

LAW FIRM

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August 1, 2006

Angela Melton, Esq.
Nebraska Public Service Commission
200 The Atrium
1200 N Street
Lincoln, NE 68508

Dear Ms Melton:

Attached please find Aquila's comments (in bold) to the draft rules. In summary, Aquila's suggested changes are as follows:

- 003.02A1 Addition of the requirement for a filing fee
- 003.05 Filing Fee equals \$250/try to address IOU ratepayer subsidization of M.U.D.'s actions before the PSC
- 003.07 Addition of a requirement of a PSC approved form of application
- 003.07G Addition of the form for the application
- 003.10 Revise to insert District Court and delete Court of Appeals.

Respectfully,


Patrick J. Joyce

PJJ:jlh
Enclosure

cc: E-mail Service List

OM-223834-1

KANSAS CITY, MISSOURI • ST. LOUIS, MISSOURI • OVERLAND PARK, KANSAS • OMAHA, NEBRASKA
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AQUILA COMMENTS - August 1, 2006

EFFECTIVE DATE: November 30, 2003

LAST ISSUE DATE:
February 28, 2000

TITLE 291 - NEBRASKA PUBLIC SERVICE COMMISSION

CHAPTER 9 - NATURAL GAS AND PIPELINE RULES AND REGULATIONS

003 DISPUTES BETWEEN INVESTOR-OWNED NATURAL GAS UTILITIES AND METROPOLITAN

UTILITIES DISTRICTS:

003.01 Commission Jurisdiction: If an investor-owned natural gas utility disagrees with a metropolitan utilities district or a metropolitan utilities district disagrees with an investor-owned utility over a determination that a proposed extension or enlargement of a natural gas service area is in the public interest, the matter may be submitted to the Commission for hearing and determination. 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.

003.01A 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.

003.01A1 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:

003.01A1a A description of the location of the extension or enlargement including any cross streets;

003.01A1b The municipality and subdivision or development, if any, proposed to be served by the proposed extension or enlargement;

003.01A1c A description of the nature of the extension or enlargement including size of the main; and

003.01A2d The anticipated date the jurisdictional utility or metropolitan utilities district intends to undertake or pursue such extension or enlargement.

003.01B 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.

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003.01C 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.

~~003.02 Location of Hearing: 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.~~

003.02 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, the following shall apply:

003.02A 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, the following:

[003.02A1 An application and filing fee as described in Rule 003.05.](#)

~~003.02A1—02A2 A verified description as to how the proposed extension or enlargement satisfies the criteria set forth in Rule 003.07G and~~

~~003.02A2—02A3 A map of the proposed service area depicting the location of any known mains of all natural gas utility service within a one (1) mile radius of the area to be served.~~

003.03 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 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

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party to the determination.

003.04 Hearing: Upon application by an investor-owned natural gas 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.

003.04A 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.

003.04AB Ratepayers of the investor-owned utility or the metropolitan 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.

003.05 Fees: ~~For each application filed with the Commission pursuant to this section, the applicant shall be charged a filing fee of the maximum rate allowed by law which shall be payable at the time of application.~~ For each application filed with the Commission pursuant to this section, the applicant shall be charged a \$250 filing fee payable at the time of the application. There shall also be charged to applicants a hearing fee of fifty dollars (\$50.00) for each half day of hearings if the application for a determination necessitates such a hearing. If this doesn't go in, then MUD should be included in 66-1841 so its customers/actions are not subsidized by the other private utilities.

003.06 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.

003.07 Determining Considerations: In determining whether a proposed expansion or enlargement is in the public interest, the applicant will file an application as set forth in 003.07G and the Commission shall consider:

003.07A The economic feasibility of the extension or enlargement;

003.07B The impact the enlargement will have on the existing and future natural gas ratepayers of the

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metropolitan utilities district or the investor-owned natural gas utility;

003.07C Whether the extension or enlargement contributes to the orderly development of natural gas utility infrastructure;

003.07D Whether the extension or enlargement will result in duplicative or redundant natural gas utility infrastructure; and,

003.07E Whether the extension or enlargement is applied in a non-discriminatory manner.

003.07F Any books, records, vouchers, papers, contracts, de-signs, 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.

003.07G Form of Application

BEFORE THE PUBLIC SERVICE COMMISSION OF NEBRASKA

IN THE MATTER OF THE APPLICATION) DOCKET NO. _____
OF _____ (Utility))
SEEKING ENLARGEMENT/EXTENSION)
OF A NATURAL GAS SERVICE AREA) APPLICATION
PURSUANT TO NEBRASKA REVISED)
STATUTE §57-1306)

Pursuant to Neb. Rev. Stat. §57-1306 and _____, a
_____, ("_____") hereby submits the
following Application:

1. _____ is a(n) _____ (Description of
Utility)_____.

DESCRIPTION OF PROPOSED SERVICE AREA

2. The proposed service area for which
(Utility)_____ requests to serve is generally described as
_____.

3. Attached as Exhibit 1 to this Application is the plat
and/or map for the proposed service area depicting the location of

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known mains of all natural gas utility service within a one (1) mile radius of the area to be served.

NEBRASKA REVISED STATUTE §57-1303 CRITERIA

Economic Feasibility.

4. (a) Attached hereto and incorporated herein by this reference is Exhibit 2, the Commission's Economic Feasibility Analysis form, which shows _____ (Summary of Findings)_____.

(b) The expansion or enlargement is not for the purpose of serving new customers. A description of the economic feasibility analysis performed for this project is as follows:

_____.

Impact on Existing and Future Natural Gas Ratepayers

5. The Extension/Enlargement of the natural gas service area will impact existing and future customers of _____ (Utility)_____ as follows:

_____.

6. The extension/enlargement of the natural gas service area will impact existing and future customers of (Other Utilities)_____ as follows: _____.

Orderly Development of Natural Gas Utility Infrastructure.

7. The extension/enlargement will contribute to the orderly development of natural gas infrastructure as follows:

_____.

Does the Extension/Enlargement Result in Duplicative or Redundant Natural Gas Utility Infrastructure?

8. This Extension/Enlargement will not result in duplicative or redundant natural gas utility infrastructure because _____ (Specifically describe the applicant's infrastructure and whether the other utilities' infrastructure is present within a predetermined radius.)

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non-hearing proceedings.

003.09A 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.

~~003.10 Appeals:~~ 003.10 must stay in but revised to replace Court of Appeals with District Court ~~Any party to a proceeding may appeal to the Court of Appeals to reverse, vacate or modify the order of the Commission. The order of the Commission shall be held in abeyance pending such appeal except as may otherwise be provided for by law.~~

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