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January 18, 2024

Ret. Colonel Thomas Golden, Executive Director
Nebraska Public Service Commission
300 The Atrium
1200 N Street
Lincoln, NE 68508

Dear Col. Golden,

The Nebraska Public Advocate hereby submits its comments on the proposed Rules and Regulation #210. Please contact me at 402-432-1706 if you have any questions.

Sincerely,

Chris Dibbern, Public Advocate

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Commission, on)
its own motion, seeking to amend Title) Rule and Regulation No. 210
291, Chapter 9, Natural Gas and Oil)
Pipeline, to update, modernize, correct)
errors, and reorganize the chapter.)

**COMMENTS OF
NORTHWESTERN ENERGY**

On October 11, 2023, the Nebraska Public Service Commission (“Commission”) opened this docket to amend provisions of the Commission’s rules and regulations, Chapter 9, Natural Gas and Oil Pipeline Rules and Regulations, seeking to “modernize and update procedures, correct typographical errors, clarify and reorganize various sections, and conduct an overall cleanup of Section 001 through Section 022 of its Rules.” See *Order Opening Docket, Releasing Proposed Rules and Seeking Comment (Oct. 11, 2023)*. The Commission released its proposed rules (“Proposed Rules”) and sought public comments from interested parties. NorthWestern Energy Prairies Corporation (“NorthWestern”) hereby submits the following comments on the Commission's Proposed Rules:

- Section 004.13 of the Proposed Rules reads as follows:

004.13 Exemption from Rules: A ~~Jurisdictional~~ 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 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.

COMMENT: Due to other proposed revisions within Section 004.04 (“Section III – Operating Expense Schedules”), it appears the cross-reference to “Section 004.04G” within Proposed Rule 004.13 should be amended to instead reference “Section 004.04H.”

- Section 017.09C of the Proposed Rules reads as follows:

017.09BC Limits on Estimated Billing Adjustments to Bills for Meters Failing to Register: The Utility may estimate bills for future customer natural gas usage when a meter is found not to register or to register intermittently. Bills estimated under this section may not be estimated for a period exceeding six (6) months and must be based upon prior usage, adjusted for weather conditions, number of days in the applicable billing cycle, and other known and reasonable factors. ~~If a meter is found not to register or to register intermittently for any period, subject to statutory limits, the a utility may charge for an estimated amount of natural gas used, but not to exceed six months. Bills estimated under this section must be based upon prior usage, adjusted for weather conditions, number of days in the applicable billing cycle, and other known and reasonable factors.~~

COMMENT: The language of current Section 017.09B (amended by Proposed Rule 017.09C above) appears to cover permissible estimated billing practices for *past* usage

by a customer whose meter is found to not register or to register intermittently for a period of time. In practice, if a Utility discovers a bad meter, the Utility will remedy the issue and replace the meter as soon as it becomes aware of the issue. Therefore, it would be *past* natural gas usage the Utility needs to estimate billing for—*i.e.*, the period of time the customer possessed a bad meter. Proposed Rule 017.09C appears to take the existing Rule a new direction and provide Utilities the ability to estimate *future* usage for billing purposes. This makes little sense in practice, as future usage would be accurately recorded once the bad meter is replaced. NorthWestern recommends Proposed Rule 017.09C retain the existing language found in the current Section 017.09B.

NorthWestern respectfully requests the Commission consider its comments regarding the above-referenced Proposed Rules and incorporate NorthWestern's proposed language into the Commission's final rules.

DATED: January 24, 2024

NORTHWESTERN ENERGY PRAIRIES
CORPORATION,

By: REMBOLT LUDTKE LLP
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By: /s/ Andrew S. Pollock
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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing motion was served upon the following by email on January 24, 2024.

Nebraska Public Service Commission
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/s/ Andrew S. Pollock
Andrew S. Pollock (#19872)

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

IN THE MATTER OF THE COMMISSION,)	
ON ITS OWN MOTION, SEEKING TO)	
AMEND TITLE 291, CHAPTER 9, NATURAL)	Rule and Regulation No. 210
GAS AND OIL PIPELINE, TO UPDATE,)	
MODERNIZE, CORRECT ERRORS, AND)	
REORGANIZE THE CHAPTER.)	

COMMENTS OF
THE PUBLIC ADVOCATE

The following are Chris Dibbern, the Nebraska Public Advocate, comments regarding the draft rules and regulations of Natural gas issues submitted on or about January 19, 2024.

General Themes

Overall, striking LB790 throughout the rule and regulation is a sound idea. Once a bill is inserted into statute form it is a better idea to address this final form and no longer the bill referral. Recall that every statute has a bill reference on the bottom of its section for historical reference if needed.

In the Definitions section, insert: Unless otherwise defined in the Law in Nebraska Statutes 66-1801-1848.

On Page 1, 00101.F, why not use Neb. Rev. Stat. 66-1848 (1) rather than Administrative Code Title 291.

On Page 3, strike Reissue 1997.

On Page 4, Code of Federal Register (C.F.R.) spell out once and then use C.F.R. as amended from time to time throughout. CFR or C.F.R.

Overall striking “investor owned” utilities and jurisdiction throughout the rules is a good idea. The definition under utilities and jurisdiction utilities is controlling and simplified the sentence.

Throughout the draft document there are spacing or formatting problems that have broken the words into two parts. For example:

Pg. 5, "infor-mation" should be "information" - Remove hyphen.

Pg. 30, “competi-tive”, “con-tact”, and “Util-ity” – Remove hyphens.

Pg. 33, “dis-connect” – Remove hyphen.

Pg. 35, “availabil-ity” - Remove hyphen. The formatting on this page, specifically spacing, is inconsistent with the main format of the document.

Pg. 38, “Commis-sion”, “state-ments”, and “nego-tiate” - Remove hyphens.

Pg 44, "Com-mission - Remove hyphen. Spacing is inconsistent compared to the rest of the document.

Pg. 7, The word "Person" is capitalized but is not a defined term and should not be capitalized in the sentence. Later in the rule it is not capitalized.

Pg 9, Appeals go directly to the Court of Appeals rather than District Court.. We understand this was based on statutory change in legislation. It would be helpful to footnote the statutory reference. On page 9 and throughout Page 14 - in lieu of PDF format would you insert the word "readable" format.

Pg 4, Supplier is a common generic term in Natural Gas, and it might be clearer if listed as Choice Supplier with CNGP.

The natural gas industry was traditionally composed of three segments using the term supplier.

- A. The production and gathering from oil and natural gas fields, i.e., production suppliers.
- B. The transmission or delivery by long distance pipelines, and i.e., transmission and pipeline supplier/shipper
- C. The distribution in cities, towns, and rural area, i.e., retail supplier

Thus, the term Choice Supplier gives rise to a cleaner definition of what supplier is in reference to definition #1. (1. Footnote: Principle and Public Utilities. Bonbright. Public Utility Reports.)

Pg. 10, In existing rules the sentence "applicant is not required to provide in its filing documents cited in curriculum vitae." Suggest a comma after the word "filing" to reflect that those documents in someone's resume do not have to be included. (See pg. 15)

Pg. 10, It may be cleaner to keep the term "general rate filing" to include any rate filing increases or decreasing rates. Does this include riders? Any chance this is a filing with a decrease? The old rule implies only increases in rates, the new language, general rate filing is a better term.

Pg. 11, It is an excellent and helpful idea to ask for a redlined version of the current tariff showing the proposal rates.

Pg. 12, It is customary and helpful to include a listing of all debt, not just long-term debt.

Pgs. 13-14, Cost of service models are discussed as a yardstick to which rates may be judged as reasonable or in the public interest. However, this rule recognizes that a cost-of-service model may not be the only single yardstick; yet understanding that prices should track all identifiable costs and allowable expenses associated with the product and return on invested capital.

Pg. 14, in 004.11 We would recommend the stricken language be kept in the paragraph about any applications, or complaints for which the Commission deems needs reviewed. This language gives the Commission authority and seems to be helpful to the ratepayer.

Pg. 19, New language regarding prudence in any construction work is helpful and necessary in tracking project costs.

Pg 20, Are Natural Gas regulated utilities self-insured? Noted in 005.06R.

Pg. 21, Regarding rate area maps, how are the unserved areas marked? On Page 21, calling the redacted filing Public seems confusing.

Pg. 23, Providing a copy of its tariff available on the website is an innovative idea. It makes everything easier for the ratepayer and the utility.

Pg. 28, Dealing with CNGP's, the minimum capitalization of \$200,000 may be arbitrary. CNGP's own suppliers will require credit assurance in some form. For example, a bank letter of credit might be required by CNGP's wholesale supplier. However, \$200,000 might be the minimum threshold to make sure the Choice suppliers have some financial stability.

Also on page 28, in 011.02H, it might be helpful to mention as to what date the financial capability was required.

Pg. 34, The passage of law to add physicians' assistants or advanced practice registered nurse's certification helped with classification of immediate and serious health hazards. The use of the term "Filed" in 013.06 suggests something formal. We think it should be "provided" to the utility.

Pg. 35, Requires a notice by United States Mail? Could those notices be sent electronically?

Pg. 42, Just a comment on meter testing for accuracy. The meter is the cash register for the company and any minor error can potentially be a critical issue for both the customer and the utility. Fraud on the meter is a crime that harms all ratepayers. Meters reading fast or slow can be a large problem for the ratepayer or utility. We suggest you add for nonpayment of a bill "with the utility", for clarification. It is not required but we are curious if the utility gets to pull credit reports? Generally the lookback can be expensive to the ratepayer and utility. Allowing some of the charge to be recovered in a rate case might be acceptable.

Pg. 43, Excellent addition of 017.08C3, this section allows re-establishment or hook-ups with partial payments of deposits. The deposit is a barrier to service for a ratepayer and allowing partial payments can be immensely helpful. Does the utility ever notify the Commission of the number of ratepayers who are turned away without deposits? Deposits in general are a burden for new ratepayers.

The section on rate base is interesting with many states having original costs as the method of rate-base valuation vs. fair rates. Original costs measured by actual costs paid by the utility adjusted for depreciation are easy, definite, and widely used, however, scholars warn that original costs can be inaccurate in periods of pronounced inflation. Since 2024 may be such a period, this section could be compared to how NARUC manages fair value and original cost. #2 (2. Footnote Principles of Public Utility rates, pg. 229-230, Bonbright, Public Utilities, Repal Inc.)

Pg 45, is Administering utility a defined term? Should it be capitalized?

I look forward to the workshop on the proposed rules and regulations. In general, it is necessary to update the Rule and Regulations regarding Natural Gas service in Nebraska and these proposed rules are extremely helpful.

Sincerely,

Chris Dibbern
PUBLIC ADVOCATE

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