

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application of) Application No. NG-0078
SourceGas Distribution LLC, Golden)
Colorado, seeking an order) ORDER APPROVING APPLICATION,
authorizing it to put into effect a) IN PART
system safety and integrity rider)
tariff and system safety and)
integrity rider charge.) Entered: October 28, 2014

BY THE COMMISSION:

On May 1, 2014, SourceGas Distribution LLC (SourceGas), Golden, Colorado, filed an application seeking an order authorizing it to put into effect a system safety and integrity rider tariff and system safety and integrity rider charge (SSIR) (Application). SourceGas proposes that the tariff become effective November 1, 2014. The Application was filed in conjunction with applications in Docket Nos. NG-0072.1 and NG-0079 to address a revenue deficiency and avoid the filing of a general rate case.

On May 13, 2014, the Commission entered an order suspending the tariff pursuant to *Neb. Rev. Stat. § 66-1808(3)*. The Public Advocate's Petition for Formal Intervention and Complaint was granted on May 20, 2014. The Public Alliance for Community Energy's (ACE) Petition for Formal Intervention was granted on June 10, 2014.

For the sake of administrative efficiency, hearing on this matter was held on October 6, 2014, in a joint proceeding on Docket Nos. NG-0078 and NG-0079. Eric Nelsen and Steve Bruckner appeared on behalf of SourceGas; William Austin and Colin Mues appeared on behalf of the Public Advocate; and Joselyn Luedtke and Angela Melton appeared on behalf of Commission staff.

SourceGas' current rates were approved by the Commission in Docket No. NG-0067 on May 22, 2012.¹ SourceGas asserts that the proposed SSIR tariff and charge is one part of a three-part effort to address an anticipated \$4.5 million revenue deficiency for the year ending December 2014 while avoiding the costs of a general rate case. The company states that should the Commission deny any of the three proposals set forth in this Application, Docket No. NG-0079 or NG-0072.1, SourceGas would file a general rate case sooner than if all three applications were approved. With respect to the present docket, the Public Advocate opposes the SSIR; however, recommends certain modifications should the Commission approve the tariff.

E V I D E N C E

SourceGas and the Public Advocate prefiled direct and rebuttal testimony. Jerrad Hammer and Charles Bayles filed direct testimony and exhibits in support of the Application. William Dunkel and Donna

¹ *In the Matter of SourceGas Distribution, L.L.C.*, Application No. NG-0067, Order Granting Application, In Part (May 22, 2012). [Hereafter "NG-0067 Order"].

Mullinax filed direct testimony on behalf of the Public Advocate. Jerrad Hammer and Jason Pickett filed rebuttal testimony in response to the Public Advocate. All prefiled testimony and exhibits were entered into the record. Additionally, each witness provided a summary of their testimony during the hearing and was made available for cross examination.

Jerrad Hammer provided an overview of the eligible projects and the process for implementing SSIR charges, and the revenue deficiency calculations. He also testified the SSIR is intended to allow the company to recover the cost of projects necessary for the safety and integrity of the system including replacement of top-of-ground pipe and bare steel pipe and to extend the time between general rate cases.²

Charles Bayles testified regarding the current regulatory environment and operational requirements governing natural gas utilities and pipeline safety. Mr. Bayles stated:

The federal directives of the U.S. Department of Transportation pipeline and Hazardous Material Safety Administration or PHMSA-proposed rule change is an ongoing public concern for safety have led to a fundamental change in the direction [of] the way the natural gas industry is regulated. And that change has increased costs and made them more difficult to plan for and predict.³

In order to more closely synchronize cost recovery with investment in such required safety programs, PHMSA and DOT urge states to work with utility companies to reduce regulatory lag.⁴ Mr. Bayles also testified regarding specific projects for which the company seeks recovery and that the projects are chosen based upon factors such as "materials types, diameters, leakage histories, wall thicknesses, coating times, corrosion rates, [and] possible damage history."⁵

The Public Advocate recommends that the Commission deny Source-Gas' application to institute an SSIR tariff and charge. In the alternative, the Public Advocate argues that should the Commission approve the tariff that certain limitations and conditions be imposed.

Ms. Mullinax testified on behalf of the Public Advocate in opposition to the Application. She contends that the Company overstated its anticipated revenue deficiency.⁶ She recommends that the Commission reject the SSIR as no limits have been included on the revenue potentially recovered through the surcharge or on the level of the surcharge itself.⁷ Further, the inclusion of operation and maintenance expenses could lead to over-recovery.⁸ Ms. Mullinax recommended that

² See Trans. 27:23-28:3.

³ Trans. 170:6-14.

⁴ Trans. 181:15-18.

⁵ Trans. 171:16-19.

⁶ See Direct Testimony of Donna Mullinax 27:5-16.

⁷ See Trans. 264:11-265:22.

⁸ Trans. 266:2-5.

should the Commission adopt the SSIR, a more rigorous review process similar to that required for the infrastructure system replacement cost recovery charge (ISR) pursuant to *Neb. Rev. Stat. § 66-1865* should be included. She also stated that the Commission should require the company to include interest be made payable to ratepayers for any over-recovery as part of the reconciliation process; and that the company be required to initiate a general rate case at least every sixty (60) months.⁹ Finally, Ms. Mullinax stated that the Commission should impose limits on the SSIR similar to those currently imposed on the ISR, including a \$.50 surcharge cap.

Mr. Dunkel also testified on behalf of the Public Advocate, but did not offer any specific recommendations related to the SSIR. However, with respect to the accelerated replacement of infrastructure, Mr. Dunkel testified, "Any need for a higher replacement rate now is at least in part 'catch up' for the fact that in recent years SourceGas retirements have [been] low."¹⁰ He further stated that "SourceGas now has over \$27 million of surplus accumulated depreciation reserve that has been collected from depreciation charges to past ratepayers."¹¹

In rebuttal to Ms. Mullinax's testimony, Jason Picket testified on behalf of SourceGas regarding the status of the proposed SSIR projects and provided an explanation as to the adjusted in-service dates.

Mr. Hammer also provided testimony in response to the Public Advocate's proposed modifications to the SSIR. Mr. Hammer stated that SourceGas would agree to a more formalized review process similar to that currently required by *Neb. Rev. Stat. § 66-1865* with respect to the ISR. Also, he stated that a requirement that the company files a general rate case at least every sixty (60) months would be acceptable. SourceGas further agreed to add an interest calculation as part of the reconciliation process for any over-collection. Finally, Mr. Hammer provided revised SSIR charges of \$.78 for residential ratepayers, \$1.67 for small commercial ratepayers, and \$11.75 for large commercial.

F I N D I N G S A N D O P I N I O N

Pursuant to the State Natural Gas Regulation Act, *Neb. Rev. Stat. § 66-1804(a)* (2004 Cum. Supp.), the Commission has "full power, authority and jurisdiction to regulate natural gas public utilities and may do all things necessary and convenient for the exercise of such power, authority, and jurisdiction." The Legislature expressly intended that the powers granted to the Commission by the Act be "liberally construed."¹²

⁹ Trans. 266:15-267:2.

¹⁰ Prefiled Direct Testimony of William W. Dunkel, 12:17-18.

¹¹ *Id.* at 7:18-19.

¹² "The State Natural Gas Regulation Act and all grants of power, authority, and jurisdiction in the act made to the commission shall be liberally construed, and all incidental powers necessary to carry into effect the

As a result of the plenary power conveyed by this section, the Commission possesses great flexibility in establishing procedures to carry out its statutory obligations, one of which is the regulation of rates charged by jurisdictional utilities. In addition, § 66-1808 sets forth procedures for rate changes that are not general rate filings. Thus, the State Natural Gas Regulation Act provides the Commission with the jurisdiction to consider alternate mechanisms for processing rate changes that do not rise to the level of a general rate filing. Therefore, the Commission has the requisite authority to institute a forward-looking safety and integrity cost recovery rider and tariff.

In determining whether the SSIR should be adopted, the Commission must balance the interests of ratepayers with that of the utility. *Neb. Rev. Stat.* § 66-1825(3) states:

The commission, in the exercise of its power and duty to determine just and reasonable rates for natural gas public utilities, shall give due consideration to the public need for adequate, efficient, and reasonable natural gas service and to the need of the jurisdictional utility for revenue sufficient to enable it to meet the cost of furnishing the service ...and to earn a fair and reasonable return upon the investment in such property.¹³

Recent incidents involving pipelines have resulted in a renewed focus on the safety of the natural gas infrastructure.¹⁴ Utilities have been encouraged to develop accelerated infrastructure replacement programs in order to replace aging and high-risk pipeline, including bare steel and above-ground pipe. Simultaneously, states are being urged to adopt appropriate cost recovery mechanisms to support these efforts.

The Commission seeks to establish a regulatory scheme that encourages natural gas companies to invest in the safety and integrity of their systems to protect the public. Failure to address the company's ability to recover costs may result in a less robust infrastructure replacement program and more frequent general rate cases. Such outcomes undermine the safety and integrity of the natural gas system and impose increased administrative costs on ratepayers.

provisions of the act are expressly granted to and conferred upon the commission." *Neb. Rev. Stat.* §66-1804(b).

¹³ § 66-1825(3).

¹⁴ See U.S. DOT, PHMSA, Pipeline Safety Awareness facts and stats. Accessed October 27, 2014. <http://opsweb.phmsa.dot.gov/pipelineforum/facts-and-stats/recent-incidents/sanbruno-ca/>
<http://opsweb.phmsa.dot.gov/pipelineforum/facts-and-stats/recent-incidents/allentown-pa/>
<http://opsweb.phmsa.dot.gov/pipelineforum/facts-and-stats/recent-incidents/marshall-mi/>

However, any regulatory framework must include steps to mitigate potentially negative impacts on ratepayers. Allowing the utility to recover costs on a projected basis between general rate cases without a full review of all of the elements of the cost of service could lead to over-recovery by the utility. Therefore, any cost recovery mechanism should be narrowly tailored to accomplish the Commission's specific policy objective to ensure a safe and reliable system and include reasonable reporting and monitoring to ensure rates remain just and reasonable.

Therefore, for the reasons set forth herein, the Commission finds that the SSIR tariff should be approved with certain modifications and conditions.

The Commission is aware that SourceGas had indicated that to avoid the immediate filing of a general rate case, the Commission would have to approve the application in the docket in addition to those in NG-0072.1 and NG-0079. Contemporaneous with the present order, the Commission has entered an order, denying SourceGas' request to adjust its depreciation rates in Docket No. NG-0079. The Commission finds that as a condition of implementing the SSIR as set forth herein, SourceGas must not file a general rate case prior to January 1, 2017. Furthermore, SourceGas must file a general rate application pursuant to § 66-1838 at least every sixty (60) months.

SourceGas has proposed that the application for the SSIR be filed by November 1st annually for implementation of the charge to be effective January 1st. As part of the present docket, information regarding the proposed projects and costs was provided on May 1, 2014 and an extensive review of the information has been conducted. However, in following years a more formalized review process will be necessary. Therefore, the Commission finds subsequent to the initial applications, future applications shall be filed no later than September 1 in order for a surcharge to be effective by January 1 of the following year. The additional time will allow for a more thorough review by the Public Advocate and Commission of the eligibility of the proposed projects, costs, projected in service dates, and reconciliation calculations for the prior year.

The Commission finds that SourceGas should file the final reconciliation calculations and actual costs for the prior year with the annual application on or before September 1 annually, rather than in April. Reconciliation calculations should include interest on any over-collection of SSIR revenue. No interest shall be included in the case of an under-collection of SSIR revenue.

SourceGas shall make quarterly surveillance filings within forty-five (45) days of the end of each quarter. Such filing shall include calculations of the rate base separated into regular and SSIR components, the realized rates of return on the rate base components, along with supporting calculations. Additionally, the filing should include an update regarding the status of the SSIR projects costs, in-service dates, and the expected schedule over the ensuing duration of

SSIR. The details regarding the content of the surveillance filings will be discussed during the technical conference addressed below.

The Commission finds that no limit on the SSIR charge should be implemented at this time. However, the Commission may impose a limit should the Commission find that the requested surcharge is of such a magnitude as to not be in the best interest of ratepayers.

Finally, the Commission schedules a technical conference on **November 3, 2014, at 10:00 a.m.** at 300 The Atrium, 1200 N Street, Lincoln, Nebraska. Those wishing to participate by telephone should dial **888-820-1398**, access code **4207969#**. The purpose of the conference will be to discuss the content of the required surveillance filings, the reconciliation process and the process and review of future SSIR applications.

O R D E R

IT IS THEREFORE ORDERED that the application of SourceGas Distribution, LLC seeking an order authorizing a system safety and integrity rider tariff and system safety and integrity rider charge, be and is hereby granted, the tariff to be effective November 1, 2014.

IT IS FURTHER ORDERED that a technical conference is scheduled on **November 3, 2014, at 10:00 a.m.** at 300 The Atrium, 1200 N Street, Lincoln, Nebraska. Those wishing to participate by telephone should dial **888-820-1398**, access code **4207969#**.

MADE AND ENTERED at Lincoln, Nebraska this 28th day of October, 2014.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Anne Boyle
Tim Schram
Robert Johnson
Gregory Vap

Frank E. Landis
Chairman

ATTEST:

Steve Meradith
Executive Director

//s//Frank E. Landis