

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Commission, on its own) RULE AND REGULATION NO. 192
motion, seeking to amend Title 291,)
Chapter 1, Rules of Commission Procedure,)
to update the chapter in its entirety.)

COMMENTS OF SOURCEGAS DISTRIBUTION LLC

By its order entered September 30, 2014, the Nebraska Public Service Commission (the "Commission") requested comments on its First Set of Proposed Rules to amend Nebraska Administrative Code, Title 291, Chapter 1, Rules of Commission Procedure (the "Proposed Rules"). The Proposed Rules are intended to comport with the Nebraska Model Rules of Agency Procedure (the "Model Rules") issued July 25, 1994, and to reflect statutory changes that have occurred since the last rewrite of the Rules of Commission Procedure (the "Current Rules").

SourceGas Distribution LLC ("SourceGas Distribution" or the "Company") is a natural gas jurisdictional utility subject to the Commission's jurisdiction pursuant to the State Natural Gas Regulation Act, Neb. Rev. Stat. § 66-1801 et seq.

INTRODUCTION AND GENERAL COMMENTS

SourceGas Distribution welcomes the opportunity to assist the Commission in developing rules and regulations pertaining to the Commission's procedures and supports the Commission's efforts to adopt rules related to the Commission's Current Rules.

SourceGas Distribution has prepared a redlined version of the Proposed Rules and includes it as the "Attachment" to these Comments. Certain suggested revisions made by the Company are typographical, for consistency in reference, or otherwise require no explanation beyond that contained in the attachment. SourceGas Distribution's suggested revisions of substance are discussed in the following section.

As a final general comment, SourceGas Distribution inquires whether there are additional provisions of the Commission's Current Rules which should be incorporated into the Proposed Rules. As an example, the provisions of current Rule 010 (Hours of Operation) would seem suitable for inclusion in the Proposed Rules.

SPECIFIC COMMENTS

PROPOSED RULE 003.07- CONTENTS OF PETITION

Comments: The "Appendix A" referred to in Section 003.07 was not attached to the Proposed Rules. Further, Section 003.07 was not included in the Appendix to the Commission's September 30, 2014 Order. If the Commission's intent is to not include Section 003.07 within the final rules, cross-references will need to be adjusted.

PROPOSED RULE 004.01- PROHIBITIONS AGAINST EX PARTE COMMUNICATIONS

Comments: As shown in the Attachment to these Comments, SourceGas Distribution proposes to include the full content of the Model Rules regarding ex parte communications and the required disclosure of ex parte communications (Chapter 4, Model Rules 002.02 and 002.03). The Company is not aware of any reason why adherence to these Model Rules would be impracticable under the circumstances.

PROPOSED RULE 004.02- INTERVENTION IN A CONTESTED CASE

Comments: As shown in the Attachment to these Comments, SourceGas Distribution proposes to alter the requirements of the Model Rules and require the filing of interventions within thirty (30) days of the date notice is published, consistent with current Commission practice. It would be impractical in many of the contested cases handled by the Commission to allow intervention filing at such a late stage, particularly considering the rights granted to intervenors with respect to discovery and prefiled testimony and the rights granted to the petitioner with respect to responding to intervenor discovery and prefiled testimony.

PROPOSED RULE 004.03- COMMENCEMENT OF CONTESTED CASE

Comments: As shown in the Attachment to these Comments, SourceGas Distribution proposes to clarify Proposed Rule 004.03B by adding that "formal" intervenors are parties to a contested case because, as stated in Current Rule 015.02B and Proposed Rule 001.14, "informal" intervenors are not made parties to a contested case. Moreover, the Company has revised Proposed Rule 004.03F to reflect the Model Rule

004.06 (Chapter 4) requirement that service be made by the Commission and not the petitioner.

PROPOSED RULE 004.04- HEARING OFFICER; CRITERIA

Comments: As shown in the Attachment to these Comments, SourceGas Distribution proposes to amend the Hearing Officer criteria such that it more closely reflects Section 5 of the Model Rules (Chapter 4). In particular, the Company has revised the Proposed Rules such that the Public Advocate or those employed by the Public Advocate would be precluded from serving or advising the Hearing Officer in the same proceeding without the consent of the parties. In the event that the Public Advocate or an employee of the Public Advocate were to become employed by the Commission, this Proposed Rule would govern and prevent obvious conflict of interest situations in such circumstances.

PROPOSED RULE 004.06- DISCOVERY IN CONTESTED CASES

Comments: As shown in the Attachment to these Comments, SourceGas Distribution proposes to bring this Proposed Rule in line with Current Rule 016.11 by deleting the phrase "unless otherwise ordered by the Hearing Officer." The Commission's September 30, 2014 Order does not explain the need for the Hearing Officer to enter an order that the use of depositions and discovery in proceedings before the Commission be governed by something other than the rules and regulations of the Nebraska Supreme Court.

PROPOSED RULE 004.10B- PRESENTATION OF EVIDENCE

Comments: As shown in the Attachment to these Comments, SourceGas Distribution proposes to provide by rule for sur-surrebuttal evidence and re-redirect examination of witnesses. In a contested case where the applicant or petitioner bears the burden of proof, standard civil procedure demands that the applicant or petitioner receive the last opportunity to present evidence. This mandate also could be accomplished by eliminating the provisions for surrebuttal evidence and re-cross examination testimony.

The Company also proposes to revise the Proposed Rule to allow for parties to submit briefs “in addition to” making closing arguments.

PROPOSED RULE 004.12- OFFICIAL RECORD

Comments: As shown in the Attachment to these Comments, SourceGas Distribution proposes to incorporate Model Rule 007.04D (Chapter 4) relating to the reporting of ex parte communications into the Proposed Rule.

PROPOSED RULE 004.13- COSTS

Comments: As shown in the Attachment to these Comments, SourceGas Distribution proposes to alter the requirements of Model Rule 007.05 (Chapter 4) to reflect the types of costs incurred in Commission proceedings and reflected in Current Rule 25 (Filing Fees) and Current Rule 26 (Hearing Fees).

PROPOSED RULE 004.14- DECISION AND ORDER IN A CONTESTED CASE

Comments: As shown in the Attachment to these Comments, SourceGas Distribution proposes to include the full content of the Model Rules regarding the content of Commission orders in contested cases (Chapter 4, Rule 008.02). The Company is not aware of any reason why adherence to these rules would be impracticable under the circumstances, and the Model Rules largely are consistent with current Commission practices.

PROPOSED RULE 004.15- MOTIONS FOR RECONSIDERATION AND APPEALS

Comments: SourceGas Distribution agrees with the Commission's efforts to conform its Current Rules with the current statutory scheme for motions for reconsideration and appeals from Commission orders. The proposed revisions shown in the Attachment to these Comments cross-reference those statutory predicates, and make clear that the calculation of the effective date of Commission orders is consistent with the provisions of Nebraska statutory law.

PROPOSED RULE 011.06- FINDINGS OF FACT AND CONCLUSIONS OF LAW

Comments: As shown in the Attachment to these Comments, SourceGas Distribution proposes that Proposed Rule 011.06 be added to reflect Current Rule 027.06.

PROPOSED RULE 011.07- POST ORDER REQUIREMENTS

Comments: As shown in the Attachment to these Comments, SourceGas Distribution proposes that Proposed Rule 011.07C be added to reflect Current Rule 027.08C.

CONCLUSION

SourceGas Distribution looks forward to assisting the Commission on further work to refine and finalize these proposed rules.

DATED this 20th day of November, 2014.

SOURCEGAS DISTRIBUTION LLC

BY: _____

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