

001 GENERAL:

001.01 Definitions: As used in this chapter, unless the context otherwise requires, the following definitions shall be used:

001.01A Affiliate: A person or entity that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with a jurisdictional utility or competitive natural gas provider. A voting interest of 10 percent or more creates a rebuttable presumption of control.

001.01A1 Shared Resources Affiliate: A person or entity whose primary purpose is to share employees, departments or other physical assets used by the jurisdictional utility.

001.01A2 Affiliate Transaction: The purchase, sale, trade or lease of a good, service, or tangible or intangible asset from the regulated utility to an affiliate, regulated or unregulated other than a shared resources affiliate, or from an affiliate other than a shared resources affiliate to the regulated utility.

001.01B Aggregator: A person who combines retail end users into a group and arranges for the acquisition of competitive natural gas services without taking title to those services.

001.01C Agricultural Ratepayer: A ratepayer whose usage of natural gas does not qualify the ratepayer as a high-volume ratepayer and (a) whose principal use of natural gas is for agricultural crop or livestock production, irrigation pumping, crop drying, or animal feed or food production or (b) whose service is provided on an interruptible basis.

Commented [MN1]: See § 66-1802(1)

001.01D Base Year: Actual investments, expenses, and revenue of a jurisdictional utility for a recently completed 12-month period.

Commented [MN2]: Term used in Sec. 004.02B

001.01E Commission: The Nebraska Public Service Commission.

001.01EF Competitive Natural Gas Provider or "CNGP": A person who takes title to natural gas and sells it for consumption by a retail end-user in the state of Nebraska, and for purposes of this section also means an aggregator as defined in Nebraska Administrative Code, Title 291, Chapter 9, Rule 001.01B ~~LB 790~~ [2003], Sec. 49(1). CNGP includes an affiliate of a Nebraska natural gas public utility. CNGP does not include the following:

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001.01E1 A jurisdictional utility, as defined in Nebraska Administrative Code, Title 291, Chapter 9, Rule 001.01G;

001.01E2 A city-owned or operated natural gas utility or metropolitan utilities district in areas in which it provides natural gas service through pipes it owns; or

001.01E3 A natural gas public utility that is not subject to the State Natural Gas Regulation Act LB 790 as provided in Neb. Rev. Stat. § 1803 LB 790, Sec. 3 in areas in which it is providing natural gas service in accordance with Neb. Rev. Stat. § 1803 LB 790, Sec. 3 ~~{2003}~~.

001.01DG Consumer Choice Program: A program offered by a jurisdictional utility that allows ratepayers, other than high-volume ratepayers, to purchase their gas supplies from a person other than the local gas utility.

~~001.01E Extension or Enlargement of a Service Area: The proposed extension or enlargement of a natural gas service area, natural gas mains, or natural gas services by an investor-owned utility or by a metropolitan utilities district.~~

001.01FH Facility: New and existing pipelines, rights-of-way, and any equipment, facility, or building used in the transportation of liquid or gas or in the treatment of gas during the course of transportation.

001.01I General Rate Filing: Any filing which requests changes in overall revenue requirements for a jurisdictional utility but does not include a filing for an infrastructure system replacement cost recovery charge or changes in rates of other approved riders..

001.01J High-Volume Ratepayer: A ratepayer whose natural gas requirements equal or exceed five hundred therms per day as determined by average daily consumption.

001.01EK Jurisdictional Utility: A natural gas public utility subject to the jurisdiction of the Commission. Jurisdictional utility shall not mean a natural gas public utility not subject to the jurisdiction of the Commission pursuant to Neb. Rev. Stat. § 1803 LB 790, Sec. 3 ~~{2003}~~.

001.01HL Major Oil Pipeline: For purposes of Section 023, a major oil pipeline shall mean a pipeline which is larger than six inches (6") in inside diameter and which is constructed in Nebraska for the transportation of petroleum, or petroleum

Commented [MN3]: Contained within Sec. 003, unnecessary and not really a definition.

Commented [DM4]: There have been other riders besides the SSIR. Suggest adding "or changes in rates of other approved riders."

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Commented [MN5]: See § 66-1802(9)

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components, products, or wastes, including crude oil or any fraction of crude oil, within, through, or across Nebraska, but does not include in-field and gathering lines or major oil pipelines otherwise exempt under the Major Oil Pipeline Siting Act.

001.01~~M~~ Metropolitan Utilities District: A district constituted by an area as defined in Neb. Rev. Stat. ~~Section §~~ 14-2101 ~~(Reissue 1997)~~.

001.01~~N~~ Natural Gas Public Utility: Any corporation, company, individual, or association of persons or their trustees, lessees, or receivers that owns, controls, operates, or manages, except for private use, any equipment, plant, or machinery, or any part thereof, for the conveyance of natural gas through pipelines in or through any part of this state. Natural gas public utility does not mean a natural gas utility owned or operated by a city or a metropolitan utilities district. Natural gas public utility does not include any activity of an otherwise jurisdictional corporation, company, individual, or association of persons or their trustees, lessees, or receivers as to the marketing or sale of compressed natural gas for end use as motor vehicle fuel. Natural gas public utility does not include any gas gathering system or interstate pipeline.

001.01~~K~~ Pipeline: For purposes of Section 023, pipeline shall mean a pipe used to transport, transmit, convey, or store liquid or gas for hire in Nebraska intrastate commerce other than a major oil pipeline, a gathering pipeline, distribution pipeline, or service line.

001.01~~P~~ Pipeline Carrier: For purposes of Section 023, pipeline carrier shall mean a person that engages in owning, operating, or managing a major oil pipeline.

001.01~~M~~ Prudent: Prudent shall mean that in making a decision a natural gas public utility has acted as any reasonable utility management would have acted in good faith, based upon the facts known or which should have been known at the time the decision was made.

001.01~~N~~ Retail End-~~u~~User: Any person or entity, including any manufacturer or producer of any product, purchasing natural gas for its own consumption, and not for resale or consumption by any other person or entity, without restriction based upon volume of gas consumed.

001.01~~S~~ Safety Data Sheet: Safety data sheet means written or printed material concerning a hazardous chemical that is prepared

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in accordance with paragraph 29 C.F.R. § 1910.1200(g) ~~as it existed on October 1, 2012.~~

001.01PT Seasonal Disconnection Charge: A charge applied by a jurisdictional utility to a ratepayer who disconnects and re-connects service at the same premises within a twelve-month period requiring the ratepayer to pay in whole or in part charges for the months he or she was disconnected.

~~001.01Q Test Year: Either a consecutive twelve-month period commencing on the proposed effective date of the rate increase or a base year adjusted for known and measurable changes.~~

001.01RU Supplier: A CNGP that participates in a consumer choice program.

001.01V Test Year: Either a consecutive twelve-month period commencing on the proposed effective date of the rate increase or a base year adjusted for known and measurable changes.

001.01W Utility: A jurisdictional utility as defined in Sec. 001.01K.

**Commented [MN7]:** This section was in the wrong place alphabetically so it was simply moved to 001.01V.

**Commented [MN8]:** Term used in Sec. 004.02B

**Commented [MN9]:** This was a means of consistent reference and reducing wordiness in the rules. The rules would sometimes refer to "utility" and other times "jurisdictional utility", meaning was the same.

## 002 MINIMUM SAFETY STANDARDS FOR PIPELINES:

002.01 Minimum Safety Standards: Unless otherwise specified by the Commission, carriers shall use the applicable provisions of the procedures established by the United States Department of Transportation as codified at 49 CFR 192 ~~(revised October 1, 1998)~~. These incorporated materials are available for inspection at the offices of the State Fire Marshal or the Nebraska Secretary of State, Division of Rules and Regulations in the Nebraska State Capitol at either of the following locations: 246 South 14<sup>th</sup> Street, Lincoln, NE 68508-1804, 438 West Market Street, Albion, NE 68620, or, Craft State Office Building, 200 South Silber, North Platte, NE, 69101-4298.

002.02 Scope: These provisions shall apply to all intrastate **pipeline** carriers operating within the state.

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002.03 Facilities, Inspection and Repairs: All facilities shall be cleaned when necessary and inspected at such intervals as the Commission shall determine. Any facilities known to be defective so as to endanger life or property shall be promptly repaired, permanently disconnected or isolated until repairs can be made.

002.04 Waiving of Rules: The rules may be modified or waived by the Commission wherever shown to be impractical or where the advantage of uniformity with existing construction is greater than construction in

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compliance with the rules providing that the existing construction is equivalently safe to the existing rules.

002.05 Waiver of Temporary Installations: These rules may be waived by the Commission in cases of temporary installations for a reasonable length of time provided that such construction is under competent supervision and has been made reasonably safe.

003 DISPUTES BETWEEN JURISDICTIONAL UTILITIES AND METROPOLITAN UTILITIES DISTRICTS:

003.01 Commission Jurisdiction: No jurisdictional utility or metropolitan utilities district proposing to extend or enlarge its natural gas service area or extend or enlarge its natural gas mains or natural gas services shall undertake or pursue such extension or enlargement until the proposal has been submitted to the Commission for its determination that the proposed extension or enlargement is in the public interest. Any enlargement or extension by a metropolitan utilities district within the boundaries of a city of the metropolitan class involving the exercise of the power of eminent domain pursuant to Neb. Rev. Stat. § 14-2116(2) shall, by reason of such exercise, be conclusively determined to be in the public interest.

003.01A2 Filing and Contents of Proposal: Any proposal for extension or enlargement shall be filed with the Commission, and the Commission shall promptly make such application public in such manner as the Commission deems appropriate. Proposals for multiple extensions or enlargements may be filed in a single document at the discretion of the utility.

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003.01A+2A The proposal shall contain sufficient information so as to provide reasonable notice to any interested party of the location and nature of the proposed extension or enlargement. Such information shall contain, but not necessarily be limited to:

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003.01A1a2A1 A description of the location of the extension or enlargement including any cross streets and a statement as to whether the proposed extensions are entirely or partially within a particular zoning jurisdiction;

003.01A1b2A2 The municipality and subdivision or development, if any, proposed to be served by the proposed extension or enlargement;

003.01A1e2A3 The plat and/or map for the proposed service area depicting the location of known mains of all natural gas utility service within a one-quarter (1/4) mile radius of the area to be served;

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003.01A1d2A4 A description of the nature of the extension or enlargement including size and length of the main; and

003.01A2e2A5 The anticipated date the jurisdictional utility or metropolitan utilities district intends to undertake or pursue such extension or enlargement.

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003.012B The proposal shall be served on any jurisdictional utility or metropolitan utilities district with natural gas infrastructure in the area of the proposed extension or enlargement.

003.012C The Commission shall make such proposals public by posting them on the Commission website. Such proposals shall be deemed to have been made public three (3) days after the date of filing.

003.023 Protests: If no person or entity has filed with the Commission a protest alleging that the proposed extension or enlargement is not in the public interest within fifteen (15) business days after the date upon which the application was made public, the enlargement or extension shall be conclusively presumed to be in the public interest and the jurisdictional utility or metropolitan utilities district may proceed with the extension or enlargement without further Commission action. If a person or entity files with the Commission a protest, within five (5) business days of the filing of the protest, the jurisdictional utility or metropolitan utilities district proposing the extension or enlargement shall file with the Commission and serve on any party filing a protest a description as to how the proposed extension or enlargement satisfies the criteria set forth in Rule 003.

003.034 Subpoena and Other Powers: The Commission staff may administer oaths, compel the attendance of witnesses, examine any of the books, papers, documents and records of any ~~investor-owned natural gas~~ jurisdictional utility or metropolitan utilities district involved in a determination pursuant to this section. The Commission may have such examination made by any person that the Commission may employ for that purpose. Such person may also compel the production of such books, papers, documents or records or examine under oath or otherwise any officer, director, agent, or employee of any such party to the determination.

003.045 Hearing: Upon protest by an ~~investor-owned natural gas~~ jurisdictional utility or a metropolitan utilities district seeking a determination pursuant to this section, the Commission shall set a hearing date not later than ninety (90) days from the date of application except for good cause shown. In no event shall a hearing be set later than six (6) months from the date of application.

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003.045A A hearing commenced pursuant to this section shall be held in the county where such extension or enlargement of the natural gas service area is proposed.

003.045B Ratepayers of the ~~investor-owned~~ jurisdictional utility or the metro-politan utilities district shall have the right to appear and present testimony before the Commission and shall have such testimony considered by the Commission in arriving at its determination.

003.056 Fees: There shall be charged to applicants a hearing fee if the application for a determination necessitates such a hearing.

003.067 Procedure: Except as herein provided, all proceedings will be governed by the Rules of Commission Procedure as codified by state law and Nebraska Administrative Code, Title 291, Chapter 1.

003.078 Determining Considerations: In determining whether a proposed expansion or enlargement is in the public interest, the Commission shall consider:

003.078A The economic feasibility of the extension or enlargement;

003.078B The impact the enlargement will have on the existing and future natural gas ratepayers of the metropolitan utilities district or the ~~investor-owned natural gas~~ jurisdictional utility;

003.078C Whether the extension or enlargement contributes to the orderly development of natural gas utility infrastructure;

003.078D Whether the extension or enlargement will result in duplicative or redundant natural gas utility infrastructure; and,

003.078E Whether the extension or enlargement is applied in a non-discriminatory manner.

003.078F Any books, records, vouchers, papers, contracts, designs, or other data not made available to the parties shall not be considered by the Commission in making its determination of whether an extension or enlargement of a service area is in the public interest.

003.089 Rebuttable Presumptions: In determining whether an extension or enlargement of a natural gas service area, natural gas mains, or natural gas services is in the public interest, the following rebuttable presumptions shall govern:

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~~003.089A~~ Any enlargement or extension by a metropolitan utilities district within a city of the metropolitan class or its extraterritorial zoning jurisdiction is in the public interest;

~~003.089B~~ Any enlargement or extension by an ~~investor-owned natural gas jurisdictional~~ utility within a city of the primary, first, or second class or village in which it serves natural gas on a franchise basis or its extraterritorial zoning jurisdiction is in the public interest; and,

~~003.089C~~ Any enlargement or extension by a metropolitan utilities district within its statutory boundary or within a city of the first or second class or village in which it serves natural gas on a franchise basis or its extraterritorial zoning jurisdiction is in the public interest.

~~003.0910~~ Commission Orders: Except for good cause shown, the Commission shall enter an order within thirty (30) days after completion of the hearing or after submission of affidavits in non-hearing proceedings.

~~003.0910A~~ All Commission orders shall become operative ten (10) days after the date of mailing a copy of the order to the parties of record unless the Commission prescribes a different effective date.

Commented [DM11]: Is the order "mailed"? Or is it electronically sent?

~~003.110~~ Appeals: Any party to a proceeding may appeal to the ~~District Court~~ Court of Appeals to reverse, vacate or modify the order of the Commission.

Commented [MN12]: See § 75-136

~~003.12+~~ Enforcement: The Commission is empowered to enforce its order as provided for by law.

~~003.132~~ Scope: The provisions of Rule 003 apply only in those geographic areas in Nebraska in which a jurisdictional utility and a metropolitan utilities district each maintain natural gas facilities and compete with each other for natural gas service customers.

#### 004 GENERAL RATE FILINGS:

##### 004.01 Application:

~~004.01A~~ Parties filing an application for a general rate increase shall file with the Commission an electronic copy and three (3) paper eight copies. The electronic application shall be , plus an electronic copy in PDF format, and also include as well as a copy of all text documents in Microsoft Word and all spreadsheets in Microsoft Excel. Some portions of the application may be filed exclusively in electronic format. The determination on exclusive electronic filing shall be made in

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consultation between the Parties and the Commission. Paper Applications must be filed with the Executive Director at the Nebraska Public Service Commission, 1200 "N" Street, Suite 300, Lincoln, Nebraska 68508. Electronic applications and filings shall be submitted either via email to [psc.naturalgas@nebraska.gov](mailto:psc.naturalgas@nebraska.gov) or other agreed upon electronic media.

**Commented [WA13]:** "Parties" is not a defined term as far as I can see, and so I don't think it should be capitalized. But then, who is parties in this context. Is just the applicant and the PSC deciding whether the application should be filed exclusively in electronic format. If that is the case, should "Party" be "jurisdictional utility?"

004.01B The application shall include the information and be organized as set forth below in Sections 004.02 through and including Section 004.08. The application shall also be verified by a statement under oath by an officer of the ~~jurisdictional~~ utility.

004.01C Applicant shall provide all workpapers used to prepare the analysis and data submitted in support of application and any source documents referenced in the application, prefiled direct testimony, or exhibits including but not limited to contracts, internal reports, summaries of billing and FERC account data, and models in electronic format. ~~Such workpapers and source documents should also be made available in electronic format. Any documents submitted electronically shall be provided in hard copy at the request of the Commission.~~ Applicant is not required to provide in its filing documents cited in curriculum vitae.

**Commented [DM14]:** The application should also include the existing approved tariff and proposed changes.

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004.01D ~~A jurisdictional~~ The utility shall, beginning on the date the application is filed, provide the Commission and its designees and Formal ~~Intervenors~~ reasonable and convenient access to electronic copies of any documents detailing calculations in support of the rate filing.

**Commented [DM15]:** Should Formal Intervenors be defined?

004.01E ~~An application fee as established by the Commission on an annual basis must be included with the application to cover the administrative costs of accepting and processing a filing. In addition,~~ pursuant to § 66-1840, each applicant or other participant in the proceeding will be billed costs and expenses reasonably attributable to certification and dispute resolution, including Commission time, billed on an hourly basis, spent reviewing, analyzing and considering the application.

**Commented [MN16]:** There is no application fee for general rate filings. The expenses of the docket are direct assessed.

004.02 Section I - General Information: Section I of a general rate filing shall include:

004.02A The reasons and explanations for the proposed rate increase;

004.02A~~B~~ A description of the base year and test year;

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004.02~~BC~~ A description of the proposed revenue increase; number and classifications of affected rate payers; average per rate payer increase; and volumes per classification; comparison of existing and proposed rates by classification ~~and reasons for proposed increase;~~

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004.02~~CD~~ A financial summary showing aggregate amounts for rate base, operating expenses, and rate of return for the base year and test year, including a list of all adjustments made, plus operating revenue calculated using natural gas rates in effect and natural gas rates as proposed,;

004.02~~DE~~ Diagram and description of corporate structure, affiliates, and shared resource affiliates;

004.02~~EF~~ Financial statements for the most recent fiscal year;

004.02~~FG~~ The most recent annual report to stockholders, if any;

004.02~~GH~~ A list of witnesses and subjects on which they are to provide testimony.

004.03 Section II - Rate Base Schedules: Section II of a general rate filing shall include:

004.03A ~~Rate-~~ base schedules showing beginning and ending balances for the base year and test year with all adjustments to the test year fully detailed and explained including all mathematical calculations related thereto of:

004.03A1 Utility plant and accumulated depreciation and amortization showing the balances by functional account totals;

004.03A2 Working capital, showing the manner in which it is calculated; and

004.03A3 Other ~~rate-~~ base components, clearly labeled.

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004.03B Allocated ~~rate-~~ base components showing the manner in which the components are calculated; and

004.03C Construction ~~W~~ork in ~~P~~rogress including a description of the nature and location of the project; budgeted cost; actual expenditures to date; expected completion date and any revenue to be generated from the project.

004.04 Section III - Operating Expense Schedules: Section III of a general rate filing shall include:

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004.04A Operating expense schedules for the base year and test year with all adjustments to the test year fully detailed and explained including all mathematical calculations related thereto;

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Depreciation Provide a copy of the most recent depreciation study that is relied on to support the depreciation rates used if a change in depreciation rates is proposed.

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004.04B Legislative advocacy expenses sought in the application, whether made directly or indirectly, including but not limited to, legislative advocacy expenses included in professional or trade association dues;

004.04C Funds expended in support of or in opposition to political candidates and sought in the application;

004.04D Funds expended in promotion of or in opposition to political or religious causes and sought in the application;

004.04E Funds expended in support of or membership in social, recreational, fraternal, or religious clubs or organizations;

004.04F Schedules detailing all affiliate transactions;

004.04G Cost allocation manual including description of any changes made since the cost allocation was last approved.

004.05 Section IV - Rate of Return and Cost of Capital Schedules: Section IV of a general rate filing shall include:

Summary report of the proposed fair rate of return which contains a weighted cost of capital analysis

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The Company's actual and estimated capital structure

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004.05A Long-term and short-term debt, preferred stock, and common equity amounts, ratios, and percentage cost rates for the base year and test year; and

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Commented [MN17]: Do we need to define short-term debt or is it a term of art and understood by the industry?ve

004.05B Long-term and short-term debt, preferred stock, and common equity amounts at the beginning and end of the base year and test year; and

Commented [WA18R17]: Nichole, I think it is normally debt to be paid in the next 12 months or before the end of the utility's fiscal year, but I am not certain.

Commented [DM19R17]: Short term debt is understood by the industry. no need to define separately.

004.06 Section V - Revenue Schedules: Section V of a general rate filing shall include operating revenue schedules showing:

Schedules showing operating revenues by major revenue category, including other operating revenues and uncollectible operating

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revenues, for the test year, and for the test period with all adjustments to the test year fully detailed and explained including all mathematical calculations related thereto

004.06A Number and classification of customers, volume of sales, and operating revenue by customer classes for the base year on an unadjusted basis; and

004.06B Number and classification of customers, volume of sales, and operating revenue by customer classes for the test year on a normalized basis:

004.06B1 Using current rates; and

004.06B2 Using proposed rates.

Gross Revenue Conversion Factor. Provide a calculation to show how many dollars of gross revenue increase are required to realize \$1.00 of net return increase

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004.07 Section VI - Cost of Service Study: Section VI of a general rate filing shall include a fully-allocated cost of service study including both allocations of jurisdictional and non-jurisdictional activity and allocations between classes of ratepayers to demonstrate compliance with Section 66-1825(10). ~~A jurisdictional~~ The utility shall, beginning on the date the application is filed, provide the Commission and its designees and ~~Formal intervenors~~ formal intervenors reasonable and convenient access to an electronic copy of the ~~cost-of-service~~ study model to be used by the ~~jurisdictional~~ utility in the rate case. Such access shall be provided subject to a protective order.

Commented [MN20]: I believe this should be hyphenated?

004.08 Section VII - Prefiled Direct Testimony and Exhibits: Prefiled direct testimony and exhibits to be offered at the hearing, except as permitted in Nebraska Administrative Code, Title 291, Chapter 9, Rule 006. Prefiled testimony or exhibits shall not be modified once filed except for typographical errors or mistakes, or where all parties to the proceeding agree to the change or where the Commission permits for good cause shown.

004.09 Alternate Cost of Service Study Models: Any party to the rate case intending to offer evidence on a general rate filing based upon a cost of service study model other than the model utilized by the applicant, shall provide the applicant, the Commission and its designees and other formal intervenors reasonable and convenient access to electronic copies of the cost of the service study model. Such access shall be provided subject to a protective order.

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004.10 Use of Discovery in General Rate Filing Proceedings: The Commission may apply, but is not required to apply, the Discovery Rules of the Nebraska Supreme Court in general rate filing proceedings before the Commission. Unless the Commission otherwise orders, the time period for answering data requests in general rate proceedings is up to ten (10) days. For good cause shown, the time period may be extended by the Commission. All parties to a general rate proceeding may object to requests that are not permissible under the rules and regulations of the Nebraska Supreme Court regarding use of depositions and discovery. A responding party shall respond with objections to any data requests within five (5) days. For good cause shown, the time period may be extended by the Commission.

004.11 Notice of Assessment: Upon the filing of A General Rate Filing, ~~any application, including rate filings, or complaint for which the Commission deems it necessary to investigate a jurisdictional utility or make appraisals of the property of a jurisdictional utility,~~ the Commission shall give the ~~jurisdictional~~ utility notice by United States mail of the ~~applicable~~ assessment for expenses reasonably attributable to such General Rate Filing proceeding investigation or appraisal, including both direct and indirect expenses incurred pursuant to § 66-1840.

004.12 Filing of Intervenor Documents: Parties filing testimony and exhibits in response to an application for a general rate increase shall file with the Commission an electronic copy and three (3) paper copies. eight copies, plus an electronic copy in The electronic copies shall be in PDF format, and also include as well as a copy of all text documents in Microsoft Word and all spreadsheets in Microsoft Excel. Some portions of the documents may be filed exclusively in electronic format. The determination on exclusive electronic filing shall be made in consultation between the Parties and the Commission. Applications ~~All paper copies~~ must be filed with the Executive Director at the Nebraska Public Service Commission, 1200 "N" Street, Suite 300, Lincoln, Nebraska 68508. Electronic filings shall be submitted either via email to psc.naturalgas@nebraska.gov or other agreed upon electronic media.

004.12A ~~Parties shall provide all workpapers used to prepare the analysis and data submitted in response to the application and any source documents referenced in the prefiled direct testimony, or exhibits including but not limited to contracts, internal reports in electronic format. Such workpapers and source documents should also be made available in electronic format. Any documents submitted electronically shall be provided in hard copy at the request of the Commission.~~ Parties are not required to provide documents cited in curriculum vitae. Prefiled testimony ~~or~~ and exhibits shall not be modified once filed except for typographical errors or mistakes, ~~or~~ where all

**Commented [WA21]:** Why capitalized when no other defined term is. (Actually, my preference would be to have all defined terms capitalized. Gives notice that it is specifically defined.

**Commented [MN22]:** Consistent with Sec. 004.01A.

**Commented [MN23]:** Split these section from the previous section to be consistent with Sec. 004.01B and to avoid large run-on section.

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parties ~~to the proceeding~~ agree to the change, or where the Commission permits for good cause shown.

004.12B Beginning on the date the testimony and exhibits are filed, parties shall provide the Commission and its designees, the applicant, and all ~~Formal Intervenor~~ formal intervenors reasonable and convenient access to electronic copies of any documents detailing calculations in support of the rate filing.

004.13 Exemption from Rules: A ~~Jurisdictional Utility,~~ utility whose current rates were approved through and following negotiations and agreement with affected cities and who seeks negotiation of a general rate application with affected cities pursuant to Neb. Rev. Stat. § 66-1838, shall be exempt from the requirements of Sections 004.01C and 004.04G. Should negotiations fail to result in an agreement upon new rates, the ~~Jurisdictional Utility~~ utility shall file with the Commission the information required in Sections 004.01C and 004.04G within ten (10) days after the date of the expiration of the negotiation period or after the date upon which the ~~jurisdictional~~ utility and the cities file a written agreement that the negotiations have failed, whichever is earlier.

#### 005 RATE PRINCIPLES:

005.01 Rule Provisions: The provisions of Rule 005 apply only to ~~general rate filings~~ General Rate Filings governed by § 66-1838. No provision included in Rule 005 shall be construed as prohibiting the Commission from approving a settlement agreement that the Commission finds to be just and reasonable and in the public interest.

Commented [WA24]: Ditto

005.02 Cost of Service: Except as provided for in any section of the State Natural Gas Regulation Act or these rules dealing with fuel expenses, rates are to be based upon a utility's cost of rendering service to the public during a test year.

005.03 Components of Cost of Service: The two components of ~~cost of service~~ cost-of-service are allowable expenses and return on invested capital.

005.04 Allowable Expenses: Only those expenses which are prudent may be included in allowable expenses. Expenses incurred by a ~~jurisdictional~~ utility or a shared resources affiliate shall be presumed to be prudent, unless the contrary is shown.

005.05 Return on Rate Base: The return on rate base is the rate of return multiplied by rate base.

005.05A Rate of Return: The Commission must allow each utility a reasonable opportunity to earn a reasonable rate of

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return, which is expressed as a percentage of invested capital, and must fix the rate of return in accordance with Neb. Rev. Stat. §§ 66-1825(3) and (5) including:

005.05A1 The rate of return in one rate case shall not be precedential in future rate cases.

005.05A2 In each case, the Commission must consider the utility's cost of capital, which is the weighted average of the cost of the various classes of capital used by the utility:

005.05A2(a) Debt Capital: The cost of debt capital is the actual cost of debt.

005.05A2(b) Equity Capital: The cost of equity capital must be based upon a fair return on its value. For companies with ownership expressed in terms of shares of stock, equity capital commonly consists of the following classes of stock.

005.05A2(b)(1) Common Stock Capital: The cost of common stock capital must be based upon a fair return on its value.

005.05A2(b)(2) Preferred Stock Capital: The cost of preferred stock capital is its annual dividend requirement, if any, plus an adjustment for premiums, discounts, and cost of issuance.

~~005.06 Rate Base: The rate of return is applied to the rate base. The rate base includes as a major component the original cost of plant, property, and equipment, less accumulated depreciation, used and useful in rendering service to the public. Components to be included in determining the overall rate base are as follows:~~

~~005.06A Original cost, less accumulated depreciation, of utility plant used by and useful to the public utility in providing service except that acquisition adjustments will be examined on a case by case basis.~~

~~005.06A1 Original cost must be the actual money value including any consideration paid other than money, of the property at the time it shall have been~~

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~~dedicated to public use, whether by the utility which is the present owner or by a predecessor.~~

~~005.06A2 Accumulated depreciation is the accumulation of allocations of original cost, representing recovery of investment, over the estimated useful life of the asset. Depreciation must be computed on a straight-line basis unless the Commission orders otherwise.~~

~~005.06A3 Payments to affiliated interests shall not be allowed as a capital cost except as provided in Rule 005.07.~~

~~005.06A4 Acquisition adjustments are the difference between the purchase price of an acquired operating unit or system and the depreciated original cost of the acquired property.~~

~~005.06B Working capital allowance to be composed of, but not limited to, the following:~~

~~005.06B1 Prudent inventories of materials and supplies, held specifically for purposes of permitting efficient operation of the utility in providing normal utility service.~~

~~005.06B2 Prudent prepayments for operating expenses.~~

~~005.06B3 A prudent allowance for cash working capital.~~

~~005.06C Adjustments for certain items, which include, but are not limited to, the following:~~

~~005.06C1 Accumulated reserve for deferred federal income taxes;~~

~~005.06C2 Unamortized investment tax credit to the extent allowed by the Internal Revenue Code;~~

~~005.06C3 Contingency and/or property insurance reserves;~~

~~005.06C4 Contributions in aid of construction;~~

~~005.06C5 Ratepayer deposits and other sources of cost-free capital;~~

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005.06 Rate Base: The rate of return is applied to the rate base. Rate base shall mean:

**Commented [MN25]:** This is a rewrite of the previous section to try to be more clear.

005.06A The original cost of utility property, including utility plant, property, and equipment, used and useful in rendering service to the public. Original cost shall be the actual money value, including any consideration paid other than money, of the property at the time it shall have been dedicated to public use, whether by the utility as the present owner or by a previous owner; less

005.06B Related accumulated depreciation and amortization, computed on a straight-line basis unless otherwise ordered by the Commission; less

005.06C Ratepayer deposits and advances, contributions in aid of construction, and other sources of cost-free capital; less

005.06D Accumulated reserve for deferred and unamortized income tax liabilities, adjusted to reflect any accumulated deferred income tax assets related to plant included in section 005.06A above; plus

005.06E Unamortized investment tax credit to the extent allowed by the Internal Revenue Code; plus

005.06F Contingency and/or property insurance reserves; plus

**Commented [MN26]:** I can't find where we discussed this issue? I am assuming that it would increase rate base if it was contributed by shareholders?

005.06G Prudent inventories of Working capital

**Commented [DM27]:** M&S is a component of working capital. As presented it showed CWC and prepaids as a part of M&S.

A prudent inventory of materials and supplies, held specifically for purposes of permitting efficient operation of the utility in providing normal utility service, including:

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**Commented [WA28]:** My suggested change. I think we should require that their inventories are prudent

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005.06G1 A prudent allowance for cash working capital including the study and/or calculations used, defined as investor supplied funds to enable the utility to pay current operating expenses between the time when the expenses of rendering utility service are paid and the time when revenues for that service are collected from ratepayers, and

**Commented [WA29]:** I don't think what follows (funds) is something included in materials and supplies. I think working capital should be a separate section.

**Commented [WA30]:** Ditto from above. Prudency.

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005.06G2 Prudent prepayments for operating expenses, not included within the calculation for cash working capital.

005.06H Payments to affiliated interests shall not be allowed as a capital cost except as provided in Rule 005.07.

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005.06I Acquisition adjustments comprised of the difference between the purchase price of an acquired operating unit or system and the depreciated original cost of the acquired property, shall be considered on a case-by-case basis.

005.06J~~D~~ Completion and Dedication of Property: The rate base shall ordinarily consist only of those items which are used and useful in providing service to the public. This may include items completed and dedicated to commercial service for which construction will be commenced and completed within one year or less from the end of the test year. The Commission may also determine that property which has not been completed and dedicated to commercial service may be used and useful and included in the rate base. In determining whether construction work in progress should be included in the rate base, the Commission may consider whether projects under construction are prudent. To aid the Commission in determining the prudence of any construction work in progress sought by the utility to be included in rate base, the utility shall provide the following in its direct case:

005.06J1 Discussion of each project including showing why the project is necessary to the provision of safe and reliable gas service;

005.06J2 How project costs are being financed, debt or internally generated capital;

005.06J3 Information as to why it is necessary the project be included in rates before it is complete and in service; and

005.06J4 Information for each project sought including: project description; location; purpose; date construction began; expected completion date; actual costs incurred as of the end of the test year; and total expected cost of the project at completion.

005.06~~K~~K Self-Insurance Reserve Accounts: Self-insurance plans may be included in the rate base at the discretion of the Commission.

005.06~~L~~L Requirements for Post Test Year Adjustments: Post test year adjustments are permitted for known and measurable rate base adjustments to test year where the utility accounts for any related impacts on all aspects of the ~~jurisdictional~~ utility's operations. Related impacts are those that reasonably follow as a consequence of the post test year adjustment being proposed, including a related impact of another post test year adjustment.

**Commented [WA31]:** Direct case not defined. "Application?"

**Commented [MN32]:** See Docket No. NG-41, *In the Matter of Aquila, Inc. d/b/a Aquila Networks (Aquila), Omaha, seeking individual rate increases for Aquila's Rate Area One, Rate Area Two, and Rate Area Three*, ORDER GRANTING APPLICATION IN PART, July 24, 2007.

**Commented [WA33]:** Not a big thing, but it seems to me that this should be the first subsection (005.06J1) and the others to follow.

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005.07 Payments to Affiliates: The ~~jurisdictional~~ utility has the burden to demonstrate that any cost paid to an affiliate for any goods or services are prudent. The ~~jurisdictional~~ utility has the burden to demonstrate all of the following before any amount paid to an affiliate, other than a shared resource affiliate, either, as a capital cost or an expense, is included in rates except as provided in Neb. Rev. Stat. § 66-1825(8):

005.07A Each payment is prudently incurred for each item or class of items at the time incurred.

005.07B The costs charged by an affiliate reasonably approximate the market value of service to it.

006 CONFIDENTIAL INFORMATION:

006.01 Confidential Information Filed with Applications: The party filing documents must indicate any information which is claimed to be confidential. The filing of any confidential information must include a motion for a protective order that includes a clear statement and must state of the grounds with specificity and cite the legal authority for the claim of confidentiality in a the motion for protective order. If the motion for protective order is not filed with the application, any claim of confidentiality of information filed in the application or as prefiled testimony and exhibits ~~shall~~ may be deemed waived.

006.01A If an applicant contends any portion of the application, prefiled testimony, or exhibits ~~is~~ are confidential, it must file an electronic copy and three (3) hard ~~eight~~ copies of the application, prefiled testimony and exhibits redacting without the asserted confidential information, together with the motion for protective order. The applicant must also file an electronic version clearly marked "CONFIDENTIAL" and under seal, printed and on yellow paper, and marked "CONFIDENTIAL", ~~six~~ copies of three (3) hard copies of the complete application, prefiled testimony, and exhibits claimed to be confidential ~~and the subject of a motion for protective order.~~ Electronic filings shall be submitted either via email to psc.naturalgas@nebraska.gov or other electronic media. The motion for protective order must be decided within ten (10) calendar days from the date the application is filed. Parties opposing the motion may file an objection a resistance to the motion within five (5) calendar days. ~~If the motion is granted, a protective order shall be issued.~~

006.02 Other Confidential Filings: Any ~~jurisdictional~~ utility seeking to prevent disclosure of information filed by with the Commission must file such information electronically clearly marked "CONFIDENTIAL" and in hard copy on yellow paper marked "CONFIDENTIAL." Electronic filings shall be submitted either via email to psc.naturalgas@nebraska.gov or other electronic media.

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Disclosure of confidential information will be governed by Neb. Rev. Stat. § 66-1829 ~~Sec. 29 of LB 790 [2003]~~.

007 RATE AREA MAPS: Each utility shall keep a map on file with the Commission of its rate area(s). The map must show the boundaries of each rate area and intervening and adjacent rural territories served within each rate area. Upon a change to any rate area(s), a revised map of the rate area, reflecting all changes in boundaries, must be filed with the Commission. Such changes will become effective upon filing the revised map with the Commission. ~~Each jurisdictional utility shall keep on file with the Commission a map of its rate area(s), showing the boundaries of such areas and intervening and adjacent rural territories served within such rate area(s). Each jurisdictional utility operating in Nebraska as of May 30, 2003, shall file a map showing the rate area(s) it served as of May 30, 2003. Each jurisdictional utility must file revised maps of rate area(s) reflecting changes in boundaries. Such changes shall become effective upon filing with the Commission.~~

Commented [WA34]: Suggestion.

Commented [MN35]: Simple rewrite of this section to remove the May 30, 2003 date, as it is no longer relevant.

008 TARIFF FILINGS:

008.01 Applicability: This section applies to all ~~jurisdictional~~ utilities.

008.02 Effective Tariff: No utility shall directly or indirectly offer a service, collect any rate or charge, give a compensation or discount to a ratepayer, or impose any classification practice, or regulation different from that which is prescribed in its effective tariff filed with the Commission. The tariff may include mathematical formulas that express the pricing terms for service.

008.03 Tariff Filings: Every ~~jurisdictional~~ utility must publish and file with the Commission copies of a tariff showing all schedules of rates and terms and conditions of jurisdictional service to ratepayers, and must furnish the Commission copies of all terms and conditions of service and contracts between ~~jurisdictional~~ utilities pertaining to any and all jurisdictional services to be rendered by such ~~jurisdictional~~ utilities. The provisions of such tariff must be definite and so worded as to minimize the ambiguity or the possibility of misinterpretation.

008.03A Authority: If a tariff sheet is issued under specific authority or decision of ~~this~~ the Commission, each sheet so affected must show the appropriate citation.

008.04 ~~Requirements as to Size, Form, Identification and Filing of Tariffs~~: All tariff filings must be submitted electronically in a Commission approved format via email to psc.naturalgas@nebraska.gov. A hard copy of the proposed tariff shall also be filed at the Commission offices. All tariff pages must be formatted to be 8 1/2 inches by 11 inches. The cover page of the tariff must contain the name of the utility and the location of its principal office. Each rate schedule

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must clearly state the rate area and city wherein such rate schedule is applicable. Tariff sheets are to be numbered consecutively per schedule. Each sheet must show an effective date, a revision number, section number, sheet number, name of the utility, name of the tariff, and title of the section in a consistent manner. The Commission shall acknowledge receipt of the tariff upon filing.

008.05 Composition of Tariffs: The tariff must contain sections and subsections setting forth:

- 008.05A A table of contents;
- 008.05B A list of the cities in which service is provided;
- 008.05C A map showing the areas in which service is provided;
- 008.05D A brief description of the utility's operations;
- 008.05E The rate schedules; and
- 008.05F The terms of service, including any service agreement forms.

008.06 Revisions to Tariffs: When a change is proposed ~~on to~~ a tariff, ~~attention must be directed to the changes contained therein by~~ the utility shall file filing a new tariff sheet(s) incorporating the changes and also tariff sheet(s) in legislative or redline format.

~~008.07 Number of Copies to be Filed: An original and one paper copy of each tariff, plus an electronic copy in a Commission approved format, must be filed. The paper copy will be stamped and filed and returned to the utility.~~

**Commented [MN36]:** This language was incorporated in the rule 8.04.

~~008.07 Availability of Tariffs: Each utility shall make available to the public a copy of its tariff currently on file with the Commission. Such tariff shall be available on the utility's website and, at each of its business offices or designated sales offices within Nebraska which provide in-person service to ratepayers. ~~, all of its tariffs currently on file with the Commission, and it's the~~ A utility's employees shall assist ~~lend assistance to~~ persons seeking information on its tariffs and shall make a copy of the tariff available for review if requested and provide copies of any portion of its tariff upon request. ~~afford inquiring persons an opportunity to examine any tariff upon request. The utility also must provide copies of any portion of its tariffs upon request.~~~~

~~008.08 Rejection of Filings: The Commission may reject any filing under this rule if the ~~jurisdictional~~ utility fails to comply with the provisions as set forth in ~~said this~~ rule.~~

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009 SERVICE TO HIGH VOLUME, AGRICULTURAL AND INTERRUPTIBLE RATEPAYERS:

009.01 Written Notice of Any Changes: For purposes of Neb. Rev. Stat. ~~See~~ § 66-1810, a written notice of any change shall be sent to the Commission and affected agricultural and interruptible ratepayers and published in a legal newspaper prior to the effective date of the change.