

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

Case No. GR-81-331

In the matter of Rich Hill-Hume Gas Co., Inc. of Wichita, Kansas for authority to file interim tariffs increasing rates for natural gas service provided to customers in the Missouri service area of the Company.

Case No. GR-81-332

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APPEARANCES: W. R. England, III, Hawkins, Brydon and Swearengen, P.C., 312 E. Capitol Ave., P. O. Box 456, Jefferson City, Missouri 65102, for Rich Hill-Hume Gas Co., Inc.

Mary Ann Garr, Assistant General Counsel, P. O. Box 360, Jefferson City, Missouri 65102, for the Staff of the Missouri Public Service Commission.

Richard W. French, Assistant Public Counsel, 1014 Northeast Drive, Jefferson City, Missouri 65101, for the Office of the Public Counsel and the Public.

REPORT AND ORDER

On May 1, 1981, Rich Hill-Hume Gas Co., Inc. of Wichita, Kansas (Company) filed with the Commission revised rate tariffs designed to increase the Company's jurisdictional natural gas service revenues on an interim basis (GR-81-331) and on a permanent basis (GR-81-332), by approximately \$83,568, exclusive of taxes. The revised tariffs bore an effective date of May 31, 1981.

On May 19, 1981, the Commission suspended the effective date of the proposed tariffs in each case for 120 days beyond May 31, 1981, to September 28, 1981.

By its "Second Suspension Order and Notice of Proceedings" issued July 13, 1981, in Case No. GR-81-332, the Commission further suspended the proposed permanent tariffs for six (6) months beyond September 28, 1981, to March 28, 1982, unless otherwise ordered by the Commission. The Second Suspension Order further established a deadline for the filing of applications to intervene in the permanent case, set deadlines for the filing of prepared direct testimony and exhibits and rebuttal testimony by the parties to the case, and set a prehearing conference and hearing between October 15 and 21, 1981.

By its "Second Suspension Order and Notice of Proceedings" issued July 22, 1981 in Case No. GR-81-331, the Commission further suspended the proposed interim tariffs for six (6) months beyond September 28, 1981 to March 28, 1982, unless otherwise ordered; established a deadline for the filing of applications to intervene, set dates for the filing of prepared direct testimony and exhibits, and set a prehearing conference and hearing in the interim case for September 16-17, 1981.

By Order dated August 11, 1981, Company was authorized to tender notice to its customers of the hearings in these cases by insert accompanying Company's September 1, 1981 bills to customers.

The prehearing conference in Case No. GR-81-331 was duly commenced on September 16, 1981, at the Commission's offices in Jefferson City, Missouri. By agreement of the parties, the matter was continued without hearing, to coincide with the scheduled hearings in the permanent case on October 19, 1981.

No applications to intervene were filed in either case. The prehearing conference in Case No. GR-81-332 was held as scheduled on October 15 and 16, 1981, and resumed on October 19, 1981, with representatives of the Company, the Staff of the Public Service Commission (Staff) and the Office of the Public Counsel (Public Counsel) participating. As a result of the prehearing conference, Company and Staff entered into a Stipulation and Agreement in resolution of Cases No. GR-81-331 and GR-81-332.

The cases were heard on October 20 and 23, 1981, in the Commission's hearing room in Jefferson City, Missouri. The Stipulation and Agreement was presented to the Commission, testimony and exhibits were received in evidence, and witnesses were cross-examined by Public Counsel and questioned by the Commission. At the conclusion of the hearing, Public Counsel announced that he would support the Stipulation and Agreement if the Commission determines that the Company would cease providing service to its customers if no surcharge was authorized by the Commission.

The requirements of Section 536.080, RSMo 1978, have been waived by the parties.

Findings of Fact

The Public Service Commission of Missouri makes the following findings of fact, based upon the competent and substantial evidence upon the whole record:

Rich Hill-Hume Gas Co., Inc. (Company) is a corporation duly organized and existing under the laws of the State of Missouri, and is authorized to provide and is engaged in providing natural gas service in its certificated service area in Missouri, pursuant to authority from this Commission. The Company's principal office and place of business is located in Wichita, Kansas. The Company is a public utility subject to the jurisdiction of the Public Service Commission of Missouri under Chapters 386 and 393, RSMo 1978.

The Stipulation and Agreement filed in this case as Joint Exhibit No. 1 is attached to this Report and Order as Appendix A and is hereby incorporated by reference into this Report and Order. It sets out the agreement of the Staff and Company as to the surcharge to be added to the Company's rates, as well as other matters set out therein.

Joint Exhibit No. 1 and Public Counsel Exhibit No. 2 are hereby received in evidence.

The Company and Staff both testified that Company would cease providing gas service to its customers unless Company receives the increased revenues which would be generated by the surcharge called for in the Stipulation and Agreement herein.

Conclusions

The Missouri Public Service Commission has arrived at the following conclusions:

The Company is a public utility subject to the jurisdiction of this Commission as provided in Chapters 386 and 393, RSMo 1978. The tariffs which are the subject matter of this proceeding were suspended pursuant to authority vested in this Commission in Section 393.150, RSMo 1978. The burden of proof to show that the proposed increased rates are just and reasonable shall be upon the company.

The Commission, after notice and hearing, may order a change in any rate, charge or practice, and it may determine and prescribe the lawful rate, charge or practice thereafter to be observed.

The Commission may consider all facts which in its judgment have any bearing upon the proper determination of the price to be charged with due regard, among other things, to a reasonable average return upon the value of the property actually used in public service, and to the necessity of making reservations out of income for surplus and contingencies. In so doing, the Commission shall consider the fair value of the property in its proper relationship to all other facts that have a material bearing on the establishment of fair and just rates.

For ratemaking purposes, the Commission may accept a stipulation of settlement on any contested matters submitted by the parties. The Commission is of the opinion that when the matters of agreement between the parties appear to be reasonable and proper, they should be accepted.

The Commission concludes that the terms and provisions of the Stipulation and Agreement reached in this case, and presented to the Commission as Joint Exhibit No. 1, are just and reasonable, and should be approved. Thus, the revised tariffs herein suspended will be disallowed and, in lieu thereof, Company will be directed to submit for Commission approval tariffs designed to implement the Stipulation and Agreement herein filed as Joint Exhibit No. 1.

Pursuant to the terms of the Stipulation and Agreement approved herein, the Commission is establishing below a docket number for the management audit of Rich Hill-Hume Gas Co., Inc. The Commission Staff is hereby directed to implement that management audit forthwith, to allow an early and thorough analysis of the source of the Company's alleged financial crisis. The management audit directed herein should include, but not be limited to, a thorough investigation into the managerial and financial interrelationships of Rich Hill-Hume Gas Co., Inc., Utility Consultants, Inc., Commercial Pipeline Co., Inc., the two Kansas retail gas firms named in the testimony of Gary K. Gates in this case, and any other firms partially or wholly owned by the shareholders of the above-named companies.

It is, therefore,

ORDERED: 1. That the revised tariffs filed on May 1, 1981, and suspended herein, be, and are hereby, disallowed, and the Company is authorized to file in lieu thereof, for approval of this Commission, revised tariffs designed to implement the provisions of the Stipulation and Agreement approved herein.

ORDERED: 2. That the Company and the Commission Staff shall institute such practices, and carry out such obligations, as are set out in the Stipulation and Agreement filed in this case as Joint Exhibit No. 1, and attached to this Report and Order as Appendix A.

ORDERED: 3. That the Commission Staff be, and is hereby, directed to implement forthwith a management audit of Rich Hill-Hume Gas Co., Inc., including, but not limited to, the matters set out in the conclusions hereinabove.

ORDERED: 4. That Case No. GO-82-110 be, and is hereby, established as the docket number to accommodate the management audit directed hereinabove, and shall be captioned "In the matter of the management audit of Rich Hill-Hume Gas Co., Inc.".

ORDERED: 5. That the tariffs filed pursuant to the authority obtained herein shall be effective, upon approval by the Commission, for bills rendered on and after the effective date of this Report and Order.

ORDERED: 6. That this Report and Order shall become effective on the 1st day of November, 1981.

BY THE COMMISSION

Harvey G. Hubbs
Harvey G. Hubbs
Secretary

(S E A L)

Fraas, Chm., McCartney and
Shapleigh, CC., Concur.
Musgrave, C., Not Participating.
Dority, C., Absent.

Dated in Jefferson City, Missouri
on this 28th day of October, 1981.

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the matter of Rich Hill-Hume)
Gas Co., Inc. of Wichita, Kansas)
for authority to file interim)
tariffs increasing rates for) Case No. GR-81-331
natural gas service provided to)
customers in the Missouri service)
area of the Company.)

In the matter of Rich Hill-Hume)
Gas Company, Inc. of Wichita,)
Kansas for authority to file)
tariffs increasing rates for) Case No. GR-81-332
gas service provided to)
customers in the Missouri)
service area of the company.)

STIPULATION AND AGREEMENT

On May 1, 1981, the Rich Hill-Hume Gas Company (hereinafter "Company") caused to be filed with the Commission proposed revised tariffs designed to implement interim and permanent rates. The proposed tariffs bore a requested effective date of May 31, 1981. The proposed rates as filed would increase Company's gross revenues by \$83,568, exclusive of taxes.

Interim Case

By order dated May 19, 1981, the Commission suspended the subject tariffs for a period of one hundred twenty (120) days beyond the requested effective date to September 28, 1981, unless otherwise ordered by the Commission. By order dated July 22, 1981, the Commission suspended the interim tariffs six additional months, to March 28, 1982, unless otherwise ordered by the Commission. In that order, the Commission also stated:

The Commission determines that Company has alleged sufficient changed circumstances or conditions since its last rate case to justify a re-examination of the present rates on an expedited, interim basis. (Re: Kansas City Power & Light Co., ER-81-42, Order Dismissing Motion for Interim Rate Relief, September 18, 1980). Thus, a hearing will be scheduled in this matter, as set out below, after which the Commission can decide whether emergency interim rate relief is warranted. [Report and Order, Case No. GR-81-331, at p. 1-2]

Specified: 1
Case No. GR-81-331
Reported: SEN GR-81-331

A prehearing conference was scheduled for September 16, 1981, with formal hearing to commence at the conclusion thereof.

No applications to intervene in this case were received by the Commission, and the prehearing conference commenced as scheduled. The Company, Staff and Public Counsel participated in the prehearing conference. At the conclusion thereof, all parties agreed to continue this matter to coincide with the scheduled hearings in the Company's permanent case, and the Commission issued its notice of continuance to that effect on September 21, 1981.

Permanent Case

By order dated May 19, 1981, the Commission suspended the subject tariffs for a period of 120 days beyond the requested effective date to September 28, 1981, unless otherwise ordered by the Commission. By order dated July 13, 1981, the Commission further suspended the tariffs for a period of six (6) months, to March 28, 1982, unless otherwise ordered. By that same order, the Commission scheduled a prehearing conference in this matter October 15 and 16, 1981.

No interventions were filed in this case, and the prehearing conference commenced as scheduled, with representatives of Company, Staff and Public Counsel in attendance.

As a result of said prehearing conference, the signatories to this Stipulation and Agreement hereby stipulate and agree that Case Nos. GR-81-331 and GR-81-332 shall be resolved as follows, subject to and contingent upon the Commission's consideration and approval of this document.

I.

That the Commission shall authorize the Company to implement a temporary surcharge of \$3.13 charged to each customer each month for bills rendered on or after November 1, 1981. Commission shall direct its staff to conduct a management audit of the Company. If, as a result thereof and after hearing the Commission issues its order finding that the financial difficulties of the Company are directly attributable to mismanagement, the

surcharge will be terminated, and all funds collected through the surcharge will be immediately refunded to the Company's customers. Such refund will be without interest.

It is anticipated that a surcharge will be needed until May 31, 1987. However, the surcharge amount should be reducible each year. To determine that the surcharge is collecting the proper amounts, it shall be reviewed as follows. The first review will take place as soon as possible after Company has made its annual principal and interest payment to Commercial Pipeline Company, Inc. (hereafter "Commercial") on the 10 1/2% interest loan of Central Life Assurance Company.¹ Thereafter, review of the surcharge will be on an annual basis.

II.

Company shall identify this surcharge as a separate charge on each customer's monthly bill. Company shall file with Commission a separate tariff sheet reflecting this surcharge. Company shall maintain records of funds collected through this surcharge, and accrue such monies until May 31, 1982 in an interest-bearing account.

III.

Disbursements from the surcharge fund shall be made as follows:

On May 31 of each year Company shall pay to Commercial \$8,800 principal plus the annual interest due on the balance of the 10 1/2% interest loan referenced in footnote 1. The remainder of the surcharge fund shall be paid by Company to Commercial to reduce the principal amount due on its existing note payable to Commercial for gas purchased.

IV.

Company will incur no expenses for outside legal and accounting services for preparation of a new rate increase case

¹ On February 15, 1977, Commercial Pipeline Co., Inc., obtained a loan from Central Life Assurance Company (hereafter "Central") in the amount of \$425,000. Said loan was made at a 10 1/2 percent interest rate for a period of ten years. Commercial in turn loaned \$88,000 of the Central loan proceeds to Rich-Hill Hume Gas Co., Inc. under the same interest and term provisions. Approval for said loan was obtained from the Commission in its Case No. GF-77-138.

before the Commission without first notifying the Commission's Director of Utilities that it feels rate relief is necessary. Upon receipt of written notice thereof, Commission Staff will initiate a field audit of Company within 60 days. Within 90 days of the initiation of the field audit, Commission Staff will provide Company its recommendation regarding rate relief. If the Company disagrees with Staff's recommendation and such differences cannot be reconciled, Company may at that time expend funds for outside professional services to rebut Staff's recommendation. This provision in no way waives the right of Staff to assert that such outside services expenditures are inappropriate for inclusion in rates.

V.

That Company agrees to revise its purchased gas adjustment (PGA) clause in order to reflect a monthly tracking and recomputation of the PGA factor consistent with the proposed PGA tariffs attached hereto and incorporated herein by reference as Appendix A. That Company be permitted to rebase its current PGA and roll into base tariffs the current PGA factor of \$.5408 per Mcf and that Company be authorized to file tariff sheets to reflect these changes.

VI.

That no additional principal amounts for gas purchases will be added to the existing note payable to Commercial. Company will attempt to pay for future gas purchases as the invoices come due without incurring any expense for interest or carrying charges. In the event borrowing for the purpose of paying gas purchase expenses is necessary it shall be done on a short-term basis only, and the amount financed and the length of time financed shall be minimized. If future gas purchases are to be financed by Commercial, the payable account shall be maintained separately from the note payable referenced above.

VII.

Company will pay all future franchise taxes to the appropriate governmental entities on a timely basis.

VIII.

The Company will file the following reports on a monthly basis, beginning with the month following the effective date of the Commission's Order in this case:

1. Surcharge Revenue and Disbursement Record, which will include:

- a. Actual amount of revenues collected from the monthly surcharge during the reported month.
- b. Actual surcharge revenue collected, year to date.
- c. Amount disbursed from the surcharge fund during the report month, and for each disbursement in that month, the check number, payee and amount paid.
- d. Total surcharge disbursement for the year to date.

2. Franchise Tax Report

- a. Actual amount of tax collected.
- b. Actual amount disbursed, check number, payee and amount paid.

3. PGA Monthly Report - in accordance with terms as previously agreed to in Paragraph V above.

4. Gas Purchase Financing Report - to report short-term financing of gas purchases. (See Paragraph VI.)

- a. If none, so indicate.
- b. If gas purchase has been financed in report month, indicate:
 - 1) Name of holder of debt
 - 2) Amount financed
 - 3) Interest rate
 - 4) Projected term

The above-described reports will be submitted as a single package addressed to

Mr. Bo Matisziw
Missouri Public Service Commission
P. O. Box 360
Jefferson City, Missouri 65102

and shall be mailed on or before the last day of each month, providing data for the prior calendar month.

IX.

Company will cooperate fully with and respond expeditiously to any request by Staff for information in conjunction with review

(33) of the reports required in Paragraph VIII above, the Staff's management ^{audit} ~~audit~~ pursuant to Paragraph I above, and the Commission's review of the surcharge, also specified by Paragraph I.

X.

That the prepared testimony and exhibits of Company Witnesses Ranson and Lubow and Staff Witnesses Tooley, Williams, Matisziw, Johansen and Shackelford shall be received into evidence without the necessity of said witnesses taking the stand. Should the Commission have any questions concerning this Stipulation and Agreement, representatives of Company and Staff will be on hand.

XI.

That in the event the Commission accepts the specific terms of this Stipulation and Agreement, the parties to this Stipulation waive their rights to cross-examine witnesses with respect to the testimony and exhibits sponsored by such witnesses.

XII.

That in the event the Commission accepts the specific terms of this Stipulation and Agreement, the parties to this Stipulation waive their respective rights to present oral argument or written briefs, pursuant to §536.080(1), RSMo 1978.

XIII.

That in the event the Commission accepts the specific terms of this Stipulation and Agreement, the parties to this Stipulation waive their respective rights pertaining to the reading of the transcript by the Commission, pursuant to §536.080(3), RSMo 1978.

XIV.

That in the event the Commission accepts the specific terms of this Stipulation and Agreement, the parties to this Stipulation waive their respective rights to judicial review as regarding the disposition of Case Nos. GR-81-331 and GR-81-332, pursuant to §386.510, RSMo 1978.

XV.

That the parties to this Stipulation and Agreement shall not be deemed to have approved or acquiesced in any rate

making principle, value methodology, cost of service method, or rate design proposal; and any number used in this Stipulation and Agreement or in the rates and tariffs provided for by this Stipulation and Agreement, shall not prejudice, bind or affect any party hereto, except to the extent necessary to give effect to the terms of this Stipulation and Agreement.

XVI.

That the agreements in this Stipulation and Agreement have resulted from negotiations among the signatory parties and are interdependent. In the event that the Commission does not approve and adopt the terms of this Stipulation and Agreement, the same shall be void and no party shall be bound by any of the agreements or provisions hereof.

Respectfully submitted,

RICH HILL-HUME GAS CO.

By: 

STAFF OF THE MISSOURI PUBLIC
SERVICE COMMISSION

By: 

Mary Ann Garr
Assistant General Counsel