

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of Kinder Morgan ) Application No. FC-1331  
Interstate Gas Transmission, )  
LLC, Lakewood, Colorado vs. )  
Aquila, Inc., Omaha, and ) ORDER SUSTAINING OBJECTION  
Nebraska Resources Company, Tul- ) TO ASSESSMENT  
sa, Oklahoma, alleging viola- )  
tions of the State Natural Gas )  
Regulation Act. ) Entered: October 7, 2008

BY THE COMMISSION:

On May 10, 2008, Kinder Morgan Interstate Gas Transmission LLC (KMIGT), Lakewood, Colorado, filed a formal complaint against Aquila, Inc., Omaha, and Nebraska Resources Company, Tulsa, Oklahoma, alleging violations of the State Natural Gas Regulation Act.

On June 24, 2008, the Commission entered an order providing notice of assessment to KMIGT pursuant to *Neb. Rev. Stat. § 66-1840*. On August 26, 2008, the Commission entered Assessment Order No. HS-001 assessing expenses to KMIGT in the amount of \$946.00 related to services provided by the Public Advocate.

On September 11, 2008, KMIGT filed an Objection to the Assessment in which it contended that due to the fact that it is not a jurisdictional utility, the Commission lacks the statutory authority to assess expenses against KMIGT.

O P I N I O N   A N D   F I N D I N G S

The Commission's authority to assess expenses is set forth in § 66-1840.

Whenever, in order to carry out the duties imposed upon it by law, the commission, in a proceeding upon its own motion, on complaint, or upon an application to it, including rate filings, deems it necessary to investigate any *jurisdictional utility* or make appraisals of the property of any jurisdictional utility, such utility, in case the expenses reasonably attributable to such investigation or appraisal exceed the sum of one hundred dollars, including both direct and indirect expenses incurred by the commission or its staff, shall pay such expenses which shall be assessed against such utility by the commission...<sup>1</sup>

<sup>1</sup> Neb. Rev. Stat. § 66-1840(1) (emphasis added).

Furthermore, "The commission shall ascertain the expenses of any such investigation or appraisal and by order assess such expenses against the jurisdictional utility ..."<sup>2</sup>

As an interstate pipeline under the jurisdiction of FERC, KMITG is not a "jurisdictional utility" for purposes of § 66-1840. Furthermore, although the Commission may assess certain actual expenses against any entity<sup>3</sup>, we find that the expenses of the Public Advocate at issue in this instance do not fall within the scope of that authority.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the Objection to the Assessment is sustained.

MADE AND ENTERED at Lincoln, Nebraska, this 7th day of October, 2008.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

*Gerald J. Vap*

*Anne C. Boyle*  
Chair

*Frank E. Landis*

ATTEST:

*Tim Schram*

*Michael R. Dill*  
Executive Director

//s// Anne C. Boyle  
//s// Frank E. Landis

<sup>2</sup> § 66-1840(2).

<sup>3</sup> § 66-1840(3) stating "The commission, in accordance with the procedures prescribed by subsection (2) of this section, may assess against an entity, other than an individual residential ratepayer or individual agricultural ratepayer, that is not subject to assessment pursuant to subsection (1) of this section actual expenses of any services extended, filings processed, or actions certified by the commission for the entity."