

## **Negotiated Ratemaking Applications under the State Natural Gas Regulation Act**

*Disclaimer: The following description is for informational purposes only, and if any difference between this description and any law, regulation or case law exists, then such law, regulation or case law shall control.*

A jurisdictional utility seeking an increase in its customer charges and distribution rates must apply to the Nebraska Public Service Commission for approval. However, pursuant to *Neb. Rev. Stat. § 66-1838*, a utility may seek to negotiate any rate increase directly with the municipalities it serves. Rate Case applications and proceedings are governed by the State Natural Gas Regulation Act (SNGRA) *Neb. Rev. Stat. §§ 66-1801 – 66-1868*.

### **Certification for Negotiation**

Pursuant to *Neb. Rev. Stat. §66-1838(6)* if the commission receives resolutions from affected cities, adopted within 60 days after the utility filed its application with the Commission, evidencing the intent to negotiate from cities representing more than fifty percent of the ratepayers within the affected cities, the commission shall certify the case for negotiation between such cities and the jurisdictional utility. The Commission shall take no action on the rate filing until the negotiation period and any stipulated extension has expired or an agreement on rates is submitted, whichever occurs first.

### **Negotiation**

Once certified by the Commission for negotiation, the cities adopting resolutions to negotiate and the Utility shall enter into good faith negotiations over the proposed rate changes. Negotiations are to last for 90 days after the initial filing date, unless the parties to the negotiation agree to extend it and provide a stipulation to that effect, with a date certain to the Commission.

### **Agreement**

If the cities and the Utility reach agreement upon new rates, such agreement shall be reduced to writing, including proposed findings of fact, proposed conclusions of law, and a proposed Commission order, and filed with the Commission.

### **Role of the Public Service Commission**

Any agreement filed with the Commission shall be presumed in the public interest, and absent any clear evidence on the face of the agreement that it is contrary to the standards and provisions of SNGRA, the agreement shall be approved by the Commission within a reasonable time. If the agreement is approved by the Commission, such rates shall be effective and binding upon all of the Utility's ratepayers affected by the rate filing.

### **Failure to Reach Agreement**

If the negotiations fail to result in an agreement upon new rates, the Commission shall have up to 9 months to conduct a traditional rate review. *See Information on Rate Cases*. Failure by the Commission to act within the timeframe will result in the proposed rates, as initially filed by the Utility, becoming permanent. The Utility and the cities must file with the Commission a written agreement that the negotiations have failed and the rate change review by the commission should proceed.

### **Revolving Loan Fund**

Cities negotiating directly with a Utility may apply to the Commission for a loan from the Municipal Rate Negotiations Revolving Loan Fund to help with the costs of negotiation and litigation of the rate case. Loan

funds may be used for expenses such as consulting and legal services. Only one loan is allowed for each rate case negotiation, and only cities adopting resolutions evidencing intent to negotiate are eligible for Loan funds. However, a city which receives a loan shall provide an opportunity for all other cities engaged in the same negotiations with the same Utility to use the information or benefits accruing from the use of loan funds.

The loan shall be repaid by the jurisdictional utility to the commission. The Utility shall recover the amount paid by a special surcharge on ratepayers who are or will be affected by the rate increase request. These ratepayers may be billed on their monthly statements for a period not to exceed twelve months, and the surcharge may be shown as a separate item on the statements as a charge for rate negotiation expenses.

**Negotiated Rate Case Timeline**

The following is a basic timeline for negotiated utility rate case applications. The standard schedule below may be modified to fit individual circumstances.

<b>Deadline</b>	<b>Event</b>
Filing Date	Application Filed with the Commission and each city affected by the proposed rate
Publication Date (w/in 3 business days of filing)	Notice of Application Published in Daily Record
30 days after publication	Intervention Deadline
Interim Rates Go Into Effect – 60 days from filing	
60 days after filing date	Deadline for cities to adopt resolutions evidencing an intent to negotiate
@ 60+ days after filing date	If resolutions to negotiate representing more than 50% of ratepayers within affected cities received by Commission, Commission certifies case for negotiations. If insufficient, Commission moves forward with traditional rate case review.
90 days after filing date	Deadline for Negotiations or file Stipulated agreement with Commission with agreement to negotiate beyond 90 days
Within 30 days of filing of Agreement with the Commission	Hearing on Agreement
Within 30 days of hearing	Final Order

**Interim Rates and Billing**

Starting 60 days after filing a rate case, if a rate case is certified for negotiations, the filing Utility may be charging the proposed rates to customers. Interim rates may be credited back to customers, depending upon the outcome of the rate case. Sometimes there is no refund due. Any refund would be in the form of a credit on customers’ bills after the rate case has concluded.

**Appeal of Commission Decision**

Any party may appeal the Commission's decision to the Court of Appeals.