

WILLIAM A. MUNDELL
CHAIRMAN
JIM IRVIN
COMMISSIONER
MARC SPITZER
COMMISSIONER

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OPEN MEETING ITEM
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ARIZONA CORPORATION COMMISSION
2001 MAR 13 P 1:13

AZ CORP COMMISSION
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Arizona Corporation Commission
DOCKETED

MAR 13 2001

DATE: MARCH 13, 2001

DOCKET NO.: G-03703-00-0283

TO ALL PARTIES:

DOCKETED BY 

Enclosed please find the recommendation of Administrative Law Judge Marc E. Stern. The recommendation has been filed in the form of an Opinion and Order on:

**BLACK MOUNTAIN GAS COMPANY
(RATES)**

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and ten (10) copies of the exceptions with the Commission's Docket Control at the address listed below by **4:00** p.m. on or before:

MARCH 22, 2001

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Working Session and Open Meeting to be held on:

MARCH 27, 2001 AND MARCH 28, 2001

For more information, you may contact Docket Control at (602) 542-3477 or the Hearing Division at (602) 542-4250.


BRIAN C. McNEIL
EXECUTIVE SECRETARY

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 WILLIAM A. MUNDELL
CHAIRMAN
3 JIM IRVIN
COMMISSIONER
4 MARC SPITZER
COMMISSIONER
5

6 IN THE MATTER OF THE APPLICATION OF
BLACK MOUNTAIN GAS COMPANY, CAVE
7 CREEK OPERATIONS, FOR A HEARING TO
DETERMINE THE EARNINGS OF THE
8 COMPANY, THE FAIR VALUE OF THE
COMPANY FOR RATEMAKING PURPOSES, TO
9 FIX A JUST AND REASONABLE RATE OF
RETURN THEREON AND TO APPROVE RATE
10 SCHEDULES.

DOCKET NO. G-03703A-00-0283

DECISION NO.

OPINION AND ORDER

11 DATE OF HEARING: February 8, 2001

12 PLACE OF HEARING: Phoenix, Arizona

13 PRESIDING OFFICER: Marc E. Stern

14 APPEARANCES: FENNEMORE CRAIG, P.C., by Ms. Theresa Dwyer, on behalf
of the Black Mountain Gas Company;

15 Mr. Daniel W. Pozefsky, Staff Attorney, on behalf of the
16 Residential Utility Consumer Office; and

17 Mr. Devinti M. Williams, Staff Attorney, Legal Division, on
18 behalf of the Utilities Division of the Arizona Corporation
Commission.

19 **BY THE COMMISSION:**

20 On April 28, 2000, Black Mountain Gas Company ("BMGC" or "Company"), Cave Creek
21 Operations, a division of Northern States Power Company ("NSP")¹, filed with the Arizona
22 Corporation Commission ("Commission") an application to determine its earnings for ratemaking
23 purposes, to fix a just and reasonable rate of return thereon and to approve rate schedules designed to
24 develop such return for its Cave Creek Operations.

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26
27
28 ¹ Subsequent to the filing, BMGC became a subsidiary of NSP. A short time later, NSP merged with New Century
Energy, Inc. and formed Xcel Energy, Inc. ("Xcel") which now owns BMCG as a subsidiary.

1 On May 26, 2000, the Commission's Utilities Division ("Staff") of the Commission filed a
2 letter indicating that BMGC's rate application was sufficient and classifying the Company as a Class
3 A utility.

4 On May 30, 2000, the Residential Utility Consumer Office ("RUCO") filed an application for
5 intervention. There were no objections to the request to intervene.

6 On June 20, 2000, the Commission issued a Procedural Order for the rate case granting
7 intervention to RUCO, setting forth the dates for the filing of testimony, and setting the hearing to
8 commence on January 23, 2001.

9 On December 8, 2000, BMGC, RUCO and Staff filed what was captioned "Stipulation
10 Between Parties to Extend Service". The parties stipulated that the following filing dates be moved
11 and/or extended: (1) time to file rebuttal from December 20, 2000 to December 29, 2000; (2) time to
12 file surrebuttal to January 18, 2001; (3) time to file rejoinder to January 25, 2001; and (4) date for
13 hearing to be set from January 23, 2001 to January 28, 2001.

14 On December 11, 2000, the Commission, by Procedural Order, extended the filing dates and
15 continued the hearing dates for the evidentiary portion of the hearing to January 31, February 1 and 2,
16 2001. However, since BMGC had previously provided public notice, January 23, 2001, was reserved
17 for the taking of public comment.

18 On December 26, 2000, BMGC, RUCO and Staff requested another extension. The parties
19 agreed that the filing/hearing dates be further moved and/or extended and that the date for an
20 evidentiary hearing be reset from January 31, 2001 to February 12, 2001 or as soon thereafter as the
21 matter could be heard. On January 4, 2001, by Procedural Order, the Commission extended the filing
22 dates again and continued the hearing dates for the evidentiary portion of the hearing.

23 On January 5, 2001, BMGC, RUCO and Staff filed what was captioned "Stipulation Between
24 Parties to Vacate Hearing". The parties agreed that the evidentiary hearing dates and deadlines for
25 filing testimony should be vacated pending notification to the Administrative Law Judge of the need
26 to reset the matter to take evidence on a formal Settlement Agreement ("Agreement") which had been
27 reached in principle, and was in the process of being drafted.

28

1 On January 8, 2001, a Procedural Order was issued that vacated deadlines for the filing of
 2 further testimony and the hearing date for the evidentiary portion of the hearing, pending notification
 3 that the parties were prepared to go forward with a hearing on the merits for the approval of the
 4 proposed Agreement.

5 On January 9, 2001, BMGC, RUCO and Staff filed what was captioned "Notice of Filing
 6 Settlement Agreement" ("Notice"). The parties attached a copy of the Agreement to the Notice and
 7 requested that an evidentiary hearing be set to take evidence on the merits of the Agreement. Under
 8 the terms of the Agreement, the Company shall be authorized a fair value rate base at December 31,
 9 1999 for BMGC's Cave Creek Operation of \$11,011,553 and a 9.61 percent rate of return on that rate
 10 base, resulting in a total revenue requirement of \$5,901,501.00. All parties concurred with the
 11 Settlement Agreement.

12 On January 17, 2001, by Procedural Order, the Commission set February 8, 2001 for an
 13 evidentiary hearing to review the merits of the Agreement. On January 23, 2001, a Public Comment
 14 Hearing was held and no members of the public appeared to make public comment.

15 On February 8, 2001, a full public hearing was convened before a duly authorized
 16 Administrative Law Judge of the Commission at its offices in Phoenix, Arizona. The Company,
 17 RUCO and Staff appeared with counsel. Following the taking of testimony in support of the
 18 Agreement, the matter was taken under advisement pending submission of a recommended Opinion
 19 and Order to the Commission.

20 * * * * *

21 Having considered the entire record herein and being fully advised in the premises, the
 22 Commission finds, concludes, and orders that:

23 **FINDINGS OF FACT**

24 1. BMGC, a Minnesota corporation, is a wholly-owned subsidiary of Xcel and provides
 25 public natural gas distribution in the vicinity of Cave Creek, Maricopa County, Arizona and
 26 underground public propane distribution in the vicinity of Page, Coconino County, Arizona.

27 2. On April 28, 2000, the Company filed with the Commission an application to determine
 28 its earnings for ratemaking purposes, to fix a just and reasonable rate of return thereon and to approve

1 rate schedules designed to develop such return for its Cave Creek Operations which has
2 approximately 6,500 primarily residential customers.

3 3. BMGC, in its Application, requested an overall increase in annual revenues for its Cave
4 Creek Operations of approximately \$326,000 or a 6.6 percent increase over test year revenues.

5 4. On June 20, 2000, the Commission amended its initial Procedural Order and scheduled a
6 hearing for January 23, 2001 and also established filing deadlines and public notice requirements.

7 5. Pursuant to the Commission's Procedural Order, public notice of the proceeding was
8 provided by the Company.

9 6. On December 8, 2000, the parties to the above-captioned proceeding requested an
10 extension of the filing dates in the proceeding and continuance of the hearing date due to ongoing
11 settlement negotiations.

12 7. On December 11, 2000, by Procedural Order, the Commission granted the relief requested
13 and continued the evidentiary portion of the January 23, 2001 hearing.

14 8. On January 9, 2001, the parties filed the Notice of Agreement in which the parties agreed
15 that BMGC be authorized an overall base rate increase of 3.4 percent resulting in a total revenue
16 requirement for the Company of \$5,901,510. The Agreement is marked Exhibit A attached hereto
17 and incorporated herein by reference.

18 9. On January 17, 2001, the Commission scheduled an evidentiary hearing for February 8,
19 2001 on the merits of the Agreement.

20 10. On January 23, 2001, the Commission held a public comment session at the
21 Commission's offices in Phoenix, Arizona. No members of the public appeared to make public
22 comment.

23 11. As set forth in the Agreement, for the test year ending December 31, 1999, BMGC's fair
24 value rate base is \$11,011,553 for its Cave Creek Operations and the Company should be authorized
25 to earn a 9.61 percent rate of return on its fair value rate base.

26 12. Upon the Commission's approval of the Agreement, its overall effect will result in
27 approximately a 3 percent rate increase (\$56.84 to \$58.72) for the Company's average Cave Creek
28

1 residential customer instead of the 7 percent increase (\$56.84 to \$60.83) originally sought by the
2 Company.

3 13. The following witnesses testified in favor of the Agreement: Mr. Dan L. Neidlinger for
4 BMGC; Ms. Marylee Diaz Cortez for RUCO; and Ms. Crystal S. Brown for Staff.

5 14. The Company, RUCO and Staff believe that the approval of the Agreement by the
6 Commission is in the public interest.

7 15. The recommendations by the above-referenced parties are reasonable, in the public
8 interest and should be adopted.

9 **CONCLUSIONS OF LAW**

10
11 1. The Company is a public service corporation within the meaning of Article XV of the
12 Arizona Constitution and A.R.S. §§ 40-250, 40-251 and 40-367.

13 2. The Commission has jurisdiction over BMGC, its rate application and the Agreement.

14 3. The Company has provided notice of its rate application in accordance with the law.

15 4. The Agreement resolves all matters raised by BMGC's rate application in a manner that is
16 just and reasonable and promotes the public interest, and should be approved.

17 5. The fair value of BMGC's rate base for its Cave Creek Operations as of December 31,
18 1999 was \$11,011,553 and a 9.61 percent rate of return on the Company's fair value rate base is
19 reasonable.

20 6. It is just and reasonable to authorize an overall rate increase as described above and a
21 resulting total revenue requirement of \$5,901,510 for BMGC's Cave Creek Operations.

22 7. The Company should file revised tariffs consistent with the Agreement attached hereto as
23 Exhibit A.

24 8. The rates, charges and conditions of service as authorized hereinafter are just and
25 reasonable.

26 **ORDER**

27 IT IS THEREFORE ORDERED that the terms and conditions of the Settlement Agreement
28 attached hereto as Exhibit A filed on January 9, 2001, are hereby adopted and approved.

1 IT IS FURTHER ORDERED that Black Mountain Gas Company shall file revised tariffs that
2 incorporate the rates, charges and conditions of service consistent with the Settlement Agreement and
3 the Findings of Fact and Conclusions of Law hereinabove.

4 IT IS FURTHER ORDERED that the rates and charged approved herein shall be effective for
5 all service on and after April 1, 2001.

6 IT IS FURTHER ORDERED that Black Mountain Gas Company shall provide notice of the
7 rate increase authorized herein to its Cave Creek customers in its next regular monthly billing.

8 IT IS FURTHER ORDERED that Black Mountain Gas Company shall file, within 15 days of
9 its notification to its Cave Creek customers, with the Director of the Commission's Utilities Division,
10 a copy of its notice to its customers.

11 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

12
13 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

14
15
16 CHAIRMAN

COMMISSIONER

COMMISSIONER

17
18 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
19 Secretary of the Arizona Corporation Commission, have
20 hereunto set my hand and caused the official seal of the
21 Commission to be affixed at the Capitol, in the City of Phoenix,
22 this ____ day of _____, 2001.

23
24 _____
25 BRIAN C. McNEIL
26 EXECUTIVE SECRETARY

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1 SERVICE LIST FOR: BLACK MOUNTAIN GAS COMPANY

2 DOCKET NO.: G-03730A-00-0283

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14 Deborah R. Scott, Director
Utilities Division
15 ARIZONA CORPORATION COMMISSION
1200 W. Washington Street
16 Phoenix, Arizona 85007

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SETTLEMENT AGREEMENT

The undersigned Parties stipulate and agree to the following settlement provisions in connection with the rate application submitted by Northern States Power Company ("NSP"), a Minnesota corporation, and Black Mountain Gas Company ("BMG" or "Company") before the Arizona Corporation Commission ("Commission") for BMG's Cave Creek Division, specifically: *In The Matter Of The Application Of Northern States Power Company, A Minnesota Corporation, And Black Mountain Gas, A Subsidiary Of Northern States Power Company, A Minnesota Corporation, To Determine Earnings For Ratemaking Purposes, To Fix A Just And Reasonable Rate Of Return Thereon And To Approve Rate Schedules Designed To Develop Such Return For The Cave Creek Division, Docket No. G-03703A-00-0283.* The test year for the filing was the calendar year ended December 31, 1999. At the time this filing was made with the Commission on April 28, 2000, BMG was a division of NSP. Subsequent to the filing, BMG became a subsidiary of NSP. Shortly thereafter, NSP merged with New Century Energies, Inc. and formed Xcel Energy, Inc. ("Xcel"). BMG is currently a subsidiary of Xcel.

1. Parties to the Agreement.

Parties to this Agreement include the Commission Staff ("Staff"), Xcel, BMG, the Residential Utility Consumer Office ("RUCO").

2. Statement of Intention and Admissions.

The purpose of this Agreement is to resolve contested matters in a manner consistent with the public interest. Nothing contained in this Agreement is an admission by any Party that any of the positions taken, or that might be taken by each in formal proceedings, is unreasonable. In addition, acceptance of the Agreement by any of the Parties is without prejudice to any position taken by any Party in these proceedings.

EXHIBIT A

DECISION NO. _____

3. Fair Value Rate Base, Fair Rate of Return and Revenue Requirement.

The Parties agree that the fair value of rate base at December 31, 1999 for BMG's Cave Creek Division is \$11,011,553 and that 9.61% is a fair rate of return on this rate base. The Parties further agree to a total revenue requirement for the Cave Creek Division of \$5,901,510.

4. Revised Rates and Charges.

The Parties adopt the revised rates and charges for purposes of this Agreement as provided in the attached and incorporated Appendix A.

5. Revised Base Cost of Purchased Gas.

The Parties agree that the cost of purchased gas included in the revised rates is \$0.42 per therm. This represents a \$0.15 per therm increase over the current base cost of \$0.27.

6. Commission Action.

Each provision of this Agreement is in consideration and support of all other provisions, and expressly conditioned upon acceptance by the Commission without material change. In the event that the Commission fails to adopt this Agreement according to its terms by March 31, 2001, this Agreement shall be considered withdrawn and the Parties shall be free to pursue their respective positions in these proceedings without prejudice.

7. Limitations.

The terms and provisions of this Agreement apply solely to and are binding only in the context of the provisions and results of this Agreement and none of the positions taken herein by any of the Parties may be referred to, cited or relied upon by any other Party in any fashion as precedent or otherwise in any proceeding before this Commission or any other regulatory agency or before any court of law for any purpose except in furtherance of the purposes and results of this Agreement.

8. Proposed Order.

A proposed form of order acceptable to all the Parties will be prepared and filed by the Company within ten (10) business days of the latest date on which this Agreement is signed by the Parties. The Company will provide a draft of the proposed form of order to the other Parties at least five (5) business days prior to filing the proposed form of order with the Commission for the purpose of receiving comments on the draft.

DATED this 5th day of January, 2001.

(Signatures contained on the following pages)

BLACK MOUNTAIN GAS COMPANY

By: James H. Miller

DECISION NO. _____

ARIZONA CORPORATION COMMISSION STAFF

By: Barbara Wytaske

RESIDENTIAL UTILITY CONSUMERS OFFICE

By:  _____

APPENDIX A

BLACK MOUNTAIN GAS COMPANY
CAVE CREEK DIVISION
Docket No. G-03703A-00-0283

REVISED RATES & CHARGES

<i>Description</i>	<i>Rate</i>
Residential:	
Standard Rate:	
Monthly Service Charge	\$6.00
Commodity Rate Per Therm	\$1.04357
Gas Air Conditioning:	
Monthly Service Charge	\$6.00
Commodity Rate Per Therm	\$0.51000
Compressed Natural Gas:	
Monthly Service Charge	\$6.00
Commodity Rate Per Therm	\$0.55000
Commercial:	
Standard Rate:	
Monthly Service Charge	\$15.00
Commodity Rate Per Therm	\$1.04357
Resort:	
Monthly Service Charge	\$30.00
Commodity Rate Per Therm	\$1.04357
Co-Gen:	
Monthly Service Charge	\$30.00
Commodity Rate Per Therm	\$0.48000
Service Charges:	
Establishment of Service	\$20.00
Re-Establishment of Service	(1)
Re-Connection of Service—Regular Hours	\$30.00
Re-Connection of Service—After Hours	\$45.00
Service Calls Per Hour—Regular Hours	\$30.00
Service Calls Per Hour—After Hours	\$45.00
Meter Re-Read Charge—If Correct	\$25.00
Meter Test Fee—Per Hour—If Correct	\$25.00
NSF Check	\$15.00
Late Charge—Per Month	1.5%
Security Deposit—Residential	(2)
Security Deposit—Commercial	(3)
Deferred Payment—Per Month	1.5%

Notes:

- (1) Number of Months Off System Times Monthly Minimum Charge [A.C.C. R14-2-403(B)]
- (2) Two (2) Times the Average Monthly Bill [A.C.C. R14-2-403(B)]
- (3) Two and One-Half (2 ½) Times the Average Monthly Bill [A.C.C. R14-2-403(B)]

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