

## CHAPTER 216B

### PUBLIC UTILITIES

216B.045 Regulation of intrastate natural gas pipelines.

216B.16 Rate changes; procedure; hearing.

216B.163 Flexible tariffs.

216B.49 Securities.

#### 216B.045 REGULATION OF INTRASTATE NATURAL GAS PIPELINES.

**Subdivision 1. Definition.** For the purposes of this section "intrastate pipeline" means a pipeline wholly within the state of Minnesota which transports or delivers natural gas received from another person at a point inside or at the border of the state, which is delivered at a point within the state to another, provided that all the natural gas is consumed within the state. An intrastate pipeline does not include a pipeline owned or operated by a public utility.

**Subd. 2. Reasonable rate.** Every rate and contract relating to the sale or transportation of natural gas through an intrastate pipeline shall be just and reasonable. No owner or operator of an intrastate pipeline shall provide intrastate pipeline services in a manner which unreasonably discriminates among customers receiving like or contemporaneous services.

**Subd. 3. Transportation rates; discrimination.** Every owner or operator of an intrastate pipeline shall offer intrastate pipeline transportation services by contract on an open access, nondiscriminatory basis. To the extent the intrastate pipeline has available capacity, the owner or operator of the intrastate pipeline must provide firm and interruptible transportation on behalf of any customer. If physical facilities are needed to establish service to a customer, the customer may provide those facilities or the owner or operator of the intrastate pipeline may provide the facilities for a reasonable and compensatory charge.

**Subd. 4. Contracts; commission approval.** No contract establishing the rates, terms, and conditions of service and facilities to be provided by intrastate pipelines is effective until it is filed with and approved by the commission. The commission has the authority to approve the contracts and to regulate the types and quality of services to be provided through intrastate pipelines. The approval of a contract for an intrastate pipeline to provide service to a public utility does not constitute a determination by the commission that the prices actually paid by the public utility under that contract are reasonable or prudent nor does approval constitute a determination that purchases of gas made or deliveries of gas taken by the public utility under that contract are reasonable or prudent.

**Subd. 5. Complaints.** Any customer of an intrastate pipeline, any person seeking to become a customer of an intrastate pipeline, the department, or the commission on its own motion, may bring a complaint regarding the rates, contracts, terms, conditions, and types of service provided or proposed to be provided through an intrastate pipeline, including a complaint that a service which can reasonably be demanded is not offered by the owner or operator of the intrastate pipeline. If a complaint involves the question of whether or not an intrastate pipeline has capacity available, the commission shall after hearing make a determination of the available capacity but shall not impair the owner or operator of the intrastate pipeline contractual obligation to provide firm transportation service. If a complaint concerns the use of available capacity by one or more customers of an intrastate pipeline, the commission shall after hearing determine the reasonable use of the available capacity by the customers. The commission shall not require an owner or operator of an intrastate pipeline to expand its available capacity but may require the owner or operator to maintain a reasonable quality of service. The commission may dismiss any complaint without a hearing if in its opinion a hearing is not in the public interest. Complaints brought under this subdivision shall be governed by section 216B.17, subdivisions 2 to 7.

Subd. 6. **Records; assessment.** Sections 216B.10, subdivisions 1 and 4, 216B.12, 216B.13, and 216B.62, subdivisions 2, 4, and 6 shall apply to owners and operators of intrastate pipelines.

Subd. 7. **Natural gas emergency.** The commission may declare a natural gas supply emergency if it finds that a severe natural gas shortage endangering the health or safety of the citizens of the state exists or is imminent in the state. If the commission declares that a natural gas supply emergency exists, it may for the duration of the emergency order the suspension of any contract providing for the sale and transportation of natural gas through an intrastate pipeline, and may for the duration of the emergency order an owner or operator of the intrastate pipeline to furnish such transportation services as are required by the public interest. The owner or operator of the intrastate pipeline shall be compensated for its services furnished under an emergency order issued under this section, and the commission shall determine the just and reasonable compensation for the services required to be provided during the emergency.

**History:** 1987 c 9 s 1

## **216B.16 RATE CHANGES; PROCEDURE; HEARING.**

*[For text of subds 1 to 10, see M.S.1986]*

Subd. 11. **Pipeline safety programs.** All costs of a public utility that are necessary to comply with state pipeline safety programs under sections 216D.01 to 216D.07, 299F.56 to 299F.64, or 299J.01 to 299J.17 must be recognized and included by the commission in the determination of just and reasonable rates as if the costs were directly incurred by the utility in furnishing utility service.

**History:** 1987 c 353 s 6

## **216B.163 FLEXIBLE TARIFFS.**

Subdivision 1. **Definitions.** (a) For the purposes of this section, the terms defined in this subdivision have the meanings given them.

(b) "Effective competition" means that a customer of a gas utility who either receives interruptible service or whose daily requirement exceeds 50,000 cubic feet maintains or plans on acquiring the capability to switch to the same, equivalent or substitutable energy supplies or service, except indigenous biomass energy supplies composed of wood products, grain, biowaste, and cellulosic materials, at comparable prices from a supplier not regulated by the commission.

(c) "Flexible tariff" means a rate schedule under which a gas utility may set or change the price for its service to an individual customer or group of customers without prior approval of the commission within a range of prices determined by the commission to be just and reasonable.

Subd. 2. **Flexible tariffs permitted.** Notwithstanding any other provision of this chapter, the commission is authorized to approve a flexible tariff for any class of customers of a gas utility when provision of service, including the sale or transportation of gas, to any customers within the class is subject to effective competition. Upon application of a gas utility, the commission shall find that effective competition exists for a class of customers taking interruptible service at a level exceeding 199,000 cubic feet per day. A gas utility may only apply a flexible tariff to a customer that is subject to effective competition and a gas utility may not apply a flexible tariff or otherwise reduce its rates to compete with indigenous biomass energy supplies, or with customers of district heating facilities as of June 1, 1987. A customer subject to effective competition may elect to take service either under the flexible tariff or under the appropriate nonflexible tariff for that class of service set in accordance with section 216B.03, provided that a customer that uses an alternative energy supply or service other than indigenous biomass energy supplies from a supplier not regulated by the commission for reasons of price shall be deemed to have elected to take service under the flexible tariff.

**Subd. 3. Establishing or changing a flexible tariff.** The commission may establish a flexible tariff through a miscellaneous rate filing only if the filing does not seek to recover any revenues which the utility expects to lose by implementing flexible tariffs from any customers who do not take service under the flexible tariff, nor to change any other rates. If a gas utility requests authority to establish a flexible tariff and as part of that request seeks to recover any revenues which the utility expects to lose by implementing flexible tariffs from any customers who do not take service under the flexible tariff or to change any other rates the commission may only establish that flexible tariff within a general rate case for that gas utility. The commission may only change the rates in a flexible tariff within a gas utility's general rate case.

**Subd. 4. Rates and terms of service.** Whenever the commission authorizes a flexible tariff, it shall set the terms, and conditions of service for that tariff, which shall include:

- (1) that the minimum rate for the tariff recover at least the incremental cost of providing the service;
- (2) that there is no upward maximum for the rate;
- (3) that a customer who elects to take service under the flexible tariff remain on that tariff for a reasonable period of time, which shall not be less than one year; and
- (4) that any customer changing from a flexible tariff to the appropriate nonflexible tariff for that class pay all costs incurred by the utility due to that change.

**Subd. 5. Recovery of revenues.** In a general rate case which establishes a flexible tariff for a gas utility, and in each general rate case of a gas utility for which a flexible tariff has been authorized, the commission shall determine a projected level of revenues and expenses from services under that tariff based on a single target rate for all sales under that tariff, which projection shall be used to determine the utility's overall rates. That target rate used to establish a level of projected revenues shall not limit the gas utility's ability or right to set rates for any customer taking service under the flexible tariff.

**Subd. 6. Interim flexible tariff.** Notwithstanding section 216B.16, subdivision 3, if a gas utility files with the commission to establish or change a flexible tariff the commission shall permit the proposed flexible tariff to take effect on an interim basis no later than 30 days after filing. If any customers receive an increase in rates during the period that an interim flexible tariff is in effect, the increase is subject to refund as provided in section 216B.16, subdivision 3. The gas utility shall provide ten days written notice, or other notice as may be established by contract not to exceed 30 days, to a customer before implementing an interim rate increase for that customer under this section.

**Subd. 7. Final determination.** The commission shall make a final determination in a proceeding begun under this section for approval of a flexible tariff, other than a filing made within a general rate case, within 180 days of the filing by the gas utility.

**History:** 1987 c 371 s 1

**NOTE:** This section, as added by Laws 1987, chapter 371, section 1, is repealed July 1, 1990. See Laws 1987, chapter 371, section 4.

## 216B.49 SECURITIES.

*[For text of subds 1 to 5, see M.S.1986]*

**Subd. 7.** When a public utility is engaged in a project pursuant to sections 469.152 to 469.165, notwithstanding the provisions of section 469.155, funds or accounts established in connection with the project or payment of bonds issued for the project may also be invested in investments of the type authorized in section 11A.24, subdivisions 1 to 5.

**History:** 1987 c 291 s 203