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Agenda 2313; Item No. 28 Draft Order for discussion at utility agenda.

THIS ORDER IS NOT A FINAL ORDER AND MAY BE SUBSTANTIALLY REVISED PRIOR TO ENTRY OF A FINAL ORDER BY THE PUBLIC UTILITIES COMMISSION OF NEVADA

BEFORE THE PUBLIC UTILITIES COMMISSION OF NEVADA

Proceedings pursuant to Order for Wendover Gas Company to appear and show cause: why it should not be found to have breached its duty to provide safe, continuous and adequate service; why it should not be ordered to cease and desist from further violation of its duty to provide safe, continuous and adequate service; why its receivership should not be modified and/or the duties of the appointed receiver modified; why its Certificates of Public Convenience and Necessity should not be suspended or revoked; why it should not be found to have violated certain provisions of the Federal Gas Code and/or its own O&M manual and fined for such violations; and/or why the Commission should not impose any and all other remedies that the Commission may deem appropriate.

Docket No. 13-07018

At a general session of the Public Utilities Commission of Nevada, held at its offices on October 22, 2013.

PRESENT: Chairman Alaina Burtenshaw
Commissioner Rebecca D. Wagner
Commissioner David Noble
Assistant Commission Secretary Breanne Potter

[PROPOSED] ORDER

The Public Utilities Commission of Nevada ("Commission") makes the following findings of fact and conclusions of law:

I. INTRODUCTION

The Commission's Regulatory Operations Staff ("Staff") filed a Petition in Docket No. 13-05037 requesting that the Commission order Wendover Gas Company ("Wendover Gas") to appear and show cause why the Commission should not take certain administrative actions with regard to Wendover Gas. On July 10, 2013, the Commission voted to grant Staff's Petition, issue the requested Order to show cause, and open this Docket.

DOCUMENT REVIEW AND APPROVAL ROUTING	
DRAFTED BY: <u>DAVE NOBLE</u>	
FINAL DRAFT ON <u>10 / 17 / 13</u> AT <u>11 : 00</u> <u>A</u> M	
REVIEWED & APPROVED BY:	DATE
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II. SUMMARY

The Commission approves the Stipulation, attached hereto as Attachment 1. The Commission finds that Wendover Gas's receivership should not be modified and its Certificate of Public Convenience and Necessity ("CPCN") should not be revoked.

III. PROCEDURAL HISTORY

- On July 22, 2013, the Commission issued a Notice of Show Cause Proceedings and Notice of Prehearing Conference in Docket No. 13-07018, pursuant to an Order in Docket No. 13-05037 requiring Wendover Gas to appear and show cause as to the following: (1) why it should not be found to have breached its duty to provide safe, continuous and adequate service; (2) why it should not be ordered to cease and desist from further violation of its duty to provide safe, continuous and adequate service; (3) why its receivership should not be modified and/or the duties of the appointed receiver modified; (4) why its Certificates of Public Convenience and Necessity should not be suspended or revoked; (5) why it should not be found to have violated certain provisions of the Federal Gas Code and/or its own Operations and Maintenance manual and fined for such violations; and/or (6) why the Commission should not impose any and all other remedies that the Commission may deem appropriate ("OSC Proceeding").
- This matter is conducted pursuant to the Nevada Revised Statutes ("NRS") and the Nevada Administrative Code ("NAC"), Chapters 703 and 704, including but not limited to, NRS 233B.127, 703.154, 703.377, 704.120, 704.210, 704.330(4), 704.390(1), and 704.635.
- On February 5, 2009, the Fourth Judicial District Court ("Court") granted permanent receivership over Wendover Gas in Case No. CV-C-08-849 and appointed Mr. Steven Shute as Receiver (alternatively "Mr. Shute" or the "Receiver").
- Staff participates as a matter of right pursuant to NRS 703.301.
- On August 14, 2013, Mr. Shute, filed a Petition for Leave to Intervene ("PLTI"). On August 21, 2013, the Presiding Officer issued an Order on Petition for Leave to Intervene of Steven Shute, granting Mr. Shute's PLTI.
- On August 14, 2013, Pinedale Natural Gas, Inc. ("PNG") filed a PLTI. On August 21, 2013, the Presiding Officer issued an Order on Petition for Leave to Intervene of Pinedale Natural Gas, Inc., granting PNG's PLTI.
- On August 15, 2013, the Commission held a prehearing conference. The Attorney General's Bureau of Consumer Protection ("BCP"), PNG, Staff, Mr. Shute, and Wendover Gas made appearances.
- On August 21, 2013, the Presiding Officer issued a Procedural Order regarding testimony and hearing dates.

- On August 28, 2013, Wendover Gas submitted a Term Sheet for Investment in Wendover Gas Company and Propane of Wendover (“Term Sheet”).
- On September 10, 2013, the Commission held a continued prehearing conference.
- On October 1, 2013, Staff and Wendover Gas filed a Stipulation regarding pipeline safety issues.
- On October 2, 2013, the Commission held a hearing. PNG, Staff, Mr. Shute, and Wendover Gas made appearances. At the conclusion of the hearing, the Presiding Officer granted an oral motion to accept Exhibits 1-11 into the record pursuant to NAC 703.730.

IV. STIPULATION ON PIPELINE SAFETY ISSUES

Staff and Wendover Gas Position

1. In the Stipulation, Staff and Wendover Gas reached a settlement regarding the pipeline safety issues identified in the OSC Proceeding, which includes the payment of a civil penalty and adoption of a leak detection survey program utilizing permanent bar hole test points, formalization of Wendover Gas’s liaison meetings with public officials, formalization of Wendover Gas’s public awareness program, and modification of Wendover Gas’s operation and maintenance manual to incorporate the requirements and agreements in the Stipulation.

Commission Discussion and Findings

2. The Commission finds that the Stipulation is a consensus resolution of the safety issues pursuant negotiations between Staff and Wendover Gas and is a reasonable recommendation and resolution of the safety issues in this proceeding. Therefore, the Commission finds that it is in the public interest to approve the Stipulation.

V. FINANCIAL AND OPERATIONAL ISSUES

Staff Position

3. Staff recommends that the Commission find that Wendover Gas has breached its duty to provide reliable and adequate service and order Wendover Gas to cease and desist from

further breaches of its duty. Staff states that in spite of four (4) rate increases in the last eight (8) years and receivership for more than four (4) years, Wendover Gas's financial status continues to be highly insecure, resulting in Wendover Gas coming within hours of running out of liquid petroleum gas ("LPG") (propane) to serve customers during the winter heating seasons. On approximately six (6) occasions, Sierra Pacific Power Company d/b/a NV Energy ("SPPC") and the City of West Wendover ("City") have procured LPG on behalf of Wendover Gas to avoid lapses in service during winter heating seasons. Wendover Gas should not rely on third parties to rescue it. Wendover Gas's failure to maintain adequate LPG levels and/or maintain sufficient cash reserves to cover operation costs is a violation of its duty to provide reliable and adequate service. While Staff does not believe that the public health, safety, or welfare currently require immediate action so as to cause Staff to seek immediate revocation or suspension of Wendover Gas's CPCN, the Commission should eventually revoke the CPCN. (Exhibit 3 at 3-4, 15).

4. Staff recommends that the Commission approve a plan of receivership that provides the following:

- (1) Set a deadline of no more than one (1) year for Wendover Gas to be made viable or to substantially wind up Wendover Gas and terminate the receivership within six (6) months;
- (2) Establish an expedited process by which the Receiver will seek approval of and begin collection of new rates not based on the traditional utility rate base/rate of return methodology;
- (3) Require the Receiver to provide status reports to the Commission and the Court on a regular, perhaps monthly, basis. This would include a requirement that Wendover Gas notify the Commission, the Court overseeing the receivership, and Staff in writing within two (2) business days after identifying the need or potential need for outside assistance in purchasing gas; and
- (4) Develop a customer awareness or outreach program to timely alert Wendover Gas customers of impending service discontinuances (shortages or low volumes), modifications, or restrictions.

Staff states that it believes that Wendover Gas needs to be solvent to be considered viable, having sufficient revenues and cash on hand during the winter heating seasons to cover all

