



**OPC Response:**

Differing types of feed stock may necessitate different rules for safety and adequacy purposes, but not for the purpose of meeting the requirements of section 386.895.

3. Section 386.895.2. RSMo states: The commission shall adopt rules for gas corporations to offer a voluntary renewable natural gas program.
  - a. Does this statute authorize, but not require, a program applicable to customers who volunteer to participate?

**OPC Response:**

Yes. This subsection authorizes gas corporations to offer a **voluntary** renewable natural gas program, meaning a renewable natural gas program in which customers may voluntarily choose to participate.

“The primary rule of statutory interpretation is to effectuate legislative intent through reference to the plain and ordinary meaning of the statutory language.” *Verified Application & in re Liberty Energy (Midstates) Corp. v. Office of Pub. Counsel*, 464 S.W.3d 520, 524 (Mo. banc 2015) (citing *Bateman v. Rinehart*, 391 S.W.3d 441, 446 (Mo. banc 2013)). “Court must presume every word, sentence or clause in a statute has effect, and the legislature did not insert superfluous language.” *Id.* (citing *Wehrenberg, Inc. v. Dir. of Revenue*, 352 S.W.3d 366, 367 (Mo. banc 2011)). “Absent a statutory definition, words used in statutes are given their plain and ordinary meaning with help, as needed, from the dictionary.” *Id.* (quoting *Balloons Over the Rainbow, Inc. v. Dir. of Revenue*, 427 S.W.3d 815, 825 (Mo. banc 2014)).

In this instance, the pertinent part of the statute, as quoted in the question above is composed of two parts. First, it requires “[t]he Commission” (subject noun)

to “adopt” (verb) “rules” (direct object noun). It then specifies that those rules are “for” (preposition defining relationship) “gas corporations” (subject noun) to “offer” (verb) a “voluntary” (adjective) “renewable natural gas program” (direct object noun phrase). In this case, the word “offer” is being used as a verb. The dictionary defines the word “offer” when used as a verb to mean: “to present for acceptance or rejection.” *Offer*, WEBSTER’S NEW THIRD INTERNATIONAL DICTIONARY (1976). In this case, the gas corporations are the ones making the offer, and thus presenting the renewable natural gas program (*i.e.* the direct object) for acceptance or rejection. The sentence does not explicitly state to whom the offer is being made (*i.e.* the indirect object), but it is clear from implication that it is being “offered” to the gas corporations’ ratepayers. Therefore, the statute’s plain language instructs the Commission to adopt rules for gas corporations to present for acceptance or rejection a renewable natural gas program to its ratepayers.

Because the definition of the word offer provides a clear indication that the recipient can either accept or reject what is being offered, the gas corporations’ customers can either accept or reject to be part of the renewable natural gas program. If there is any doubt to the truth of this statement, it is immediately dispelled by the fact that the statute uses “voluntary” as an adjective to describe the “renewable natural gas program.” The word voluntary is defined to mean “proceeding from the will[;]” “produced in or by an act of choice[;]” and “performed, made, or given of one’s own free will.,” *etc. Voluntary*, WEBSTER’S NEW THIRD INTERNATIONAL DICTIONARY (1976). The use of the word voluntary as an adjective to describe the “renewable

natural gas program” reinforces and confirms that the renewable natural gas program is something that the recipients of the offer (*i.e.* the gas corporations ratepayers) are free to accept or reject as an expression of their own will. This confirms that 386.895.2 is intended to allow, **but not require**, a gas corporation’s customers to participate in the renewable natural gas program.

- b. Does this statute authorize, but not require that utilities offer a program to generally inject biogas into the gas supply, the costs of which are borne by all customers of that utility whether or not a given customer volunteers to participate?

**OPC Response:**

No. If the cost to recover such a program is borne by all customers of the gas corporation regardless whether or not a given customer chooses to participate, then the gas corporation would not be “offering” the program under the plain and ordinary meaning of that word and the program would not be “voluntary” under the plain and ordinary meaning of that word. These would be violations of the standards of statutory interpretation set forth by Missouri’s Courts. *See Verified Application & in re Liberty Energy (Midstates) Corp. v. Office of Pub. Counsel*, 464 S.W.3d 520, 524 (Mo. banc 2015).

4. Section 386.895.5. RSMo allows recovery of prudent, just, and reasonable qualified investment costs.
  - a. What factors should the Commission consider in determining prudence?

**OPC Response:**

The Commission should consider all relevant factors, not all of which are known at this time or can be included in a rule, when determining prudence. However, the

Commission should pay particular attention to these considerations: (1) the full and total cost impact on consumers (both participating and potentially non-participating); (2) the presence or lack of competitive bidding; (3) the necessary investments required to upgrade biogas produced to meet natural gas pipeline quality standards; (4) the negative environmental impacts or externalities associated that result from the chosen method of RNG production; (5) any costs changes associated with the project that might arise; and (6) the presence and impact of any affiliate transactions. As stated at the beginning, however, this is not an exhaustive list and the Commission ultimately must review **all** relevant factors to determine prudence.

b. How will prudence be demonstrated prior to recovery?

**OPC Response:**

The OPC questions whether it is possible for prudence to be determined prior to recovery. Imprudence disallowances cannot not exist in the absence of harm. *State ex rel. KCP&L Greater Mo. Operations Co. v. Mo. PSC*, 408 S.W.3d 153, 163 (Mo. App. W.D. 2013) (“In order to disallow a utility's recovery of costs from its ratepayers, the PSC must find both that ‘(1) the utility acted imprudently, [and] (2) such imprudence resulted in harm to the utility's ratepayers.’” (quoting *State ex rel. Associated Nat. Gas Co. v. PSC*, 954 S.W.2d 520, 529 (Mo. Ct. App. 1997))). Therefore, absent recovery, there could be no determination of prudence or imprudence. That being said, the gas utility bears the burden of proving the prudence of its costs. One way to review the prudence of the gas utility’s RNG costs is to conduct a thorough review in a rate case before rate recovery. Likewise, any future adjustment mechanisms that occur outside

a rate case should also be subject to the utility bearing the burden of proving the costs are prudent

- c. Should prudence be determined in the rate adjustment mechanism (RAM) case, rate case, or some other or combination of cases?

**OPC Response:**

It should be permissible to raise concerns regarding prudence at any given opportunity that presents itself, but a final determination of prudence should not be made until the utility seeks to include costs in a general rate case.

- d. How will prudence be determined for a voluntary program that is likely more costly than the traditional alternative and without a state or federal supply mandate?

**OPC Response:**

Any prudence determination of the individual investments made by the utility in order to offer a voluntary program will need to be judged based on the willingness of individual customers to voluntarily partake in the program.

- e. What factors should the Commission consider in determining the justness?

**OPC Response:**

See answer to a above

- f. Should justness be determined prior to recovery?

**OPC Response:**

See answer to b above

- g. Should justness be determined in the RAM case, rate case, or some other or combination of cases?

**OPC Response:**

See answer to c above.

5. What should be included as the minimum filing requirements for a RNG application?

**OPC Response:**

Per 386.895.3, there are two things that must be included in the Company's filing: (1) A proposal to procure a total volume of renewable natural gas over a specific period; and (2) Identification of the qualified investments that the gas corporation may make in renewable natural gas infrastructure. With regard to the first of these two, the minimum filing requirement should include the following:

- i. The estimated cost of a total volume of RNG to be procured broken down by month (which includes: (1) recognition of all operation and maintenance costs and any other variable costs, (2) recognition of any fixed costs including all capital costs, (3) recognition of all taxes and applicable tax incentives);
- ii. A cost comparison between the cost to procure the total volume of RNG gas and the cost to procure the same volume of natural gas through the Company's traditional means of procurement;
- iii. A list of any and all prospective participants and the volume of gas expected to be used by each;

- iv. Any proposed tariff or changes to an existing tariffs (provided in a red-line strikeout format) related to the proposal to procure RNG.

With regard to the second statutory requirement, the minimum filing requirement should include the following:

- v. A detailed project proposal to include engineering reports (where necessary), details of the interconnection with LDC's existing system, and a project timeline with critical points identified;
- vi. Detailed cost estimates and related support;
- vii. Copy of all issued request for proposal issued in relation to the case and any responses received.
- viii. A list of any known environmental or regulatory compliance requirements that would be needed for project completion and a timeline for their acquisition;
- ix. A procurement analysis report that details what investments or groups of investments were considered or could meet the gas Company's proposed volume of RNG that details how the Company chose its recommended proposal (because the statute only refers to the investments the gas company "may" make).

- b. Should all applications include a demonstration that each Tartan criteria has been met?

**OPC Response:**



This question implies that the Commission would be required to issue a certificate of convenience and necessity for each investment, which is presently unclear. To the extent that a certificate of convenience and necessity would be necessary, then the utility would need to provide all evidence essential to show the utility meet whatever applicable legal criteria is required for the Commission to issue said certificate of convenience and necessity.

6. In the workshop discussion, it was noted that some biogas facilities would generate the most biogas in summer months. However, much of the energy consumption would occur in winter months, especially for residential customers. How would a hypothetical RNG program match fuel consumption with actual fuel production?

**OPC Response:**

Unknown, but the utility should need to provide an answer to this question as part of its application.

7. What credits or certificates should be used to track volumes of RNG generated?
  - a. Are there current certification/crediting processes already in use, or should a certification specific to Missouri be developed? Please provide as much detailed information as possible regarding the certification/crediting process currently in use.

**OPC Response:**

Unknown

- b. Please describe the current or proposed certification process, how ownership of credits is derived, and existing markets for RNG credits.

**OPC Response:**

Unknown

- c. Do RNG credits expire? If so, please provide citations to regulations of the various credits including timeline from development of a credit to expiration.

**OPC Response:**

Unknown

- d. Which entities will be credited with the renewable attributes (i.e. credits) of RNG within an Investor Owned Utility RNG program? Will those renewable attributes be transferrable?

**OPC Response:**

If the RNG program is truly voluntary, meaning that customers choose to participate, then the RNG credits should be retired on behalf of the participants so that those individual participants can claim the renewable nature of the gas they purchased through their participation. If the RNG program is not voluntary, meaning that all utility customers are charged for the cost of the program, then the RNG credits produced should be sold and credited to the buyer while the proceeds of the sale are attributed as revenue to the utility, and by extension its customers.

- e. What entity will be responsible for running and tracking the RNG credit system?

**OPC Response:**

Division of Energy

- f. How should sales/transfers of RNG credits be handled?

**OPC Response:**

Unknown

- i. What mechanism is appropriate to return those revenues to ratepayers or participants?

**OPC Response:**

All revenues related to the sale of RNG credits should be tracked in a regulatory liability and included as an offset to the utility's rate base in the next rate case.

- g. Should RNG credits expire? If so, when?

**OPC Response:**

Unknown

8. Please provide detailed explanations of the economics of current RNG facilities.
  - a. What are the primary revenue streams that support these facilities?

**OPC Response:**

Unknown

- i. Please provide detailed estimates, with citations to the extent possible, of the market value of various products?

**OPC Response:**

Unknown

- b. What equipment is necessary to construct a RNG facility by fuel source type?

**OPC Response:**

Unknown

- c. What are the ongoing costs of processing RNG to natural gas (NG) pipeline quality by fuel type?

**OPC Response:**

Unknown

- i. Are there incremental investments/replacements necessary over the life of the facility? Please provide detailed explanations, timelines, and cost estimates for those investments.

**OPC Response:**

While the OPC is unsure of what replacements would be necessary over the life of the facility, some replacements are more likely to be qualified as expense items rather than capital investment (*i.e.* replacement filters/chemical and chemical membranes)

- d. What are the approximate costs for constructing a RNG facility by fuel source type?

**OPC Response:**

Unknown

- e. Is RNG typically stored on-site, and if so, what is a typical storage amount based upon peak monthly production?

**OPC Response:**

Unknown

- f. Provide estimates for the cost of pipeline or distribution system interconnection based upon various distances from RNG facilities.

**OPC Response:**

Unknown

- g. Provide detailed explanations for RNG production quantities by feed stock type?

**OPC Response:**

Unknown

- i. How does production from RNG facilities for various feed stock types based on variations from normal weather (i.e. colder than normal, warmer than normal, various precipitation levels, etc.)?

**OPC Response:**

Unknown

- ii. What is the typical variation for gas production (upper bound, lower bound, and confidence intervals if available)?

**OPC Response:**

Unknown

- iii. How do various agricultural feed stocks impact RNG production (i.e. poultry, cattle, swine, vegetative, combination, etc.)?

**OPC Response:**

Unknown

- h. What safety/security measures need to be installed at RNG facilities and what are the approximate costs for each measure based on facility size?

**OPC Response:**

Unknown

- i. Should a RAM include any tax incentives? Why or why not?

**OPC Response:**

No. Section 386.895.5 does not contain provisions for the recovery of any taxes owed on the amounts included in the RAM. Because the RAM cannot collect any taxes, there should not be recovery of any tax incentives in the RAM either. Any tax incentives should, however, be considered as part of the utility's rate case

9. Pipeline quality limits - questions for operators of natural gas transmission and distribution systems

a. Heating Value

- i. What is the range of heating values of the natural gas your system currently receives? Please provide numerical values, and specify the units (e.g. 950 to 1,200 BTU/dry standard cubic foot, at STP).

**OPC Response:**

Not applicable

- ii. In your opinion, what is an acceptable range of heating values if renewable natural gas is substituted for or blended with the natural gas delivered to your system? (If different from the range for the natural gas your system currently receives, please explain the reason(s) for the differences.)

b. Water Vapor

- i. What is the maximum limit for water vapor in the natural gas currently delivered to your system? Please provide a numerical value and specify the units (e.g. 7 pounds of water vapor per MMcf).

**OPC Response:**

Not applicable

- ii. In your opinion, what is a reasonable maximum limit for water vapor content if renewable natural gas is substituted for or blended with the natural gas delivered to your system? (If different from the limit for the natural gas your system currently receives, please explain the reason(s) for the differences.)

**OPC Response:**

Not applicable

c. Impurities

- i. What are the maximum limits for the following listed impurities in the gas currently delivered to your system? Please provide a

numerical value and specify the units (e.g. 1.0 grain of hydrogen sulfide per 100 cf).

1. Hydrogen sulfide
2. Total Sulfur
3. Oxygen
4. Liquid hydrocarbons
5. Carbon dioxide
6. Hydrogen
7. Active bacteria or bacterial agents
8. Hazardous or toxic substances
9. Other

**OPC Response:**

Not applicable

- ii. In your opinion, what are reasonable maximum limits for impurities if renewable natural gas is substituted for or blended with the natural gas delivered to your system? (If different from the limits for impurities in the natural gas your system currently receives, please explain the reason(s) for the differences.)

1. Hydrogen sulfide
2. Total Sulfur
3. Oxygen
4. Liquid hydrocarbons
5. Carbon dioxide
6. Hydrogen
7. Active bacteria or bacterial agents
8. Hazardous or toxic substances
9. Other

**OPC Response:**

Not applicable

- d. Do you have any additional suggestions related to gas quality limits if renewable natural gas is substituted for or blended with the natural gas delivered to your system?

**OPC Response:**

Not applicable

10. Pipeline quality measurement questions for operators of natural gas transmission and distribution systems:

- a. What are your current capabilities for monitoring gas quality of the natural gas transported in your pipeline system?

**OPC Response:**

Not applicable

- b. If renewable natural gas is substituted for or blended with the natural gas delivered to your system, which entities(s) should be responsible for monitoring gas quality:

- i. The entity delivering the renewable natural gas to your system?

**OPC Response:**

Not applicable

- ii. The operator of the natural gas system?

**OPC Response:**

Not applicable

- iii. Other?

**OPC Response:**

Not applicable

11. What differences exist between interconnection at the LDC level versus interstate pipeline level?

**OPC Response:**

Unknown

12. Do you have any further comments regarding specific topics that should be considered in the context of a RNG rule? Please provide as much information as possible and citations for supportive information, if available.

**OPC Response:**



Yes.

1. Does hydrogen, as included in the definition of “Renewable natural gas” found in RSMo. section 386.895.1(6)(b), include all hydrogen gas or only hydrogen gas derived from renewable energy sources, as found in (c)b of the same definition?
  - a. If the statute is read such that hydrogen gas does not mean hydrogen gas derived from renewable energy sources, then it would allow hydrogen gas derived from non-renewable sources (such as steam methane reforming) to be included in the definition of renewable natural gas.
2. Does the automatic rate adjustment mechanism defined in RSMo. section 386.895.5 only allow recovery of capital investments and not any operation maintenance costs, other expenses, or taxes?
  - a. RSMo. section 386.895.5 reads: “Any costs incurred by a gas corporation **for a qualified investment** that are prudent, just, and reasonable may be recovered by means of an automatic rate adjustment clause.”(emphasis added). The term qualified investment is further defined by the statute as: “any **capital investment** in renewable natural gas infrastructure incurred by a gas corporation for the purpose of providing natural gas service under a renewable natural gas program.” RSMo. section 386.895.1(4) (emphasis added). Substituting the definition of qualified investment into subsection five would result in only just and prudent costs incurred for a “capital investment” are

recoverable. This would mean that only capital investments can be recovered through the RAM detailed in RSMo. section 386.895.5, which would exclude operation maintenance costs, other expenses, or taxes from being recovered through the RAM.

### Hydrogen

1. Is your company or city currently considering projects that would include the use of hydrogen as a fuel?

#### **OPC Response:**

Not applicable

- a. If “yes”, what type(s) of projects are being considered?

#### **OPC Response:**

Not applicable

- b. If “yes”, is your city or company considering using a hydrogen blended with natural gas, 100% hydrogen, or other?

#### **OPC Response:**

Not applicable

- c. If “yes”, are you considering transporting hydrogen in existing natural gas pipelines?

#### **OPC Response:**

Not applicable

- d. If “yes”, are you considering building a dedicated pipeline network for purposes of transporting the hydrogen or hydrogen/natural gas blend?

#### **OPC Response:**

Not applicable

- e. If “no”, is the use of hydrogen as a fuel something that your company or city may consider using as a fuel in the future?

**OPC Response:**

Not applicable

**PGA Recovery**

1. Is a LDC’s purchased gas adjustment (PGA) mechanism impacted by the RNG statute/rule? Why or why not?

**OPC Response:**

Unknown

2. What are the issues related to PGA sales versus transportation customers (buying their own gas) with regard to RNG injections to the distribution system

**OPC Response:**

Unknown

