COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF DELTA NATURAL GAS COMPANY, INC. FOR ITS PIPE REPLACEMENT FILING	)))	CASE NO. 2022-00341

O R D E R

On October 14, 2022, Delta Natural Gas, Inc. (Delta) filed an application and tariff to revise its Pipeline Replacement Program (PRP) rates, effective January 1, 2023, based on a forecasted test period ending December 31, 2023. On December 20, 2022, the Commission suspended the rates for one day, January 1, 2023, and established a procedural schedule to ensure the orderly investigation of Delta's application and proposed tariff. Pursuant to KRS 278.190(2), Delta filed written notice to the Commission of its intention to place the suspended rates into effect on and after January 2, 2023, subject to refund, pending the final Order in this matter. Delta responded to one round of requests for information from Commission Staff, and on July 26, 2023, Delta filed a written brief into the case record. There are no intervenors in this case. The matter now stands submitted for a decision.

LEGAL STANDARD

KRS 278.030(1) states that "[e]very utility may demand, collect and receive fair, just and reasonable rates" for utility service. Pursuant to KRS 278.509, the Commission may allow a utility to recover costs for investment in natural gas pipeline replacement programs that are not recovered in existing rates through a rider if the costs are fair, just and reasonable. The burden of proof to show that an increased rate or charge is just and reasonable shall be upon the utility.[1]

Commission regulation 807 KAR 5:001, Section 16(6)(c) states that capitalization and net investment rate base shall be based on a thirteen-month average for the forecasted test period.

DELTA'S PROPOSAL

Revenue Requirement

In Delta's most recent base rate case, Case No. 2021-00185, the Commission approved the roll in of PRP expenditures through December 31, 2022 into base rates and reset the PRP monthly charge to $0.[2] In its application in this proceeding, Delta requested that its PRP rates be based on a forecasted test period ending December 1, 2023.[3] Specifically, Delta requested PRP rates that include 2022 PRP expenditures that exceed the amount assumed for recovery in base rates and the ending balance of 2023 PRP expenditures. Delta also proposed to use an ending balance for accumulated deferred income taxes (ADIT) for 2022 and 2023.

Delta stated that in Case No. 2021-00185, half of the estimated PRP work for calendar year 2022 was included in the revenue requirement, because forecasted test years use a 13-month average of forecasted plant, and the PRP was reset to $0. Thus, Delta felt it necessary to include the "remaining" estimated 2022 expenditures in its

[1] KRS 278.190(3).

[2] Case No. 2021-00185, *Electronic Application of Delta Natural Gas Company, Inc. for an Adjustment of Its Rates and a Certificate of Public Convenience and Necessity* (Ky. PSC Jan. 3, 2022), Order at 21.

[3] Direct Testimony of Jonathan Morphew (Morphew Testimony) (filed Oct. 14, 2022) at 5.

proposed PRP rates and true-up the difference between the estimated expenditures and the actual expenditures of $9,115,869.[4] Delta argued that the 2022 plant it seeks to include in the PRP has already been placed in service and that the exclusion of these amounts is punitive and materially impairs Delta's ability to earn its allowed rate of return.[5] Delta further stated that $3,282,404 of 2022 PRP plant was included in its base rates, based on a 13-month average, and Delta is now proposing to include an additional $5,969,391 in 2022 plant, based on the ending balance as of December 31, 2022. In supporting its position, Delta also asserted that using a 13-month average for 2023 plant would exacerbate the under-recovery because only $4,037,057 of its planned additions of $8,074,114 will be recovered.[6] Delta argued that it has used the ending balance to calculate its PRP since 2010.[7] Delta stated that it "properly excludes" all rate base included in rates from Case No 2021-00185 and does not propose to recover any over-/under-recovery from base rates.[8] According to Delta, excluding 2022 plant from the PRP "contravenes the purpose of the program" because it excludes in service plant from the rider rates and will cause Delta to file rate cases more frequently.[9]

Delta argued that when it reviewed the Commission's orders in preparation of the proposed roll-in in Case No. 2021-00185, the Commission had historically allowed Columba Gas of Kentucky, Inc. (Columbia Kentucky) to true-up amounts recovered in

[4] Morphew Testimony at 5.

[5] Delta's Brief at 1.

[6] Delta's Brief at 2.

[7] Delta's Brief at 2–3.

[8] Delta's Brief at 6.

[9] Delta's Brief at 6.

base rates.[10] Delta maintained that its decision to enter into the settlement agreement in Case No. 2021-00185 was positioned on Delta's understanding that it would be allowed to true up amounts from base rates.[11] Delta stated that it is aware of the "departure" ordered in Case No. 2022-00342,[12] Columbia Kentucky's most recent Safety Modification and Replacement Program (SMRP) filing, which stated that "the Commission finds no reason to continue with an erroneous methodology."[13] Delta argued that the use of ending period balances is not erroneous, but necessary for Delta to recover the full cost of its investment. Delta stated that it was not provided notice that the Commission would "depart from its long-standing practice" of using the ending balance until discovery in this case.[14] Delta contended that it should have been given notice of the change in position regarding the ending balance.[15]

Delta asserted that the PRP has been successful and the Commission has expanded the projects that qualify for the PRP.[16] Delta also argued that the use of a 13-month average does not include all of the PRP incurred in the test-year for its base rates or the PRP rider.[17] Delta averred that there were no changes to its PRP tariff that indicate the use of a 13-month average and that using the 13-month average excludes over $10

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[10] Delta's Brief at 8.

[11] Delta's Brief at 8.

[12] Case No. 2022-00342, *Electronic Application of Columbia Gas of Kentucky, Inc. for Annual Adjustments to the Safety Modification and Replacement Program* (Ky. PSC Dec. 28, 2022).

[13] Case No. 2022-00342, Feb. 6, 2022 Order at 6. Delta's Brief at 8.

[14] Delta's Brief at 3–4.

[15] Delta's Brief at 9.

[16] Delta's Brief at 2–3.

[17] Delta's Brief at 1–3 and 6.

million in eligible PRP plant.[18] Delta maintained that without using the ending balances for 2022 and 2023, Delta is being "deprived of timely recovery simply as a result of its rate proceeding." Delta further maintained d that this delay in recovery will accelerate plans for its next rate proceeding, disincentivizes its replacement program, and will "unwind the success of this program."[19]

Rate Design

The Commission ordered Delta to use a volumetric charge for its PRP rates.[20] Delta complied with this requirement.

DISCUSSION AND FINDINGS

The Commission first explicitly addressed the issue of using the 13-month average rate base for forecasted test period riders in Case No. 2020-00229, Atmos Energy Corporation's (Atmos) PRP filing.[21] In that order, the Commission clarified that forecasted test period riders should use a 13-month average rate base, otherwise the utility would collect a return on investments it has not yet made.[22] The Commission also highlighted that 807 KAR 5:001, Section 16(6)(c), requires utilities requesting a general rate adjustment based on a forecasted test year to calculate their rate bases using a 13-month average so using an ending balance would be inconsistent with the calculation of base

[18] Delta's Brief at 3.

[19] Delta's Brief at 7–8.

[20] Case No. 2021-00185, Dec. 28, 2022 Order at 21.

[21] Case No. 2020-00229, *Electronic Application of Atmos Energy Corporation for PRP Rider Rates* (Ky. PSC Sept. 30, 2022).

[22] Case No. 2020-00229, Sept. 30, 2022 Order at 3.

rates.[23] Since that order, the Commission has consistently applied the position that forecasted test-period riders should be calculated using a 13-month rate base.

The Commission has also consistently applied the position that rider eligible projects rolled into base rates cannot be trued up in the rider. In Case No. 2020-00229, Atmos did not propose a true-up of amounts included in base rates, so the Order is silent on that issue. In Case No. 2021-00185, the Commission denied Delta's proposal to true-up 2021 PRP plant rolled-into base rates and ordered Delta to file testimony regarding the appropriateness of any future roll-in of the PRP.[24] In Case No. 2021-00304,[25] the Commission denied Atmos PRP recovery of PRP amounts included base rates in Case No. 2021-00214,[26] and that position was upheld on rehearing.[27] In Case No. 2022-00342, the Commission denied Columbia Kentucky's true-up of 2022 PRP investments included in base rates and found "Columbia Kentucky is the master of its own petitions regarding rate case filings and the incorporation of SMRP costs into base rates."[28] Allowing a true up of amounts recovered in base rates has been universally denied when addressed, outside of tracking mechanisms explicitly for that purpose.

In regard to the 13-month average for forecasted plant, it is prudent that a 13-month average is utilized for rate base for the forecasted period, with the intent that rates

[23] Case No. 2020-00229, Sept. 30, 2022 Order at 3.

[24] Case No. 2021-00185, Dec. 28, 2022 Order at 21.

[25] Case No. 2021-00304, *Electronic Application of Atmos Energy Corporation to Establish PRP Rider Rates for the Twelve Month Period Beginning October 1, 2021* (Ky. PSC May 20, 2022).

[26] Case No. 2021-00214, *Electronic Application of Atmos Energy Corporation for an Adjustment of Rates* (Ky. PSC May 19, 2022).

[27] Case No. 2021-00214, June 15, 2023 Order.

[28] Case No. 2022-00342, Feb. 6, 2023 Order at 5.

would be set to recover the forecasted expenditures as they were incurred, on average, pursuant to 807 KAR 5:001, Section 16(6)(c). Allowing Delta to recover PRP investment based on the full projected PRP rate base would essentially allow it to recover for investments it has not yet made. Further, the most reasonable reading of Delta's current tariff would not allow for it to true-up its "PRP rate base" included in base rates. Among other things, Delta's tariff states:[29]

> The PRP Rider will be updated annually in order to reflect the expected impact on the Company's revenue requirements of forecasted net plant additions and subsequently adjusted to true up the actual costs with the projected costs.
>
> The PRP Rider Revenue Requirement includes . . . PRP-related plant in service not included in base gas rates minus the associated PRP-related accumulated depreciation and accumulated deferred income taxes.

Based on that language, the PRP rider should not include plant in service included in base rates, which Delta attempts to do by truing-up plant in service that was included in base rates on a 13-month average basis. Additionally, while the PRP Rider tariff contemplates a true-up, it is clear, consistent with the decisions discussed above, that the PRP true-up is intended to pertain to previous PRP rider rates and not to amounts included in base rates ("subsequently adjusted" i.e., the true-up refers to the "forecasted" PRP Rider amounts not amounts in base rates).

Here Delta proposes to include the ending period balance of 2022 plant additions, including the amount in excess of estimates included in the forecasted test-year from Case No. 2021-00185, and the ending period 2023 plant additions in the PRP rate calculation. Allowing Delta to true-up 2022 amounts included in base rates through the

[29] P.S.C. No. 13, Original Sheet No. 43.

PRP would be contrary to numerous orders and sound ratemaking. The use of a forecasted-test period reduces regulatory lag from ratemaking procedures. While Delta may bemoan the use of a 13-month average, this mechanism allows Delta to recover its plant additions as they are made, on average. Allowing the use of an ending balance would allow Delta to fully recover from customers plant additions it has not yet made on average. Delta's customers should not bear the financial responsibility for investments Delta merely plans to make in its system but has not actually made. There is no regulation or tariff provision that requires the Commission to allow Delta to recover its investments before they are made. Further, Delta is in control of the timing of its construction, as well as the timing of rate cases, allowing Delta to further minimize regulatory lag. Additionally, Delta has demonstrated that even historical recovery of its PRP plant additions has staved off rate cases and allowed Delta to make significant improvements in its leak rate and unaccounted for gas. Therefore, forecasted recovery, on a 13-month average basis, should allow Delta to continue its PRP investments.

The Commission finds that Delta's 2023 PRP rates should be based on the 13-month average of 2023 plant additions. Delta's proposal would include $5,969,391 of 2022 PRP plant and $4,037,057 of 2023 PRP plant above what the Commission finds reasonable. The rate impact of Delta's proposal to the average residential customer is an increase of approximately $19.32 annually, using the 2022 average annual usage of 58 Mcf.[30]

IT IS THEREFORE ORDERED that:

1. The PRP rates proposed by Delta are denied.

[30] Delta's 2022 Annual Report at 5.

2. The PRP rates in Appendix to this Order are approved for service rendered by Delta on and after the date of service of this Order.

3. Within 20 days of the date of service of this Order, Delta shall file with this Commission using the Commission's electronic Tariff Filing System, revised tariff sheets setting out the rates approved herein and reflecting that they were approved pursuant to this Order.

4. Within 60 days of the date of service of this Order, Delta shall refund to its customers all amounts collected for service rendered from January 2, 2023, through the date of entry of this Order that are in excess of the rates set forth in the Appendix herein attached to this Order.

5. Within 75 days of the date of service of this Order, Delta shall submit a written report to the Commission in which it describes its efforts to refund all monies collected in excess of the rates that are set forth in the Appendix to this Order.

6. The Commission reserves its right to initiate an investigation to determine whether Delta reasonably refunded all monies collected in excess of the rates that are set forth in the Appendix to this Order should the Commission deem it necessary.

7. This case is closed and removed from the Commission's docket.

PUBLIC SERVICE COMMISSION

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Chairman

____
Vice Chairman

MPR signing w/ permission

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Commissioner

ENTERED

AUG 11 2023 rcs

KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:

____
Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2022-00341 DATED AUG 11 2023

The following rates and charges are prescribed for the customers in the area served by Delta Natural Gas Company, Inc. All other rates and charges not specifically mentioned herein shall remain the same as those in effect under the authority of the Commission prior to the effective date of this Order.

Pipeline Replacement Program Rates per Mcf:

Residential	$ 0.11750
Small Non-residential	$ 0.07501
Large Non-residential	$ 0.04829
Interruptible	$ 0.01596

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