

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Commission,) Application No. NG-0063/
on its own Motion, seeking to) PI-173
investigate and refine filing)
requirements and establish)
further guidelines for)
prosecution of general rate) PROGRESSION ORDER NO. 2
applications.)
)
) Entered: April 26, 2011

BY THE COMMISSION:

The Commission, on its own motion, opened this docket seeking to investigate and establish guidelines for the prosecution of general rate applications filed pursuant to *Neb. Rev. Stat. § 66-1825* (Reissue 2009) in order to increase efficiencies and reduce costs. The Commission sought written comments on several issues. Comments were filed on behalf of NorthWestern Energy; SourceGas Distribution, LLC; the Public Advocate; and Black Hills Energy. On November 1, 2010, a workshop was held.

Based upon the written comments and discussion during the previous workshops, the Commission releases a revised proposed standard rate case schedule and planning conference order attached hereto as Appendix A.

The proposed schedule is based upon the statutory 210-day time limit. Specific dates would be determined during a planning conference and any necessary adjustments would be made based upon party and Commission schedules. It further incorporates revised limits on discovery and addresses possible settlement agreements. Additionally, general instructions are also included.

The schedule set forth in the revised planning conference order includes release of an Interlocutory Order Releasing Assumptions for Purposes of Calculating Rates (Interlocutory Order), followed by the applicant filing recalculated rates and a hearing on the recalculated rates. The Interlocutory Order would specify an assumed outcome for each disputed issue impacting the revenue requirement and may provide assumptions to apply regarding rate design. However, the Interlocutory Order would not address evidence, articulate reasoning or otherwise include any findings of fact or conclusions of law.

Because the Interlocutory Order would not contain criteria necessary to a final order as required by *Neb. Rev. Stat. § 75-134* or *§ 84-915*, it would not be an appealable order.

Generally,

[a] commission order entered after a hearing shall be written and shall recite (a) a discussion of the facts of a basic or underlying nature, (b) the ultimate facts, and (c) the commission's reasoning or other authority relied upon by the commission.¹

With respect to contested cases,

Every decision and order adverse to a party to the proceeding, rendered by an agency in a contested case, shall be in writing or stated in the record and shall be accompanied by findings of fact and conclusions of law. The findings of fact shall consist of a concise statement of the conclusions upon each contested issue of fact. Parties to the proceeding shall be notified of the decision and order in person or by mail. A copy of the decision and order and accompanying findings and conclusions shall be delivered or mailed upon request to each party or his or her attorney of record.²

Revised rates and supporting schedules would be filed by the Applicant followed by a hearing on the revised rates. The final order would then be entered by the Commission approving final rates and including justification of all findings of fact and conclusions of law.

The Commission seeks specific input from interested parties regarding the finality of Commission order releasing the Interlocutory Order and its effect on the running of the time for filing an appeal.

This order does not contain revised filing requirements or proposed rules regarding affiliate transactions. The Commission intends to release an order to open a rule and regulation proceeding to develop rules setting forth more detailed filing requirements and addressing affiliate transactions in a general rate filing.

All interested parties should file one (1) original and eight (8) comment copies on or before **3:00 p.m. on May 13, 2011**. Interested parties should also send one (1) electronic copy by email to **rose.price@nebraska.gov**.

¹ Neb. Rev. Stat. § 75-134.

² Neb. Rev. Stat. § 84-915.

The Commission further finds that a hearing shall be scheduled for **June 1, 2011, at 1:30 p.m.** in the Commission Hearing Room, 300 the Atrium, 1200 N Street, Lincoln, Nebraska.

If auxiliary aids or reasonable accommodations are needed for attendance at the meeting, please call the Commission at (402) 471-3101. For people with hearing/speech impairments, please call the Commission at (402) 471-0213 (TDD) or the Nebraska Relay System at (800) 833-7352 (TDD) or (800) 833-0920 (Voice). Advance notice of at least seven days is needed when requesting an interpreter.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the proposed planning conference order and filing requirements are released for comment.

IT IS FURTHER ORDERED that interested parties should file one (1) original and eight (8) comment copies on or before **3:00 p.m. on May 13, 2011.** Interested parties should also send one (1) electronic copy by email to **rose.price@nebraska.gov.**

IT IS FINALLY ORDERED that a hearing shall be scheduled for **June 1, 2011, at 1:30 p.m.** in the Commission Hearing Room, 300 the Atrium, 1200 N Street, Lincoln, Nebraska.

MADE AND ENTERED at Lincoln, Nebraska, this 26th day of April, 2011.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Executive Director

APPENDIX A

In the Matter of _____.) Application No. NG-00__
)
)
) PLANNING CONFERENCE ORDER
) AND HEARING NOTICE
)
) Entered: DATE
)

BY THE COMMISSION:

On DATE, APPLICANT filed an application seeking approval of a general rate increase. Petitions for Formal Intervention were filed by PARTIES. An order granting interventions was entered on DATE.

In order to process this filing, a planning conference was held in this matter on DATE. Parties discussed the procedural schedule for the application including, but not limited to, discovery and filing deadlines as well as hearing dates and briefing schedules.

As a result of the planning conference, several issues were discussed. Therefore, this order serves to memorialize those decisions and to provide a timeline for proceeding in this docket.

General Instructions and Deadlines

A. General Instructions. All evidence to be offered at hearing, objections thereto, and responses to those objections shall be filed by the dates set forth herein. A party offering prefiled testimony or exhibits as evidence at the hearing shall provide a copy to the court reporter. All prefiled exhibits must be numbered. All pages of each exhibit shall be numbered. All parties should eliminate argumentative, cumulative, or otherwise objectionable passages in testimony they intend to file. Parties are encouraged to limit objections and to enter into stipulations in order to facilitate the presentation of evidence and completion of this proceeding.

B. Objections. All objections to prefiled evidence shall specifically and succinctly identify the testimony or exhibit to which the objection is directed and the specific objection raised regarding each such portion of the testimony or exhibit.

APPENDIX A

Failure to comply with the deadlines for objections will result in waiver of the objections.

C. Service. An official service list for this matter is attached hereto as Appendix A. Service may be accomplished through electronic mail using the addresses listed in Appendix A. Parties are responsible for maintaining an accurate service list. All parties should provide an electronic copy of any discovery requests and responses via electronic mail or cd rom to the Department. However, such discovery requests and responses shall not be filed with the Commission. Such discovery requests and responses shall not be part of the official record unless offered and accepted as exhibits during the hearing on the application. If using electronic mail, parties should send to rose.price@nebraska.gov.

Parties may meet filing deadlines outlined herein by sending an electronic copy of the filing via electronic mail to rose.price@nebraska.gov so long as all parties are served via electronic mail contemporaneously with the email filing and a hard copy is received by the Commission within three (3) days of the email filing.

D. Discovery. All discovery responses are due within ten (10) days of service, unless otherwise agreed to by the Parties. Unless modified by the hearing officer for good cause, interrogatories and requests for admission are limited to 50 and requests for production of documents, including all subparts shall be limited to 250. Discovery requests or subparts requesting the following shall not be counted as a subpart for purposes of limitations on discovery: name and contact information for individuals responsible for the response including address, email address and telephone number.

Parties should reference Nebraska Discovery Rules for general guidance as to the conduct of discovery. Should this order conflict with any provision of the Nebraska Discovery Rules, this order controls. Parties should make efforts to resolve any discovery disputes.

E. Exhibits and Witnesses. Parties shall file a consolidated exhibit list. All exhibits shall be appropriately marked and each page of the exhibit numbered prior to the hearing. Any party wishing to use a demonstrative exhibit or other demonstrative tools at the hearing must identify such materials by the time of the prehearing conference. Any party seeking to re-

APPENDIX A

quest administrative notice of any document shall provide copies of said materials at the time of the prehearing conference.

E. Deadlines. The following schedule is hereby adopted (All deadlines are approximate. Actual dates will be substituted.):

Date	Event
Filing Date	Application Filed
Publication Date (w/in 3 business days of filing)	Notice of Application Published in Daily Record
30-days after publication	Intervention Deadline
w/in 35 days of filing date	Planning Conference
60 days after filing date	Final date for discovery requests to be served by Intervenors on Applicant
10 days after service of final discovery requests	All discovery responses from Applicant due to Intervenors
5 days after due date for re- sponses to Intervenor dis- covery requests	Deadline for Motions to Compel Responses by Applicant
15 days after deadline for responses to discovery requests	All Intervenors file direct testimony, exhibits, workpapers, and witness lists
90 days after filing date	Interim Rates Go Into Effect
After Intervenor direct filed	Town Hall Meetings
20 days after deadline for filing of Inter- venors' direct testimony	Final date for discovery requests to be served by Applicant on Intervenors

APPENDIX A

10 days after service of final discovery requests	All discovery responses from Intervenor due Applicant
5 days after due date for re-sponses to Applicant discovery requests	Deadline for Motions to Compel Responses from Intervenor
15 days after re-sponses to discovery requests	All rebuttal testimony and exhibits filed by Applicant; Commission staff to release list of disputed issues.
5 days after filing of rebuttal testimony	Written objections/Prehearing Motions; Parties to file any corrections to staff's list of disputed issues.
w/in 5 days of objections	Prehearing Conference/Any Oral Argument on Objections or Motions; Parties to file consolidated exhibit list.
140 days after filing date	Hearing
w/in 5 days of the conclusion of the hearing	Deadline for receiving expedited transcript
10 days after hearing, transcript is available	Post Hearing Briefs Due
5 days after post hearing briefs	Reply Briefs Due
190 days after filing date	Interlocutory Order Releasing Assumptions for Purposes of Calculating Rates
7 days after preliminary order	Applicant to File Revised Rates and Supporting Documentation
7 days after proposed rates filed	Hearing on Revised Rates
210 days after filing date	Final Order

F. Settlement. All parties are encouraged to cooperate and engage in negotiations; however, the conduct of negotiations does not relieve the parties of their obligation to meet filing deadlines. Parties need not identify in settlement agreements specific dollar values attached to specific issues.

APPENDIX A

G. Hearing Fee/Accommodations. The Applicant will arrange for a court reporter for the hearing on this matter and an expedited transcript will be provided no later than the date set forth in the schedule above. Therefore, the hearing fee of one hundred twenty-five dollars (\$125.00) for each half-day should be waived consistent with Commission policy. If daily transcripts are available, all parties shall be notified of the option and will be responsible for the cost of receiving one should they request it.

If auxiliary aids or reasonable accommodations are needed for attendance at the meeting, please call the Commission at (402) 471-3101. For people with hearing/speech impairments, please call the Commission at (402) 471-0213 (TDD) or the Nebraska Relay System at (800) 833-7352 (TDD) or (800) 833-0920 (Voice). Advance notice of at least seven days is needed when requesting an interpreter.

O R D E R

IT IS THEREFORE ORDERED that the deadlines and requirements set forth herein are hereby adopted in the above-captioned matter.

IT IS FURTHER ORDERED that Applicant has agreed to provide the court reporter for the hearing on this matter. Therefore, the hearing fee of one hundred twenty-five dollars (\$125.00) for each half-day shall be waived consistent with Commission policy.

IT IS FINALLY ORDERED that hearing on this matter will take place on **Date through Date, at Time** in the Commission Hearing Room, 300 The Atrium, 1200 N Street, Lincoln.

MADE AND ENTERED at Lincoln, Nebraska this ___th day of _____, 20__.

NEBRASKA PUBLIC SERVICE COMMISSION

Chairman

COMMISSIONERS CONCURRING:

ATTEST:

Executive Director

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

Application No. NG-0063/PI-173
Progression Order No. 2

Page 3

Interested parties should also send one (1) electronic copy by email to rose.price@nebraska.gov.

The Commission further finds that a hearing shall be scheduled for **June 1, 2011, at 1:30 p.m.** in the Commission Hearing Room, 300 the Atrium, 1200 N Street, Lincoln, Nebraska.

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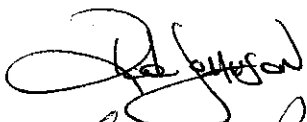
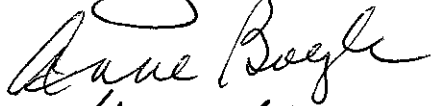
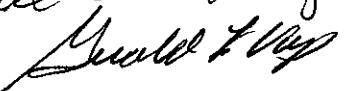
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NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

//s//Frank E. Landis
//s//Tim Schram


Chairman

ATTEST:


Executive Director