



0000156892



BRIAN C. McNEIL
EXECUTIVE SECRETARY

RL J. KUNASEK
CHAIRMAN
JIM IRVIN
COMMISSIONER
WILLIAM A. MUNDELL
COMMISSIONER

ARIZONA CORPORATION COMMISSION

DATE: November 24, 1999
DOCKET NO.: G-03493A-98-0695 AND G-03493A-98-0705

TO ALL PARTIES:

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

BLACK MOUNTAIN GAS DIVISION OF NORTHERN STATES POWER
(PURCHASE GAS ADJUSTER AND RATE APPLICATION)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Hearing Officer 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:

DECEMBER 3, 1999

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

DECEMBER 7, 1999 AND DECEMBER 8, 1999

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 CARL J. KUNASEK
CHAIRMAN

3 JIM IRVIN
COMMISSIONER

4 WILLIAM A. MUNDELL
COMMISSIONER

5
6 IN THE MATTER OF THE PETITION FOR
CHANGE OF PURCHASE GAS ADJUSTER FOR
7 PAGE OPERATIONS OF THE BLACK
8 MOUNTAIN GAS DIVISION OF NORTHERN
STATES POWER.

DOCKET NO. G-03493A-98-0695

9 IN THE MATTER OF THE APPLICATION OF
10 BLACK MOUNTAIN GAS, A DIVISION OF
NORTHERN STATES POWER COMPANY, A
11 MINNESOTA CORPORATION; TO DETERMINE
ITS EARNING FOR RATEMAKING PURPOSES,
12 TO FIX A JUST AND REASONABLE RATE OF
RETURN THEREON AND TO APPROVE RATE
13 SCHEDULES DESIGNED TO DEVELOP SUCH
RETURN FOR ITS PAGE DIVISION.

DOCKET NO. G-03493A-98-0705

14 DECISION NO. _____

15 **OPINION AND ORDER**

16 DATE OF HEARING: November 18, 1999
17 PLACE OF HEARING: Phoenix, Arizona
18 PRESIDING OFFICER: Marc E. Stern
19 APPEARANCES: FENNEMORE CRAIG, by Mr. Timothy Berg, on
20 behalf of the Black Mountain Gas Division of Northern
21 States Power Company;
22 MARTINEZ & CURTIS, P.C., by Paul R. Michaud, on
23 behalf of the City of Page, Arizona;
24 Mr. Stephen Gibelli, Staff Attorney, on behalf of the
25 Residential Utility Consumer Office; and
26 Ms. Janice Alward, Staff Attorney, Legal Division, on
27 behalf of the Utilities Division of the Arizona
28 Corporation Commission.

BY THE COMMISSION:

On November 12, 1998, Black Mountain Gas Division ("BMG"), a division of Northern States Power Company ("NSP") filed with the Arizona Corporation Commission ("Commission") an application to determine its 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 its operations in

1 Page, Arizona.¹

2 On December 11, 1998, the Commission's Utilities Division ("Staff") filed a sufficiency letter
3 which indicated the Company's rate decrease application was sufficient and classified BMG as a
4 Class A utility. As a result, the application was docketed on December 11, 1998.

5 On December 18, 1998, by Procedural Order, the Commission scheduled a hearing to
6 commence on the BMG rate application on August 12, 1999.

7 On February 5, 1999, by Procedural Order, the above-captioned proceedings were
8 consolidated for purposes of hearing. Subsequently, intervention was granted to the Residential
9 Utility Consumer Office ("RUCO") and the City of Page ("Page").

10 On August 5, 1999, the parties to the above-captioned proceeding, BMG, Staff, RUCO and
11 Page filed a joint Motion to Vacate the hearing date in the above-captioned proceeding because the
12 parties were involved in settlement negotiations. The parties also requested that the pre-hearing
13 conference scheduled for August 9, 1999, be vacated.

14 On August 6, 1999, by Procedural Order, the pre-hearing conference and the evidentiary
15 portion of the August 12, 1999 hearing were vacated except for the taking of public comment.

16 On August 12, 1999, the hearing in the above-captioned proceeding was convened for the
17 purpose of taking public comment. At that time, the Company, Staff, RUCO and Page appeared with
18 counsel.

19 On August 26, 1999, the parties filed a second joint Motion in order to extend the time for
20 settlement negotiations and agreed to notify the Hearing Officer by September 13, 1999 as to the
21 status of the proposed settlement.

22 On September 13, 1999, the parties in the above-captioned proceeding filed a Notice of
23 Settlement Agreement ("Agreement") wherein it was indicated that a settlement had been reached
24 and stated that it would be submitted for approval to the Page City Council by September 30, 1999.
25 The parties further requested the Hearing Division to set a hearing on the proposed settlement

26

27 ¹ Subsequent to the rate application herein, the Commission, in Decision No. 61914 (August 27, 1999),
28 approved a reorganization which approved the transfer of NSP's Arizona gas utility assets together with its Certificate of
Convenience and Necessity ("Certificate") to BMG, a Minnesota corporation, as a corporate subsidiary of NSP. For
purposes of this Opinion and Order, the term ("Company") refers to either BMG or NSP as appropriate.

1 following the filing of the Agreement for the Commission's approval.

2 On October 15, 1999, the parties filed the Agreement and a proposed Opinion and Order
3 requesting that the Commission authorize an overall rate decrease of \$495,000 and establishing a
4 revenue requirement of \$1,297,874 for BMG's Page operations. All parties to the proceeding
5 concurred with the terms of the Agreement.

6 On October 29, 1999, by Procedural Order, the above-captioned proceeding was scheduled
7 for hearing on November 18, 1999.

8 On November 18, 1999, a full public hearing was convened before a duly authorized Hearing
9 Officer of the Commission at its offices in Phoenix, Arizona. The Company, Staff, RUCO and Page
10 appeared with counsel. Following the taking of testimony in support of the Agreement, the matter
11 was taken under advisement pending submission of a recommended Opinion and Order to the
12 Commission.

13 * * * * *

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

16 **FINDINGS OF FACT**

17 1. BMG, a Minnesota corporation, is a wholly-owned subsidiary of NSP and provides
18 public natural gas distribution in the vicinity of Cave Creek, Maricopa County, Arizona and
19 underground public propane distribution in the vicinity of Page, Coconino County, Arizona.

20 2. On November 12, 1998, the Company filed with the Commission an application to
21 determine its earnings for ratemaking purposes, to fix a just and reasonable rate of return thereon and
22 to approve rate schedules designed to develop such return for its Page Division. The Company also
23 filed a petition for a change of its Purchase Gas Adjuster for its Page Division on that date also.

24 3. On December 18, 1998, by Procedural Order, the Commission scheduled a hearing for
25 August 12, 1999, and also established filing deadlines and public notice requirements.

26 4. Pursuant to the Commission's Procedural Order public notice of the proceeding was
27 provided by the Company.

28 5. On August 5, 1999, the parties to the above-captioned proceeding filed a Joint Motion

1 to Vacate the hearing date due to ongoing settlement negotiations.

2 6. On August 6, 1999, by Procedural Order, the Commission vacated the date of the pre-
3 hearing conference and the evidentiary portion of the August 12, 1999 hearing except for the taking
4 of public comment. The parties were also ordered to notify the presiding Hearing Officer by August
5 31, 1999, whether a settlement had been reached.

6 7. On August 12, 1999, the Commission held a public comment session as previously
7 scheduled at the Commission's offices in Phoenix, Arizona.

8 8. On August 26, 1999, the parties filed a second joint Motion in order to extend the time
9 for settlement negotiations and agreed to notify the Hearing Officer by September 13, 1999 as to the
10 status of the proposed settlement.

11 9. On August 30, 1999, by Procedural Order, the Commission ordered the parties to
12 notify it concerning the status of their settlement negotiations by September 13, 1999.

13 10. On September 13, 1999, the parties in the above-captioned proceeding filed a notice of
14 the Agreement wherein it was indicated that a settlement had been reached. Further, the parties
15 stated that it would be submitted for approval to the Page City Council by September 30, 1999, after
16 which the parties would request the Hearing Division to set a hearing on the proposed settlement
17 following the filing of the Agreement for the Commission's approval.

18 11. On October 15, 1999, the parties filed the Agreement in which the parties agreed that
19 BMG be authorized an overall rate decrease of \$495,000 resulting in a total revenue requirement for
20 the Company of \$1,297,874 effective with the implementation of the Agreement following the
21 Commission's approval. The Agreement is marked Exhibit A and is attached hereto and incorporated
22 herein by reference.

23 12. As a result of the Agreement, it is determined that for the test year ending December
24 31, 1997, BMG's fair value rate base is \$1,634,000.

25 13. Although the Agreement contains a condition that it be approved by the Commission
26 by November 30, 1999, during the hearing, the respective parties stipulated that the Agreement would
27 be implemented so long as it is approved by the Commission prior to December 31, 1999. The
28 parties also stipulated to waive the ten day filing requirement for Exceptions pursuant to A.A.C. R14-

1 3-110.

2 14. Upon the Commission's approval of the Agreement, its overall effect will result in
3 approximately a 28 percent rate decrease for the Company's Page customers and will result in an
4 immediate refund of charges in excess of the new rates with a refund period that extends from July
5 1998 to the date that the new rates take effect.

6 15. The Agreement also establishes a process to develop a transportation tariff for
7 customer secured propane and enable the Company to utilize the Commission's new purchase gas
8 adjuster policy.

9 16. The Company, Staff, RUCO and Page believe that the approval of the Agreement by
10 the Commission is in the public interest.

11 17. Such recommendations by the above-referenced parties are reasonable, in the public
12 interest, and should be adopted.

13 **CONCLUSIONS OF LAW**

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

16 2. The Commission has jurisdiction over BMG, its rate application, fuel adjuster petition
17 and the Agreement.

18 3. The Company has provided notice of its rate application and fuel adjuster petition in
19 accordance with the law.

20 4. The Agreement resolves all matters raised by BMG's rate application and fuel adjuster
21 petition in a manner that is just and reasonable and promotes the public interest.

22 5. Under the Agreement, the fair value of BMG's rate base for its Page operations as of
23 December 31, 1997, was \$1,634,000, for a 9.24 percent rate of return on the Company's fair value
24 rate base.

25 6. It is just and reasonable to authorize an overall rate decrease of \$495,000 and a
26 resulting total revenue requirement of \$1,297,874 for BMG's Page operations.

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IT IS FURTHER ORDERED that Black Mountain Gas Company shall provide notice of the rate decrease and refund authorized herein to its Page customers in its next regular monthly billing.

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

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Secretary of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this ____ day of _____, 1999.

BRIAN C. McNEIL
EXECUTIVE SECRETARY

DISSENT _____
MES:bbs

1 SERVICE LIST FOR: BLACK MOUNTAIN GAS DIVISION OF
2 NORTHERN STATES POWER

3 DOCKET NO. G-03493A-98-0695 AND G-03493A-98-0705

4 Timothy Berg
5 FENNEMORE CRAIG
6 3003 North Central Avenue, Suite 2600
7 Phoenix, Arizona 85012-2913
8 Attorneys for Black Mountain Gas Company

9 Paul R. Michaud
10 MARTINEZ & CURTIS, P.C.
11 2712 North 7th Street
12 Phoenix, Arizona 85006-1090
13 Attorneys for the City of Page

14 Scott Wakefield
15 RUCO
16 2828 North Central Avenue, Suite 1200
17 Phoenix, Arizona 85004-1022

18 Lyn Farmer, Chief Counsel
19 Legal Division
20 ARIZONA CORPORATION COMMISSION
21 1200 West Washington Street
22 Phoenix, Arizona 85007

23 Deborah Scott, Director
24 Utilities Division
25 ARIZONA CORPORATION COMMISSION
26 1200 West Washington Street
27 Phoenix, Arizona 85007
28

EXHIBIT A

SETTLEMENT AGREEMENT

The undersigned Parties stipulate and agree to the following settlement provisions in connection with two consolidated matters submitted by Northern States Power Company ("NSP") to the Arizona Corporation Commission ("Commission"), specifically: *In The Matter Of The Application Of Black Mountain Gas, A Division Of Northern States Power Company, A Minnesota Corporation, To Determine Its 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 Its Page Division*, Docket No. G-03493A-98-0705, and *In The Matter Of The Petition For Change Of Purchase Gas Adjuster For Page Operations Of The Black Mountain Gas Division Of Northern States Power*, Docket No. G-03493A-98-0695.

1. Parties to the Agreement.

Parties to this Agreement include Commission Staff ("Staff"), NSP, Black Mountain Gas Company ("BMG"),¹ the Residential Utility Consumer Office ("RUCO"), and the City of Page ("Page").

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.

¹ Since the filing of NSP's rate case, the Commission has approved a reorganization that authorizes BMG as a subsidiary of NSP and the transfer of NSP's certificate of convenience and necessity to BMG. For purposes of this Agreement, the term "Company" refers to either BMG or NSP as appropriate.

3. Authorized Rate Decrease.

The Parties agree to an overall rate decrease of approximately \$495,000 and a resulting total revenue requirement of \$1,297,874 based on the test year ending December 31, 1997. These rates will be reflected in bills issued based on meters read after the first day of the month following the Commission's approval of this Agreement, subject to Paragraph 9 of this agreement. The Parties also agree that the adoption of this overall rate decrease constitutes a final and complete resolution of the Company's revenue requirement and that any refund of over-earnings required by the Commission in Decision No. 61009 in Docket Nos. G-03493A-98-0017 and G-01970A-98-0017 will be based only on this agreed overall rate decrease.

4. Rate Design.

The Parties adopt the rate design attached to this Agreement as Appendix A.

5. Revised Base Cost of Propane Gas.

The cost of purchased propane gas in the revised rates will be changed from \$0.3500 per therm to \$0.5087 per therm.

6. Gas Transportation Tariff.

6.1 The Parties agree that representatives from the Company, Staff and the City of Page shall negotiate a propane gas transportation tariff, which, if the negotiation is successful, the Parties shall submit to the Commission for approval within ninety (90) days of the approval of this Agreement as provided herein.

6.2 The Parties also agree that if they cannot reach agreement on a propane gas transportation tariff, then 90 days after approval of this Agreement, the Company shall file a proposed gas transportation tariff and any of the other Parties may

file proposed gas transportation tariffs with the Commission along with supporting testimony and a proposed procedural schedule for an expedited hearing on the propane gas transportation tariff. Any Party who files a proposed propane gas transportation tariff shall provide all the other Parties with its complete filing not later than one business day after its filing at the Commission.

7. Tariff Filing.

Within ten days after the approval of this Agreement by the Commission, the Company shall file tariff sheets reflecting the rates, charges and terms of service contemplated in this Agreement, except for the propane gas transportation tariff.

8. PGA Trigger Mechanism.

8.1 The Company shall begin accounting for purchased gas costs and implementing a purchased gas adjuster ("PGA") mechanism in accordance with Decision No. 61225 starting on the date of the implementation of the rates described in Paragraph 3.

8.2 The existing BMG PGA mechanism for Page has resulted in an under-collected bank balance of \$125,282.00 as of June 30, 1999 ("Final Balance"). Starting on the date of the implementation of new rates pursuant to Paragraph 3, the Company shall collect any under-collected balance in this account by implementing a temporary surcharge of \$0.06 per therm to collect the Final Balance. When the temporary surcharge has approximately collected the Final Balance, the Company will notify Staff and the temporary surcharge will cease.

8.3 Any under or over-collected balance accruing after June 30, 1999, as well as any under-collected or over-collected amount remaining from the Final Balance

collected pursuant to Paragraph 8.2, shall be included in the purchased gas adjustment mechanism implemented in accordance with Paragraph 8.1.

9. Refund.

Decision No. 61009 provided that commencing July 16, 1998, the Company's rates were interim and subject to refund. The refund shall be issued in accordance with the following provisions:

9.1 The Company shall issue refunds to customers for the entire period from July 16, 1998 to the last day of the month in which the Commission approves this Agreement ("Refund Period"). The Company has therm sales data for the period from July 1998 through May 1999 readily available and will use these sales data in computing the refunds. For other months in the Refund Period, the Company shall use test year sales data for the corresponding months to estimate therm sales.

9.2 The amount of the refund shall be calculated by multiplying the difference in average margin per therm collected under current rates during the Refund Period and the average margin per therm under the new rates, as set forth in Appendix A, times the number of therms subject to refund pursuant to paragraph 9.1. Average margin in current rates is the difference between collected commodity revenues and collected gas costs. This margin in current rates for the test year (calendar 1997) is \$0.90456 per therm. This margin will be used to calculate the refund for those months that use test year sales data. The margin in current rates used to calculate the refund for the 11 month period of July 1998 through May 1999 is \$0.90065 per therm. Average margin in new rates is the difference between the revised commodity rate of \$0.99000 per therm and the revised base cost of gas of \$0.50870 per therm or \$0.48130 per therm. Therefore, the margin to be refunded for test year therms is \$0.42326 per therm and the margin to be

refunded for therms during the 11 month period of July 1998 through May 1999 is \$0.41935 per therm.

9.3 The total refund shall be the sum of the refunds calculated in accordance with Paragraph 9.2 minus \$4,660 to account for the incremental cost of preparing refund checks ("Adjusted Refund").

9.4 Refund checks shall be issued within sixty (60) days of the Commission's approval of this Agreement.

9.5 Refunds shall be issued to customers of record during any portion of the period from July 16, 1998 through May 31, 1999.

9.6 The amount to be refunded to any individual customer shall be the Adjusted Refund multiplied by the ratio of that customer's therm usage during the period from July 16, 1998 through May 31, 1999 divided by total therm sales during that same period. No customer will be required to pay more than he or she was actually billed under the current rates as a result of this refund process. That is, no customer will receive a negative refund.

9.7 Prior to issuing refund checks, the Company shall provide all Parties with its proposed implementation plan for issuing refunds so that the Staff, after consultation with the other Parties, may determine whether the plan complies with this Agreement.

10. 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 November 30, 1999, this Agreement shall be considered withdrawn and the Parties shall be free to pursue their respective positions in these proceedings without prejudice.

11. 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.

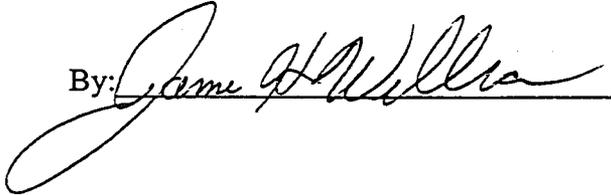
12. Proposed Order.

A proposed form of order acceptable to all the Parties will be prepared and filed by the Company within ten 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 5 business days prior to filing the proposed form of order with the Commission for the purpose of receiving comments on the draft. The Parties agree that the procedural schedule currently in place in connection with this matter be suspended pending the Commission's consideration of issuing an order in the form to be prepared and filed, and that the procedural schedule be vacated upon the issuance of such order approving the Agreement.

DATED this 30TH day of September, 1999.

(Signatures contained on the following pages)

NORTHERN STATES POWER COMPANY and
BLACK MOUNTAIN GAS COMPANY

By:  James H. Williams

ARIZONA CORPORATION COMMISSION STAFF

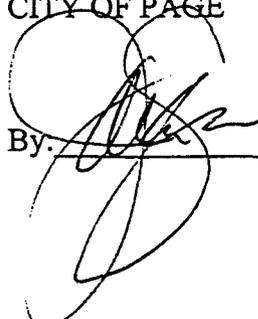
By: David A. Molycka

RESIDENTIAL UTILITY CONSUMERS OFFICE

By: Barbara Wytaske

CITY OF PAGE

By. _____

A handwritten signature in black ink is written over a horizontal line. The signature is stylized and appears to consist of several overlapping loops and strokes.

APPENDIX A

BLACK MOUNTAIN GAS DIVISION OF NSP
PAGE OPERATION
REVISED RATES

<i>Class</i>	<i>Rate Element</i>	<i>Rate</i>
Residential	Basic Service Charge, \$/month, no gas included	\$5.00
	Commodity Charge (\$/therm), all therms	\$0.99
Commercial	Basic Service Charge, \$/month, no gas included	\$15.00
	Commodity Charge (\$/therm), all therms	\$0.99

PHX/TDWYER/982229.12/70232.002