amends the Natural Gas Act. The Emergency Natural Gas Act gives the President certain emergency powers in the face of a natural gas shortage and provides that a state governor may notify the President whenever such a shortage exists or is imminent in his or her state. Section 4(c)(2) of the Act provides:

> The Governor shall submit, together with any notification [of a natural gas shortage] . . . information upon which he has based his finding . . . including -
>
> (A) volumes of natural gas required to meet the requirements for high-priority uses in such State;
>
> (B) information received from persons in the business of producing, selling, transporting or delivering natural gas in such State as to the volumes of natural gas available in such State; and
>
> (C) such other information as the Governor determines appropriate to apprise the President of emergency deliveries and transportation of interstate natural gas needed in such State.

Here again, the statutory language clearly implies that a state has authority to levy its own information reporting requirements on interstate pipeline companies.

Although case law on this issue is limited, it supports state authority. The two relevant Supreme Court cases both precede enactment of the Natural Gas Act, but neither has been overruled. Natural Gas Pipeline Co. v. Slattery, 302 U.S. 300 (1937), involved a suit to enjoin enforcement of an Illinois Commerce Commission order requiring company records to be furnished. The Court denied the requested injunction:

> We can find in the commerce clause and the Fourteenth Amendment no basis for saying that any person is immune from giving information appropriate to a legislative or judicial inquiry. . . . The present investigation is not a regulation of interstate commerce and it burdens the commerce no more than the obligation owed by all, even those engaged in interstate commerce, to comply with local laws and ordinances, which do not impede the free flow of commerce.

302 U.S. at 306-07.

Only four months later, the Court faced the same issue again. Arkansas Louisiana Gas Company, operating as both a public utility for the local sale and distribution of gas and as an interstate supplier to selected industries and other public utility distributing companies, refused to comply with a state order requiring information about its pipeline customers. The Supreme Court held the state law constitutional and directed compliance with the state order:

> If, as claimed, certain of appellant's activities in Arkansas are parts of interstate commerce, that alone (and no other defense is relied upon) would not suffice to justify refusal to furnish the information presently demanded by the State.
>
> Appellant operates locally at many places in Arkansas, also (sic) delivers within the State great quantities of gas said to move without interruption from another State. In such circumstances it may be highly important for the state authorities to have information concerning all its operations. We are unable to see that merely to require comprehensive reports covering all of them would materially burden or unduly interfere with the free flow of commerce between the States.

Arkanasa Louisiana Gas Co. v. Dept. of Public Utilities, 304 U.S. 61, 63 (1938). The Court expressly reserved for future determination any question of unreasonable restraint or burden upon interstate commerce which might arise from future state action. 304 U.S. at 63-64.

The information issue, as noted, has not arisen in the Supreme Court since passage of the Natural Gas Act. There have, however, been references to state and federal investigatory powers beyond the parameters of their respective rate-setting authority. In Federal Power Commission v. East Ohio Gas Co., 338 U.S. 464 (1950), Justice Black wrote:

> Nor does the [Natural Gas] Act purport to abolish all [regulatory] overlapping. Section 5(b), for example, provides that the Commission may "investigate and determine the cost of the production or transportation of natural gas by a natural-gas company in cases where the Commission has no authority to establish a rate governing the transportation or sale of such natural gas. [citation omitted] Yet clearly the state agency establishing such a rate would have equivalent authority.

338 U.S. at 474 (emphasis added). This reasoning is also apparent in lower court decisions. In Kentucky Natural Gas Corporation v. Public Service Commission of Kentucky, 28 F. Supp. 509 (E.D. Ky. 1939), affirmed, 119 F.2d 417 (6th Cir. 1941) the court held that a company producing and transporting natural gas interstate was not subject to regulation by the state, jurisdiction having been conferred upon the FPC. Yet the court also observed:

> These conclusions, however, have no reference to the plenary power of the State Commission . . . to require complainant to disclose to the Commission all information appropriate to any inquiry as to the relations between the complainant and its various wholesale customers, bearing upon the absence of "arm's length bargaining" or other facts and circumstances proper to be considered by the Commission in fixing reasonable rates governing local distribution.

28 F.Supp. at 513. By analogy to these cases, a similar authority to promulgate information reporting requirements resides in the Minnesota Energy Agency.

There still remains the question raised by Great Lakes Gas Transmission Company and suggested by the Arkansas Louisiana Gas Company case - whether the reporting requirements, or more accurately, disparate requirements levied by a number of different states, would constitute an unreasonable burden on interstate commerce. Merely to raise the question, however, hardly suffices to justify such a finding. Voluminous, detailed, and persuasive evidence from the companies involved would seemingly be required. This burden of proof is not, and should not be, easily carried.

The "unduly burdensome" argument must start with the rules themselves to show wherein the burden lies. A review

of the proposed rule amendments clearly shows that no unreasonable burden is thereby imposed. Not only is the information required by the rules necessary to the state and not barred by federal law - it is also not burdensome. It is the minimum information necessary to satisfy Minnesota's reporting needs. No showing has been made, nor can one be made, that the rules are burdensome, much less unreasonably so.

The "unduly burdensome" argument exists outside the context of the Natural Gas Act. To sustain such an argument, its proponents must overcome the state powers recognized, or at least implied, in the Emergency Natural Gas Act of 1977 (supra at page 11). That statute reflects an urgent congressional response to the energy emergency experienced in Minnesota and across the nation last winter. It stands as clear testimony to the crucial public importance of the information the Energy Agency seeks. Although Minnesota fared better than most states during the energy emergency, the need for accurate forecasts of natural gas supply and demand is now more evident than ever. Without such information, essential to energy planning, mere hardship might well become tragedy in some future year. Finally, proponents of an "unduly burdensome" argument must deal with the Supreme Court decision in Arkansas Louisiana Gas Co. (supra, page 12), holding that comprehensive reports required of an interstate pipeline company do not "materially burden or unduly interfere with the free flow of commerce between the States." 304 U.S. at 63.

CONCLUSION

In summary, language in both the Natural Gas Act and the Emergency Natural Gas Act of 1977 support the Minnesota Energy Agency's imposition of information reporting requirements on interstate pipeline companies. Although the issue is not central in any cases subsequent to enactment of the Natural Gas Act, two pre-Act Supreme Court cases uphold state authority in an analogous situation, and post-Act cases in

both the Supreme Court and lower courts support the continued existence of state authority under the Act. An argument that the proposed state regulations are unduly burdensome on interstate commerce must overcome statutory language, case law, and facts to the contrary in order to prevail.

The Energy Agency's proposed rule amendments imposing information reporting requirements on interstate pipeline companies must be recommended for approval. The objections raised by companies opposing those amendments are unsupported by law or fact and should be disregarded.

Dated: July 13, 1977

Respectfully submitted,

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STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE MINNESOTA ENERGY AGENCY

In the Matter of the Proposed Amendment of Rules of the Minnesota Energy Agency Governing Natural Gas Utilities and Interstate Natural Gas Pipeline Companies Information Reporting. Minn. Regs. EA 301-315

REPORT OF HEARING EXAMINER

The above-entitled matter came duly on for hearing before William Seltzer, Hearing Examiner, on the 23rd day of June, 1977, in Conference Room A, Veterans Service Building, Saint Paul, Minnesota, commencing at approximately 9:30 a.m.

Dwight Wagenius, Special Assistant Attorney General, appeared for and on behalf of the Minnesota Energy Agency Staff (hereinafter sometimes referred to as "Agency Staff") in support of the within considered proposed regulation.

All interested persons, representatives of individuals or associations, and other interested groups present at the hearing had an opportunity to present evidence and question witnesses.

The record of the proceedings remained open through July 13, 1977.

Pursuant to Minn. Stat. § 15.0412, subd. 4 (1976), this Report shall be available for review to all affected individuals upon request for at least ten days. The Minnesota Energy Agency shall, if it proposes to adopt the rules as originally proposed or amended, submit the complete hearing record, including its Findings and Order to the Chief Hearing Examiner no earlier than ten days subsequent to the receipt of this Report. Such submission shall also clearly indicate any changes made to the rules as originally proposed, preferably in the format that will be submitted to the State Register for publication. The Chief Hearing Examiner shall complete his review and submit his Report to the

Minnesota Energy Agency on the issues of substantial changes, if any, in the proposed rules within ten calendar days. Thereafter, the Minnesota Energy Agency shall be responsible for filing the rules with the Attorney General.

The proposed rule amendments were offered by Agency Staff on their belief that the proposed amendments would improve, update and make more precise the reporting requirements currently imposed on natural gas utilities and interstate natural gas pipeline companies. Certain proposed amendments would require additional forecast data of the gas utilities and interstate natural gas pipeline companies and were designed to enable the director to better anticipate future state energy demands and enable him to make sensible and rational recommendations for limiting such growth. Certain other proposed rule amendments were designed by Agency Staff for the purpose of aiding the director in monitoring energy usage by the state's largest end users. Finally, certain proposed rule amendments delete present reporting requirements which were single event submissions and in the Agency Staff's opinion, unnecessary in order for the Agency to fulfill its legislative mandate.

The Hearing Examiner, upon all records, files, evidence, arguments of counsel, and written comments filed before the close of the record, hereby makes and issues the following Findings of Fact, Conclusions, and Recommendations:

FINDINGS OF FACT

1. That the Order for Hearing issued May 10, 1977, was in all respects proper in form, content, execution and filing.

2. That due, timely and adequate Notice of Hearing as ordered by the Minnesota Energy Agency was properly served and filed on May 10, 1977. All other relevant, substantive and procedural requirements of statute or rule have been complied with for the purposes of establishing jurisdiction of the subject matter to proceed to public hearing pursuant to law.

3. That authority of the Minnesota Energy Agency to promulgate the above-entitled proposed rule amendments is contained in Minn. Stat. § 116H.08(a)(1976).

4. Generally, opposition to the proposed rules was in the form of: (1) specific objections to specific rules which were sometimes proffered with alternative language; (2) broad objection to those rules which apply to interstate natural gas pipeline companies on the theory that such rules constitute an unlawful burden upon, interference with, and regulation of, matters over which the Federal Power Commission exercises exclusive jurisdiction and that such alleged burdensome requirements on behalf of this State impose an undue burden on interstate commerce.

This Report first addresses the specific issues raised by industry or the Hearing Examiner to specific proposed rules and thereafter addresses the issues raised by interstate natural gas pipeline companies that the Minnesota Energy Agency is attempting to act beyond its legal jurisdiction.

5. [EA 302] Minnesota Gas Company correctly raised two questions regarding the proposed definition of "Large Energy Facility" as used in proposed rules EA 302 M and EA 302 T.

The question was raised as to why amended Rule EA 302 M uses the term "synthetic gas" but left the term undefined in the rest of the rules. However, the term "synthetic gas" is used in the statutory definition of "Large Energy Facility". [Minn. Laws 1977, ch. 381 § 7] On the other hand, the terms "synthetic gas" and "substitute natural gas" mean virtually the same thing while the term "substitute natural gas" is used more frequently, both by regulatory bodies and the industry itself. Therefore, Agency Staff correctly chose to use and define the latter term in the proposed rules.

Minnesota Gas Company also asserted that the Agency's definition of "Substitute Natural Gas" contained in EA 302 T, should be clarified and improved upon.

In accordance with the issues correctly raised by Minnesota Gas Company, proposed amended rule EA 302 T should read:

EA 302 T. Substitute natural gas means any gaseous fuel, equivalent in performance to natural gas which is created from other gasses, liquids, or solid hydrocarbons. Substitute natural gas shall include manufactured gas, gas produced from liquid petroleum gasses, such as propane and butane, and gas produced from naphtha. Whenever the term synthetic gas is used within these rules it shall be construed to mean the same as substitute natural gas

6. [EA 302] Certain typographical or grammatical errors appear in ammended rule EA 302. Accordingly, proposed amended rule EA 302 I in the second line of the definition, the word "not" should be changed to "nor." In EA 302 M, the word "liquefied" was incorrectly spelled "liquified." In EA 302 T, the word "naphtha" was incorrectly spelled "napthas."

7. [EA 304] Minnesota Gas Company objected to the annual reporting dates in proposed amended rule EA 304. Proposed amended rule EA 304 A requires gas utilities to file their annual data and forecast on July 1 (as they are now required to do) with the exception of the present year. Minnesota Gas Company asserts that the annual reporting date should be moved back to December 31 of each year. However, the statistics that the Agency will receive on July 1 are for the previous calendar year. Thus, with a July 1 reporting date, the Agency will receive the actual data from 1977 on July 1 of 1978. If the annual reporting date was moved back to December 31 of each year to accommodate Minnesota Gas Company, the Agency could not begin to compile, verify and aggregate data and forecasts for any particular year until January 1, two years after the fact.

After the information required by amended rule EA 304 is received by the Agency, the Agency must work with the data supplied and then enter the data in reports, statistics and forecasts for the public and the legislature. The Agency collects data from over 150 electric utilities, over 30 gas utilities, and 39 petroleum companies. All are currently required to file their annual reports by July 1 of each year. In part, the value of current statistics is based upon their timeliness. It would be impossible to compile data and forecasts, for example,

if the annual reporting date suggested by the Minnesota Gas Company was adopted. Accordingly, the suggestion of Minnesota Gas Company is found to be unreasonable.

Minnesota Gas Company also objected to proposed amended Rule EA 304 A (2), which requires that quarterly reports be filed with the Agency within 30 days after the end of the reporting quarter. Minnesota Gas Company claims that this information is not available until 45 days after the quarter ends and cannot be compiled and submitted in less than 60 days.

In this regard, the Agency has established a 30-day reporting requirement for quarterly data for not only natural gas utilities but for electric utilities and petroleum suppliers. The Agency asserts that it hesitates to treat gas utilities different in this regard than electric utilities or petroleum suppliers, both for the sake of consistency and for information management practices. On the other hand, the Agency states that it does not want to unnecessarily require a utility to make a costly change in its internal operation. The Agency notes that all other natural gas utilities currently are able to meet the 30-day reporting requirement. Accordingly, Agency Staff draws attention to that portion of proposed amended rule EA 304 A (2) which provides discretionary authority to the director to alter or extend the reporting deadlines. This language allows the Agency to set a 30-day reporting requirement which all other utilities are able to meet while allowing an appropriate exception to accommodate Minnesota Gas Company's internal operation. Minnesota Gas Company's suggestion to change the rule, which requires that quarterly reports be filed with the Agency within 30 days after the end of the reporting quarter, is rejected by the Hearing Examiner since a mechanism is available for Minnesota Gas Company to file its quarterly reports in a manner that is not inconsistent with the Company's internal operating procedures. It is also noted that in the past the Agency has allowed Minnesota Gas Company to file their quarterly reports whenever they are complete.

8. [EA 306] Proposed amended rule EA 306 requires the regulated utilities to submit annually to the Agency "forecasts of anticipated annual gas consumption and supply" for each of the 15 subsequent years. Previously, the regulated utilities needed only supply such forecasts for five, ten and 15 year increments.

Agency Staff set forth strong and convincing argument in support of the need and reasonableness of requiring annual forecasting for each of the following 15 years. Agency Staff's rationale for needing such annual forecasting is found to prevail over the rationale offered by industry in opposition to such annual reporting requirement. [See Agency Staff's rationale as set forth in its POST-HEARING SUBMISSION, received by the Office of Hearing Examiners on July 13, 1977, at pp. 5, et seq.: Also see examples of industry's rationale as set forth in the written submission of Minnesota Gas Company to the Hearing Examiner and received July 14, 1977.]

Notwithstanding the finding of the Hearing Examiner that Agency Staff firmly established the reasonableness and necessity for the type of annual reporting requirements set forth in proposed EA 306, the Hearing Examiner finds that proposed amended rule EA 306 must be rejected on the ground that the Agency does not have statutory authority to require a utility to submit annually to the director a forecast for each of the subsequent 15 years.

Based on the convincing rationale set forth by Agency Staff, the Hearing Examiner strongly suggests that the Energy Agency seek legislative authority to require annual reports containing forecasts for each of the 15 subsequent years. However, current statutory language clearly prevents the Agency from requiring anything more than long range forecasting at five, ten and 15 year increments. The applicable statutory language is set forth in Minn. Stat. 1976, Section 116H.10 as follows:

> Subd. 1. In order to further the purposes of sections 116H.01 to 116H.15, the director shall develop and maintain an effective program of collection, compilation, and analysis of energy statistics. These statistical programs

shall be developed to insure a central state repository of energy data and so that the state may coordinate and cooperate with other governmental data collection and record keeping programs.

Subd. 2. In addition to supplying such current statistical and short range forecasting information as the director may require, each utility, coal supplier, petroleum supplier and large energy facility in the state shall prepare and transmit to the director by July 1, 1975, and every year thereafter, a report specifying in five, ten and 15 year forecasts the projected demand for energy within their respective service areas and the facilities necessary to meet the demand.

The report shall be in a form specified by the director and contain all information deemed relevant by the director. [Emphasis supplied]

The above statutory language clearly permits the director to require "such current statistical and short range forecasting information as the director may require...." The Hearing Examiner finds that it is most logical to interpret the statutory phrase, "short range forecasting information" as allowing the director to require annual reporting of forecast information for each of the subsequent four years. The statutory language of subdivision 2 states that "in addition" to requiring current statistical and short range forecasting information, the director may require a report specifying in five, ten and 15 year forecasts the projected demand by a gas utility for future energy needs. The statutory language is unequivocably clear. Forecast reporting requirements for five to 15 years into the future are limited by statute to five year increments. Agency Staff in its POST-HEARING SUBMISSION strains the statutory language to find implied statutory authority for the director to require annual forecasts for each of the 15 years into the future. However, the specific statutory language is clear on this point and legislative mandate cannot be overruled by administrative action. It is true, as Agency Staff asserts, the reports filed by the regulated utilities must be in "a form specified by the director and contain all information deemed relevant by the director." Nevertheless, the breadth and scope of the report cannot be expanded beyond statutory constraints and the fact that the director deems annual reporting as relevant

does not embody the director with legislative authority to overturn clear statutory language. Clearly, the statute permits short range forecasting for four years and then forecasting for the fifth, tenth and fifteenth years.

In accordance with the above, the Hearing Examiner finds that the Minnesota Energy Agency has authority to require the gas utilities to file annual reports which contain short range forecasts for the present calendar year through the fourth year and then the subsequent fifth, tenth and fifteenth years. Therefore, proposed amended rule EA 306 must be rejected to the extent that the rule requires a forecast for the subsequent sixth through ninth, and eleventh through fourteenth years of projected demand for energy and the facilities necessary to meet that demand.

The Hearing Examiner further finds that proposed amended rule 306 should be adopted with appropriate language changes to confirm with the findings contained in this Paragraph No. 8, and that such language changes should not otherwise change the thrust or intent of the rule.

It is noted that at page 11 of the Agency Staff's POST-HEARING BRIEF, the Staff supported its argument for an annual 15 year forecast by stating:

> "If precedent in these matters is of significance, on March 28, 1977, Hearing Examiner Allan Klein recommended adoption of electric utility reporting requirements annually for the next 15 years."

The Staff was evidently referring to Mr. Klein's Report dated February 18, 1977. [HE Docket No. EA-77-004-AK] This Hearing Examiner reviewed Mr. Klein's Report and it is evident that the issue of statutory propriety of requiring a utility to annually submit a year by year forecast for 15 years was not addressed therein. Thus, no precedent can be found when the issue was not directly addressed.

In addition to the findings contained in this Paragraph No. 8 concerning proposed amended rule EA 306, the Hearing Examiner finds the following with respect to EA 306:

a. That proposed amended rule EA 306 and 306 B use the term "basic forecast." The term was added by Agency Staff to reflect a more elementary, less documented forecast, than that required of the major utilities listed in EA 307 which must file the extended forecast required by proposed new rule EA 307. Although the intent of Agency Staff in utilizing the term "basic forecast" is set forth at page 9 of their Statement of Need, that term may have different connotations to different people. Therefore, the rules should define that term to avoid ambiguity.

b. [EA 306] That proposed amended rule EA 306 B states: "The basic forecast and current data shall contain the following data for each year cited in rule EA 305 A. However, the proposed amended rules do not contain a rule designated at EA 305 A.

c. [EA 306] There is a typographical error in proposed amended Rule EA 306B 17, in category "m." The error therein is the reference to "EA 305A 5" which should be changed to "EA 306B 5."

d. [EA 306] That Minnesota Gas Company recommended striking the phrase "that the utility will have available" as unnecessary language in EA 306 B 12. Agency Staff and the Hearing Examiner agree that such language is unnecessary, and the new rule should be adopted to read as follows:

> EA 306 B 12. The design day availability of each type of gas and the maximum one day volume of gas such supplies will provide.

e. [EA 306] That proposed Rule EA 306B 13 contains unnecessary language but the intent of the Rule can be clarified by adopting the Rule with the following language:

> EA 306 B 13. The amount of substitute natural gas the utility can produce from the feedstock it will have ~~for use~~ in storage at the beginning of the winter heating season for use in its Minnesota service area.

f. [EA 306] The Hearing Examiner finds that the thrust and intent of proposed amended rule 306 is reasonable and necessary and that with appropriate changes in accordance with Paragraphs 8, 8a, 8b, 8c, 8d, and 8e of this Report, EA 306 will conform to

statute and should be adopted.

9. [EA 307] Proposed amended Rule EA 307 is designed to obtain certain detailed information from four major utilities. The detailed information required pertains to future forecasts and the documentation behind such forecasts.

Over 80 percent of the natural gas sold to ultimate consumers in Minnesota is sold by the four utilities named in EA 307 A. Therefore, a more comprehensive understanding of those utilities' operations and future plans is essential to the welfare of the state and for the Agency to fulfill its legislative mandate of evaluating and forecasting state energy needs.

The extended forecast in newly proposed Rule EA 307, requires the four listed utilities to identify their sales to ultimate consumers by category on the peak send out day. This information will be used by the Agency to identify which class of customers are receiving natural gas on the peak day, and which and how many customers are having to switch to an alternative fuel on peak day. The required information will give the Agency a picture of the utility on its single day of greatest strain within a calendar year. This information can provide the Agency with a method to determine what impact additional new firm customers will have on a utility. It will aid the Agency in addressing the policy question of new gas hookups and be used in determining which and how many hookups should be allowed.

A comprehensive documentation section in proposed new rule EA 307 C identifies exactly what information is needed by the Agency to understand the forecasts supplied by a utility. The underlying documentation is vital for the Agency's understanding and interpretation of a utility's forecast. By supplying such information, the Agency will be better able to determine the degree of validity and the accurateness of the forecasts.

The information requested of utilities in proposed amended Rule EA 307, is extensive and will unquestionably cause the regulated utilities to put forth additional effort than has been the case in the past. However, the information received by the Agency will have a definite value and is both reasonable and

necessary to enable the Agency to carry out its legislative mandate; to carry out energy conservation measures, energy planning, protection of environmental values, and development of Minnesota energy sources.

Because of the additional burdens placed on regulated utilities by EA 307, the Minnesota Energy Agency must guard against accumulating information unless it is used, interpreted and analyzed by the Agency and thereafter made available to the legislature, the Governor and the general public. The expertise of Minnesota Energy Agency personnel must be applied in interpreting the information supplied by utilities. The Agency should formulate independent opinions available to the public. It is expected that the regulated utilities will keep a watchful eye on the manner in which the Minnesota Energy Agency utilizes data and information supplied to it. If the data and information supplied is not used in carrying out the Agency's responsibilities to the public and government, the regulated utilities should exercise the options available under existing law to propose changes to the regulations to eliminate the necessity of supplying information that is not in fact put to useful purposes by the Agency.

a. [EA 307] Both Northern States Power Company and Minnesota Gas Company objected to the Extended Forecast and Documentation in proposed amended Rule EA 307 and both have suggested its deletion. The Hearing Examiner finds that proposed amended Rule EA 307 is reasonable and necessary so long as the data received under that Rule is appropriately utilized by the Agency.

In order to discuss the objections raised by Northern States Power Company and Minnesota Gas Company, it is best to discuss EA 307 in terms of two sub-items.

Proposed amended rule EA 307 A asks the utility to identify on its peak send out day by ultimate consumer categories the volume of gas being used. This is an important piece of information because it gives a stop-action picture of the utility on its single day of greatest strain each year. It shows which

class of customers will be receiving natural gas on peak day and which customers will have to switch to alternative fuels on peak days. This forecasting requirement should show what impact the addition of more residential firm customers will have on existing users of natural gas and on the utility on peak days. For instance, the continuing addition of residential firm customers may necessitate the cutting off of large or small volume industrial or commercial firm customers on peak send out days. If that were the case, would such industrial or commercial customers be able to use alternative fuels in their operation?

Another question which this item addresses is the impact of firm customers on the day of highest peak demand each year. Does it appear that substantial numbers of new substitute natural gas facilities or liquified natural gas facilities will have to be built to accommodate the firm customer demand?

Minnesota Gas Company's criticism of this requirement is to suggest peak shaving is a complex issue, and that asking for information simply on the peak send out day does not address the more substantial question of meeting peak shaving requirements for an entire heating season. The Agency's correct response is that the Agency believes that there is substantial value in analyzing the peak send out day for the purposes of devising standards for measuring a utility's ability to meet peak shaving demands over an entire heating season. Information relating to seasonal peak shaving capacity has been asked for in proposed amended rule EA 306 B 13, 14 and 15. Therein, the Agency asks for the volume or equivalent volume of substitute natural gas, stored underground gas, and liquid natural gas stored at the beginning of each heating season. Through experience, the Agency will find out how much should be stored in order to ensure that peak shaving needs can be met throughout a winter heating season.

Northern States Power Company claims that the information requested under proposed amended rule EA 307 A relating to a forecast of firm customer usage on peak day is obtainable

under proposed amended rules EA 306, 311 and 313.

This is not true. Proposed amended rule EA 306 B 10 requests the utility to forecast maximum possible firm demand, but does not break down this firm demand by categories (i.e., residential firm, commercial firm under 200 MCF per peak day, industrial firm over 200 MCF per peak day) as proposed amended rule EA 307 A does. Likewise, proposed amended rule EA 306 B 17, while asking for information by the categories wanted, asks for yearly consumption data, not peak day information.

Proposed amended rule EA 311 deals with quarterly reports that are submitted to the Agency by Standard Industrial Classification categories and has nothing to do with peak day sales.

Proposed amended rule EA 313 B asks for a graph compiled from data by month for the past year. While such graph gives some idea of customer load presently by month, it gives no data on peak day or any forecast for the future as to consumption patterns on peak day.

Finally, Northern States Power Company claims that the 15 year forecast under EA 306 gives information on total number of firm and interruptible customers. While this is true, it does not give a breakdown of the types and numbers of customers served on peak day either currently or in the future and such information is important.

Subdivision B of EA 307 requires comprehensive forecast documentation. Such documentation section is similar to that required of electric utilities in their annual reporting requirements. In order to evaluate, understand and aggregate the forecasts of the major gas utilities in this state, the Energy Agency must be able to understand the methodology, assumptions and data used in compiling such forecasts. Knowing such information also aids the Agency in determining under what conditions the forecast is applicable, and the variables which might alter the forecast.

10. [EA 308] Proposed amended rule EA 308 would require

interstate pipeline companies to annually submit to the Director (for the last calendar year, the present calendar year and the subsequent 15 years) forecasts of anticipated annual Minnesota service area consumption and supply of natural gas. As stated hereinabove at Paragraph 8, the Minnesota Energy Agency does not have statutory authority to require annual forecasts for the 15 years subsequent to each year's annual report. The Energy Agency has authority to require "short range forecasting information as the Director may require..." [Minn. Stat. § 116H.10, subd. 2 (1976)] and it is found by the Hearing Examiner that such short range forecasting information can be required for a four year period. Then, pursuant to statute, the Agency can require a forecast for the fifth, tenth and fifteenth years thereafter. Accordingly, proposed amended rule EA 308 should only be adopted if the rule reflects the appropriate statutory forecast periods and deletes reference to annual forecasting for each of the 15 subsequent years.

Furthermore, both Northern Natural Gas Company and Great Lakes Transmission Line Company objected to having to report any data regarding ultimate consumers that they might have in Minnesota claiming that neither company had such ultimate consumers in this state. Agency Staff conducted an investigation to determine the validity of such assertions. Agency Staff concluded that the interstate pipeline companies do not actually have any end use customers in Minnesota. Accordingly, Agency Staff properly recommended deleting proposed amended rule EA 308 B 1 and 4. Thus, proposed amended rule EA 308 B should be adopted with the following language:

> B. The basic forecast and current data shall contain the following data for each year cited in rule EA 308 A:
>
> 1. The annual sales through Minnesota gas utility distribution companies for resale;
>
> 2. The maximum one-day amount of gas that must be provided to the Minnesota service area to meet contractual obligations to the gas utilities served.

11. [EA 309] There is a typographical error in proposed rule

EA 309 A 2 d, as introduced into evidence as Energy Agency Exhibit No. 7. The word "data" should be changed to "date". Thus, the proposed amended rule should be adopted with the following language:

The anticipated facility retirement <u>date</u>

12. [EA 309] Northern States Power Company recommended that the word "converted" be changed to the word "equivalent" in proposed rules EA 309 B 2 b and c, and EA 309 B 3 c and d. Agency Staff is in agreement with Northern States Power Company's recommendation, and therefore, proposed amended rules EA 309 B 2 b and c and d should be adopted so that the word "converted" be changed to "equivalent."

13. [EA 309] Northern States Power Company requested that proposed amended rule EA 309 B 4 be rejected. The reasoning behind this recommendation is that the proposed amended rule requires utilities to identify future facility locations on a map. However, forecasting the exact locations is not possible since it will depend upon where growth occurs and cannot be precisely predicted.

Therefore, the proposed rule is not reasonable and the Hearing Examiner finds that EA 309 B 4 should be rejected and deleted from the rules to be adopted.

14. [EA 310] Great Lakes Gas Transmission Company suggested that proposed amended rules EA 310 A 2 and 3 be amended as follows:

> A. 2. The name and geographic location of all liquified natural gas facilities <u>owned by the interstate pipeline company in Minnesota.</u> For each facility include:
>
> A. 3. The name and geographic location of all substitute natural gas facilities <u>owned by the interstate pipeline company in Minnesota.</u> For each facility include:

The apparent intent of Great Lakes Gas Transmission Company is to ensure that a utility will only be responsible for reporting information about its own facilities, and not facilities over which a particular utility has no control or ownership. The Hearing Examiner finds that it would be illogical to interpret

the proposed amended rules in a manner in which a reporting utility would be responsible for supplying data or information which does not pertain to a facility which it owns or operates.

However, if the Director of the Energy Agency finds that the language of EA 310 A 2 and 3 may be ambiguous to regulated utilities, the Hearing Examiner suggests the following language to be used in place of the hereinabove quoted language suggested by Great Lakes Gas Transmission Company:

> Owned, operated or leased by the interstate pipeline company in Minnesota

The Hearing Examiner's suggested language precludes the possibility of a reporting utility finding an exemption from a certain reporting requirements by the mere fact that a facility is leased or operated rather than being owned by the reporting utility.

The Hearing Examiner further finds that the same problem may exist in proposed amended rule EA 310 A 1. In this rule, the Agency asks for the name and geographic location of all underground storage facilities owned by an interstate pipeline company in Minnesota. Since the intent of the rule is to obtain necessary information, the Agency may wish to expand EA 310 A 1 to include underground storage facilities which are not only owned, but those which may also be operated and leased by an interstate pipeline company in Minnesota.

15. [EA 310] Great Lakes Gas Transmission Company suggested additional language to proposed amended rule EA 310 B. Such language does not detract from the rule and the Hearing Examiner suggests its adoption as follows:

> Future facility requirements. Each interstate pipeline company shall estimate the additional facilities or additions to existing facilities necessary to meet the level of gas consumption predicted in its forecast in EA 307. Each interstate pipeline company shall supply the following information to its own planned or projected operations or facilities:

16. [EA 313] Proposed amended rule EA 313 A which requires gas utilities to submit a bar graph indicating monthly sales to firm customers and interruptible customers for each month is, to a large degree, repetitive of proposed amended rule EA 313 B

which requires a gas utility to submit a single graph indicating the total monthly consumption of gas supplied to various firm and interruptible customers.

Therefore, the Hearing Examiner finds that proposed amended rule EA 313 A should be rejected and proposed amended rule EA 313 B should be redesignated as EA 313 A, and adopted with the following language:

> A. An annual load curve for the last calendar year consisting of a single graph and accompanying data table indicating the total monthly consumption of gas in the following classifications:
>
> 1. Residential firm
> 2. Commercial industrial firm
> 3. Small volume interruptible
> 4. Large volume interruptible
> 5. Electric generation
> 6. Gas to storage
> 7. Other dispositions and losses; and
> 8. Level of contract demand

17. [EA 313] Proposed amended rule EA 313 F is repetitive of proposed amended rule EA 311. EA 313 F requires the utility to supply its total sales in MCF to ultimate consumers by county for the last calendar year, while EA 311 requires the utility to report quarterly the monthly volume of gas delivered to ultimate consumer broken down by customer class and county. Although the Agency Staff asserts that the annual sales to ultimate consumer figures will serve as a control figure to actually check if quarterly reports are being made accurately, the rules are duplicative and there is no assurance that a utility would not use its quarterly report figures to arrive at the annual sales figures which would merely incorporate into the annual figure any mistakes made in the quarterly figures. Therefore, the Hearing Examiner finds that proposed amended rule EA 313 F should be rejected.

18. [EA 313] Northern States Power Company recommended that proposed EA 313 G be amended to delete reference to "peak day demand" from the information required for interruptible customers. The reasoning given behind Northern States Power Company's request was that that Company does not possess the required information with respect to its interruptible customers.

Furthermore, Northern States Power Company recommended amending proposed EA 313 G to define "boiler requirements." Northern States Power Company's reasoning was that it is impossible to determine, on the face of the rule, whether the rule requires peak day or annual "boiler requirements."

Pursuant to the objections of Northern States Power Company, Agency Staff recommended different language for EA 313 G which the Hearing Examiner finds reasonable and necessary and recommends as follows:

> G. For the last calendar year provide a list of customers and their addresses:
>
> 1. Who have gas requirements in excess of 200 MCF on their peak day each year. For each customer so identified list:
>
> a. annual actual sales
> b. annual estimated curtailment
> c. annual estimated requirements (some of a and b should equal c)
> d. alternative fuel used
> e. curtailment priority rank
>
> 2. Who are small volume interruptible users. For each small volume interruptible user identify the volume of gas consumed during the last calendar year and the curtailment priority rank.
>
> 3. Who are firm customers and consume 6,000 MCF annually. For each customer so identified list the volume of gas consumed during the last calendar year and the curtailment priority rank.

With the adoption of this rule as suggested herein, the Agency will be able to understand which Minnesota customers are capable of switching to an alternative fuel from gas and how much alternative fuel would be required if such customers are taken off natural gas.

Also, the Agency will be able to monitor the usage of end users of gas or electricity that consume over six billion BTU's of energy per year.

Minnesota Gas Company originally objected to the reporting of the annual consumption of all customers pursuant to rule EA 313 G using in excess of 6,000 MCF annually. The objection centered around the perceived inability of Minnesota Gas Company to provide such information. Agency Staff now asserts in its

POST-HEARING SUBMISSION that Minnesota Gas Company officials have informed the Agency that the Company is capable of providing such information. [p. 22]

19. [EA 314] Great Lakes Gas Transmission Company provided certain suggested amendments to proposed EA 314 A and C which may eliminate possible ambiguity. The Hearing Examiner finds the suggestion of Great Lakes Gas Transmission Company valid and reasonable and accepts their recommendations; which are as follows:

> A. Each interstate pipeline company shall provide a list of ultimate consumers to whom it makes direct sales and who will be curtailed or completely phased out in the five years following the year of filing.
>
> C. Each interstate pipeline company shall provide a list of all Minnesota end-use customers to whom it makes direct sales who have gas requirements in excess of 200 MCF of gas on their peak day each year and a list of all small volume interruptible users and any other end user who consumes in excess of 6,000 MCF of gas annually. For end-use customer so identified list the volume of gas consumed during the past year, the alternate fuel used, peak day demand, and boiler requirements in MCF.

20. The Hearing Examiner has reviewed the proposed rules as originally submitted for public hearing, and has reviewed the entire record including all submissions appropriately filed prior to the close of the record. The within considered proposed rules were examined by the Hearing Examiner with respect to: (1) their compliance with Minn. Stat. § 116H (1976) and the authority of the Director to adopt the rules as originally proposed; (2) their reasonableness; and (3) the necessity of their adoption in light of applicable statutory mandate.

This Report does not specifically comment on the proposed rules which were neither the subject of criticism nor brought to issue by the record as a whole. Likewise, the Report does not address those issues of criticism to the proposed rules which may be found in the record, but which are not supported by valid reasoning.

After having considered each and every proposed amended rule, the Hearing Examiner finds that Minnesota Regulations EA 301-315 should be adopted in accordance with the Findings set forth in this Report.

21. The arguments raised by interstate natural gas pipeline companies to the effect that the proposed rules constitute an unlawful burden upon, interference with, and regulation of matters over which the Federal Power Commission exercises exclusive jurisdiction, and that the proposed rules therefore impose an undue burden on interstate commerce is an argument put forth with surprisingly little substantive support or rationale by industry.

On the other hand, Agency Staff submitted a MEMORANDUM OF LAW dated July 13, 1977 and received by the Hearing Examiner on that date. The MEMORANDUM OF LAW is found to be complete, thorough and sufficient to carry forth the burden of persuasion.

Accordingly, the Hearing Examiner finds that the proposed amended rules do not constitute an unlawful burden upon, interference with, and regulations of, matters over which the Federal Power Commission exercises exclusive jurisdiction and that the proposed amended rules do not impose an undue burden on interstate commerce.

The Agency Staff's MEMORANDUM OF LAW is specifically adopted by the Hearing Examiner and made a part of this Report through incorporation by reference and attached hereto as "Attachment A."

CONCLUSIONS

A. That the Minnesota Energy Agency duly acquired and now has jurisdiction over the subject proceeding.

B. That all relevant, legal and procedural requirements of statute and regulations have been properly complied with.

C. That with the exceptions noted hereinabove in the FINDINGS OF FACT, the Minnesota Energy Agency has statutory authority to promulgate and adopt the subject rules.

D. That the proposed amended rules considered herein and

in accordance with the hereinabove FINDINGS OF FACT, are reasonable and necessary to supply the requisite information and data base necessary for the Minnesota Energy Agency to carry out its statutory functions.

E. That in proposing the changes suggested by this Hearing Examiner in the FINDINGS OF FACT and reviewing the originally proposed amended rules which were noticed for public hearing, consideration was given to Minn. Reg. HE 108 which sets forth the criteria necessary to determine whether a rule, as finally adopted, is substantially different from the rule as originally proposed. In the event that it is determined that a substantial change has been made, the proposing agency must either withdraw the proposed final rule, or reconvene the rule hearing. This Hearing Examiner concludes that the additions, deletions and language changes suggested hereinabove will not result in a substantial change from the originally proposed amended rules.

RECOMMENDATIONS

IT IS HEREBY RESPECTFULLY RECOMMENDED: That the Minnesota Energy Agency adopt proposed amended Chapter 300 rules in accordance with the FINDINGS OF FACT as set forth in this Report.

Dated: September 7, 1977.

William Seltzer

WILLIAM SELTZER
Hearing Examiner

PROPOSED

RULES GOVERNING NATURAL GAS UTILITIES AND INTERSTATE NATURAL GAS PIPELINE COMPANIES INFORMATION REPORTING

EA ~~300~~ 301 to EA ~~312~~ 315

EA ~~300~~ 301 PURPOSE

A. The purpose of these rules is to implement the forecasting, statistical and informational reporting requirements of Minn. Stat. §§ 116H.10 and .11 ~~(1974)~~. These rules are adopted pursuant to the powers of the director conferred by Minn. Stat. §§ 116H.08 (a) ~~(1974)~~, and are designed to identify emerging energy trends based on supply and demand, conservation and public health and safety factors and to determine the level of state-wide and service area energy needs.

~~EA-301--APPLICABILITY-OF-THESE-RULES~~

B. Each gas utility serving ultimate ~~customers~~ consumers in the State of Minnesota and each interstate gas pipeline company serving any gas utility located in the State of Minnesota or ultimate consumers in the State shall submit the information required by these rules to the director in the form specified by him.

Any entity which is both a gas utility company and an interstate gas pipeline company shall file one report on its pipeline operations and one report on its utility operations.

EA 302 DEFINITIONS

For purposes of these rules, the following definitions shall apply:

~~(a)~~A. "Agency" means the Minnesota Energy Agency;

~~(b)~~B. "Annual gas consumption" means the total amount of gas used or disposed of in Minnesota for all purposes by

EA EXHIBIT 7
K. A. K. DATE 6/23/77

either a gas utility or interstate pipeline company. This definition shall not include natural gas in storage at the end of the reporting year;

~~(c)~~C. "Annual sales to ultimate consumers" means gas sales to end-use customers in a utility's or pipeline company's Minnesota ~~S~~service A~~a~~rea;

~~(d)~~D. "Construction" means any significant physical alteration of a site to install or enlarge a large energy facility but shall not include activities incident to preliminary engineering or environmental studies;

~~(e)~~E. "Curtailment ~~below-contract-demand~~" means the reduction or cutoff of supply to firm or interruptible customers which are related directly to deficiencies in gas supply;

~~(f)~~F. "Design day" means the 24-hour period of the greatest theoretical gas demand at a given 24-hour average temperature;

~~(g)~~G. "Design day availability" means the volume of each type of gas available on the design day and the maximum total volume of such supplies;

~~(h)~~H. "Director" means the director of the Minnesota Energy Agency;

~~(i)~~I. "Firm contract customers" means customers served under schedules or contracts which neither anticipate not permit interruption;

~~(j)~~J. "Gas" means any form of gaseous fuel distributed as a vapor through distribution systems to ultimate consumers including natural gas and all gaseous fuels equivalent in performance to ~~domestic~~ natural gas;

~~(k)~~K. "Gas volume" means the volume of gas as measured at 14.73 psia at 60° Fahrenheit. All volumes shall be in thousands of cubic feet (MCF) unless otherwise stated;

~~(l)~~L. "Interruptible contract customers" means customers served under schedules or contracts which anticipate or permit interruption of service during the term of the contract;

~~(m)~~M. "Large energy facility" means any pipeline greater than six inches in diameter and having more than 50 miles of its length in Minnesota, any facility designed for or capable of storing on a single site more than 100,000 gallons of liquified natural gas or synthetic gas, or any underground gas storage facility requiring a permit pursuant to Minn. Stat. §§ 84.57 ~~(1974)~~;

~~(n)~~N. "Last calendar year" means the calendar year immediately preceding the year in which reports are required to be filed;

~~(o)~~O. "Liquified natural gas" means natural gas stored as a liquid at or near atmospheric pressure at a temperature of approximately -260° Fahrenheit;

~~(p)~~P. "Minnesota ~~S~~service ~~A~~area" means the geographical area within the State of Minnesota where a gas utility or interstate pipeline company serves ultimate consumers. The Minnesota ~~S~~service ~~A~~area for an interstate pipeline company shall also include all Minnesota utilities which it services;

~~(q)~~Q. "Natural gas" means a naturally occurring mixture of hydrocarbons and nonhydrocarbon gases found in porous geologic formations beneath the earth's surface, the principal constituent of which is methane; ~~domestic natural gas received by the utility from its pipeline supplier;~~

~~(r) R. "Off peak contract customers" means customers serviced on special schedules or contracts on a firm basis but only for a specified time during the off peak season;~~

~~(s)~~R. "Peak day" means the 24-hour period of greatest gas send out;

~~(t)~~S. "Interstate gas ~~P~~pipeline company" means an entity which operates an interstate gas pipeline which provides gas to any utility located in Minnesota (also referred to in these rules as "pipeline company" or "interstate pipeline company");

~~(u)~~T. "Substitute natural gas" means any gaseous fuel, equivalent in performance to ~~domestic~~ natural gas which is

created from other gases, liquids, or solid hydrocarbons. ~~For purposes of these rules~~ Substitute natural gas shall include liquid petroleum gases, such as propane, ~~air, coal gas, blue gas,~~ butane, napthas and ~~all~~ any other manufactured gases; ~~Substitute natural gas shall not include liquid natural gas;~~

U. "Ultimate consumer" means end-use customers who do not sell gas for resale;

~~(v)~~V. "Utility" means any entity engaged in Minnesota, whose primary business is ~~in~~ the distribution of gas to ultimate consumers including, but not limited to, a private investor-owned utility or a public or municipally owned utility.

EA 303 REGISTRATION

Each gas utility serving ultimate consumers and each interstate gas pipeline company serving any ~~gas~~ utility in Minnesota ~~on June 1, 1975,~~ must file a registration statement with the director. ~~by July 1, 1975.~~ Any utility or interstate pipeline company which commences operation in the state after June 1, 1975, shall file a registration statement with the director within 30 days after commencing operation. Each registration statement shall be on forms issued by the director and ~~made~~ available from the aAgency and shall contain the name and headquarters address of the utility or interstate pipeline company, ~~the type of utility or company which it is~~, the names and addresses of all officers of the utility or interstate pipeline company, and the name, address and telephone number of a person who may be contacted for information about the utility or interstate pipeline company.

EA 304 REPORTING DATES

A. Gas Utilities.

1. Except as provided by the director or in these rules, each utility shall file with the director the information required by EA 305, 306 ~~(b) and (c)~~, 307, ~~and~~ 309, and 313 by October 1, 1977, and by July 1 of each year thereafter.

2. Except as provided by the director, each utility shall file with the director the information required by EA ~~300~~ 311 on a quarterly basis as follows:

a. the ~~I~~information for the period of January 1 to March 31 shall be filed by April 30~~th~~;

b. the ~~I~~information for the period of April 1 to June 30 shall be filed by July 31~~st~~;

c. the ~~I~~information for the period of July 1 to September 30 shall be filed by October 31~~st~~;

d. the ~~I~~information for the period of October 1 to December 31 shall be filed by January 31 of the following year.

B. Interstate Gas Pipeline Companies. Except as provided by the director, each interstate pipeline company shall file with the director the information required by EA 305, ~~EA-306(a)~~ 308, 310, 312, and ~~EA-307~~ 314 by July 1 of each year. ~~Except as provided by the director, each pipeline company shall file with the director the information required by EA-308(c) within 10 days after said information is supplied to the Federal Power Commission.~~

~~No changes shall be made in the reporting dates set forth in this section unless each reporting utility and pipeline company has been given written notice of such change 30 days before the effective date of such change.~~

EA 305 FEDERAL REPORTS FILED BY GAS UTILITIES AND INTERSTATE GAS PIPELINE COMPANIES

Each utility and interstate pipeline company shall identify to the director all forms and reports pertaining to gas supply and demand which it regularly filed with the Federal Power Commission, Bureau of Mines and other federal agencies. Upon request of the director, any utility or pipeline company shall make copies of any forms or reports available to the director.

EA 306 BASIC FORECASTS AND CURRENT STATISTICS FOR GAS UTILITIES

~~(a)--Each-pipeline-company-shall-submit-annually-to-the director-5,-10-and-15-year-annual-gas-supply-forecasts within-its-Minnesota-Service-Area.--The-five-year-forecast shall-be-broken-down-by-utility-showing-the-volume-of-gas that-is-expected-to-be-available-to-each-in-each-of-the reporting-years-in-306(d).~~

~~(b)~~A. Each gas utility shall submit annually to the director ~~5,-10,-and-15-year-annual-consumption-forecasts~~ for the last calendar year, the present calendar year and the subsequent 15 years actual data and forecasts of anticipated annual gas consumption and supply. ~~The-forecasts-shall-contain-the following-data-for-each-of-the-reporting-years-in-306(d).~~

B. The basic forecast and current data shall contain the following data for each year cited in rule EA 305 A:

~~(i)~~1. Aannual sales to ultimate consumers ~~for-each community~~ within the utility's Minnesota Sservice Aarea ~~and-the-total-sales,-by-volume,-to-ultimate consumers-in-its-Minnesota-Service-Area;~~

~~(ii)~~2. Tthe annual volume of gas delivered or expected to be delivered to other utilities for resale;

~~(iii)~~3. Tthe annual volume of gas used in the operation of the utility within its Minnesota service area;

~~(iv)~~4. Tthe annual volume of gas used in the utility's Minnesota Sservice Aarea but unaccounted for in EA 306~~(i)-(iii)~~B 1 through 3;

~~(v)~~5. Tthe total annual gas consumption, for all purposes, in the utility's Minnesota Sservice Aarea. (total consumption equals items ~~i-+-ii-+-iii-+-iv-=-v~~ 1 + 2 + 3 + 4 = 5). Exclude gas held in storage at year's end;

~~(vi)~~6. Tthe total annual ~~supply-by~~ volume of substitute natural gas provided by the utility to supplement the utility's supply of natural gas for use in its Minnesota Sservice Aarea;

~~(vii)~~7. ~~T~~the total annual ~~supply by~~ volume of liquified natural gas supply withdrawn from storage by the utility for use in its Minnesota ~~S~~service ~~A~~area;

8. the total volume of natural gas withdrawn from underground storage by the utility for use in its Minnesota service area;

9. the total annual volume of gas received or estimated to be received from the interstate pipeline company for use in its Minnesota service area;

10. the design day maximum gas demand volume for the utility's Minnesota service area firm customers;

~~(viii)~~11. ~~T~~the maximum winter peak day volume of gas ~~delivered~~ sent out or expected to be ~~delivered~~ sent out in the utility's Minnesota ~~S~~service ~~A~~area;

12. the design day availability of each type of gas that the utility will have available and the maximum one-day volume of gas such supplies will provide;

13. the amount of substitute natural gas the utility will have for use in storage at the beginning of the winter heating season for use in its Minnesota service area;

14. the amount of liquid natural gas the utility will have for use in storage at the beginning of the winter heating season for use in its Minnesota service area;

15. the amount of natural gas the utility will have in underground storage for use at the beginning of the winter heating season;

16. the type and amount of fuel used or to be used in Minnesota to produce substitute natural gas; and

~~(c)~~17. ~~Market profile forecasts.--Each utility shall, based on the forecasts required by EA 306(b), provide~~ a the actual historic data ~~historical or forecasted market profile~~ and a forecast of ~~its~~ direct sales to ultimate customers and the ~~for each of the reporting years in 306(d).--Market profile categories shall be~~

~~as follows~~ number of such customers in each of the following categories: ~~residential firm, commercial firm, commercial interruptible, commercial off peak, industrial firm, industrial interruptible, industrial off peak, electric utilities firm, electric utilities interruptible, electric utilities off peak, other consumers firm, other consumers interruptible, other consumers off peak, own company use, transferred to storage, removed from storage, unaccounted for gas, total disposition of natural gas.~~

a. residential firm;

b. commercial firm customers who use less than 200 MCF on peak day;

c. commercial firm customers who use 200 MCF or greater on peak day;

d. commercial interruptible;

e. industrial firm customers who use less than 200 MCF on peak day;

f. industrial firm customers who use 200 MCF or greater on peak day;

g. industrial interruptible;

h. other consumers firm;

i. other consumers interruptible;

j. own company use;

k. unaccounted for gas;

l. gas delivered to other utilities for sale, and

m. total annual gas consumed in Minnesota (total a-1 should equal EA 305 A 5).

~~d. Reporting years. The data required in 306 (a), (b) and (c) shall be supplied for the followign years:~~

~~(i) the last calendar year;~~

~~(ii) the present calendar year;~~

~~(iii) the year 5 years after the present calendar year;~~

~~(iv) the year 10 years after the present calendar year;~~

~~(v) the year 15 years after the present calendar year;~~

~~In 1975, data shall also be supplied for the year 1973.~~

~~(c)~~C. For the last calendar year ~~and for the year 1973,~~ historical data shall be supplied. ~~If recorded figures are not available, estimates shall be used and shall be identified as such.~~ For each other reporting year, the forecasts shall be made using the utility's or pipeline company's best estimate for each of the items requested. The Agency recognizes 5 to 15 year forecasts can be difficult to calculate and subject to considerable error but utilities shall prepare these forecasts to the best of their ability and knowledge. The forecasts shall be based on those assumptions and factors which the reporting utility ~~or pipeline company~~ deems most likely to occur. ~~The data for each reporting year shall be calculated by applying these factors to the data for the last calendar year for which actual data is available.~~ The assumptions and factors used in deriving the forecasts ~~in 306 (a), (b) and (c)~~ shall be stated in writing. Each utility ~~or pipeline company~~ shall evaluate the size of the estimating error, given the conditions and factors used in the estimate. Each utility ~~or pipeline company~~ shall comment on ~~probable~~ possible deviations from the ~~projection~~ forecast and what factors might create such changes. Any utility required to file an extended forecast pursuant to rule EA 307 need not file forecast documentation required in rule EA 306 C.

EA 307 EXTENDED FORECAST AND DOCUMENTATION

A. The following utilities must file an extended forecast with documentation: Minnesota Gas Company, North Central Public Service Company, Northern States Power Company, and Peoples Natural Gas Company. Each utility required to file its extended forecast pursuant to rule EA 307 shall identify or estimate the demand for gas by ultimate consumer categories listed in rule EA 306 B 17 on the peak send-out day for each of the reporting years cited in rule EA 306 A.

B. Forecast Documentation for rule EA 306 and 307 A.

1. Forecast methodology. Each utility may use whatever forecast methodology it believes is most appropriate for its Minnesota service area. However, those utilities required under rules EA 306 and 307 A to file forecasts shall describe the forecast methodology employed by providing the following documentation:

a. the overall methodological framework used;

b. the specific analytical techniques used, their purpose, and the component(s) of the forecast to which they have been applied;

c. the manner in which these specific techniques are related in producing the forecast;

d. where statistical techniques have been used, the purpose of the techniques, typical computations (e.g., computer printouts, formulas used), specifying variables and data and the results of appropriate statistical tests;

e. forecast confidence levels or ranges of accuracy for annual peak demand and annual gas consumption;

f. a brief analysis of the methodology used, including its strengths and weaknesses, its suitability to the utility's service area, cost considerations, data requirements, past accuracy and any other factors considered significant by the utility, and

g. an explanation of any discrepancies between the forecasts presented by the utility this year and in past years.

2. Data base for forecasts. The utility shall provide a written discussion of the data base used in arriving at the forecast presented in rules EA 306 and 307 A including:

a. a complete list of all data sets used in making the forecast, including a brief description of each data set and an explanation of how it was obtained,

(e.g., monthly observations, billing data, consumer survey, etc.) or a citation to the source (e.g., population projection from the state demographer); and

b. a clear explanation of any adjustments made to raw data to adapt them for use in forecasts, including the nature of the adjustments, the reasons for the adjustments and the magnitude of the adjustments.

3. Assumptions and special information

a. Discussion. The utility shall discuss in writing each essential assumption made in preparing the forecasts, including the need for the assumption, the nature of the assumption, and the sensitivity of forecast results to variations in the essential assumption.

b. Subject of assumption. The utility shall discuss the assumptions made regarding the availability of alternative sources of energy, any expected conversion from other fuels to gas or vice versa, future prices of gas for customers in the utility's Minnesota service area and the effect that such price changes will likely have on demand, the assumptions made in arriving at any data requested in EA 306 or 307 A which are not available historically or not generated by the utility in preparing its own internal forecast, the effect of existing energy conservation programs under federal or state legislation or long-term gas demand, the projected effect of new conservation programs which the utility deems likely to occur through future state and federal legislation on long-term gas demand, and any other factor considered by the utility in preparing the forecast.

EA 308 BASIC FORECAST AND CURRENT STATISTICS FOR INTERSTATE GAS PIPELINE COMPANIES

A. Each interstate pipeline company shall annually submit to the director for the last calendar year, the present calendar year and the subsequent 15 years actual data and forecasts of anticipated annual Minnesota service area consumption and supply of natural gas.

B. The basic forecast and current data shall contain the following data for each year cited in rule EA 308 A:

1. the annual sales to Minnesota ultimate consumers;

2. the annual sales to Minnesota gas utility distribution companies for resale;

3. the maximum one-day amount of gas that must be provided to the Minnesota service area to meet contractual obligations to the gas utilities served and the utility's own firm customers;

4. the actual historic data and a forecast of direct sales to ultimate customers in Minnesota and the number of such customers for each of the following categories:

a. residential firm;

b. commercial firm customers who use less than 200 MCF on peak day;

c. commercial firm customers who use 200 MCF or greater on peak day;

d. commercial interruptible;

e. industrial firm customers who use less than 200 MCF on peak day;

f. industrial firm customers who use 200 MCF or greater on peak day;

g. industrial interruptible;

h. other consumer firm;

i. other consumers interruptible;

j. own company use;

k. unaccounted for Minnesota gas;

l. gas delivered to other utilities for resale; and

m. total annual gas consumed in Minnesota (total of a - j).

C. In meeting the requirements of EA 306 A, historical data for the last calendar year shall be supplied. For each other reporting year the forecasts shall be made using the interstate pipeline company's best estimate for each of the items. The Agency recognizes 5 to 15 year forecasts can be difficult to calculate and subject to considerable error, but interstate pipeline companies should prepare these forecasts to the best of their ability and knowledge. The forecasts shall be based on those assumptions and factors which the reporting utility deems most likely to occur. The assumptions and factors used in deriving the forecasts shall be stated in writing. Each interstate pipeline company shall evaluate the size of estimating error possible given the conditions and factors used in the estimate. Each utility company shall comment on possible deviation from the forecast and what factors might create such changes.

EA 309 FACILITY REQUIREMENTS FOR GAS UTILITY COMPANIES

~~(a)~~A. Present facilities. Each gas utility ~~and pipeline company~~ shall provide the following information with regard to ~~its~~ existing facilities serving its Minnesota Service Area as of January 1 of the current year:

~~(i) The name and geographic location of all gas delivery points or town border stations where a local gas utility accepts ownership of gas from a pipeline company;~~

~~(ii)~~1. The name and geographic location of all underground storage facilities for natural gas. ~~and liquified natural gas, the total storage capacity, the type of storage facility, and maximum single day withdrawal capability of~~ For each facility, include:

a. the total storage capacity of the facility in MCF minus the required reserves of gas;

b. the actual volume of gas in storage in MCF at the beginning of last winter's heating season not including required reserves of gas;

c. the maximum single-day withdrawal capacity of the facility in MCF; and

d. the anticipated facility retirement date.

2. The name and geographic location of all liquified natural gas facilities. For each facility include:

a. the total storage capacity of the facility in MCF of natural gas minus the required reserves;

b. the actual equivalent volume in MCF of natural gas in storage in the facility at the beginning of last winter's heating season minus the required reserves;

c. the maximum single-day withdrawal capacity of natural gas in MCF; and

d. the anticipated facility retirement data.

~~(iii)~~ 3. The name and geographic location of all substitute natural gas facilities. ~~and the following information about each~~ For each facility include:

~~(aa) the BTU content per cubic foot of substitute natural gas produced and the type of fuel that is converted to substitute natural gas;~~

~~(bb) annual production of substitute natural gas be the facility during the past calendar year;~~

~~(cc)~~ a. the maximum ~~annual~~ storage capacity ~~and refill capability~~ of the substitute natural gas facility in converted MCF of substitute natural gas;

b. the volume in storage at the beginning of last winter's heating season in MCF;

c. the maximum single-day production capacity in MCF that can be injected into the utility's pipeline;

~~(dd) maximum daily production of substitute natural gas by the facility during the past calendar year;~~

~~(ee) maximum daily production of substitute natural gas which the facility is capable of providing;~~

~~(ff) the total volume of substitute natural gas generated by the facility for non-plant use during the last calendar year;~~

~~(gg) the annual estiamted energy required to operate the substitute natural gas facility listed by type and quantity of each fuel during the last calendar year;~~

~~(hh)~~ d. the anticipated facility retirement year; and

e. the type of fuel to be converted to substitute natural gas.

~~(iv)~~ 4. A map, on which the general scale is indicated, of the utility's ~~or pipeline company's~~ Minnesota Service Area, identifying municipalities served, ~~utilities served, delivery points or town border stations,~~ substitute natural gas facilities, underground natural gas storage facilities, liquified natural gas facilities, ~~transmission lines and~~ major distribution lines, interconnections with other utilities and delivery points with interstate pipeline companies.

~~(b)~~ B. Future facility requirements. Each utility ~~and pipeline company~~ shall estimate the additional facilities or additions to existing facilities necessary to meet the level of gas ~~use~~ consumption predicted in its forecast in EA 306. Each utility ~~and pipeline company~~ shall supply the following information ~~about new facilities, or substantial additions to existing facilities, which are currently in the planning stage:~~

~~(i) Name and geographic location of all new gas delivery points or town border stations where a local utility will accept ownership of gas from a pipeline company;~~

~~(ii)~~ 1. ~~T~~the name and geographic location of all ~~planned for additional~~ new underground natural gas storage facilities or additions to existing facilities. ~~for either gas or liquid natural gas, the total storage capacity, the type of storage facility, and maximum single day withdrawal capability of each storage facility.~~ For each facility include:

a. the anticipated year and month the facility will be ready for operation;

b. the estimated storage capacity of the new facility in MCF minus necessary reserves that must be kept in storage;

c. the estimated actual storage in MCF of the volume that will be available for usage at the beginning of each heating season. This figure should not include necessary reserves of gas; and

d. the maximum single-day withdrawal capacity of the proposed facility.

2. The name and geographic location of all new liquified natural gas storage facilities or additions to existing facilities. For each facility include:

a. the anticipated year and month the facility will be ready for operation;

b. the estimated storage capacity in converted MCF of natural gas of the new facility minus reserves that must be kept in storage;

c. the estimated actual storage in converted MCF of natural gas that will be available at the beginning of each heating season when the facility is in operation; and

d. the maximum single-day withdrawal capacity of the proposed facility.

~~(iii)~~3. The name and geographic location of all new substitute natural gas facilities or additions to existing facilities. ~~and the following information about each:~~ For each facility include:

~~(aa)~~a. ~~T~~the type of fuel which will be converted to substitute natural gas ~~and the BTU content per cubic foot of the substitute natural gas produced~~;

~~(gg)~~b. ~~T~~the month and year in which the plant is predicted to begin operation;

~~(bb) The annual production capability of substitute natural gas by the facility;~~

~~(cc) The anticipated annual production of substitute natural gas by the facility;~~

c. the storage capability of the facility in converted MCF of substitute natural gas;

~~(dd) The maximum daily production capability of substitute natural gas by the facility;~~

d. the estimated actual storage in converted MCF of substitute natural gas that will be available for use at the beginning of each heating season when plant begins operation; and

~~(ee) The anticipated actual maximum daily production of substitute natural gas by the facility;~~

e. the maximum daily volume of substitute natural gas that can be produced by the facility and injected into the utility's system.

~~(ff) The year in which construction is predicted to begin;~~

~~(hh) Estimated cost of the new facility or addition at the time of construction;~~

~~(ii) Estimated annual consumption of fuels in the operation of the facility and the estimated annual consumption of fuels for conversion into substitute natural gas;~~

~~(iv) Any additional utilities which a pipeline company expects to serve or any which the company expects to stop serving;~~

~~(v) Any additional municipalities or geographic areas outside the utility's current service area which it expects to serve;~~

~~(vi) A map of any additional transmission lines in the state which a pipeline company plans to build;~~

~~(vii) A map of any additional major distribution line which a utility plans to build;~~

~~(c) Fuel requirements and generation by fuel type.~~

~~(i) Based on the data reported under EA-307(a) and (b), each utility and pipeline company shall report the quantity and type of fuels used in Minnesota to produce substitute natural gas during the past calendar year and the amount of substitute natural gas generated from each fuel type during the past calendar year. In 1975, the information required by this section shall also be reported for the calendar year 1973.~~

~~(ii) Each utility and pipeline company shall estimate the quantities and types of fuels which will be necessary for use by its substitute natural gas facilities in Minnesota in order provide for the gas usage predicted by the forecasts required in EA-306. Each gas utility and pipeline company shall estimate by fuel type the volume of substitute natural gas facilities. In preparing such estimates, each utility shall consider increases in fuel use by existing facilities and possible conversions between fuel types.~~

4. Based on the 15-year forecast provide a Minnesota service area map identifying future major distribution lines, natural gas storage facilites, liquid natural gas storage facilities, substitute natural gas storage facilities, additional municipalities to be served, additional interconnections with other utilities and any additional gas delivery points from interstate natural gas pipeline companies.

EA 310 FACILITY REQUIREMENTS FOR INTERSTATE PIPELINE COMPANIES

A. Present facilities. Each interstate pipeline company shall provide the following information with regard to existing facilities serving its Minnesota service area as of January 1 of the current year:

1. the name and geographic location of all underground storage facilities owned by the interstate pipeline company in Minnesota. For each facility include:

   a. the total storage capacity in MCF of the facility minus the required reserves of gas;

   b. the actual volume of gas in storage in MCF at the beginning of the last winter heating season, not including required reserves of gas;

   c. the maximum single day withdrawal capacity of the facility in MCF; and

   d. the anticipated facility retirement date.

2. the name and geographic location of all liquified natural gas facilities. For each facility include:

   a. the total storage capacity of the facility in MCF of natural gas minus required reserves;

   b. the actual volume of natural gas in MCF in storage at the beginning of last winter's heating season minus the required reserves;

   c. the maximum single day withdrawal capacity in MCF of natural gas; and

   d. the anticipated facility retirement date.

3. the name and geographic location of all substitute natural gas facilities. For each facility include:

   a. the maximum storage capacity of the facility in MCF of converted substitute natural gas;

   b. the maximum volume in storage in converted MCF of substitute natural gas at the beginning of last winter's heating season;

   c. the maximum single day withdrawal capacity of the facility in MCF that can be injected into the pipeline;

   d. the anticipated date of facility retirement; and

   e. the type of fuel to be converted to substitute natural gas.

4. a map, on which the general scale is indicated, of the utility's Minnesota service area identifying

distribution utility companies served, underground natural gas storage facilities, underground liquid natural gas facilities, substitute natural gas facilities, major transmission lines, and interconnection with other interstate pipeline companies.

B. Future facility requirements. Each interstate pipeline company shall estimate the additional facilities or additions to existing facilities necessary to meet the level of gas consumption predicted in its forecast in EA 307. Each interstate pipeline company shall supply the following information:

1. the name and geographic location of all new underground natural gas storage facilities or additions to existing facilities. For each facility include:

a. the anticipated year and month the facility will be in operation;

b. the estimated storage capacity in MCF of the new facility minus necessary reserves of gas;

c. the estimated actual storage in MCF that will be available for usage at the beginning of each heating season, not including necessary reserves of gas; and

d. the maximum single-day withdrawal capacity of the proposed facility.

2. the name and geographic location of all new underground liquified natural gas storage facilities or additions to existing facilities. For each facility include:

a. the anticipated year and month the facility will be ready for operation;

b. the estimated storage capacity in converted MCF of natural gas of the new facility minus any necessary reserves that must be kept in storage;

c. the estimated actual storage in converted MCF of natural gas that will be available at the beginning of each heating season when the facility

is in operation, not including necessary reserves that must be kept in storage; and

d. the maximum single-day withdrawal capacity of the proposed facility in converted MCF of natural gas.

3. the name and geographic location of all new substitute natural gas facilities or additions to existing facilities. For each facility include:

a. the type of fuel which is to be converted into substitute natural gas;

b. the month and year in which the plant is predicted to begin operation;

c. the theoretical storage capability of the facility in MCF of converted substitute natural gas;

d. the estimated actual storage in converted MCF of substitute natural gas that will be available at the beginning of each heating season not including required reserves; and

e. the maximum daily volume of substitute natural gas in MCF that will be available to be withdrawn from the facility and injected into the pipeline.

4. based on your 15-year forecast, provide a Minnesota service area map identifying future transmission lines, natural gas storage facilities, liquified natural gas storage facilities, substitute natural gas storage facilities, any additional distribution utility companies to be served and any additional interconnections with other interstate natural gas pipeline companies.

EA 311 QUARTERLY DISPOSITION OF GAS BY UTILITIES

~~(a)~~ Beginning in the year 1976, all utilities shall report quarterly the monthly volume of gas delivered to ultimate consumers, broken down by customer class~~/~~ and geographic area ~~combination~~.

~~(i)~~A. Geographic areas shall be defined by ~~customer zip code~~ county;

~~(ii)~~B. Customer class shall be defined by standard industrial classification (SIC) codes ~~with extensions for more detailed breakdowns of households and governmental units~~;

~~(iii)~~C. In each customer class~~/~~ and geographic area combination, the utility ~~or pipeline company~~ shall report the number of customers and the total gas volume consumed;

D. Said information shall be in the form determined by the director. Upon written application, the director may allow a utility to report said information in a different form.

~~(b) The director may, after an evaluation of the data availability, level of automation and homogeneity of accounts of a utility, require any utility to report the information required by this section for the 3rd and 4th quarters of 1975. Third quarter statistics for such gas utilities shall be filed by October 31, 1975. No utility shall be required to report in 1975 unless it has been notified in writing by the director of its obligation 30 days prior to the reporting date.~~

~~(c) During the year 1975, Bureau of Mines form 6 1340 A for Minnesota Gas Utilities servicing Minnesota, or its equivalent shall provide the basis for reporting the dispostion of gas in Minnesota. The dispostion categories for Minnesota shall be defined as follows:~~

~~(i) Delivered directly to:~~

~~(aa) Residential. This category shall include gas used in private household for heating, cooking and other household uses;~~

~~(bb) Commercial. This category shall include gas used by non manufacturing establishments such as hotels, restaurants, retail stores, laundries, and other service enterprises. This category shall include agriculture, forestry and fisheries, and the utility shall provide a separate breakdown of total gas used by agriculture, forestry and fisheries;~~

~~(cc) Industrial.--This category shall include gas used in manufacturing and mining establishments for heat and power.~~

~~(dd) Electric utilities.--This category shall include gas used as fuel in electric utility plants including those operated by the utility.~~

~~(ee) Other consumers.--This category shall include direct deliveries to all other consumers not reported in categories (aa) through (dd).--This category shall include deliveries to municipalities and government agencies for use in schools, institutions, street lighting, etc.--The utility shall provide a separate breakdown of the total volume of gas used by governmental units.~~

~~(ii) Own company use.--This category shall include all gas used by the company.~~

~~(iii) The gas placed in underground storage.~~

~~(iv) The gas withdrawn from underground storage.~~

~~(v) Unaccounted for.--This category shall include all gas otherwise unaccounted for.~~

~~(vi) Total disposition.--This figure shall consist of the sum of (i) + (ii) + (iii) + (v) - (iv).--Each utility shall explain in writing any significant deviation in its customer assignments which would affect the delivery figures reported under this section.--Data for 1975 shall be reported to the agency within 10 days after form 6-1340-A or its equivalent has been filed with the Bureau of Mines.~~

~~(d) In 1975, any utility which files a Bureau of Mines form 6-1340-A or its equivalent shall submit copies of such forms for its Minnesota Service Area for the years 1965 to 1974 to the director by July 1, 1975.--If the actual data for its Minnesota Service Area is not available, estimates of the data provided on these forms shall be provided for the years 1965-1974.~~

~~(c) Each pipeline company shall provide semi-annually the data equivalent to that reported on FPC form 17 within 10 days after it is provided to the Federal Power Commission.~~

EA 312 DISPOSITION OF GAS BY INTERSTATE PIPELINE COMPANIES

Each interstate pipeline company shall file a copy of its annual FPC forms 2 and 17 with the Agency.

EA ~~309~~ 313 OTHER INFORMATION TO BE REPORTED BY GAS UTILITIES

Each utility shall provide the following information:

A. A bar graph for the last calendar year that illustrates monthly sales to ultimate customers indicating the percentage sales to firm customers and interruptible customers for each month.

~~(a)~~B. An annual load curve ~~profile~~ for the last calendar year consisting of a single graph indicating ~~of~~ the total monthly consumption of gas in the following classifications:

~~(i)~~1. ~~Firm~~ residential firm;

~~(ii)~~2. ~~Firm~~ commercial industrial firm;

~~(iii)~~3. ~~S~~small volume interruptible;

~~(iv)~~4. ~~L~~large volume interruptible;

~~(v)~~5. ~~E~~electric generation;

~~(vi)~~6. ~~G~~gas to storage;

~~(vii)~~7. ~~O~~other dispositions and losses; and

~~(viii)~~8. ~~L~~level of contract demand;

C. Any additional municipalities or geographic areas outside the utility's current service area which it expects to serve and the year when service will begin.

~~(b) Supply available to Minnesota firm contract customers. Each utility shall provide:~~

~~(i) The peak day gas requirements for firm customers for each of the last 5 years;~~

~~(ii) The peak day gas send out for each of the last five years;~~

~~(iii) The design day availability for each of the last 5 years;~~

~~(iv) An estimate of peak day gas requirements for firm contract customers for the next two five winter heating seasons;~~

~~(v) Design day availability for the next two five winter heating seasons.~~

~~(c) Customer phaseouts and curtailments. Each gas utility shall provide:~~

~~(i)~~ D. A list of ~~firm, interruptible, or peak, or seasonal~~ customers who will be curtailed ~~and a list of any customers who will be~~ or completely phased out in the five years following the year of filing;

~~(ii) An estimate of the annual volume of gas that will be made available for other purposes by the curtailment and phase out of the customers listed in EA 309 (c)(i) for each of the five years following year of filing;~~

~~(iii) A general priority list of gas cutbacks in case a severe curtailment or phase out is required due to a deficiency in gas supply and a description of the criteria used in preparing the list.~~

~~(d) Firm interruptible, and off peak customers. Each utility shall provide the following information concerning its direct sales customers:~~

~~(i) The number of firm contract customers for each of the past five years and the total volume of gas sold to them during each year;~~

~~(ii) The number of interruptible contract customers for each of the past five years and the total volume of gas sold to them during each year;~~

~~(iii) The number of off peak contract customers for each of the pas five years and the total volume of gas sold to them during each year;~~

~~(iv)~~ E. The criteria used to determine the classification of a customer as a firm, or interruptible ~~or off peak~~ customer;

F. Its total sales in MCF to ultimate customers by county for the last calendar year;

G. ~~Each gas utility company shall provide a~~A list of ~~its 25 largest users and the volume each consumed during the past calendar year~~ all end-use customers and their addresses who have gas requirements in excess of 200 MCF on their peak day each year and a list of all small volume interruptible users and any other end user who consumes in excess of 6,000 MCF annually. For each end-use customer so identified list the volume of gas consumed during the last calendar year, the alternative fuel used, peak day demand, boiler requirements in MCF, curtailment priority rank; and

H. A copy for the last calendar year of its Bureau of Mines reporting form 6-1340A or equivalent. The Agency may require any utility to provide copies of form 6-1340A or its equivalent for any year back to 1960.

I. The terms, conditions and length of any contract the utility has to sell or buy substitute natural gas, stored liquid natural gas, or natural gas held in underground storage with any other utility or pipeline company.

EA 314 OTHER INFORMATION TO BE REPORTED BY INTERSTATE PIPELINE COMPANIES

A. Each interstate pipeline company shall provide a list of ultimate consumers who will be curtailed or completely phased out in the five years following the year of filing.

B. Each interstate pipeline company shall provide its Minnesota sales to ultimate consumers by county for the last calendar year.

C. Each interstate pipeline company shall provide a list of all Minnesota end-use customers who have gas requirements in excess of 200 MCF of gas on their peak day each year and a list of all small volume interruptible users and any other end user who consumes in excess of 6,000 MCF of gas annually. For each end-use customer so identified list the volume of gas consumed during the past year, the alternate fuel used, peak day demand, and boiler requirements in MCF.

EA ~~310~~ 315 CORRECTIONS

Corrections of a substantial nature to any report or statement which pertain to historical data and not forecasts shall be filed with the Agency within 10 days following the date of the event prompting the change in reported information or the date upon which the person filing became aware of the inaccuracy. The change or correction shall identify the form and the paragraph of the information to be changed or corrected.

EA ~~311~~ 316 FEDERAL OR STATE DATA SUBSTITUTION FOR ENERGY AGENCY DATA REQUIREMENTS

Upon written request by any utility, ~~T~~the director may allow ~~any utility~~ it to substitute data provided to the federal government or another state agency in lieu of data required by these regulations if the data required by both agencies is substantially the same.

STATE OF MINNESOTA

MINNESOTA ENERGY AGENCY

In the Matter of the Proposed Adoption of Amended Rules of the Minnesota Energy Agency Governing Natural Gas Utilities and Interstate Natural Gas Pipeline Companies Information Reporting - Minn. Regs. EA 301-315.

Docket No. EA-77-007-MS

DIRECTOR'S FINDINGS OF FACT CONCLUSIONS AND DECISION

The hearing in the above-captioned matter was ordered on May 10, 1977, and was convened for the Minnesota Energy Agency (hereinafter "Agency") by Hearing Examiner William Seltzer of the Minnesota Office of Hearing Examiners at 9:30 a.m. June 23, 1977, in Conference Room A of the Veterans Service Building, Saint Paul, Minnesota.

The hearing examiner made and issued his Report, including Findings of Fact, Conclusions and Recommendations, to the Agency on September 7, 1977. The hearing examiner recommended to the Agency that it adopt the Agency's proposed amended rules incorporating therein certain language changes suggested by the hearing examiner.

The Director of the Agency upon the record certified to him by the hearing examiner and the Findings, Conclusions and Recommendations made by the hearing examiner hereby makes and issues the following Findings of Fact, Conclusions and Decision.

Findings of Fact

1. In general the hearing examiner did a reasonable and very thorough job of presenting his findings in the above-captioned matter. The hearing examiner's Findings 1-16, 18, 20 and 21 are hereby adopted as the Findings of the Director.

2. With respect to Finding 17, the director chooses to adopt proposed rule EA 313 F instead of rejecting it as recommended by the hearing examiner. This proposed rule requires gas utilities to report annually their sales to ultimate customers by county for the last calendar year.

One reason for adopting the rule is that the director believes it appropriate for the Agency staff to consolidate state-wide data from the annual reports of the 214 reporting gas, electric, and petroleum companies, but inappropriate for the staff to spend its time summing up quarterly reports for individual utilities. The director believes each utility has a sound accounting department, keeps accurate records and is fully capable of easily producing this information about its service area once each year.

Secondly, it is quite possible that a quarterly report for a reporting utility might be late, incomplete or incorrectly done. It is important to have some form of insurance that we will be able to produce complete county and regional data annually.

Thirdly, the annual figures do not serve as control figures only on the gas utilities as the hearing examiner interpreted but also on Agency staff to insure that its quarterly data entry is being performed with reasonable accuracy. Annual county data can serve as a verification of the Agency's interpretation of quarterly data and of the data entry itself. It does not appear from the hearing examiner's report that he considered this possibility.

Finally, since electric utilities file this information with the Agency in their annual reports, it is desirable for consistency to also require it of gas utilities.

3. With respect to proposed rule EA 314, I have deleted the rule completely instead of amending it as recommended by the hearing examiner. Since the hearing, Agency staff's investigation has shown that all necessary information regarding ultimate customers should be available from the gas distribution utilities. Therefore, to reduce the possibility of double counting and unnecessary reporting I have decided to delete proposed rule EA 314.

4. Finally, I have made minor grammatical or numerical changes to achieve consistency in the rules. These changes have in no way had any effect on the meaning of the rules.

Conclusion

The director concurs with the conclusions made by the hearing examiner and hereby adopts them as his own.

Decision

The director accepts the recommendations of the hearing examiner to adopt the proposed amended rules and in a separate Order adopts amended rules EA 301-315 incorporating the hearing examiner's changes with the exceptions indicated in the director's Findings above. A copy of the rules EA 301-315 as adopted is attached.

Dated: September 21, 1977

/s/ John P. Millhone

JOHN P. MILLHONE
Director

STATE OF MINNESOTA

MINNESOTA ENERGY AGENCY

In the Matter of the Proposed Adoption of Amended Rules of the Minnesota Energy Agency Governing Natural Gas Utilities and Interstate Natural Gas Pipeline Companies Information Reporting - Minn. Regs. EA 301-315	)	Docket No. EA-77-007-WS ORDER ADOPTING RULES

The above-entitled matter came on for hearing before William Seltzer of the Minnesota Office of Hearing Examiners for the Director of the Minnesota Energy Agency at 9:30 a.m. on June 23, 1977, in Conference Room A of the Veterans Service Building, Saint Paul, Minnesota, after proper notice required by Minn. Stat. § 15.0412 (1976) was served on all persons, associations and other interested groups registered with the Secretary of State for that purpose.

After affording interested persons an opportunity to present written and oral data, statements and arguments, having considered all of the evidence adduced, and upon the records, files and proceedings herein, and applicable statutory standards or criteria, and having confirmed the need for the above-captioned rules and the reasonableness thereof,

NOW, THEREFORE, IT IS ORDERED that the amended rules identified as Minn. Regs. EA 301-315 are adopted this 21st Day of September, 1977, pursuant to authority vested in me by Minn. Stat. § 116H.08(a) (1976).

John P. Millhone
Director

STATE OF MINNESOTA

MINNESOTA ENERGY AGENCY

In the Matter of the Proposed Amendment of Rules of the Minnesota Energy Agency Governing Natural Gas Utilities and Interstate Natural Gas Pipeline Companies Information Reporting - Minn. Regs. EA 301-315	)	ORDER FOR HEARING

IT IS HEREBY ORDERED that a public hearing on the above-captioned rule amendments be held in Room A of the Veterans Service Building, 20 West 12th Street and Columbus Avenue between Wabasha and Iglehart, Saint Paul, on June 23, 1977, commencing at 9:30 a.m. and continuing until all persons have had an opportunity to be heard.

IT IS FURTHER ORDERED that a Notice of Hearing be mailed to all persons or representatives of associations or other interested groups who have registered their names with the Secretary of State for that purpose.

IT IS FURTHER ORDERED that the Notice of Hearing be published in the State Register.

Dated: May 10, 1977

John P. Millhone
Director

STATE OF MINNESOTA

MINNESOTA ENERGY AGENCY

In the Matter of the Proposed Amendment of Rules of the Minnesota Energy Agency Governing Natural Gas Utilities and Interstate Natural Gas Pipeline Companies Information Reporting - Minn. Regs. EA 301-315	)	NOTICE OF HEARING

NOTICE IS HEREBY GIVEN THAT a public hearing in the above-entitled matter will be held in Room A of the Veterans Service Building, 20 West 12th Street and Columbus Avenue between Wabasha and Iglehart, Saint Paul, on June 23, 1977, commencing at 9:30 a.m. and continuing until all persons have had an opportunity to be heard.

All interested or affected persons will have an opportunity to participate. Statements may be made orally or in writing at the hearing and written materials may be submitted by mail to William Seltzer, Hearing Examiner, Room 300, 1745 University Avenue, Saint Paul, Minnesota, 55104, telephone 612/296-8105 either before the hearing or within 20 days after the close of the hearing.

The proposed rule amendments, if adopted, would improve, update and make more precise the reporting requirements currently imposed on natural gas utilities and interstate natural gas pipeline companies. Certain proposed rule amendments would require additional forecast data of the gas utilities and interstate natural gas pipeline companies to enable the director to better anticipate future state energy demands and enable him to make sensible and rational

EA EXHIBIT 2
K. A. K. DATE 6/23/77

recommendations for limiting such growth. Certain other proposed rule amendments will aid the director in monitoring energy usage by the state's largest end users. Finally, certain proposed rule amendments delete present reporting requirements which were one time in nature, unnecessary in order for the Agency to fulfill its legislative mandate, overly cumbersome in nature, or duplicative of information collected by other agencies.

Copies of the proposed amended rules are now available and one free copy may be obtained by writing to the Minnesota Energy Agency, 740 American Center Building, 150 East Kellogg Boulevard, Saint Paul, Minnesota, 55101. Copies will also be available at the door on the date of the hearing. The Agency's authority to promulgate the proposed amended rules is contained in Minn. Stat. §§ 116H.08(a) (1974). A Statement of Need presenting facts showing the need for and reasonableness of the proposed amendments and a Statement of Evidence summarizing the evidence to be presented at the hearing in support of the proposed amendments will be filed at the Office of Hearing Examiners at least 25 days prior to the hearing and will be available there for public inspection.

Please be advised that Minnesota Statutes, Chapter 10A, requires each lobbyist to register with the Ethical Practices Board within five days after he commences lobbying. Lobbying includes attempting to influence rule making by communicating or urging others to communicate with public officials. A lobbyist is generally any individual who spends more than $250 per year for lobbying or any individual who is engaged for pay or authorized to spend money by another individual or association and who spends more than $250 per

year or five hours per month at lobbying. The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, Saint Paul, Minnesota 55155, telephone 612/296-5615.

Dated: May 10, 1977

John P. Millhone
Director

STATE OF MINNESOTA)
) ss
COUNTY OF RAMSEY)

In the Matter of the Proposed
Amendment of Rules of the
Minnesota Energy Agency
Governing Natural Gas Utilities
and Interstate Natural Gas
Pipeline Companies Information
Reporting - Minn. Regs. EA 301-315

AFFIDAVIT
OF MAILING

Daniel L. Sullivan, being first duly sworn,
deposes and says:

That on the 20th day of May, 1977, at the City of Saint Paul, County of Ramsey, State of Minnesota, he served the attached Notice of Hearing by depositing in the United States mail at said City of Saint Paul, a true and correct copy thereof, properly enveloped, with postage prepaid, to all persons and associations at the addresses listed on the attached Certificate of the Secretary of State.

Daniel Sullivan

Subscribed and sworn to before me
this 20th day of May, 1977.

Louis E. Sullivan
Notary Public

LOUIS E. SULLIVAN
Notary Public, Hennepin.Co., MN
My Commission Expires
January 1, 1982

MINNESOTA ENERGY AGENCY

In the Matter of the Proposed Adoption of Amended Rules of the Minnesota Energy Agency Governing Natural Gas Utilities and Interstate Natural Gas Pipeline Companies Information Reporting - Minn. Regs. EA 301-315	)	Docket No. EA-77-007-WS
	)	STATEMENT OF EVIDENCE

In addition to the "Statement of Need" which is available for inspection or purchase at the Office of Hearing Examiners, Room 300, 1745 University Avenue, St. Paul, Minnesota 55104, and in support thereof, the Minnesota Energy Agency will introduce the current Minnesota Energy Agency Rules and Regulations Governing Natural Gas Utilities and Interstate Natural Gas Pipeline Companies, Minn. Regs. EA 300-311, and the expert opinion of Daniel Quillin, Research Analyst, Minnesota Energy Agency.

We may call one or more of the following expert witnesses to testify: Dr. Richard A. Wallen, Director of Certificate of Need Program, Mr. Larry Kitzman, Research Analyst, Minnesota Energy Agency; Mr. Ronald Visness, Assistant Director for Project Coordination, Minnesota Energy Agency; and Ms. Linda Limback, Project Maintenance Officer, Minnesota Energy Agency. The named individuals played a substantial role in developing the proposed rules and will be available to testify in support of the need for each proposed rule.

We will be citing the following statutes: Minn. Stat. Chapter 116H (especially, but not exclusively, Section 116H.10, section 116H.11).

Dated: May 25, 1977

Ronald D. Visness

Ronald D. Visness
Assistant Director

EA EXHIBIT 4
DATE 6/24/77

STATE OF MINNESOTA

MINNESOTA ENERGY AGENCY

In the Matter of the Proposed Adoption of Amended Rules of The Minnesota Energy Agency Governing Natural Gas Utilities and Interstate Natural Gas Pipeline Companies Information Reporting - Minn. Regs. EA 301-315.	)	Docket No. EA-77-007-WS

STATEMENT OF NEED

The above captioned rules are amendments to existing rules of the Minnesota Energy Agency (hereinafter "Agency"). The original rules were adopted August 5, 1975. The above captioned rules represent the first amendments to those original rules.

The need to adopt these amended rules arises for the following reasons:

1. The need for the director of the Agency (hereinafter the "director") to continously improve and more adequately and precisely meet the forecasting and current energy statistical requirements mandated by state law.

This information is required to be collected by Minnesota Statutes 1976 sections 116H.07 Subdivision 1 (a) and (e), and 116H.10, Forecasts, Statistics, and Information, Subdivisions 1 and 2.

> Subdivision 1. In order to further the purposes of sections 116H.01 to 116H.15, the director shall develop and maintain an effective program of collection, compilation, and analysis of energy statistics. The statistical program shall be developed to insure a central state repository of energy data and so that the state may coordinate and cooperate with other governmental data collection and record keeping programs.
>
> Sub. 2. In addition to supplying such current statistical and short range forecasting information as the director may require, each utility, coal supplier, petroleum supplier and large energy facility in the state shall prepare and transmit to the director by July 1, 1975, and every year thereafter, a report specifying in five, ten, and 15 year forecasts the projected demand for energy within their respective service areas and the facilities necessary to meet the demand.

> The report shall be in a form specified by the director and contain all information deemed relevant by the director.

Minn. Stat. § 116H.10 subds. 1 and 2 (1976).

2. Certain additions to the rules are needed to help the director better anticipate the level of statewide and geographical energy demand and to help serve as a basis for long-range actions that the director may recommend to the Legislature. This mandate for the director is set out in Subdivision 1(c) of section 116H.11 of Minnesota Statutes, which requires the director in his biennial report to identify:

> (c) the anticipated level of statewide and geographical area energy demand for 20 years which shall serve as the basis for long-range actions;

3. Other additions in the rules have been made to help the director identify any problems that might arise if present natural gas consumption trends continue. The mandate for the director to identify such potential problems is contained in Subdivision 1(d) of section 116H.11 of Minnesota Statutes. This subdivision requires of the director:

> (d) the identification of potential adverse social, economic, or environmental effects caused by continuation of the present energy demand trends;

4. Other additions to the rules are made to more adequately aid the director in estimating the reduction in annual energy consumption resulting from various energy conservation measures. The mandate for this is in Subdivision 1(f) of section 116H.11 of Minnesota Statutes. This subdivision requires the director in his biennial report to the legislature to identify:

> (f) the estimated reduction in annual energy consumption resulting from various energy conservation measures; . . .

5. Other proposed additions or deletions to the original rules are a direct result of the Agency's greater expertise and knowledge of the gas utility and interstate gas pipeline industry developed through firsthand experience in collecting and analyzing energy forecasts and statistics.

In some cases where certain information requests had been made of both gas utilities and interstate natural gas pipeline companies in the same rule they have now been separated into different information requests in different rules. This was done both for purposes of clarity and as a recognition on the part of the Agency that information requirements for the gas utilities are not always appropriate for interstate natural gas pipeline companies and vice versa.

6. In other cases deletions have been proposed because certain information requirements are no longer necessary for the Agency to fulfill its legislatively mandated statistical and forecasting requirements. One-time historical information requirements are examples of this type of deletion.

7. Finally, in some cases certain information requirements were deleted because they were overly burdensome to the gas utility or interstate natural gas pipeline companies involved or of less-than-marginal value to the Agency.

It is submitted that the proposed amended rules as a whole are needed and reasonable for the foregoing reasons. Each substantive change in the original rules is explained and justified rule by rule in the paragraphs that follow. It should be noted that nonsubstantive changes in the rules, such as the reordering of items under a rule by a different number, letter, or letter style in the alphabet, are not explained or justified. Such changes in reordering by number, letter or letter style have occurred to make numerical, alphabetical or grammatical sense, or to conform with the rules of the State Register.

Changes of strictly a technical nature which do not alter the meaning of the rules are not deemed substantive; therefore, there is no explanation for this type of amendment.

The reasons that each proposed amended rule is reasonable and necessary follow.

EA 301 Purposes and Applicability of the Rules

Currently existing rules EA 300 on "Purpose" and EA 301 on "Applicability of These Rules" have been joined together as subdivisions A and B to proposed amended rule EA 301. The purpose for this change is to have consistency in all rules promulgated by the Agency. Beginning with rule EA 301 as opposed to EA 300 achieves this goal.

Under subdivision B the word "customers" has been replaced with the word "consumers." While both words mean relatively the same thing the term "ultimate consumers" is defined in the definition section and for consistency the Agency has chosen to use this word in describing all ultimate users of gas that either a gas utility or interstate pipeline company has.

EA 302 Definitions

Under this rule the first amended definition is proposed amended rule EA 302 B "Annual Gas Consumption." In this rule we propose to add the word "gas" in front of the word "utility" and the word "interstate" in front of the word "pipeline company." This has been done throughout the regulations to provide more clarity to these terms and avoid any confusion in speaking about one or the other. On the end of this definition we propose to add the words "at the end of the reporting year." The effect of these additional words is to make sure that gas held in storage at the end of the year is not counted twice as a part of "annual gas consumption." If this amendment were not adopted, gas held in storage at the end of the year would be counted as a part of annual consumption in one year as "stored gas" and as a part of annual consumption the following year as "sales to ultimate consumers." This amendment avoids this double counting of gas.

The next proposed amendment occurs in proposed amended rule EA 302 E. In this subdivision the current definition of "curtailment below contract demand" has been amended by striking the phrase "below contract demand." With this proposed deletion it is felt we have a more precise current

useage of the word "curtailment."

The next proposed amendment strikes the word "domestic" in proposed amended rule EA 302 J. This deletion is appropriate because in defining what we consider "gas" all other substitutes should be considered "gas" if they are equivalent in performance to "natrual gas" not "domestic natural gas". The use of this term "domestic" is both unnecessary and inaccurately overrestrictive. Therefore, it has been deleted.

The next proposed amendment is in proposed amended rule EA 302 P. Here, for clarification and to avoid confusion, we have again inserted the word "gas" in front of the word "utility" and "interstate" in front of the words "pipeline company."

The next proposed amendment is in proposed amended rule EA 302 Q. In this subdivision we have substituted a new definition of natural gas. The current definition is poor because it defined natural gas only on the basis of where it came from not on its chemical makeup. In addition, it is inaccurate since it defines natural gas as "domestic natural gas received by the utility from its pipeline supplier." According to that definition gas coming from Canada could not be natural gas. This obvious error has been corrected with a new definition which defines the chemical make up for gas and describes where it comes from more broadly and accurately.

The next proposed amendment completely deletes current rule EA 302 (r). This definition was found to be unnecessary since Minnesota gas utilities define all end use customers as "firm" or "interruptible" and do not catagorize customers as "off peak contract customers." Therefore, this definition has been deleted as unnecessary.

The next proposed amendment is in proposed amended rule EA 302 S. Instead of defining "pipeline company" we have chosen to use the full and exact term "interstate gas pipeline company". This is to add precision and clarity to our

definitions. In addition we have added a statement at the end of this definition which say that when ever the words "pipeline company" or "interstate pipeline company" are used the shortened terms describe the term "interstate gas pipeline company". The shortened terms are used within the rules when use of the term clearly implies interstate gas pipeline company, but use of the longer term would be cumbersome or overly repetitive.

In proposed amended rule EA 302 T the word "domestic" is proposed to be deleted as too restrictive and inaccurate. Substitute natural gas means any gaseous fuel equivalent in performance to natural gas, not just "domestic" natural gas. Later in the same definition, we propose to delete the phrase "for purposes of these rules" as being overly wordy and not necessary. Still in the same definition of substitute natural gas we have deleted "coal gas" and "blue gas" because they are not equivalent in performance to natural gas and are not being manufactured by either gas utilities or interstate pipeline companies to be injected into gas pipelines. On the other hand "butane" and "naphtha" are in some cases injected into the pipelines after being converted into natural gas and so these two fuels have specifically been added to our definition of substitute natural gas. At the end of this proposed amendment we have recommended deleting the final phrase "substitute natural gas shall not include liquified natural gas". We feel this exclusion of LNG is obvious to the gas utilities and interstate pipeline companies and therefore is not necessary.

The final proposed amendment is in proposed amended rule EA 302 V. The purpose of the additional wording added to the definition of "utility" is to better define the difference between a gas utility and an interstate gas pipeline company.

EA 303 Registration

Once again in this rule whenever we discuss the terms "utility" or "pipeline company" we have used the words "gas", "interstate gas" and "interstate" before terms to better define these terms and be consistent with our definitional section.

The dates "on June 1, 1975" in the third line and "by July 1, 1975" in the fourth line have been deleted from proposed amended rule EA 303 because they were one time in nature and are no longer applicable.

The word "made" midway through the paragraph has also been deleted as unnecessary.

The phrase "the type of utility or company which it is" is also proposed to be deleted as information which the agency already has access to and knows.

EA 304 Reporting Dates

In this rule we have divided reporting dates into a subdivision A for gas utilities and subdivision B for interstate gas pipeline companies. This subdivision approach provides more clarity and sharper definition of which requirements are required when for gas utilities and interstate gas pipeline companies.

Under proposed amended rule EA 304 A only two substantive changes are made. The first is setting the reporting date for 1977 only back to October 1, 1977. Thereafter the annual reporting date will be July 1. This was done because the time of year that these amended natural gas regulations are being adopted required a later reporting date.

The second substantive change involved the proposed addition of a 4th quarter reporting deadline of January 31.

This reporting deadline is added as proposed amended rule EA 304 A 2 d. In the original rules a reporting deadline for 4th quarter reports (information for the period of October 1 to December 31) was inadvertantly left out. This addition simply corrects an obvious error in the rules.

In proposed amended rule EA 304 B at the end of the first paragraph a requirement (from current rule EA 304) that each interstate gas pipeline company file a copy of certain data listed in current rule EA 308 (c) with the Agency within 10 days of the filing of such information with the FPC has been deleted. Data in the form requested by this portion of the rule is not filed by interstate pipeline companies with the Federal Power Commission. Thus, this requirement is an impossible one. In addition it is the Agency's opinion that the information is overly burdensome and duplicative of forecast and current statistic information collected as a part of proposed new rule EA 308.

A second substantive change is recommended in the proposed deletion of the entire last paragraph in current rule EA 304. This language gave the director the authority to change the reporting dates for information required of the utilities and interstate pipeline companies, provided he gave a 30-day written notice. We have deleted this section out of a desire on the part of the Agency to permanently set the reporting dates. In addition, it was felt that this discretionary power was not necessary.

EA 305 Federal Reports Filed By Gas Utilities and Interstate Gas Pipelines.

The title of this rule has been changed from simply "Forecasts" to "Basic Forecasts and Current Statistics for Gas Utilities." The reason for this new title is that, unlike the current rule, data requested under this amended rule applies only to gas utilities, not to interstate gas

pipeline companies. Since there are such distinct differences between a gas utility and an interstate pipeline company the Agency staff believes it is a mistake and confusing to place the forecast and current statistics requirements of both within the same rule. For this reason it proposes to delete completely current rule EA 306 (a) which requires interstate pipeline companies to forecast supply by utility and instead place all forecasting and current statistic information requirements for interstate pipeline companies in proposed new rule EA 308. That newly proposed rule specifically deals with forecasting and information requirements of interstate gas pipeline companies.

The words "current statistics" have been added to the title because part of the data required in this section is current statistics rather than a forecast.

The term "basic" was added to the title to reflect a more elementary less documented forecast than that required of the major utilities who must file the extended forecast in proposed new rule Ea 307.

The next substantive change appears in proposed rule EA 306 A. Instead of a 5, 10, and 15 year forecast, the proposed amended rule requires data for the last calendar year, the present calendar year and the subsequent 15 years. The amount of additional work that is required of each utility is minimal since utilities are already required to forecast the 5th , 10th and 15 years. Filling in the missing years should be relatively easy no matter what forecasting methodology is used. The Agency staff believes that yearly data is required to obtain a complete and accurate picture of anticipated growth and available supplies. The yearly forecast data helps the Agency evaluate the accurateness of long range 5, 10, and 15 year forecasts. In the absense of this yearly forecast data it is more difficult to measure whether the utilities are forecasting correctly since there is no yearly measuring stick. Such data may

also aid in identifying effects of state and federal energy conservation measures on consumption of gas. Such yearly data will also aid the Agency staff in anticipating and evaluating certificates of need requests.

The next substantive change is in proposed amended rule EA 306 B 1. In this rule we have stricken from the current rule the phrase "for each community" which has the effect of no longer requiring utilities to forecast by either municipality or county (in practice, the Agency required utilities to try to forecast by one or the other to meet this requirement). Several utilities found this requirement to be extremely difficult to meet because it required a great deal of analytical work on each community they served. The Agency found this information to be of only marginal value . Since we will collect sales to ultimate consumers by county for the last calendar year from a reporting requirement in another part of the rules and since we have a forecast on the service area of the utility, the Agency ought to be able to do regional or local forecasting with reasonable accuracy. For these reasons these items have been deleted.

Proposed amended rule EA 306 B 3 has been amended by adding a phrase that indicates that the Agency is interested in knowing the volumes of gas used in the internal operation of the utility only within its Minnesota service area, not outside this service area. This amendment makes the data received in response to this requirement consistent and interchangeable with the rest of the data received under proposed amended rule EA 306.

In proposed amended rule EA 306 B 5 it is proposed to add language that excludes gas held in storage at the year's end to be counted in the annual gas consumption figure reported by the utility. This, as mentioned earlier, is to avoid double counting gas.

In proposed amended rule EA 306 B 6 and 7 additional language is added to current rules to make it clear that the Agency wants to know the volume of substitute natural gas and liquid natural gas to be provided by the utility to supplement the utility's supply of natural gas for use in its Minnesota service area for each of the forecast years.

Proposed new rule EA 306 B 8 and 9 require the utility to forecast how much of its annual consumption will be met by natural gas withdrawn from underground storage and how much annual consumption will be met with natural gas from its pipeline supplier.

Proposed amended rules EA 306 6 and 7 and newly proposed rules EA 306 B 8 and 9 are important because the responses will allow the Agency to see how utilities intend to meet future demand requirements. Once we have this supply information we can evaluate whether they will be capable of securing the volumes of supply needed. This is a critical and important question.

Another proposed new rule is EA 306 B 10. This rule asks for the maximum design day volume of gas the utility ever expects to have to deliver to its firm customers. This information is important because the utility must have the capacity to meet this demand in order that the general welfare of the people is protected. The utility's capability to meet this demand is measured by proposed new rule EA 306 B 12 by asking how much of each type of gas will be made available on the design day to meet the demand.

New rule EA 306 B 13, 14 and 15 require the utility to forecast the amount of substitute natural gas, liquid natural gas and stored underground natural gas the utility will have at the beginning of the winter heating season for each of the forecast years. Knowing this information is important to the Agency because it will allow us to know at the beginning of each winter heating season if adequate supplementary supplies have been built up to the necessary levels to meet the coming winter demand. This simple double

check may aid us in avoiding the drastic problems created by gas shortages in Ohio and Pennsylvania in the winter of 1976-77.

Proposed new rule EA 306 B 16 requires the utilities to forecast the type and amount of fuels that will be used for substitute natural gas. This gives us an ability to more accurately estimate future consumption of liquid petroleum gases in Minnesota. In addition by placing this proposed new rule here it allows us to delete current rule EA 307 (c) on "Fuel Requirements and Generation By Fuel Type."

The next change which occurs in amending current rule EA 306 (c) by making it proposed amended rule EA 306 B 17. The proposed amended rule is similar to the current rule which requests current data and a forecast of sales to ultimate consumers by designated categories. The catagories have been alphabetically listed and slightly altered to provide the most useful data to the Agency. All references to off peak customers have been deleted since Minnesota utilities do not categorize customers as "Off peak" but rather as "interruptible." The importance of this information is that it indicates the number and type of customers the utility plans to serve. It is important for the Agency to know and evaluate whether the utility is taking on excessive customers in certain categories. In addition, this information gives the Agency the ability to project who will be the users of natural gas 5, 10 and 15 years from today. It also allows the Agency to project how many commercial or industrial users of natural gas will be required to shift to an alternative fuel, and will aid in determining how much alternative fuel will be needed to meet declining natural gas supplies.

The next substantive change is the deletion of current rule EA 306 (d). This subdivision on reporting years is no longer needed becasue they are set out in proposed amended rule EA 306 A. The one-time reporting requirement for 1975 at the end of current rule EA 306 (d) has also been deleted as it is no longer relevant.

In proposed amended rule EA 306 C a one-time reference in the current rule EA 306 (d) to the year 1973 has been deleted because it is no longer relevant or necessary.

Since actual data is to be used for the last calendar year and all other years by necessity must be forecast, it was felt that the second sentence in current rule EA 306 (e) was unnecessary and should be deleted in proposed new rule EA 306 C. This sentence asks that estimates be used and identified as such when recorded figures are not available. This is not needed since the very next sentence asks for a forecast for each reporting year other than the last calander year. A forecast is always an estimate, while data for the last calendar year should be actual.

An additional sentence has been added to EA 306 C recognizing that although 5 to 15 year natural gas forecasts can be difficult to calculate and subject to considerable error, utilities must prepare there forecasts to the best of their ability. This addition is made because some utilities have balked at making the forecast beyond 5 years because they felt there was a large potential margin for error for which they do not want to be held responsible. While the statute is quite clear that utilities must make such forecasts this sentence is to reassure the utilities that the Agency recognizes that beyond a 5-year period forecasting is much less reliable and that we simply ask for a forecast to the best of their present knowledge and ability.

About midway through the paragraph beginning on line 11 and then again on lines 17 and 20, the phrase "or pipeline company" has been deleted from the current rate since this entire rule EA 306 is devoted to gas utility reporting requirements.

Beginning on line 12 of proposed amended rule EA 306 C we are proposing to delete the following sentence from the current rules. "The data for each reporting year shall be calculated by applying these factors to the data for the last calendar year for which actual data is available."

This sentence is proposed to be deleted because the Agency's staff believes that it could be interpreted by the utilities as a directive to make a simple linear projection of future gas demand based on some constant factors. The Agency staff does not want to limit the utilities into making only this type of forecast but wants instead to provide latitude for the utilities to use whatever methodology would most accurately describe their future consumption pattern.

On line 22 of proposed amended rule EA 306 C the word "projection" is proposed to be deleted as repetitive and unnecessary.

Also beginning on line 22 of proposed amended rule EA 306 C is the proposed adoption of the phrase "and what factors might create such changes". This phrase simply asks the utility to list the factors which might alter natural gas consumption or supply from their forecasted levels.

Finally it is proposed to add a new sentence at the end of the proposed amended rule EA 306 C which provides that any utility which must file the extended forecast and documentation in newly proposed rule EA 307 is exempt from reporting the documentation required in EA 306 C. This is because the documentation is EA 307 is much more comprehen-- sive and covers all documentation required in EA 306 C. Therefore, it is unnecessary for a utility to document its forecast more than once.

EA 307 Extended Forecast and Documentation

Since over 80% of the natural gas sold to ultimate consumers in Minnesota is sold by the four utilities named in EA 307 A a more comprehensive understanding of their operation and future plans is essential to the welfare of the state and for the Agency to fulfill its legislative mandate of evaluating and forecasting state energy needs.

The extended forecast in newly proposed rule EA 307 requires the four listed utilities to identify their sales to ultimate consumers by category on the peak send out day. This information is important to the Agency because it identifies which class of customers is receiving natural gas on the peak day and which and how many customers are having to switch to an alternative fuel on peak day. In short it gives us a snap-action picture of the utility on its single day of greatest strain each year. This information will provide the Agency with a method to determine what impact the addition of new firm customers is having on the utility. It will aid the Agency in addressing the policy question of new gas hookups. Which and how many should be allowed?

As important as the forecast and current statistics in EA 306 and 307 is the method by which they are calculated.

The comprehensive documentation section in proposed new rule in EA 307 C identifies exactly what documentation is wanted by the Agency. It requires the utility to detail the methodology used, the data base used for the forecast, and the assumptions upon which the forecast is based. This information is essential for the Agency to determine the degree of validity and accurateness of the forecast. It also aids the Agency in determining under what conditions the forecast is applicable and the variables which might alter the forecast. With the forecast documentation required in newly proposed rule Ea 307 C the Agency ought to be able to do a good job in evaluating the annual forecasts made by utilities and agregating them into statewide forecasts. The Agency through its director is required to evaluate each utility's forecasts by Minn. Stat. § 116H.10 subd.5 (1976). This new forecast documentation section will give us the ability to fulfill this legislative mandate.

EA 308 Basic Forecast and Current Statistics for Interstate Gas Pipeline Companies.

As mentioned earlier we have separated current statistics and forecasts for gas utilities from those of interstate gas pipeline companies.

The Agency's legal responsibility and mandate are clearly stated in Minn. Stat. § 116H.10 subd. 2 (1976). This subdivision states that all large energy facilities in the state must file 5, 10, and 15 year forecasts. According to the definitional section of Minn. Stat. § 116H.02 subd. 5 (1976) "large energy facility" definitely includes an interstate natural gas pipeline company.

The wisdom of this legislative mandate requiring current statistic and forecasting information from interstate pipeline companies is clearly needed to avoid the type of situation that developed in Ohio and Pennsylvania where interstate pipeline companies' available supplies could not meet contracted firm demand of gas utility customers. Ignorance of the facts only plays into the hand of an energy disaster. Those states affected should have been aware of their perilous situation in regard to natural gas supplies far in advance of the disaster. An interstate pipeline company such as Northern Natural Gas Company which delivers over 95% of Minnesota natural gas supplies literally holds the welfare, jobs and well being of the people of the state of Minnesota in its control. For this compelling reason it is of the highest importance that Northern Natural provide certain current statistics and forecasts of what supplies will be available in coming years to the state of Minnesota and the gas utilities serving it. Recognizing that Northern Natural gas serves a multiple state area we have limited our current statistic and forecasting requirements to proposed new rules EA 308 B 1,2 3, and 4. These four items are:

1. Sales to Minnesota ultimate consumers (such as main line sales or industrial accounts not sold through a utility but directly by the interstate pipeline company). This data when combined with sales to ultimate consumers by gas utilities gives a complete picture of current and future sales to ultimate consumers in Minnesota.
2. Sales to Minnesota gas utilities for resale. Knowing how much gas will be available to all Minnesota Utilities aids the Agency in evaluating the state's natural gas future and determining how much alternative fuel will be needed to make up for shrinking supplies of natural gas.
3. The maximum one-day demand of gas that must be provided to Minnesota to meet contractual obligations to all utilities and firm customers of the pipeline. This information will provide the Agency with a long term view of peak demand and how the interstate pipeline companies will be dealing with it.
4. Current historic data and a forecast of sales to ultimate consumers in Minnesota by category. This data when combined with similar data collected from gas utilities will give a current and future profile of who will receive gas in Minnesota and who will be curtailed and by how much. It provides the Agency with an idea of how many customers the utility intends to add and who they will be. It provides an idea of how much gas these new customers will use. It provides facts with which the Agency may develop a policy on new hookups to natural gas.

Proposed new rule EA 307 C provides general instructions on providing current statistics and calculating a forecast. In addition it asks for a written explanation of the assumptions and factors used in arriving at the forecast and what conditions and factors might alter the forecast. These items are necessary for the Agency to know so that we have some consistency in the forecasts and so Agency staff can better evaluate

the validity and accuracy of the forecast.

EA 309 Facility Requirements for Gas Utility Companies.

Again we have separated into two different reporting requirements current and future facilities for gas utilities which are contained in proposed amended rule EA 309 and current and future facilities for Interstate Natural Gas Pipeline Companies which are in proposed new rule EA 310. This separation allows the Agency to write informational requirements that are clearer and easier to understand. For this reason, proposed amended rule EA 309 A strikes the term "and pipeline company" from the current rule EA 307 (a).

In proposed amended rule EA 309 A we are proposing to delete current rule EA 307 (a)(i) which requires the utility to provide the name and geographic location of all gas delivery points or town border stations. This information is not needed or useful to the Agency.

Another change occurs in proposed amended rule EA 309 A 1. Current language requesting data for both underground natural gas storage facilities and liquid natural gas facilities has been separated into different subdivisions. (EA 309 A 1 concerns natural gas facilities and EA 309 A 2 concerns liquid natural gas facilities.) Information requirements in the current rules, such as storage capacity and single day withdrawal capacity, are required for each along with two new items requiring the volume in storage at the beginning of the last winter's heating season and the anticipated retirement date for the facility. These data items tell the Agency about the utility's storage capacity and ability to meet peak day demands from each facility and historic levels of pre-winter heating season storage, (this last item of information can then be compared with current and future winter heating seasons data to insure that the utility will store adequate supplies to meet heavy winter demand.) The idea is that if a gas utility normally has 2 billion cubic feet of natural gas in liquid natural gas form on October 1 and in a given year the utility

reports only .75 billion cubic feet on hand as of October 1 we may anticipate a winter heating problem long in advance.

The same proposed amendments as apply to natural gas and liquid natural gas facilities are added for the same reasons in EA 309 A 3 a, b, c, and d for substitute natural gas (SNG) facilities. Proposed deletions from current rules include EA 307 (a) (iii) (aa), (bb), (dd), (ee), (ff), (gg). These information requests for each SNG facility dealt with such subjects as the Btu content of SNG, annual production of SNG at the facility, maximum daily production during the past calendar year, maximum capable daily production the facility is capable of, total volume of SNG generated at plant for non-plant use during last calendar year, and the annual fuel requirements needed to operate the facility during last calendar year. The reasons for deleting these information requirements are that they were either found to be unnecessary for the Agency to perform its responsibilities or were similar to reporting requirements on SNG being reported in other sections under the proposed amended rules.

In proposed amended rule EA 309 A 3 a, technical amendments striking old wording in current rule EA 307 (a) (iii) (cc) are proposed plus a new phrase at the end of this reporting requirement to make sure that we receive maximum storage capacity of the facility in MCF rather than gallons of liquid petroleum gas.

One other proposed addition is rule EA 309 A 3 e which asks what type of fuel the facility converts to substitute natural gas. This again is an important feature to know about each current or proposed facility.

Finally, in regard to current facilities for gas utilities, proposed amended rule EA 309 A 4 has recommended deletions. These deletions include striking references in the current rules to "pipeline company's", "transmission lines" and "utilities served" because this is map data that is required of interstate pipeline companies and is asked for in EA 310 B 4 thus it is inappropriate to ask for such information here. Also proposed to be deleted in the same amended rule are references in the current rules to

identify by location, delivery points, or town border stations. This information has in the past been of only marginal value so it has been deleted. Amended additions to this rule include requiring the geographic location of natural gas storage facilities, liquid natural gas facilities, interconnection with other utilities and interstate pipeline companies. These items are important and will aid the Agency in knowing the physical system of gas distribution in the state.

Proposed amended rule EA 309 B requires information about future facilities that the Agency will need. Once again it is proposed to strike the reference to "pipeline company" in this section since current and future facility requirements for interstate pipeline companies are dealt with in another section of the rules. Overly repetitive language from current rule EA 307 (b) at the end of the second sentence in proposed amended rule EA 309 B has been deleted.

Current rule EA 307 B (i) has been deleted. This rule requires utilities to identify future delivery points or town border stations. This information simply is not needed by the Agency.

Current rule EA 307 (b) (ii) which lumped underground natural gas storage facilities and liquid natural gas storage facilities together in one paragraph along with the data information requirements for each, has been separated into proposed amended rule EA 309 B 1 for underground natural gas storage facilities and EA 309 B 2 for liquid natural gas storage facilities. In each new proposed amended rule, we have asked for four data items about each new planned facility. These four informational requirements include the year the anticipated facility will be ready for operation, the storage capacity of the new facility, stored volume of the facility at the beginning of each heating season when it becomes operational, and the maximum single day withdrawal capacity of the planned facility. Knowledge of this information will give the Agency a basis for evaluating how and if the utilities will be able to meet their anticipated firm

commitments and when in the future new facilities will have to be added. Language at the end of current rule EA 307 b (ii) that asked for storage capacity and single day withdrawal capability has been deleted since they are among the four items asked for in the amended rules EA 309 B 1 and 2.

Proposed amended rule EA 309 B 3 lists informational requirements about all new substitute natural gas facilities. Proposed amended rule EA 309 B 3 a, maintains language from the current rules requiring the utility to state the type of fuel which will be converted to SNG while deleting language in current rule EA 307 (b) (iii) (aa) which required the utility to state what the Btu content of the SNG that will be produced from the facility would be. Since SNG must have a certain Btu content before it is injected into the line, it was felt that this informational requirement was not really needed so it was deleted.

Other deletions of language include current rules EA 307 (b) (iii) (bb), (cc), (dd), (ee), (ff), (hh), and (ii). The information requirements deleted include estimated annual production capability of the facility, estimated actual production of SNG by the facility, maximum daily production capability of the facility, maximum daily production of SNG, the year construction will begin, cost of the new facility, consumption of fuels in operation of the facility. These information requirements are recommended for deletion for an assortment of reasons including: some were of only marginal value to the Agency, others were difficult for the utilities to calculate, others were repetitive, and there were just too many items being requested (10 items in all). Proposed new rules EA 309 B 3 a, b, c, d, and e require only five informational requirements. Two of these informational requirements are: the type of fuel to be converted to SNG and the month and year the plant is predicted to begin operation (both of these items are not new, but are asked under the current rules). The remaining three items are the storage capability of the facility in MCF's of SNG, the storage in MCF's of SNG that will be on hand at the beginning of the winter heating season and the maximum daily volume of SNG that can be injected into the

pipeline system, all of which aid the Agency in evaluating what supplies will be avilable for the gas utility to meet its contracted demand.

Also recommended for deletion are current rules EA 307 (b), (iv), (v), (vi) and (vii). These information requirements include two items which deal with interstate pipeline companies (iv, vi) which is inappropriate for this reporting rule on gas utilities. The two other information requirements, one which asks for any further municipalities that will be served that are not now, and a map of major utility, distribution lines are asked for in another portion of the rules, thus we have deleted these requirements here.

Also proposed for deletion is the entire current rule EA 307 (c). This subdivision deals strictly with fuel requirements for the generation of substitute natural gas. Since we pick this information up under the proposed amended rule EA 306 B 16, it is unnecessary to ask for this information here.

Finally, we have a new proposed rule EA 309 B 4. This proposed new rule asks that the gas utility provide a map showing the location of any new facilities, or areas to be served in the next 15 years. This information is needed by the Agency to complete its forecasting obligations in an accurate way and to get a better idea of what the utilities are planning for in terms of physical facilities.

EA 310 Facility Requirements for Interstate Pipeline Companies

This proposed new rule asks the natural gas pipeline companies for the same information about their existing and proposed facilities as was requested of gas utilities. This requirement gives the Agency a thorough understanding of the current physical operation and capacity of the interstate gas pipeline companies in Minnesota. In addition it details what physical facilities will be needed in Minnesota to meet future anticipated levels of gas consumption. This overall view of the current and planned for facilities aids the Agency in knowing how many physical facilities will have to be built, where they will

have to be built, when they will have to be built, and what type of facility is being currently planned.

EA 311 Quarterly Disposition of Gas by Utilities

The title for this proposed rule has been altered from "Disposition of Gas" under the current rules to the proposed amended title "Quarterly Disposition of Gas by Utilities". This was done to more accurately describe the rule and because all requirements of interstate gas pipeline companies have been deleted from this rule.

Quarterly reports of gas consumption by Standard Industrial Classification codes remains unchanged from the current rules except that under the proposed amended rule EA 311 A sales by Standard Industrial Classification Code are to be reported by county rather than zip code (as current rules require). The reason for this change was that utilities and the Agency found the county geographical unit easier to work with than the zip code areas.

In proposed amended rule EA 311 B language in the current rules has been deleted that suggested the Agency would require more detailed breakdowns for residential and governmental units. This further breakdown was found by the Agency not to be needed. Therefore this reference has been deleted.

In proposed amended rule EA 311 C language from the current rules has been deleted that required pipeline companied to make quarterly reports on their direct sales to ultimate consumers. This amendment is proposed because only a small portion of Minnesota's gas sales to ultimate consumers is handled directly by the interstate pipeline companies and since information on the volume of gas sold by category of end use customer is collected annually, it was felt that this information was of only marginal value. For this reason it was felt that quarterly reports of the interstate pipeline companies were not necessary and have been deleted.

Also being deleted are one time only reporting requirements in current rule EA 308 (b), (c) and (d). These reporting

requirments for the year 1975 only, now are outdated and should be deleted.

EA 312 Disposition of Gas by Interstate Pipeline Companies

This proposed new rule requires the interstate pipeline gas companies to file their annual report to the FPC (FPC Form 2) and their Annual Report of Supply and Requirements to the FPC (FPC Form 16) with the Agency. Both reports supply the Agency with important current and historic statistical information on the interstate pipeline companies sales for resale by month and year to Minnesota utilities.

EA 313 Other Information to be Reported by Gas Utilities

The title of this proposed rule has been amended. Since it applies only to gas utilities the title was amended to reflect this fact.

EA 313 A is a proposed new reporting requirement that would illustrate monthly sales to ultimate consumers in a bar graph form. The graph would illustrate for each month sales to firm customers and interruptible customers. This information would aid the Agency and the legislature in better understanding how gas utilities operate and what percentage of their load is firm customer sales as opposed to interruptible customer sales depending on the time of year.

The next substantial change proposed is the addition of proposed rule EA 313 C. This amendment simply represents a transfer of a current reporting requirement, EA 307 (b) (v), to a more appropriate section of the reporting rules. It is important for the Agency to know of any new municipalities or geographic areas the utility intends to serve. The addition of new municipal areas in light of declining gas supplies deserves serious evaluation by the Agency.

The next substantial change is the proposed deletion of current rule EA 309 (b). This reporting requirement is no longer necessary because the Agency already has the historic information on firm contract customers and design day gas supplies requested in this section and will continue to get

current information and forecasts on firm customer requirements under reporting rule EA 306 B 10, 11 and 12.

Additional deletions are proposed in amended rule EA 313 D. This rule pertains to customers the utility anticipates will be curtailed in the supply of gas made available to them. The information required here allows the Agency to find out which companies in Minnesota are going to have to switch to alternative fuels and gives us the opportunity to find out what alternative fuel they plan on switching to.

The two information requirements deleted in this proposed amended rule are current rule EA 309 (c) (ii) and (iii). EA 309 (c) (ii), which requires a utility to estimate the amount of gas made available because of future curtailment, is no longer needed because this information is collected as a part of the current statistics and forecast section in proposed amended rule EA 306 B 16. EA 309 (c) (iii) is not needed since the Agency already has the priority list for gas cutbacks schedules that must be followed by all Minnesota utilities.

Also proposed to be deleted is current rule EA 309 (d). These reporting requirements on sales to firm, interruptible and offpeak customers are not needed because they are collected in proposed amended rule EA 306 B 16. The historic information is already in the Agency files and EA 306 B 16 provided this information on an annual basis. (It should be noted that information requirements related to "offpeak customers" are deleted completely from the rules and are not in the proposed new rules. This is because Minnesota utilities do not classify any of their customers as "offpeak customers" but rather as "firm" or "interruptible").

A new reporting requirement is proposed amended rule EA 313 F. This requirement requires utilities to annually report annual sales to ultimate customers by county. This information allows the Agency to show current and forecasted gas consumption by region of the state. Without this information it would be difficult for the Agency to do any

regional breakdown of natural gas consumption in the state. Such regional breakdowns are required by Minn. Stat. § 116.10 subd. 1 C (1976).

Another proposed amended rule is EA 313 G. This information requirement is designed to allow the Agency to monitor all large end users of natural gas in the State of Minnesota. It gives the Agency the potential to conduct a large end user conservation program and measure the results. It is important information because a relatively small number of gas customers have in the past used considerable portions of the gas sold in the state. It is also possible that the governor or legislature may require the Agency to conduct a large energy user conservation program for which this information rule would serve as the backbone. It is felt the new language provides a better list of large natural gas end users than the old language of the current rule which required only the 25 largest customers of each gas utility. It should be noted that we have a similar requirement in the proposed amended rule in the Agency's electric utility information reporting rules.

Another addition the Agency is proposing is EA 313 H. This form which the utility files with the Bureau of Mines contains general information on sales by the utility's ultimate customers. The Agency has this annual report back to 1965 for each utility and finds this information useful when historic gas consumption data for the state (1960-1972 time frame) is needed. For this reason we would like to continue receiving this information and have the authority to request such reports back to 1960.

One final amendment is the addition of rule EA 313 I. This reporting requirement requires a utility to disclose any contract that the utility has for purchasing or selling liquid natural gas or substitute natural gas. The reason for this is that the Agency must be aware of the contract, its duration, terms and conditions in order to be able to correctly ascertain the amount of supplies a gas utility will have available at its disposal during any given year.

EA 314 Other Information to be Reported by Interstate Pipeline Companies

The Agency feels that three essential information requirements are needed from the interstate gas pipeline companies. The first is proposed amended rule EA 314 A which requires a list of ultimate consumers who will be curtailed or completely phased out in the next five years. When combined with the gas utility company's list of anticipated customer curtailments this will give us a complete list of Minnesota businesses which are scheduled to be curtailed in the coming years. Using a survey from the Agency could determine what alternative energy form the business or industry intends on using (oil or coal).

The second additional information requirement is proposed amended rule EA 314 B. This rule requires the interstate gas pipeline company to provide its list of sales to ultimate customers by county for the last calendar year. When combined with the same information requirement for gas utilities it provides a method for the Agency to provide current regional energy consumption information and future forecasts.

The final additional information requirement is proposed amended rule EA 314 C. This rule requires the interstate pipeline company to report the volume of gas sold to its largest end use customer. This information is necessary so that the Agency has a full and complete list of all large end users of natural gas in the state. Such a list is compiled by combining the gas utilities list of largest customers and interstate pipeline companies large main line end use customers.

EA 315 Corrections

There are no substantial changes in this rule.

EA 316 Federal or State Data Substitution for Energy Agency Data Requirements

A technical amendment is proposed in this amended rule to clarify that the utility is to initiate a request for data substitution by a written request to the director if it wishes

to substitute other federal or state information in lieu of a state Energy Agency reporting requirement. In the past the current rule has created some confusion on this point.

In conclusion it is submitted that the foregoing constitutes a thorough and adequate presentation of facts showing the need for and reasonableness of the proposed amendments in general and by specific rules.

Dated: May 27, 1977

Daniel Quillin
Research Analyst
Minnesota Energy Agency

STATE OF MINNESOTA

MINNESOTA ENERGY AGENCY

RECEIVED
JUL 13 1977
OFFICE OF HEARING EXAMINERS

In the Matter of the Proposed Adoption of Amended Rules of the Minneosta Energy Agency Governing Natural Gas Utilities and Interstate Natural Gas Pipeline Companies Information Reporting - Minn. Regs. EA 301-316	)	Docket No. EA-77-007-WS ENERGY AGENCY STAFF POST HEARING SUBMISSION

The Minnesota Energy Agency (hereinafter the "Agency") Staff hereby submits its response to the criticism and suggestions made at the public hearing in the above-captioned proceeding. The Agency's presentation is organized to follow the order of the proposed amended rules. Included also are the Agency Staff's recommendations for changes in response to comments made at the hearing.

Discussion Point 1

During the public hearing Minnesota Gas Company raised two questions regarding our definitions for proposed amended rules EA 302 M "Large Energy Facility" and EA 302 T "Substitute Natural Gas".

In regard to proposed amended rule EA 302 M "Large Energy Facility", a question was raised why the term "synthetic gas" was used in the definition and then left undefined in the rest of the rules? In answering this question, it should be recognized that within the gas industry the terms "synthetic gas" and "substitute natural gas" mean virtually the same thing. Since the term "substitute natural gas" is used more frequently, both by regulatory bodies and the industry itself, we chose to use it and define it in our proposed rules. We intentionally have used this term and not "synthetic gas" throughout our rules so as to avoid confusion. The sole exception to this is in the definition "Large Energy Facility". Here we have been forced to use the term "synthetic gas", because this is how the term is defined in the Agency's enacting statute. Minn. Laws 1977, ch. 381 §§ 7. We felt that it would be incorrect if our definition was not identical to the statutory definition.

To avoid any confusion we propose to add at the end of the definition of substitute natural gas, "Whenever the term 'synthetic gas' is used within these rules it shall be construed to mean the same as substitute natural gas".

Minnesota Gas Company also felt that the Agency's definition of "Substitute Natural Gas" contained in EA 302 T could be clarified and improved upon. With this idea in mind it suggested a new definition. The Agency after reviewing Minnesota Gas Company's definition finds it acceptable and recommends that it be adopted along with the language suggested in the previous paragraph.

With these recommended changes, EA 302 T would read:

> EA 302 T "Substitute natural gas means any gaseous fuel, equivalent in performance to natural gas which is created from other gases, liquids, or solid hydrocarbons. Substitute natural gas shall include <u>manufactured gases, gas produced from liquid petroleum gases, such as propane and butane, and gas produced from naphtha. Whenever the term synthetic gas is used within these rules it shall be construed to mean the same as substitute natural gas."</u>

At a post hearing conference Minnesota Gas Company was satisfied that these changes answered their concerns.

<u>Discussion Point 2</u>

An area of concern in proposed amended rule EA 302 "Definitions" for Northern States Power (NSP) are three typographical or grammatical errors. In proposed amended rule EA 302 I in the second line of the definition "not" should be changed to "nor". In EA 302 M the word "liquefied" was incorrectly spelled "liquified". In EA 302 T the word "naphtha" was incorrectly spelled "napthas". The Agency staff concurs that these are typographical and grammatical errors and recommends that NSP's suggested corrections be accepted.

<u>Discussion Point 3</u>

Minnesota Gas Company in its submission at the public hearing objected to the annual and quarterly reporting dates in proposed

amended rule EA 304. We shall discuss these items separately.

Proposed amended rule EA 304 A would require gas utilities to file their annual data and forecast on July 1 (as they are now required to do) with the exception of the present year. Because of the time process of amending these rules the Agency by necessity has had to move this year's reporting date back to October 1.

Minnesota Gas Company feels a July 1 reporting date is "unreasonable" and would like the annual reporting date moved back to December 31 of each year. The Agency staff opposes this recommendation.* It must be remembered that the current statistics that the Agency receives in July are for the previous calendar year. In other words, if the rules are adopted as they are now the Agency in July of 1978 will have the 1977 actual data. After the information is received from the utilities it must be inspected, mistakes corrected and missing information completed. Information received should then be entered into the computer and data aggregated into current reports, statistics and forecasts for the public and the legislature. The Agency collects data from over 150 electric utilities, over 30 gas utilities, and 39 petroleum companies. All are currently required to file their annual reports by July 1 of each year. This gives the Agency very limited staff time to verify, complete and issue reports by the end of the year for the public and the incoming Legislature.

If the annual reporting data were moved back to December 31 of each year to accommodate Minnesota Gas Company it would be January 1 of the following year before we could even begin compiling, verifying and aggregating data and forecasts. In other words, if such a schedule were adopted the Agency would only begin to compile on January 1, 1978, data and statistics for 1976! The value of current statistics is to a degree based on their timeliness. It would be impossible to compile data and forecasts for the 1978 Legislature which convenes in January of 1978 if such an annual reporting date were accepted. In addition the Agency staff believes it is poor information management practice to only begin to compile statistics, information and forecasts based on 1976 data on January 1, 1978.

* Under lining indicates only emphasis.

The Agency Staff is quite confident that the six month period from the end of the last calendar year until July 1 of the following year is more than enough time for Minnesota Gas Company or any other utility to compile its historical data for the last calendar year and prepare its forecasts for the coming 15 years. Since the July 1 reporting date allows us to provide an apprise the public and legislature with more current information and energy trends we feel the July 1 annual reporting date (with the exception of October 1 this year) should be maintained and the suggested later filing date not be adopted. In short, we believe that sound management information practices, and the need to provide the legislature and public with timely energy statistics, information and forecasts makes the July 1 annual reporting a necessity, which is of greater importance than any internal inconvenience that this data may cause a particular utility.*

Minnesota Gas Company also objected to proposed amended rule EA 304 A 2 which requires that quarterly reports be filed with the Agency within 30 days after the end of the reporting quarter. Minnesota Gas Company claims that this information is not available until 45 days after the quarter ends and cannot be compiled and submitted in less than 60 days.

In this regard the Agency has established a 30 day reporting requirement for quarterly data for not only natural gas utilities but electric utilities and petroleum suppliers. The Agency hesitates to treat gas utilities different in this regard than electric utilities or petroleum suppliers, both for the sake of consistency and for information management practices. On the other hand we do not want to unnecessarily require a utility to make a costly change in its internal operation. It should be noted that all other natural gas utilites currently are able to meet the 30 day reporting requirement. With this as background it should be noted that the proposed amended rule EA 304 A 2 provides discretionary authority to the

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* It should be noted that the Federal Power Commission's annual reporting data for Electric Utilities and Interstate Pipeline Companies is April 1 of each year. (This is two months earlier than our own annual reporting requirements).

director to alter or extend the reporting deadlines. This language allows the Agency to set a 30 day reporting requirement which all other gas utilities have been able to meet and allows us to set up an exception to accommodate the peculiarities of Minnesota Gas Company's internal operation. It should be noted that in the past under the operation of this rule the Agency has allowed Minnesota Gas Company to file their quarterly reports whenever they are complete. If Minnesota Gas Company would like a more formal written exception and extended deadline, the Agency's Director should be asked to provide one.

With this as background the Agency Staff recommends the proposed 60 day filing deadline proposal suggested by Minnesota Gas Company be rejected.

Discussion Point 4

Minnesota Gas Company, in its written submission, opposes having to make an annual forecast 15 years into the future which is required by proposed amended rule EA 306. Mr. Pooler describes this as a "costly but worthless exercise".

Both Minnesota Statutes and the Minnesota Energy Agency strongly disagree with Minnesota Gas Company. The thrust of the law and of the Agency's reporting requirements in this rule is to provide the Agency, the public and the Minnesota Legislature with information on the prospects of short-term and long-term gas supplies and consumption trends. In a country of ever-dwindling natural gas supplies these forecasts by state service areas allow the Agency and the legislature appropriate lead time to meet or prepare for whatever difficulties may arise. With proper forecasts of available supply and probable consumption, the likelihood of energy disasters caused by natural gas shortages such as what happened in Ohio and Pennsylvania last winter are vastly reduced. On a short-term basis conservation measures can be implemented at the beginning of an anticipated "tight winter" to prevent a mid-winter crisis. On a longer-term basis, if it appears supplies will or may begin to run short in the 10 to 15 year period down the line the state must consider remedial action to assist in the transfer over to other fuels, to alleviate hardships,

and to conserve existing supplies. As an example, if long-term forecasts show that supplies may run short 5 to 15 years down the line, the state should consider whether it is wise to allow the gas utilities to continue an unrestricted policy of new residential gas hookups as they now do.

In proposed amended rule EA 306 A the Agency has proposed an annual forecast for the next 15 years instead of a 5, 10 and 15 year forecast as the current rules now require. The need for this annual forecast has become increasingly apparent as our Agency staff has gained experience in working with the current limitation of a 5, 10 and 15 year forecast. Following are some of the reasons why the annual forecast data is needed and is important to the state:

1) While it is important to know the availability of supply and anticipated consumption of gas by users in 1982, 1987 and 1992 it is of even greater immediate concern to know the status of our gas supply and consumption situation in 1978 and 1979 and 1980. In other words to deal with our immediate short range problem of the coming year and following year, we need to know anticipated supply of natural gas and consumption;

2) The state needs to know how much curtailment of existing gas customers will take place. Each end use customer of natural gas that is curtailed will primarily utilize petroleum to take the place of natural gas. We need to know how much additional petroleum demand will occur due to the curtailment of existing natural gas users. This information is of extreme importance for the next couple of years when fuel oil shortages are likely to occur.

3) For the state to evaluate the accuracy of a 5, 10 and 15 year forecast it is helpful that the incremental annual steps that will occur in reaching the 5, 10 and 15 year forecast level be identified also. This is because 5, 10 and 15 year forecasts represent trends which the utility perceives will likely occur. If the Agency has only a 5, 10 and 15 year forecast, we are in the position of

having to wait until 1980 or 1981 to evaluate whether or not the utilities' original 1982 forecast is going to be on target or not. Annual forecasts are the incremental steps that allow the Agency to annually evaluate and measure the accuracy of projected long range 5, 10 and 15 year trends.

In essence annual forecasts allow the Agency to evaluate the accuracy of short and long-term utility forecasts and, most importantly, to monitor new trends that may occur in energy consumption or supply. The early diagnosis of such new trends buys the all important time that the state needs to react to new energy situations. On the other hand, such information may also indicate that anticipated stringent energy conservation measures may not be needed as soon as perceived.

4) Annual forecasts of supply and consumption allow the Agency to more accurately identify the time period when significant energy events are anticipated to occur. In the gas industry on the supply side this might be additional gas supplies that will be available because of a new trans-Canadian gas pipeline or new substitute gas facilities. On the consumption side, may be a certain type of customer who will be cut off by a particular year in order that residential service may be continued. These events and their impact on gas supply and consumption and their subsequent effect on the utility's forecast should be identified more accurately as to their time of occurrence than by the 5-year intervals that the 5, 10 and 15 year forecast provides. To give an example, let's say that a utility believes that a trans-Canadian gas pipeline will provide new supplies of natural gas into Minnesota in 1983. Under our current forecast reporting requirements the increase in supply that this project would provide would not show up until 1987 (10th forecast year). In other words, the Agency would not be aware of the anticipated increase in supply that would be available to the utility in 1983, 1984, 1985 or 1986. Conversely, if anticipated supplies for 1983 do not

develop as quickly as anticipated (e.g., delays in construction of such a pipeline, governmental holdups, etc.) and new pipeline were not completed until 1987, there could be substantial shortages as early as 1983, 1984, 1985 and 1986 and the Agency would not be aware of that possibility because we would have only 1982 and 1987 forecasts. Given annual periods of time within which significant energy events should occur in order to balance supply and consumption, the Agency can use its influence and authority to insure that supply and consumption are kept in proper balance.

A question was raised during the hearings as to the Agency's legal authority to require annual forecasts for the coming 15 years. The Agency's main authority for requiring this inforamtion is Minnesota Statutes 1976 Section 116H.10. This section reads as follows:*

> 116H.10 FORECASTS, STATISTICS AND INFORMATION. Subdivision 1. In order to further the purposes of sections 116H.10 to 116H.15, the director shall develop and maintain an effective program of collection, and analysis of energy statistics. The statistical program shall be developed to insure a central state repository of energy data and so that the state may coordinate and cooperate with other governmental data collection and record keeping programs.
>
> Subd. 2. In addition to supplying such current statistical and short range forecasting information as the director may require, each utility, coal supplier, petroleum supplier and large energy facility in the state shall prepare and transmit to the director by July 1, 1975, and every year thereafter, a report specifying in five, ten, and 15 year forecasts the projected demand for energy within their respective service areas and the facilities necessary to meet the demand.
>
> The report shall be in a form specified by the director and contain all information deemed relevant by the director.
>
> Subd. 3. The director shall, to the maximum extent feasible, provide that forecasts required under this section be consistent with material required by other state and federal agencies in order to prevent unnecessary duplication.
>
> Subd. 4. Reports issued pursuant to this section shall be available for public inspection in the office of the agency during normal business hours.
>
> Subd. 5. The director shall review and evaluate forecasts of energy demands and resources as they relate to the most current population growth and development estimates, statewide and regional land use, transportation, and economic development programs and forecasts.

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* Underlining of statutes is for emphasis only.

In regard to this section it should be pointed out that in subdivision 2 the state requires the Agency at a minimum to collect, "a report specifying in five, ten and 15 year forecasts the projected demand for energy within their respective service areas and the facilities necessary to meet the demand". In addition the statute goes on to say, "The report shall be in a form specified by the director and contain all information deemed relevant by the director".*

It is our strong belief that the forecast data before and between the 5, 10 and 15 years is information "deemed relevant by the director" in order to evaluate the accuracy and acceptability of the utilities' forecast which the director is required to do under Minnesota Statutes 1976, Section 116H.11, Subdivision 1 (a). This section requires the director to report to the legislature at least once every two years:

> (a) A final report on the accuracy and acceptability of the energy forecasts received under section 116H.10 and the alternatives to meeting that demand.

In addition, in Subdivision 2 of Section 116H.10 it should be pointed out that in the first line in addition to providing 5, 10 and 15 year forecasts each utility is to "supply such current statistical and short range forecasting information as the director may require".

Certainly the requirement for "short range forecasting information" is a direct concrete reference to the director's authority and responsibility to collect information for the 4 years prior to the longer range 5, 10 and 15 year forecast required by statute.

Subdivision 1, of Section 116H.10 also states, that, "the director shall develop an effective program of collection, compilation and analysis of energy statistics".

It is important to note that Agency staff is best able to analyze future forecast statistics by having the incremental annual forecast data so as to be able to see annually if trends perceived the year before in future energy supply and consumption

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* Underlining indicates only emphasis

are actually happening or not. Agency staff believe that to have "an effective program and analysis of energy statistics" we must have the annual incremental forecasts to do the job.

Indeed the Agency's inforamtion gathering authority is broad and sweeping but it is implemented with the intent, according to statute, "to insure a central state repository of energy data".

It is the belief of the Agency staff that if the Agency were to require information beyond the 15-year time frame, we would be skirting our legislative authority; however, the information we propose to collect within the 15-year time frame is within both the explicit wording and the intent of Sections 116H.10 and 116H.11.

In response to Mr. Pooler's remarks that forecasts in the 10 and 15 year period are of no value, it should simply be pointed out that obviously the Minnesota legislature disagrees and statutorily requires such forecasts. The Agency staff agrees that in the 10 to 15 year time frame forecasts are less reliable and subject to considerable fluctuation. However, we believe that to have some idea of what the future may hold is better than no idea at all. For instance, if the future of natural gas is as uncertain as Mr. Pooler has suggested, should gas utilities continue an unrestricted policy of natural gas hookups for residential homes?

If the state is aware of what may possibly occur in terms of gas supply and consumption, it can take proper precautions and plan alternative strategies to meet possible adverse conditions. If the adverse conditions do not come about the state has lost nothing by being prepared. If adversity does come, the state shall not be surprised or caught off guard.

The suggestion that the data will be misused or misinterpreted suggests that the state is ignorant or incompetent, both of which are founded in suspicion not fact.

Finally the Hearing Examiner must realize that the emphasis of self interest between the utility and the state

may be different. The utility is a private business in many cases. The first concern of a business must be the maintenance of a fair profit, hopefully growth, and the confidence of its share holders. For this reason one must at least raise the question that the utility, unless absolutely necessary, will not want to release any information which might suggest that the future of natural gas may be in trouble. Such information might harm the well being and stock of the company. This is not to suggest that this is the motive or even a partial motive for Minnesota Gas Company's unwillingness to provide 5 to 15 year forecasts. But, on the other hand, it would be remiss of our duty as public officials if this question were not at least raised.

Certainly the Agency would never want to hurt the well being of a major utility. However, the protection of the welfare, health and jobs of the people of the state must be the first self interest of the state.

If precedent in these matters is of significance, on March 28, 1977, Hearing Examiner Allan Klein recommended adoption of electric utility reporting requirements annually for the next 15 years.

It is felt by the Agency staff that once the utility has developed a 5, 10 and 15 year forecast, it requires only a marginal amount of additional work in filling in the incremental forecast years by which the utility derived its 5, 10 and 15 year forecast.

Finally, it should be noted that the Agency has cut out a very burdensome forecasting requirement that troubled the utilities. Proposed amended rule EA 306 B 1 has been amended so as to no longer require utilities' to forecast by community. This should substantially reduce the utilities work in preparing annual forecasts for the Agency.

In summary, the Agency opposes any further reduction in the 15 year reporting requirements as proposed in amended rule EA 306.

Discussion Point 5

Minnesota Gas Company recommends striking in proposed amended rule EA 306 B 12 the phrase "that the utility will have available" as unnecessary language. The Agency staff agrees with Minnesota Gas Company and recommends its deletion. The new rule would read as follows:

EA 306 B

12. the design day availability of each type of gas and the maximum one day volume of gas such supplies will provide.

Discussion Point 6

Minnesota Gas Company also testified at the public hearing that it felt proposed amended rule EA 306 B 13 was unclear in its intent.

The intent of proposed amended rule EA 306 B 13 is to provide the Agency with the amount of usable substitute natural gas that the utility can produce from the feedstock of liquid petroleum gas that it will have on hand at the beginning of the heating season. This is an important item because inventory levels of substitute natural gas should be at a reasonable level at the beginning of the winter heating season so as to make sure the utility will have enough gas to meet peak requirements of firm customers in the coming winter. Rather than asking the utility to report the volume levels of each type of liquid petroleum gas which it would then have to try to convert to equivalent MCF's of substitute natural gas, the Agency instead opted for asking the utility to identify the total equivalent amount of substitute natural gas that could be produced from the different feedstocks of liquid petroleum gas on hand.

After reviewing the current language of proposed amended rule EA 306 B 13 the Agency staff feels the intent of this rule can be further clarified by adding after the word "utility" in the first line the phrase "can produce from the feedstock it", then delete the phrase "for use" in the second line. With these changes the rule will read:

EA 306 B

13. the amount of substitute natural gas the utility can produce from the feedstock it will have in storage at the beginning of the winter season for use in its Minnesota service area.

Discussion Point 7

Both Northern States Power and Minnesota Gas Company discovered a typographical error. In proposed amended rule EA 306 B 17 the reference to "EA 305 A 5" should be changed to "EA 306 B 5". The Agency concurs that this is a typographical error and recommends it be changed accordingly. The corrected rule should read:

EA 306 B 17

m. total annual gas consumed in Minnesota (total a-l should equal EA 306 B 5).

Discussion Point 8

Both Northern States Power Company and Minnesota Gas Company objected to the Extended Forecast and Documentation in proposed amended rule EA 307 and have suggested its deletion. The Energy Agency staff recommends against this suggestion.

To discuss EA 307 it should be broken down into two sub-items.

Proposed amended rule EA 307 A asks the utility to identify on its peak send out day by ultimate consumer categories the volume of gas being used. This is an important piece of information because it gives us a stop-action picture of the utility on its single day of greatest strain each year. It shows us which class of customers will be receiving natural gas on peak day and which customers will have to switch to alternative fuels on peak days. This forecasting requirement should show what impact the addition of more and residential firm customers has on existing users of natural gas and the utility on peak day. For instance, if we continue to add residential firm customers does it mean in the near future that we will have to cut off large or small volume industrial or commercial firm customers on peak send out days? Will these industrial or

commercial customers be able to use alternative fuels in their operations?

Another question which this item helps answer is how great a single day peak demand will firm customers cause? Does it appear that substantial numbers of new substitute natural gas facilities or liquid natural gas facilities will have to be built to accommodate the firm customer demand?

Minnesota Gas Company's criticism of this requirement is to suggest peak shaving* is a complex issue and that asking for information simply on the peak send out day does not address the more substantial question of meeting peak shaving requirements for an entire heating season. The Agency response to this is that we believe there is substantial value in analyzing the peak send out day for the reasons previously mentioned and that we are continually trying to devise standards for measuring a utility's ability to meet peak shaving demands over an entire winter heating season. Information related to seasonal peak shaving capacity has been asked for in proposed amended rule EA 306 B 13, 14 and 15. In these reporting requirements we ask for the volume or equivalent volume of substitute natural gas, stored underground gas, and liquid natural gas stored at the beginning of each heating season. Through experience we will find out how much should be stored in order to insure that peak shaving needs can be met throughout the winter.

Northern States Power claims that the information requested under proposed amended rule EA 307 A relating to a forecast of firm customer useage on peak day is obtainable under proposed amended rules EA 306, 311 and 313.

This is not true. Proposed amended rule EA 306 B 10 requests the utility to forecast maximum possible firm demand but does not break down this firm demand by categories (i.e., residential firm, commercial firm under 200 MCF per peak day, industrial firm over 200 MCF per peak day) as proposed amended rule EA 307 A does. Likewise proposed amended rule EA 306 B 17, while asking for information by the categories we want, asks for yearly consumption

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* Peak shaving can be defined as meeting peak day requirements over and above gas available from the interstate pipeline by the manufacture of substitute natural gas, or injection into the pipeline of gas from underground storage or liquid natural gas.

data, not peak day information, which is what we ask for in proposed amended rule EA 307 A.

Proposed amended rule EA 311 deals with quarterly reports that are submitted to the Agency by Standard Industrial Classification categories and has nothing to do with peak day sales at all.

Proposed amended rule EA 313 B asks for a graph compiled from data by month for the past year. While this graph gives us some idea of customer load presently by month, it gives us no data on peak day or any forecast for the future as to consumption patterns on peak day.

Finally, NSP claims that the 15 year forecast under EA 306 gives us information on total number of firm and interruptible customers. While this is true, it does not give us a breakdown of the types and number of customers served on peak day either currently or in the future and the Agency, as stated previously, feels this is very important information to know.

The Agency staff senses that the real objections of the utilities to proposed amended rule EA 307 centers on subdivision B which requires comprehensive forecast documentation. This documentation section is similar to what is required of electric utilities in their annual reporting requirements. The Agency believes that to evaluate, understand and aggregate the forecasts of the major gas utilities in the state, we must understand the methodology, assumptions and data used in compiling such forecasts. Knowing this information also aids the Agency in determining under what conditions the forecast is applicable and the variables which might alter the forecast.

Minnesota Gas Company suggests that "discussions" after the submission of its forecast is more desirable than requiring written documentation. While certain discussions are always helpful after receiving the utility's report, it is essential that certain basic documentation be filed by all the utilities. Discussions are often rambling and do not cover the same ground for each utility. Written documentation will always require each utility to answer in written form the same set of questions about its forecast. When one stops to think of it, should one ever submit reports without their being well footnoted and documented? The Agency staff thinks not and

feels the four largest utilities should do a comprehensive job of documenting their forecasts where possible. Proposed amended rule EA 307 B asks specific questions in regard to the assumptions, methodology and data used in arriving at the forecast that we believe the utility should answer to the best of its ability.

In summary, Agency staff believes that proposed amended rule EA 307 should remain as proposed.

Discussion Point 9

This discussion point relates to objections to the proposed amended rule EA 308 which requires a basic forecast and current statistics from interstate pipeline companies. Objections were raised by the interstate pipeline companies, Northern Natural Gas Company and Great Lakes Transmission Line Company.

Objections raised by the two interstate pipeline companies centered around two subjects.

Both pipeline companies objected to having to report any data regarding ultimate consumers that they might have in Minnesota claiming that neither had any. After the hearing I pointed out to Northern Natural Gas that in their annual FPC report they had listed "field and main line sales" to ultimate customers in Minnesota. They responded that while it was true that they were required to file these customers with the FPC, these customers were actually customers of their gas distribution utility subsidary Peoples Natural Gas Company. I checked this information out and it is true these reported ultimate consumers are customers of Peoples Natural Gas Utility. Therefore we collect data on these end use customers through the gas utility reporting requirements. Thus the interstate pipeline companies do not actually have any end use customers in Minnesota. For this reason Agency staff recommends deleting proposed amended rule EA 308 B 1 and 4 which asked interstate pipeline companies to forecast data on their sales to ultimate consumers. With the proposed changes the new rule EA 308 B would read as follows:

EA 308 BASIC FORECAST AND CURRENT STATISTICS FOR INTERSTATE GAS PIPELINE COMPANIES

A. Each interstate pipeline company shall annually submit to the director for the last calendar year, the present calendar year and subsequent 15 years actual data and forecasts

of anticipated annual Minnesota service area consumption and supply of natural gas.

B. The basic forecast and current data shall contain the following data for each year cited in rule EA 308 A:

1. the annual sales to Minnesota gas utility distribution companies for resale;

2. the maximum one-day amount of gas that must be provided to the Minnesota service area to meet contractual obligations to the gas utilities served.

The other major objection that both Northern Natural Gas and Great Lakes Transmission Line had was requiring them to make a 15-year forecast of gas supplies that would be available to Minnesota utilities and the maximum one-day amount that would be provided to Minnesota for each of these years.

Both companies contend that information requirements of interstate pipeline companies have been pre-empted by the Federal Power Commission and that the state statute requiring them to file current statistics and forecasts is invalid.

The Agency strongly disagrees. The legal staff of the Agency has prepared a separate memorandum of law addressing this legal question which we believe clearly shows the Agency has the authority to collect this information. Please see the separate Memorandum Of Law.*

In terms of Minnesota statutes the Agency's legal responsibility and mandate are clearly stated in Minn. Stat. § 116H.10 subd. 2 (1976). This subdivision states that all large energy facilities in the state must file 5, 10 and 15 year forecasts. According to the definitional section of Minn. Stat. § 116H.02 subd. 5 (1976) "large energy facility" definitely includes an interstate natural gas pipeline company.

The wisdom of this legislative mandate requiring current statistic and forecasting information from interstate pipeline companies is clearly needed to avoid the type of situation that developed in Ohio and Pennsylvania where interstate pipeline companies available supplies could not meet contracted firm demand of gas utility customers. Ignorance of the facts only plays into the hands of an energy disaster.

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* Underlining added for emphasis only.

Those states affected should have been aware of their perilous situation in regard to natural gas supplies far in advance of the disaster. An interstate pipeline company such as Northern Natural Gas Company which delivers over 95% of Minnesota's natural gas supplies literally holds the welfare, jobs and well being of the people of the state of Minnesota in its control. For this compelling reason it is of the highest importance that Northern Natural provide certain current statistics and forecasts of what supplies will be available in coming years to the state of Minnesota and the gas utilities serving it. Recognizing that Northern Natural Gas serves a multiple state area we have limited our current statistic and forecasting requirements to proposed new rules EA 308 B 1 and 2. These two items are:

1. Sales to Minnesota gas utilities for resale. Knowing how much gas will be available to all Minnesota utilities aids the Agency in evaluating the state's natural gas future and determing how much alternative fuel will be needed to make up for shrinking supplies of natural gas.

2. The maximum one-day demand of gas that must be provided to Minnesota to meet contractual obligations to all utilities.

This information will provide the Agency with a long-term view of peak demand and how the interstate pipeline companies will be dealing with it.

Proposed new rule EA 307 C provides general instructions on providing current statistics and calculating a forecast. In addition it asks for a written explanation of the assumptions and factors used in arriving at the forecast and what conditions and factors might alter the forecast. These items are necessary for the Agency to know so that we have some consistency in the forecasts and so Agency staff can better evaluate the validity and accuracy of the forecast.

During the hearing some questions were raised regarding the usefulness of current forecast data submitted to the FPC by the interstate pipeline companies. In this regard two specific reports should be mentioned.

The first is Schedule No. 1A of FPC Form 16. Twice each year the interstate pipeline company submits to the FPC a report which covers actual deliveries for the past year by utility served and projects for the coming year supplies that will be available to each utility. This information while extremely useful provides the Agency with no more than a one year forecast of supply which falls substantially short of the amount of lead time the state needs in order to react to the longer term gas supply policy questions that the Agency must address.

The second related form submitted to the Federal Power Commission, with each request for a rate increase is a five year projection of gas supply available to the entire natural gas pipeline system. The most recent filing of this information for Northern Natural Gas Company is in FPC Docket RP 76-52, Volume 3, Statement R2, Schedule 7.

The difficulty in using this data is that since it is for the entire pipeline system it has only limited value for the Agency in assessing the supply of gas that will be made available to Minnesota utilities. In addition it need be filed only when the pipeline company seeks a rate increase.

The Agency staff therefore finds that while information for the coming one year period is available from information submitted to the FPC by the interstate pipeline companies, beyond this one year time frame current interstate pipeline company data is not specifically useful in forecasting supplies of natural gas that will be available to Minnesota utilities. Thus the Agency staff recommends that the reporting requirements provide the Agency with the authority to require interstate natural gas pipeline companies to file 15 year forecasts of supplies that will be made available to Minnesota gas utilities.

In summary we recommend that the hearing examiner reject the arguments of Northern Natural Gas and Great Lakes Transmission Line Company and allow the Agency to collect this limited but vital information from the interstate pipeline companies.

Discussion Point 10

Northern States Power Company in proposed amended rule EA 309 A 2 d, recommends that the word "data" should be changed to "date". This is a typographical error and the Agency concurs with Northern States Power Company's recommendation. If this proposed change is adopted, proposed amended rule EA 309 A 2 d will read:

> d. the anticipated facility retirement date

Northern States Power also recommended that in proposed amended rules EA 309 B 2 b and c, and EA 309 B 3 c and d, the word "converted" be changed to the word "equivalent". Agency staff see no problem with using the wording recommended by Northern States Power, and therefore recommends adoption of it. If amended as recommended, they will read as follows:

> EA 309 B 2 b and c
>
> b. the estimated storage capacity in equivalent MCF of natural gas of the new facility minus reserves that must be kept in storage.
>
> c. the estimated actual storage in equivalent MCF of natural gas that will be available at the beginning of each heating season when the facility is in operation; and
>
> EA 309 B 3 c and d
>
> c. the storage capability of the facility in equivalent MCF of substitute natural gas.
>
> d. the estimated actual storage in equivalent MCF of substitute natural gas that will be available for use at the beginning of each heating season when plant begins operation; and

Discussion Point 11

Northern States Power also requests that proposed amended rule EA 309 B 4 be stricken. This proposed amended rule required utilities to identify future facilities locations on a map. NSP's argument that forecasting the exact locations cannot be done because it will depend upon where growth occurs has some credence.

In addition since parts of the information required in this section are provided in another part of the rules the Agency staff believes it is capable of getting along without this information and therefore recommends the Northern States Power Company recommendation be accepted and proposed amended rule EA 309 B 4 be deleted.

Discussion Point 12

Northern States Power Company also recommends that proposed amended rule EA 313 A be rejected. This rule requires the utility to draw a bar graph indicating monthly sales to firm customers and interruptible customers for each month. The utility opposes this reporting requirement stating that the Agency can construct such a bar graph from the monthly load curve graph in proposed amended rule EA 313 B. This is not quite true. The monthly load curve graph simply gives us an approximate visual representation of how much gas is being used by the different types of customers, not the actual exact data from which to construct another graph.

To construct the bar graph requested in proposed amended rule EA 313 A, the Agency is recommending that proposed amended rule EA 313 B be further amended to read:

> B. An annual load curve for the last calendar year consisting of a single graph and accompanying data table indicating the total monthly consumption of gas in the following classifications:
>
> 1. residential firm
> 2. commercial industrial firm
> 3. small volume interruptible
> 4. large volume interruptible
> 5. electric generation
> 6. gas to storage
> 7. other dispositions and losses; and
> 8. level of contract demand

With this additional piece of information in proposed amended rule EA 313 B, Agency staff believes that proposed amended rule EA 313 A can be stricken completely in accordance with the Northern States Power Company and Minnesota Gas Company recommendations. It should be noted that if this recommendation is followed, all lettered items from proposed amended rule

EA 313 B through EA 313 I will alphabetically change one letter forward (an example is proposed amended rule EA 313 B would then become EA 313 A and proposed amended rule EA 313 I would become EA 313 H).

Discussion Point 13

Northern States Power Company also recommends that proposed amended rule EA 313 F be deleted because this information can be obtained by summing up the totals of the information in the quarterly reports required to be filed pursuant to proposed amended rule EA 311. The Agency staff recommends against this suggestion because the annual sales to ultimate consumer figures serve as a control figure to actually check if quarterly reports are being made accurately and no mistakes are being made.

Discussion Point 14

Both Minnesota Gas Company and Northern States Power Company had criticisms of proposed amended rule EA 313 G. This rule is intended to provide the Agency with information on gas consumption & monitoring ability of the largest end users of natural gas in the state. The Agency believes this information will be extremely helpful in any emergency situation or could serve as the backbone of any large energy conservation program the legislature or Agency might wish to initiate.

Northern States Power Company requests that "peak day demand" be deleted from the information required for large interruptible customers and that the Agency should define whether it wants peak day or annual "boiler requirements".

Minnesota Gas Company originally objected to reporting the annual consumption of all customers using in excess of 6,000 MCF annually. The objection centered around the perceived inability of Minnesota Gas Company to provide this information. Since the hearing Minnesota Gas Company officials have informed me they are capable of providing this information.

To overcome Northern State Power Company's objections and in order to get the information requested the Agency proposes deletion of current proposed amended rule EA 313 G and replacing it with the following language:

> G. For the last calendar year provide a list of customers and their addresses:
>
> 1. who have gas requirements in excess of 200 MCF on their peak day each year. For each customer so identified list:
>
> a. annual actual sales
> b. annual estimated curtailment
> c. annual estimated requirements (sum of a & b should equal c)
> d. alternative fuel used
> e. curtailment priority rank
>
> 2. who are small volume interruptible users. For each small volume interruptible user identify the volume of gas consumed during the last calendar year and the curtailment priority rank.
>
> 3. who are firm customers and consume 6,000 MCF annually. For each customer so identified list the volume of gas consumed during the last calendar year and the curtailment priority rank.

This reporting requirement deletes references to "boiler requirements" and "peak day demand" and substitutes information requirement that the utility submits on a monthly basis to the interstate pipeline company.

With the adoption of this rule the Agency will clearly understand which Minnesota customers are capable of switching to an alternative fuel from gas and how much alternative fuel would be required if they are taken off natural gas.

Finally, and most importantly, the Agency will now be able to monitor the usage of end users of gas or electricity that consume over six billion BTU's of energy per year.

Discussion Point 15

During the hearing Mr. Pooler of Minnesota Gas Company raised questions regarding the cost of the information requested by the Agency. He said that he was interested in keeping utility bills as

low as possible and that the costs of collection and reporting of the data is borne by Minnesota Gas Company's customers. Mr. Pooler concluded that the Agency should try to estimate the cost of reporting requirements before imposing them.

The Agency staff estimates the maximum manpower and miscellaneous requirements to fulfill these reporting requirements and extended forecast for Minnesota Gas Company are as follows:

1. To meet the forecasting requirements - 120 hours
2. To meet the remaining current statistic requirements - 120 hours
3. Miscellaneous costs - $1,000

Total man hours required - 240 hours. Estimated cost, assuming both employees used in compiling the forecast have annual average saleries of $24,000 would be $4,000. Total maximum cost $5,000.

Minnesota Gas Company has over 350,000 customers in Minnesota and annual operating revenues in excess of $170,000,000. This means that the cost of the reporting requirement would be .003 of one percent of current operating revenues or a penny and a half per customer per year. The Agency believes that 75% of the reporting requirements would be carried out as a matter of internal planning policy whether or not the state required this information or not, thereby reducing the actual costs of these reporting requirements even further.

The Agency would argue that the value of the current statistics and forecasts in aiding state policy decisions and providing an early warning system to help prevent any economically dislocating energy problems is money well spent.

Conclusion

Having discussed with hearing participants the proposed amended rules and their suggestions, Agency staff recommends for adoption the proposed amended rules including the changes proposed herein.

MINNESOTA ENERGY AGENCY

Daniel Quillin

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