

Service date: May 4, 1976

BEFORE THE UTILITY DIVISION

DEPARTMENT OF PUBLIC SERVICE REGULATION  
MONTANA PUBLIC SERVICE COMMISSION

IN THE MATTER of the application	)	DOCKET NO. 6388
of CUT BANK GAS COMPANY for	)	
authority to adopt new rates charges	)	ORDER NO. 4251
for natural gas service.	)	

On January 2, 1976, CUT BANK GAS COMPANY (Applicant) filed an application with this Commission for authority to increase rates for its natural gas service to consumers in and around Cut Bank, Montana, A hearing on the application was set for Helena, Montana, on March 25, 1976. The hearing location was changed and moved to Cut Bank, Montana, where the hearing was held on March 25, 1976.

APPEARANCES

FOR THE APPLICANT:

SELDEN S. FRISBEE, Attorney at Law, Wilkins Building,  
Cut Bank, MT 59427

FOR THE PROTESTANT:

WILLIAM M. JOHNSON, Utility Consultant, 1311 Shirley  
Road, Helena, MT 59601

FOR THE COMMISSION:

FRANK E. BUCKLEY, Rate Analyst, Utility Division

BEFORE:

Gordon E. Bollinger, Chairman  
P.J. Gilfeather, Commissioner  
James R. Shea, Commissioner

The Commission having taken evidence and being fully advised in the premises, makes the following Findings, Conclusions and Order:

#### FINDINGS OF FACT

1. Public notice of this hearing was given by means of legal publication in the February 27, 1976, and March 24, 1976, editions of the Great Falls Tribune - the March 5, 1976, edition of Western Breeze, a Cut Bank weekly newspaper, and the March 3, 1976, edition of the Cut Bank Pioneer Press, a weekly newspaper.

No objection was interposed in these proceedings regarding the scope or substance of notice.

2. The hearing commenced at 10:00 a.m. MST, on March 25, 1976, in the Glacier County Courthouse, Cut Bank, Montana. During the hearing two witnesses, J. D. Meagher, Applicant's Vice President-Manager, and Ward Junkermeir, Applicant's Treasurer, testified subject to cross examination.

Statements were taken from four public witnesses: William MacAlpine, Richard Kulberg, Ethel Lyles and Delivyn Gage.

3. The Cut Bank Gas Company is a public utility furnishing natural gas service in the State of Montana, subject to the regulatory jurisdiction of the Commission.

4. The Applicant asserts that its balance sheets, profit and loss statements, and other supporting papers justify the conclusion that its authorized rates are no longer sufficient to produce a just and reasonable return and to cover increased operating expenses.

5. The gas plant and equipment account of \$760,368 consisted of plant carried on the books of \$699, 912; additional capital costs of a compressor and a dehydrator of \$56 ,939; and one-half (½) interest in a royalty service well of \$3,517.

6. A rate base of \$365,330 was established from the Applicant's exhibits and testimony. This consisted of the original cost of the gas plant in service (\$780,368) less: depreciation (\$304,192) less: depletion (\$99,696) plus materials and supplies of (\$8,850)

7. The Public Service Commission took judicial notice of Docket No. 6286 and Order No. 4215, these being associated with the latest Cut Bank Gas Company rate case.

8. Based on Findings of Fact 6, the Commission finds the Applicant's weighted cost of capital to be 11.90 percent.

9. The Applicant requested revenues of \$402,815 from the sales of 432,000 mcf of natural gas at 13.08 psia. This volume of sales, under the present schedule, would produce revenues of \$387,400.

10. The Applicant claimed operating expenses of \$356,139, which included Interest Expenses of \$8,073, Charitable Donations of \$849 and Outside Services Employed of \$17,054.

11. Interest expense and charitable donations are not allowed as operating expenses.

12. \$7,494 of the \$17,054 of Outside Services Employed in Findings of Fact 10 is attributable to rate case expenses.

13. \$4,997 of the \$7,494 in Findings of Fact 11 (2/3 of the amount) is disallowed as being unusual and non-recurring and should be amortized over the next two years for rate making procedures.

14. Based on Findings of Facts 9, 10, 11 and 12, operating expenses are ascertained to be \$342,220.

15. Federal and state income taxes of Applicant will be approximately \$10,590.

16. Net retainage including interest will be \$43,474 or the product of the authorized rate base times the allowed rate of return.

17. The sum of Findings of Facts 13, 14 and 15 require that a rate schedule be authorized which will generate revenues of \$394,560.

18. The Applicant proposed a monthly customer service charge of either \$10 or \$5. This is unreasonable, would burden small users on a fixed income, does not account for cost of service properly and is not in the public interest.

19. Customer service costs generally could include investment charges and expenses relative to a portion of the general distribution system, service drop or other local connection facilities, metering equipment, meter reading, billing and accounting. Applicant's witness, Meagher, testified on cross examination that given these costs the customer service charge could be slightly less than \$3 not the \$5 or \$10 proposed by Applicant.

20. Based on Finding of Fact 19, the appropriate monthly customer service charge is ascertained to be \$3, a customer charge which is in the public interest.

21. The following base rate schedule under a normal year will generate revenues of \$394,560 at a pressure base of 13.08 psia.

Customer Service Charge	\$3.00
All mcf's per mcf	.78

22. There has been no appreciable growth in the number of customers of Cut Bank Gas Company over the last six years, nor is there any expected.

23. The purchased gas costs of the Applicant's exhibits are based upon a hypothetical 80 percent being purchased from the Montana Power Company and the remaining 20 percent coming from royalty gas and company owned gas.

24. The actual mixture of purchased gas costs for the fiscal year 1974 -75 was approximately 65 percent Montana Power Company gas and 35 percent royalty and company owned gas.

25. The actual mixture of purchased gas costs for the first eight (8) months of fiscal year 1975-76 was approximately 64 percent Montana Power Company gas and 36 percent royalty and company owned gas.

26. Based on Findings of Facts 22, 23 and 24, and the testimony and exhibits of the Applicant, quarterly adjustments will be made to the purchased gas costs for both the base rate and purchased gas adjustment rate for each and every customer, of Applicant.

27. The adjustments in Findings of Fact 25 will reflect the economies available of producing more gas from Applicant's wells through the additional plant and equipment in Finding of Fact 5.

#### RULINGS ON MOTIONS AND OBJECTIONS

1. The Applicant moved the Commission to take judicial notice of Docket No. 6286, Order No. 4215, the most recent Cut Bank Gas Company rate case. This motion was granted.

2. The Montana Consumer Counsel objected to the original location of the hearing (Helena) and moved the Public Service Commission to change the location to Cut Bank. This motion was granted.

3. All other rulings on objections to evidence and motions made at the hearing and contained in the transcript are Incorporated herein by reference.

4. Any objections to evidence or motions not previously ruled upon are denied.

## CONCLUSIONS OF LAW

1. The setting of Cut Bank Gas Company's rates is "state action" since it is done by a government entity of this State, namely this Commission, and as such must conform to due process and equal protection standards of the 14th Amendment of the U.S. Constitution. Haydock, Public Utilities and State Action: The Beginning of Constitutional Restraints, 49 Denver L. J. 413 (1973). Ihrke v. Northern States Power Co., 459 F. 2d 566 (8th Cir. 1972).

2. The rate schedule as proposed by Applicant will not be approved by this Commission for the reasons stated in Order No. 4215, Conclusion of Law 1 & 3 because evidence was presented during cross examination of Applicant's witness that indicated a more appropriate rate schedule should be adopted.

3. This Commission has a duty under the provisions of the Public Service Commission Act. R.C.M. 1947, Section 70-101, et seq., to insure that utilities under its jurisdiction provide reasonably adequate service at just and reasonable rates.

4. The standard "just and reasonable" has been held to be the same as the constitutional standard for public utility rates. F.P.C. v. Natural Gas Pipe Line Co., 315 U.S. 575 (1942). This standard has been expressed as follows:

Under the statutory standard of 'just and reasonable' it is the result reached and not the method employed which is controlling. It is not the theory but the impact of the rate order which counts....

The rate-making process under the Act (Natural Gas Act), i. e., the fixing of 'just and reasonable' rates, involves a balancing of the investor and the consumers interest... The investor interest has a legitimate concern with the financial integrity of the company whose rates are being regulated.... The return to the equity owner should be sufficient to assure confidence in the financial integrity of the enterprise, so as to maintain its credit and to attract capital. F.P.C. v. Hope Natural Gas Co., 320 U.S. 591, at 602—603 (1944).

5. In view of the deficiency in the rate of return received by the Applicant in the year 1975, increased rates for Applicant's natural gas distribution service are justified.

6. The increase approved herein is a just and reasonable amount to insure continued service to Applicant's consumers, to provide just and reasonable return and to cover increased operating expenses.

7. The rate relief requested by Applicant should be granted in part as reflected by the above findings.

### ORDER

1. Cut Bank Gas Company shall file monthly reports indicating its sources and volumes of purchased gas.

2. Cut Bank Gas Company is allowed to earn the amounts found reasonable in Finding of Fact 16. Applicant shall file within ten (10) days of this Order, a tariff reflecting this allowance. The tariff shall have a customer service charge of \$3.00 per month and a base rate of \$.78 per mcf for all gas sold. All gas sold shall be charged out as in the proposed schedule plus the said sum of .3111 cents per mcf which .3111 cents represents the said gas purchase increase prior to July 1, 1975. and an additional \$ .2885 will also be charged per mcf of purchased gas which represents the increases approved on an interim basis on December 17 1975, and on January 22, 1976. All billing shall be on a pressure base of 13.08 psia.

3. Cut Bank Gas Company will make quarterly adjustments for each consumer to include both the base rate and the purchased gas adjustment rate.

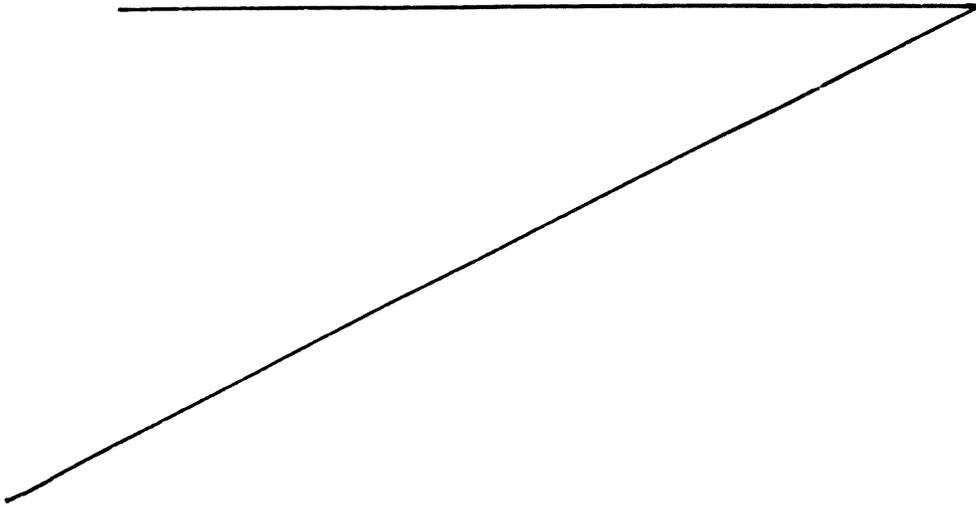
4. Cut Bank Gas Company will report these quarterly adjustments to the Commission.

5. The Applicant will make every effort to make a refund, resulting from these quarterly adjustments, to the particular consumer who was billed for the usage of the utility.

6. Each and every consumer will be informed that in the event that they move or terminate service, that they, the consumer, may write the Applicant to determine whether they have a refund coming.

7. A special escheat fund shall be established in which the Applicant will deposit those monies which resulted from the quarterly adjustments and for which the proper payor has not or cannot be located.

8. Paragraphs 3, 4 and 6, of the Order section of Order No. 4215 are adopted by reference in this order.



9. The filed tariffs shall be effective for product delivered during the next full billing period after April 30, 1976.

DONE IN OPEN SESSION at a meeting of the PUBLIC SERVICE COMMISSION held April 27, 1976, by a vote of 3-0.

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GORDON E. BOLLINGER, Chairman

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P.J. GILFEATHER, Commissioner

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JAMES R. SHEA, Commissioner

ATTEST:

GAIL E. BEHAN  
Secretary

(SEAL)

NOTICE: You are entitled to judicial review of this order. Judicial review may be obtained by filing within thirty (30) days from the service of this order, a petition for review pursuant to Section 82-4216, R.C.M. 1947.