

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of SourceGas	)	Application No. NG-0060
Distribution LLC, Lakewood,	)	
Colorado, seeking approval of a	)	HEARING OFFICER
general rate increase.	)	ORDER DENYING MOTION TO STRIKE
	)	AND GRANTING MOTION FOR LEAVE
	)	TO SUBMIT
	)	
	)	Entered: November 16, 2009

BY THE HEARING OFFICER:

On November 4, 2009, the Public Advocate filed Supplemental Direct Testimony and Exhibits of Michael L. Arndt (Supplemental Testimony). No motion seeking leave to make the filing was filed. On November 6, 2009, SourceGas Distribution LLC (SourceGas) filed a Motion to Strike the Late-filed Supplemental Testimony and Exhibits of Michael L. Arndt (Motion to Strike).

The Motion to Strike requests that the Supplemental Testimony be stricken and that the Public Advocate exclude any fees and expenses associated with the supplemental testimony and exhibits from any invoice. Pursuant to an order entered on November 12, 2009, the Public Advocate filed a response to the Motion to Strike on November 16, 2009. The response included multiple exhibits, the affidavits of Roger Cox and Michael Arndt, and a Motion for Leave to Submit Supplemental Testimony and Exhibit of Michael L. Arndt (Motion for Leave to Submit). Subsequently on November 16, 2009, SourceGas submitted a letter in response.

The Supplemental Testimony and Exhibits were filed outside of the procedural schedule set forth in this matter in the order entered on August 25, 2009, without a motion for leave to do so. This was done in disregard of the procedural schedule set by the Commission after extensive input from both parties.

In order to ensure that the Commission can accurately assess the information before it, the Hearing Officer finds that the filing will be accepted, the Motion to Strike is denied, and the Motion for Leave to Submit is granted.

Nothing in this order should be construed as a ruling on any evidentiary or foundation objections which may be made by SourceGas or another party. Nor should this order be understood as in any way limiting SourceGas' ability to cross examine witnesses regarding the substantive differences between the testimony as originally filed and the Supplemental Testimony. The Commission will evaluate all of the evidence presented at hearing and accord it the proper weight.

Both the Motion to Strike and the Public Advocate's response and Motion for Leave to Submit focus on purported delays during discovery. The Hearing Officer recognizes that the parties have differing perspectives regarding the conduct of discovery in this matter. We appreciate the collaborative efforts to resolve disputes that have

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occurred to date. We do not wish to discourage parties from presenting discovery disputes or other procedural issues to the Commission for resolution after reasonable attempts to cooperate have failed. However, the Commission must first and foremost work to ensure that, within the limited time constraints allowed for this proceeding, it continues to focus on the substantive issues presented by the rate application. The parties should remain mindful of the compressed timeframe in this matter and adhere to the original discovery deadlines and procedural schedule.

O R D E R

IT IS THEREFORE ORDERED by the Hearing Officer that the Motion to Strike is denied and the Motion for Leave to Submit is granted.

MADE AND ENTERED at Lincoln, Nebraska this 16th day of November, 2009.

NEBRASKA PUBLIC SERVICE COMMISSION

BY:

  
Hearing Officer