

## Montana Dakota's Proposed Statutory Change Regarding Gas Choice

We would propose legislation amending the current gas choice statutes to provide authority for the Montana Public Service Commission to require a utility implement gas customer choice if it determines it is in the public interest. The "public interest" standard is a commonly used standard within utility regulation and is in fact the standard already included for the Commission's authorization of performance based rates under 69-3-1407, and approval of a utility's procurement of rate based production assets under 69-3-1415. This change would provide the Commission authority to require gas choice if it were convinced it is in the public interest after a full consideration of the costs and benefits of this type of program. This would require an opportunity for a full evidentiary hearing in which the participants would be allowed appropriate discovery, and the Commission, MCC and their respective staffs could review the evidence and relative merits of a specific proposed gas choice program.

We are open to discussion of the specific language, but would propose adding a new subsection 2 to 69-3-1403, as follows:

69-3-1403. Customer choice. (1) A natural gas utility may voluntarily offer its customers choice of natural gas supplier and provide open access to its transmission facilities, storage facilities, or distribution facilities.

(2) The commissions may require a natural gas utility to offer its customers choice of natural gas supplier and, if necessary, provide open access to its transmission facilities, storage facilities, or distribution facilities, if it determines customer choice is in the public interest.

(3) If a customer choice offering results in transition costs, the commission may allow those transition costs to be recovered in separate identifiable charges to customers. Upon commission approval, the natural gas utility must have the opportunity but not the obligation to finance the fixed transition costs and related financing costs using transition cost financing as provided for in 69-8-103 and 69-8-503.