

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of)
Brainard Gas Corp. for Authority to Amend)
its Rules and Regulations Governing Main) Case No. 01-2509-GA-ATA
Extensions, to Implement an Excise Tax Rider,)
and to Make Certain Textual Revisions)
to its Tariff.)

ENTRY

The Commission finds:

- (1) The Applicant, Brainard Gas Corp. (Brainard), is a public utility as defined in Section 4905.02, Revised Code, and, as such, is subject to the jurisdiction of the Public Utilities Commission of Ohio.
- (2) On September 27, 2001, Brainard filed an application to amend the rules and regulations for main extensions and related charges, create a rider for the recovery of the excise tax liability created by Senate Bill No. 287 (SB 287), and make certain textual revisions to its filed tariff.
- (3) The Staff has reviewed the application, and recommends its approval as discussed below.
- (4) Brainard proposes various tariff revisions related to main and service line extensions. The proposal would add an additional option for payment of gas main and service line extensions effectively reducing the customer's up-front cost of access to natural gas service. Very similar tariff provisions were approved by the Commission in Case Nos. 01-261-GA-ATA and 01-1828-GA-ATA.
- (5) To recover the excise tax created by SB 287, Brainard proposes to implement an excise tax rider of \$.0411 per Mcf. Staff has reviewed the application, as well as SB 287 and previous rule establishment/adoption filings of Brainard and the predecessor utility company, Power Energy Distribution, Inc. (Power).
- (6) SB 287 reduced personal property tax for gas companies, and created a new excise tax based upon consumption with a declining three-block rate design. Large companies, those with more than 50,000 customers, were required to reduce base rates by the amount of the reduction in property taxes and to implement a rider to recover the new Mcf tax. Small companies, those with 50,000 customers or less, were permitted an aggregation exception to the base rate reduction and rider implementation requirements. Upon exercising the aggregation election, small companies would calculate and pay the Mcf excise tax based on aggregated volumes, rather than on per consumer volumes. Such electing small companies would not be required to reduce base rates, nor would they need file for a Mcf excise tax rider. Brainard has fewer than 50,000 customers and has elected aggregation treatment for the calculation and payment of the Mcf excise tax.

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- (7) Brainard asserts that the assumption implicit in the small company exemption is that the reduced personal property tax and new Mcf excise tax increase would be relatively revenue neutral to the small companies, with the reduction in personal property tax providing the funding to pay the new Mcf excise tax. The Commission is hesitant to attempt to discuss such assumptions implicit within SB 287, however, Brainard's assertion of the legislative intent for revenue neutrality for the small companies does not appear to be unreasonable.
- (8) Brainard further asserts that its rates do not include any property tax recovery. By Finding and Order of August 19, 1999, in Case No. 99-825-GA-ATA, the Commission approved the withdrawal by Power and the adoption by Brainard of the existing Power tariff, containing authorized rates, classifications, rules and regulations. Therefore, Brainard is charging base rates which were originally established by Power. The existing Power tariff adopted by Brainard had been approved by Commission Opinion and Order of September 24, 1998 in Case No. 97-746-GA-ATA, as modified by Entry on Rehearing of January 14, 1999. Review of the record in the Power rate establishment docket, Case No. 97-746-GA-ATA, confirms Brainard's assertion that its base rates contain no property tax recovery (see specifically page 12 of the September 24, 1998 Opinion and Order).
- (9) Brainard further asserts that Section 4909.161(A), Revised Code, specifically authorizes filings, such as in the instant case, to recover increased excise taxes without invoking the filing requirements of Section 4909.18, Revised Code, for rate increase applications. The Commission agrees and notes that Section 4909.161(A), Revised Code, provides in part that:
- Notwithstanding the provisions of Chapters 4905. and 4909. of the Revised Code, the payment of any type of increased excise tax levy shall be considered to be a normal expense incurred by a public utility in the course of rendering service to the public, and may be recovered as such in accordance with an order of the public utilities commission. Any public utility required to pay any such increased excise tax levy may file with the public utilities commission revised rate schedules that will permit full recovery on an interim or permanent basis in its rates of the amount of any resultant increased tax payments and the commission shall promptly act to approve such schedules.
- (10) Brainard's proposed excise tax rider rate of \$.0411 per Mcf is consistent with the third and final block of the Mcf excise tax created by SB 287. Brainard notes that, because it has elected the small company aggregation exemption, it is not possible to incorporate the first two rate blocks into the rider and, therefore, proposes to forgo collection of the higher rates applicable to the first two consumption blocks. The Commission finds Brainard's proposal to be reasonable under the circumstances.

- (11) Brainard and Staff have agreed to a proposed customer notice to be included on customer bills beginning with the bill first reflecting the Mcf excise tax rider, and to include this notice on bills through the last billing cycle of 2001.
- (12) The textual tariff revisions proposed by Brainard relate to inclusion of language identifying the Ohio Excise Tax Rider as a rate element applied in determining the customer bill, that a specific Gas Cost Recovery Rate will be shown on Original Sheet No. 2, reducing to seven years from ten years the maximum refund period related to existing provisions on the extensions of mains, and inclusion of the new monthly payment option for the extensions of mains.
- (13) The Commission finds the application of Brainard does not appear to be unjust or unreasonable, and that it should be approved.

It is, therefore,

ORDERED, That the application of Brainard Gas Corp. is approved as discussed in Findings (3) through (12), above. It is, further,

ORDERED, That Brainard Gas Corp. is authorized to file in final form, three complete printed copies of its final tariffs consistent with this Entry. One copy shall be filed with this case docket, one copy shall be filed with Brainard's TRF docket, and one copy shall be designated for distribution to the Gas, Water & Steam Division of the Utilities Department. It is, further,

ORDERED, That the effective date of the new tariffs shall be a date not earlier than both the date of this Entry and the date upon which three complete printed copies of final tariffs are filed with the Commission. It is, further,

ORDERED, That Brainard Gas Corp. shall notify customers as discussed in Finding (11), above. It is, further,

ORDERED, That this case be closed of record. It is, further,


ORDERED, That a copy of this Entry be served on Brainard Gas Corp., the Office of Consumers' Counsel, and any other interested party.

THE PUBLIC UTILITIES COMMISSION OF OHIO

Entered in the Journal
OCT 31 2001



 Alan R. Schriber, Chairman

A True Copy


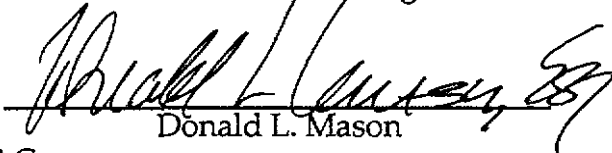
 Gary E. Vigorito
 Secretary



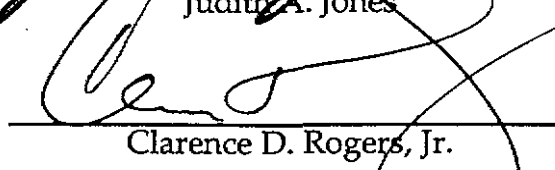
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