

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of the Commission's Rule)
Relating to Renewable Natural Gas) Case No. GX-2024-0326
Programs)

In the Matter of the Proposed)
Amendment of the Commission's Rule) Case No. GX-2024-0337
20 CSR 4240-10.030 Standards of)
Quality)

COMMENTS OF THE OFFICE OF THE PUBLIC COUNSEL

Pursuant to the Commission's *Notice of Hearing and Comment Period* filed individually in both of the above styled cases on May 23, 2024, the Missouri Office of the Public Counsel ("the OPC") submits these comments to the renewable natural gas program rules presented in case GX-2024-0326 and the renewable natural gas standards of quality found in case GX-2024-0337.

General Overview

Revised Statutes of Missouri section 386.895 requires the Commission to "adopt rules for gas corporations to offer a voluntary renewable natural gas program." Given the clear statutory mandate to adopt rules related to offering voluntary renewable natural gas programs, the OPC supports the promulgation of rules on this subject. Further, the OPC believes that the rules that have now been drafted and submitted to the Missouri Secretary of State represent a very thorough and comprehensive evaluation of the law as well as a well-developed and careful examination of what information would be required to properly review a voluntary

renewable natural gas program. Many of the items and issues identified in the draft rules appear to be responses to information obtained during the workshop put on by the Commission's Staff in case GW-2022-0060, and it is clear that this workshop had a strong positive impact on the finished product. Considering the amount of work that preceded drafting these rules, the OPC has only a few concerns that warrant comment. The OPC will explain each of these concerns and further attempt to provide a simple solution that can be adopted to eliminate them.

Prudence Review Period

Subpart (4)(D) of the rule proposed in case GX-2024-0326 sets forth the requirement for prudence reviews of any cost recovery mechanism instituted pursuant to a voluntary renewable natural gas program. The section reads in its entirety as follows:

Prudence reviews respecting a RNGRAM. A prudence review of the costs subject to the RNGRAM shall be conducted no less frequently than at intervals established in the commission proceeding in which the RNGRAM is established.

While the OPC agrees with and supports the need to maintain prudence reviews associated with any cost recovery mechanism instituted pursuant to a voluntary renewable natural gas program, the OPC is concerned that the current drafting of this rule could accidentally result in a situation where no prudence review occurs. Namely, if the Commission were to erroneously issue an order approving a renewable natural gas rate adjustment mechanism ("RNGRAM") that did not "establish" a prudence review period, there would be no prudence review period under this rule as written.

The OPC acknowledges that the rule clearly intends that the Commission would order some form of prudence review, but the rule does not require the Commission to order the prudence review. The OPC also notes that human error cannot be completely erased and it is not unreasonable to assume that some future Commission might inadvertently forget to order the prudence review when approving the RNGRAM. The OPC therefore argues the Commission should modify this provision to ensure that no RNGRAM is issued without a prudence review period.

In keeping with the spirit of giving the Commission discretion regarding the RNGRAM prudence review period, the OPC proposes the following be substituted for the existing (4)(D) from the rule proposed in case GX-2024-0326:

Prudence reviews respecting a RNGRAM. A prudence review of the costs subject to the RNGRAM shall be conducted no less frequently than once a year, unless the Commission orders otherwise during the intervals established in the commission proceeding in which the RNGRAM is established.

This simple change would set a default prudence review period of one year while still giving the Commission discretion to modify that review period if the Commission so chooses. This change would therefore eliminate the risk of a Commission accidentally issuing an order that does not specify the period for the prudence review (which would consequently eliminate the prudence review) while still permitting the Commission to determine what the proper review period should be on a case-by-case basis.

Inclusion of purchased renewable natural gas in the RNGRAM

Subpart (4) of the rule as drafted in case GX-2024-0326 sets forth the specifics of the RNGRAM contemplated under RSMo. § 386.865.5. However, as defined in subpart (1)(D) and further elaborated upon in subpart (4), the RNGRAM is written

in such a manner as it would allow the recovery of the purchase of renewable natural gas from a third-party manufacturer to be recovered through the RNGRAM as an “expense” in a renewable natural gas program. This is a problem because the cost of all gas purchased by a natural gas utility (regardless of source) would normally be recorded and recovered through a natural gas utility’s purchased gas adjustment (“PGA”). Having the cost of gas purchased under a renewable natural gas program possibly recovered through an RNGRAM would therefore substantially complicate the PGA and could potentially risk double recovery by a gas corporation. This should be corrected by modifying the language related to the RNGRAM to more clearly reflect what costs are to be recovered through it.

To make the change proposed by the OPC, two different parts of the rule as it is currently drafted in case GX-2024-0326 would need to be modified. First, the definition of RNGRAM that appears at (1)(D) would need to change:

Renewable Natural Gas Rate Adjustment Mechanism (RNGRAM) means a mechanism that allows periodic adjustments to recover prudently incurred capital costs, depreciation expense, and applicable taxes and pass-through of benefits of any savings achieved in implementing an approved RNG program.

Second, the corresponding rule discussion of subpart (4) would similarly need to change:

Cost Recovery and pass-through of benefits. A gas utility outside or in a general rate proceeding, and subsequent to or at the same time as the filing of an application in section (2), may file an application and rate schedules with the commission to establish, continue, modify, or discontinue a RNGRAM that shall allow for the adjustment of its rates and charges to provide for recovery of prudently incurred capital costs, depreciation expense, and applicable taxes and pass-through of benefits as a result of its RNG program or hydrogen gas program.

With these changes, it becomes clear that the RNGRAM only recovers the costs associated with plant constructed pursuant to a renewable natural gas program and does not include the expense associated with the purchase of renewable natural gas. The cost of any renewable natural gas purchased by a natural gas utility under its existing RNG program would still be recovered though. Those costs would just be recovered through the gas utility's PGA instead of through the RNGRAM.

Comments on the rule proposed in case GX-2024-0337

As it relates to the rule proposed in GX-2024-0337, the OPC has no specific change to offer, but does note two possible considerations. First, the rule refers to "manufactured gas," but this term is never defined in either rule proposed by the Commission. This appears to be a simple oversight that can be easily corrected by either providing a definition or removing the term.

The second issue concerns the fact that it is not clear whether the rule fully contemplates the use of hydrogen gas, which is included in the definition of renewable nature gas referenced in the rule. Because hydrogen gas has substantially different chemical properties when compared to what is commonly known as natural gas (which is primarily composed of methane), there is significant questions whether the quality requirements, including heating value, are intended to refer to just natural gas, hydrogen gas, or some combination of the two. The OPC recommends the Commission consider modifying its rule to more specially state what, if any, quality standards are affected or applicable to hydrogen gas in its final rule.

Conclusion

The OPC's modifications are minor in nature yet stand to significantly reduce future complications arising from these rules. Therefore, the OPC requests the Commission make the changes proposed by the OPC for the sake of clarity and to reduce the need for future litigation on these subjects.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that copies of the forgoing have been mailed, emailed, or hand-delivered to all counsel of record this seventeenth day of July, 2024.

 /s/ John Clizer