

BEFORE THE WYOMING PUBLIC SERVICE COMMISSION

In the Matter of the General Investigation)
by the Commission on its Own Motion of) Docket No. 30022-GI-02-3
Kinder Morgan, Inc.'s Choice Gas Service) Record No. 7731
Program)

CONCERNS OF THE OFFICE OF CONSUMER ADVOCATE

(May 20, 2003)

On April 1, 2003, Kinder Morgan, Inc. submitted its compliance filings in the above-referenced docket, responding to the Commission's March 11, 2003 order in the same case. In its March 11, 2003 order, the Commission directed Kinder Morgan to file, no later than April 1, 2003, compliance tariffs reflecting the Commission's decision, clarifications to its bill forms to improve the explanation of charges appearing on the bill, and name differentiations and related explanations. Each of these items were to be submitted for the Commission's consideration and potential approval.

The Office of Consumer Advocate (OCA) has reviewed the submissions and believes that they do not comply with the Commission's Order of March 11, 2003. The filings show that Kinder Morgan has defied the Commission's order in items as simple as changing the name of the Regulated Rate to the Pass-on Rate [Regulated Rate]. At paragraph 111 of its order, the Commission finds that the "rate should henceforth be known as the 'Pass-on Rate [Regulated Rate]' to show persons that this is the same rate but also to alert them to the nature of the rate with greater accuracy and exclusively referred to by the name 'Pass-on Rate [Regulated Rate].'" Yet, in each and every reference to this rate contained within the compliance tariff, and there are many dozens of them, Kinder Morgan refers to this rate simply as the Pass-on Rate. We are concerned that Kinder Morgan's violation of the Commission's order may be an attempt to obfuscate the fact that this rate is thoroughly reviewed by the Commission and thus, is regulated, unlike the other competitive supply options offered within the Choice Gas program. This noncompliance of the Commission's order should not be tolerated, and should be corrected before these tariffs are accepted for filing.

The Office of Consumer Advocate is also extremely concerned that Kinder Morgan is using this compliance filing to implement tariff changes that have not been approved by the Commission, nor have they even been discussed or explained. For example, in the Torrington Division compliance filing, on tariff Sheet 225, Kinder Morgan proposes to remove the word "minimum" from in front of Customer Charge. There is a huge difference in whether a charge is a minimum charge or a customer charge. In the case of a minimum charge, such as that offered in Casper, the charge is only imposed if usage drops below a certain level, but is not otherwise charged to the majority of customers. In the case of a customer charge, as is offered in Gillette, the charge is imposed each and every month on each customer, regardless of the gas commodity usage level. This is not a change that should be slipped into a compliance filing without explanation and Commission approval. If there was a mistake made in earlier years' tariff filings, Kinder Morgan should explain this and request a housekeeping correction. It should not

be permitted to simply change the tariff in a manner this substantial, without some record and explanation of the proposed change. This matter might also warrant a discussion with Kinder Morgan of whether it has been billing the rates in its filed tariffs or whether its tariffs have been in non-compliance with its billing practices for some time.

The Commission's complaint staff has previously expressed concern about calls from customers who are unhappy with the fact that the Choice Gas program has been structured such that the supply selection for a location stays with that location for the remainder of the Choice Gas program year, even if the customer who made that selection moves and another customer moves in. While the Commission has determined that it will not change this provision, it has indicated the need to educate customers about this provision. Yet, with this proposed tariff effectuating the current Choice Gas program, Kinder Morgan has chosen not to include this "moving" provision as an explicit item in its tariff. The OCA believes that the Commission should consider whether this provision would be worthy of explicit tariff language as part of the Commission's customer education program.

In a matter that appears to have nothing to do with compliance, Kinder Morgan seeks authority to change its approved procedure for dealing with the over or under collected balance related to the Pass-on [Regulated Rate] as of June 1, 2003. The current tariff indicates that any under or over recovery as of June 1, 2003 be calculated as a surcharge and billed over the 12-month period beginning June 1, 2003 to the customers selecting the Regulated Rate option. Instead of implementing this approved process contained in the current tariffs, Kinder Morgan is now requesting to do a one-time refund or billing to the Pass-on Rate [Regulated Rate] customers. Kinder Morgan simply explains this proposed change in terms of effectuating the transition to the modified Choice Gas program, without any further explanation of why it is necessary. This is especially a puzzlement since the proposed language to be effective June 1, 2003 would take any remaining over or under collection and work it into the next years' Pass-on Rate [Regulated Rate]. So, it is not clear why a transition is necessary, especially when Kinder Morgan has known since last summer that the Pass-on Rate [Regulated Rate] option was a permanent part of the Choice Gas program.

However, the OCA is as concerned about this proposed tariff waiver as we are about its cost. Kinder Morgan not only proposes to do a one-time billing or credit to customers, but has asked the Commission for permission to take the cost of the one-time billing from the over-collection, or to add that cost to the under-collection. OCA objects to this proposal, and believes that it is inconsistent with the whole purpose of the Pass-on Rate [Regulated Rate], the Commission's rules allowing only wholesale commodity costs to be passed-on, and the rules of the Choice Gas program by which customers entered their selection for a Pass-on Rate [Regulated Rate]. Kinder Morgan has indicated that this one time billing could be as much as \$20,000, or as much as 12% of the over-collection as of the end of April 2003.

Kinder Morgan has indicated in its submissions that it would like the flexibility to file its June 1st effective Pass-on Rate [Regulated Rate] in mid-May in order to make it more reflective of actual market conditions and customer counts from the selection period. While the OCA has no objection to the filing of the application on less than 30 days notice, the Commission should be cautious about giving Kinder Morgan carte-blanche authority about its filing date for a June 1st effective date. Time is still required for interested parties to review the application, especially since this application will contain the estimated over or under collection from the just completed

Choice Gas year and will contain the counts of the Pass-on Rate [Regulated Rate] customers from the selection period as well as anticipated hedging strategies. The Commission should allow the Company some flexibility in its filing date, but should balance the need for information in the application with the parties' need for time to review the data.

The submission also contains an attachment containing a proposed bill insert titled, "How to Read Your Energy Bill." As noted above, the Commission mandated an updated description of bill charges, since "the explanations of the various distribution, customer and related charges appearing on Kinder Morgan standard bills are very confusing, uninformative, and misleading to the public." (See March 11, 2003 Order, paragraph 120.) The submission only aggravates the confusion. For instance, the submission has a description of the customer charge, and explains that this charge is to recover some of the fixed costs of providing service and Choice Gas Program administrative expenses. Yet, the only division in which there is a Customer Charge in place is in Gillette, other than the \$1 charge that relates specifically to the administration of the Choice Gas program. The Casper and Torrington divisions have Customer Minimum Charges, which is applicable to only a handful of customers in each division. This too is stated incorrectly on the submission, since Kinder Morgan indicates that the minimum charge applies only to Casper while the current tariffs for Torrington indicate without ambiguity a Minimum Customer Charge at a level of \$6.

In another example of the confusion propagated by the proposed billing explanation, the language states that the current Customer Charge has been in place for several years prior to the implementation of the Choice Gas program. But, as indicated above, the only customer charge (other than a minimum charge) that is in place in Casper is the \$1 charge associated with the Choice Gas program, so this statement would not be true for the bulk of Kinder Morgan's Wyoming customers. Furthermore, while there is proposed language indicating that "The amount of the customer charge applicable to the Choice Gas Program is not charged to those customers under the Pass-On Rate [Regulated Rate]", there is nothing on the explanation to distinguish the two parts of the rate (Choice Gas portion versus fixed costs portion) on the explanation or the sample bill.

Moving on to the OCA's concerns about the explanation of the Commodity Charge, the Kinder Morgan submissions indicate that the commodity charge is a "competitive, deregulated component of your natural gas bill". Clearly, this is false for nearly half of Kinder Morgan's customers, since the Pass-on Rate [Regulated Rate] is subject to the Commission's scrutiny and is subject to the regulatory process. While this is hinted at in the last sentence of the commodity charge explanation, there is a great deal of opportunity for customer confusion between the two sentences. Additionally, the OCA knows that the Commission does more than "oversee" the Pass-on Rate [Regulated Rate], since the Commission has held hearings on this rate, has questioned its computation, and has subjected it to scrutiny rather than simply oversight.

The Office of Consumer Advocate believes that the above delineated concerns can be resolved by the Commission, without a hearing. The Commission should:

- ? Require Kinder Morgan to submit tariffs that are consistent with the Commission's March 11, 2003 order, including using the proper name of the Pass-On Rate [Regulated Rate] in its tariffs and in all other official documents that refer to that Commission mandated rate;

- ? Require Kinder Morgan to submit to the Commission for final approval a bill and rate customer explanation that is consistent with its approved rates for each division, with perhaps a separate explanation for each of the three Wyoming divisions. The explanation should also more clearly describe the \$1 Choice Gas administrative charge.
- ? Require Kinder Morgan to provide an explanation to the proposed change in the minimum customer charge language for Torrington, as well as what its billing practices have been in this regard for the recent past.
- ? Deny Kinder Morgan's request to take money for the refund or billing of the over or under collection of the Pass-on Rate [Regulated Rate] for the purpose of paying the administrative charges associated with the requested one-time billing.
- ? Determine whether it wishes to have language in the tariff that discusses the policy of the Choice Gas selection staying with the initial location, rather than moving with a customer, and if so, direct Kinder Morgan to include such language in its compliance tariff.

We would be pleased to answer questions of the Commission on this matter at an upcoming Open Meeting or other formal setting that the Commission may find appropriate for addressing these issues.

Respectfully Submitted,

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