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March 25, 2009

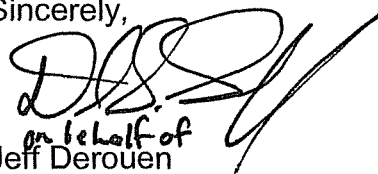
PARTIES OF RECORD

RE: Case No. 2008-00408

**CONSIDERATION OF THE NEW FEDERAL STANDARDS OF THE ENERGY
INDEPENDENCE AND SECURITY ACT OF 2007**

Enclosed please find a memorandum that has been filed in the record of the above referenced case for the Informal Conference held on March 19, 2009. Any comments regarding this memorandum's content should be submitted to the Commission within five days of the receipt of this letter. Questions regarding this memorandum should be directed to Quang Nguyen at 502-564-3940, extension 256.

Sincerely,


on behalf of
Jeff Derouen
Executive Director

Attachments

INTRA-AGENCY MEMORANDUM

KENTUCKY PUBLIC SERVICE COMMISSION

TO: Main Case File - Case No. 2008-00408

FROM: Aaron Greenwell, Team Leader

DATE: March 25, 2009

SUBJECT: Informal Conference, March 19, 2009

Pursuant to Staff notice, an informal conference ("IC") was held on March 19, 2009. A copy of the conference attendance list is attached. The conference was requested by Delta Natural Gas Company ("Delta") for the purpose of discussing issues relating to the Commission's consideration of the requirements of the Federal Energy Independence and Security Act of 2007 ("EISA 2007"), specifically rate stabilization and an annual rate review mechanism.

Delta began the conference with a brief overview of a rate review mechanism followed by a discussion of rate stabilization legislation proposed during the Kentucky General Assembly's 2007 legislative session. Comments were provided by representatives of other gas utilities and the Office of the Attorney General ("AG"). A copy of the overview handout, the proposed legislation and a letter from Delta to the AG are attached.

The IC ended with a discussion of administrative and procedural issues relating to Staff participation in any continuing dialogue regarding annual rate reviews or rate stabilization.

The IC was then adjourned.

Attachments:

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

CASE NO. 2008-00408

CONSIDERATION OF THE NEW FEDERAL STANDARDS OF THE ENERGY
INDEPENDENCE AND SECURITY ACT OF 2007

SIGN IN

March 19, 2009

PERSON

REPRESENTING

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<u>Quang D. Nguyen</u>	<u>PSC - Legal</u>
<u>Dennis Howard II</u>	<u>OAG</u>
<u>Jeff Shaw</u>	<u>PSC - FIN. ANALYSIS</u>
<u>RICHARD RAFF</u>	<u>PSC - LEGAL</u>
<u>Rick Bertelson</u>	<u>PSC - legal</u>
<u>Allen Jennings</u>	<u>Delta Natural Gas</u>
<u>James L. Mailberg</u>	<u>ATMOS ENERGY</u>
<u>Greg Waller</u>	<u>Atmos Energy</u>
<u>Mark Martin</u>	<u>ATMOS ENERGY</u>
<u>Bob Hazelrigg</u>	<u>Delta Natural Gas</u>
<u>Herb Miller</u>	<u>Columbia Gas of Ky.</u>
<u>Judy Cooper</u>	<u>Columbia Gas</u>
<u>WAYNE MILLER</u>	<u>PSC / FA</u>

PERSON

REPRESENTING

Smitty Taylor

Attorney

Steve Loyal

Atmos Energy

Stephane Bell

PSC

~~Chae Chae~~

PSC

MARK R OVERSTREET

STATES Harrison Pa Ky Power Co.

Errol K Wagner

KPCO

John V. Shep

PSC - Engineering

David S. Samford

PSC

Anita Mitchell

PSC

Paul Adams

AG

Daryl Newby

PSC - F/A

W. H. Sawyer

PSC

Leah Faulkner

PSC

Ferdinand Gorjian

PSC - engineering

Jeff Plouren

PSC

RATE REVIEW MECHANISM OVERVIEW

- Legislative remedy or enabling legislation in many states, including Alabama, South Carolina, Texas, Virginia, Missouri, Connecticut, Michigan, Minnesota, Nevada and New York
- Regulatory action in many states, including Kansas, Louisiana, Mississippi, North Dakota, Oklahoma
- Would be optional, and available only for natural gas companies
- Impacts only the non-gas portion of bills, or about 25%
- Gas costs, the other 75%, already adjusted quarterly after review by the Kentucky Public Service Commission
- Must have a general rate case within past 5 years
- KYPSC maintains regulatory review and approval
- Attorney General maintains input into the process
- Provides reasonable incremental staff funding for KYPSC and AG
- Cost savings to utility customers, and budget savings for AG and KYPSC from avoiding frequent rate cases
- Aligns interests of utilities and customers to promote energy conservation and efficiency
- Rate adjustments are gradual and predictable
- Reduction in regulatory lag, and predictability of adjustments, permits utilities to be more responsive to state and local economic needs
- Improved transparency of rate determination process
- Improved working relationships among utilities, KYPSC and AG
- Some common elements to consider include:
 - Rates would be adjusted annually to return on equity allowed in last rate case
 - Band around the return with no adjustment
 - Follow rate calculation and rate design from last rate case

Committee Sub

AN ACT relating to natural gas rate stabilization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

1 SECTION 1. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO
2 READ AS FOLLOWS:

3 (1) A public utility providing natural gas distribution service to a minimum of fifteen
4 thousand (15,000) customers, in its discretion and at any time, may elect to have
5 the terms of this section apply to its rates and charges for gas distribution service,
6 on a prospective basis, by filing a notice of the election with the Public Service
7 Commission. Upon receipt of the notice of the election, the commission shall
8 proceed to make the findings and establish the ongoing procedures required for
9 adjustment in base rates to be made under this section. In carrying out the
10 procedures established by this section with respect to such an election, the
11 commission shall rely upon and utilize the approved rates, charges, revenues,
12 expenses, capital structure, returns, and other matters established in the public
13 utility's most recent general rate proceeding pursuant to KRS 278.190; provided,
14 however, that the most recent such order must have been issued no more than
15 five (5) years prior to the initial election to come under the terms of this section.
16 A public utility may combine an election under this section with the filing of a
17 rate proceeding pursuant to KRS 278.190, and the commission shall include the
18 findings required by this section in its rate orders issued in the KRS 278.190
19 proceedings. The election shall remain in effect until the next general rate
20 proceeding, which shall occur within any five (5) year period following the initial
21 election or the most recent general rate proceeding.

22 (2) The election by a utility to have the terms of this section apply to its rates and
23 charges for gas distribution service, once made, shall remain in effect until the
24 next general rate proceeding pursuant to KRS 278.190 for the public utility, at
25 which time the public utility may then elect to continue the applicability of this

1 section to its rates and charges or elect to opt out of the provisions of this section.
 2 The applicant may withdraw its request to come under the terms of this section at
 3 any time before the entry of a final order of the commission on the merits of the
 4 proceeding in which the election is made or on a petition for rehearing in the
 5 proceeding.

6 (3) In issuing its order pursuant to this section and in addition to the other
 7 requirements of KRS 278.190, if a proceeding pursuant to that section is
 8 required:

9 (a) The commission shall specify a range for the utility's cost of equity that
 10 includes a band of fifty (50) basis points (0.50 percentage points) below and
 11 fifty (50) basis points (0.50 percentage points) above the cost of equity on
 12 which rates have been set; and

13 (b) The commission shall separately state the amount of the utility's net plant
 14 in service, construction work in progress, accumulated deferred income
 15 taxes, inventory, working capital, and other rate base components. It also
 16 shall state the utility's depreciation expense, operating and maintenance
 17 expense, income taxes, taxes other than income taxes, other components of
 18 income for return, revenues, capital structure, cost of debt, overall cost of
 19 capital, and earned return on common equity. The figures stated shall be
 20 those which the commission has determined to be the appropriate basis on
 21 which rates were set in the applicable orders.

22 (4) The utility shall file with the commission monitoring reports for each twelve (12)-
 23 month period ending on March 31, June 30, September 30, and December 31 of
 24 each year, the filings to be made no later than the end of the second month
 25 following the close of the period. These quarterly monitoring reports shall
 26 include the following:

27 (a) The utility's actual net plant in service, construction work in progress,

1 accumulated deferred income taxes, inventory, working capital, and other
 2 rate base components. The report shall also show the utility's depreciation
 3 expense, operating and maintenance expense, income taxes, taxes other
 4 than income taxes, other components of income for return, revenues,
 5 capital structure, cost of debt, overall cost of capital, and earned return on
 6 common equity;

7 (b) All applicable accounting and pro-forma adjustments which are:

8 1. Historically permitted or required by the commission for the utility in
 9 question, or for similarly situated utilities;

10 2. Authorized by general principles of utility accounting; or

11 3. Authorized by accounting letters or orders issued by the commission.

12 This authorization may occur either in a general rate hearing or in
 13 any other type of filing or hearing that the commission considers
 14 appropriate. However, other parties shall be given sufficient
 15 opportunity to review and provide comments on any proposed
 16 accounting letter or order issued after the initial order allowing future
 17 base rate adjustments pursuant to this section;

18 (c) Pro forma adjustments to annualize for the twelve (12)-month period any
 19 rate adjustments imposed pursuant to this section or other events affecting
 20 only part of the period covered by the filing so that the annualization is
 21 required to show the effects of those events on the utility's earnings going
 22 forward; and

23 (d) Pro forma or other adjustments required to properly account for atypical,
 24 unusual, or nonrecurring events.

25 (5) In the monitoring report filed for the twelve (12)-month period ending March 31
 26 of each year, the utility shall provide additional schedules indicating the
 27 following revenue calculations:

- 1 (a) If the utility's earnings exceed the upper end of the range established in the
2 order, the utility shall calculate the reduction in revenue required to lower
3 its return on equity to the midpoint of the range established in the order; or
4 (b) If the utility's earnings are below the lower range established in the order,
5 the utility shall calculate the additional revenue required to increase its
6 return on equity to the midpoint of the range established in the order.
- 7 (6) The utility also shall provide a schedule that specifies changes in its tariff rates
8 required to achieve any indicated change in revenue.
- 9 (7) The proposed rate changes, filed by the utility, shall conform as nearly as
10 practicable with the revenue allocation principles contained in the most recent
11 rate order.
- 12 (8) The commission shall review the monitoring report filed pursuant to this section
13 to determine compliance with its terms. Based upon that review, the commission
14 shall order the utility to make the adjustments to tariff rates necessary to achieve
15 the revenues indicated in this section.
- 16 (9) The procedures contained in this subsection shall apply to monitoring reports
17 related to the quarter ending March 31:
- 18 (a) The utility shall file the monitoring reports with the commission on or
19 before May 31 and simultaneously shall mail or electronically transmit
20 copies to any interested parties who have requested in writing to receive
21 them;
- 22 (b) Interested parties shall be allowed until July 15 to file comments in writing
23 to the commission concerning the monitoring report;
- 24 (c) In cases where the monitoring report indicates that rate adjustments are
25 required, or where it otherwise appears to the commission that an
26 adjustment in rates may be warranted under this section, the commission
27 shall conduct an audit of the monitoring report and specify any changes

1 that the commission determines to be necessary to correct errors in the
 2 report or to otherwise bring the report into compliance with this section.
 3 The commission's review shall be provided to the utility and made available
 4 to all interested parties no later than September 1;

5 (d) Interested parties shall be allowed until September 15 to file written
 6 comments with the commission related to the commission's review and shall
 7 simultaneously mail or electronically transmit copies of these comments to
 8 the utility and to all parties who previously appeared and filed comments;

9 (e) On or before October 15, the commission shall issue an initial order setting
 10 forth any changes required in the utility's request to adjust rates under this
 11 section. In the absence of such an initial order, the gas rate adjustment
 12 contained in the utility's filing shall be considered to be granted as filed;

13 (f) Any gas rate adjustments authorized under the terms of this section shall
 14 take effect for all bills rendered on or after the first billing cycle of
 15 November of that year.

16 (10) Within thirty (30) days of the issuance of an initial order pursuant to subsection
 17 (9) of this section, or within thirty (30) days of the failure by the commission to
 18 issue an order as required pursuant to this section, any aggrieved party may
 19 petition the commission for review of the initial order or failure to issue an order
 20 and all interested parties of record shall have a right to be heard at an evidentiary
 21 hearing on the matter.

22 (11) After conducting the hearing required under this section, the commission shall
 23 issue a final order that:

24 (a) Sets forth any changes that are required to the rates approved in the initial
 25 order issued under this section;

26 (b) Determines the amount of any overcollection or undercollection by the
 27 utility that resulted from collection of the rates authorized in the initial

1 order as compared to the rates authorized in the final order under this
2 section; and

3 (c) Establishes a credit to refund the amount of any overcollection, or a
4 surcharge to collect the amount of any undercollection, that arose during
5 the time that the rates approved in the initial order were collected, and that
6 requires the utility to apply the credit or surcharge until such time as the
7 overcollection or undercollection is remedied.

8 (12) The commission shall issue any final order required under this section by April
9 15 of the year following the year in which the monitoring report was filed. The
10 final order shall make the corrected rates and the credit or surcharge, if any,
11 effective as of the first billing cycle of May of that year.

12 (13) The provisions of KRS 278.400, 278.410, 278.420, 278.430, 278.440, and 278.450
13 concerning rehearing and appeal, respectively, shall apply to the orders issued
14 pursuant to this section.

15 (14) The review of initial orders pursuant to KRS 278.410 is limited to issues related to
16 compliance with the terms of this section. Matters determined in orders pursuant
17 to subsection (3) are not subject to review except in full rate proceedings pursuant
18 to KRS 278.190. Any proceedings pursuant to this section are without prejudice
19 to the right of the commission to issue, or any interested party to request issuance
20 of, a rule to show cause why a full rate proceeding should not be initiated, nor
21 does this section limit the right of a utility to file an application pursuant to KRS
22 278.190 for an adjustment to its rates and charges, nor does it impose the
23 restrictions on filings pursuant to KRS 278.190.

24 (15) In the event the commission shall require additional personnel for the purpose of
25 performing its duties under this section, all salaries, benefits, expenses and
26 charges incurred by the commission for these positions shall be borne
27 proportionately by the natural gas utilities regulated pursuant to this section.



Delta Natural Gas Company, Inc.



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October 31, 2008

Mr. Tad Thomas
Assistant Deputy Attorney General
Office of the Attorney General
The Capitol Building
700 Capital Avenue, Suite 118
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Dear Tad:

It was a pleasure to meet you last Tuesday and I, along with representatives of the other four larger natural gas distribution companies, will look forward to working with you as your office performs an evaluation of the rate review mechanism which we discussed in our meeting.

As you know, HB 261 which was sponsored by Representatives Carolyn Belcher and Eddie Ballard in the 2007 Session was patterned after legislation which was passed in South Carolina in 2005. Our preference is to use this as a starting point because of our familiarity with it, our comfort level with the wording and mechanics and our knowledge of how well it has worked in South Carolina. As we indicated during our discussion, we are certainly open to your suggestions and concerns. One initial change which we are willing to make would be to include the Attorney General on filings which in subsections (4), (5), (6) and (9) are made **only** to the Public Service Commission. By doing this the Attorney General's office would receive the same information and at the same time as the PSC. Further, we are willing to include the Attorney General's office in subsection (15) which provides for compensation for costs associated with administration.

This issue is very important to our industry and we sincerely appreciate the time you and your office are willing to expend working with us. Please feel free to contact me or any of the other representatives of our industry whenever we can be of assistance.

Kindest regards,

Robert C. Hazelrigg
Manager - External Affairs

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