

Service Date: August 20, 2004

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

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IN THE MATTER OF Energy West) UTILITY DIVISION
Environmental Surcharge as authorized in Order) DOCKET NO. D2003.4.50
No. 5813a, Docket No. 94.11.52) FINAL ORDER NO. 6503a

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FINAL ORDER

Background

On June 1, 1995 Final Order No. 5813a in Docket 94.11.52 was issued. In that Order, an environmental surcharge in the amount of \$182,736 was authorized for the investigation, assessment and remediation of the manufactured gas plant site on which Great Falls Gas’s (now Energy West Montana) service center is located. The initial balance of the surcharge was to be calculated based on a two year recovery of the average annual basis. This resulted in a charge of \$.00401 per CCF of gas sold. The Commission’s decision in the final order (a stipulated agreement between MCC and GFG) stated:

“Approval of the initial surcharge is limited to the initial amount only. Great Falls Gas is expected to complete remediation at the lowest possible cost. Any cost increases beyond the initial amount must be requested by the Company and this Order does not approve those further cost increases. All changes in the surcharge associated with the manufactured gas plant must be approved by the Commission.”

On April 15, 2003, the Commission found sufficient cause to direct a Complaint and Order to Show Cause Regarding Environmental Surcharge be issued. On May 29, 2003, the complaint was served.

Energy West Montana (the Company, Energy West, EW) responded to the Complaint and Order to Show Cause on July 18, 2003, after requesting an extension from the original June 30, 2003 deadline.

On August 19, 2003, with Order 6503, the Commission ordered Energy West to cease collection of the environmental surcharge effective for services rendered on or after August 20, 2003.

It further ordered Energy West to submit an application to the Commission if it desired to re-implement the surcharge.

On September 22, 2003, Energy West filed application for the approval of a surcharge for recovery of costs associated with the environmental surcharge.

The Commission issued a Notice of Application and Intervention deadline on October 23, 2003. Intervention to the sole intervener, Montana Consumer Counsel (MCC) was granted November 20, 2003.

On June 2, 2004, MCC and EW filed a Stipulation and Agreement between Energy West Montana and The Montana Consumer Counsel in this Docket, and requested the Commission issue an order approving the Stipulation and Agreement as fair and reasonable and in the public interest.

Commission Analysis and Discussion

The Stipulation and Agreement (copy attached) entered into by EW and MCC partially satisfies the concerns of the Commission. The Stipulation fails to adequately address the concerns that the Commission had that prompted this Docket.

That primary concern is for timely reporting to the Commission the status of the Environmental Surcharge and the expected conclusion date of the project. The Stipulation partially addresses the concern by stating that the costs will continue to be subject to the review and approval by the Commission and does not prevent review of the costs incurred for prudence and reasonableness by either the Commission or the MCC.

What is not addressed is the “when” that prompted this Docket. There must be a timely review of the costs. The original Docket authorized an initial amount of \$182,736, and was to be based on a two year recovery. It went on to state:

“Approval of the initial surcharge is limited to the initial amount only. Great Falls Gas is expected to complete remediation at the lowest possible cost. Any cost increases beyond the initial amount must be requested by the Company and this Order does not approve those further cost increases. All changes in the surcharge associated with the manufactured gas plant must be approved by the Commission”

Energy West failed to request approval for the continuation of the Environmental Surcharge originally. This oversight must not happen again. Energy West must update the Commission as to the status of the Environmental surcharge on a timely basis. Any request to

continue the Environmental Surcharge must, at a minimum, include the balance remaining in the surcharge account, an itemization of expenses and collections since the last request, an estimate of the period remaining before the cessation of the surcharge, and any environmental studies or decisions by any governing bodies with regard to the remediation of the manufactured gas plant. The preceding list is not intended to be a comprehensive listing of all the supportive material Energy West should file, but indicates what the Commission expects to see in order to make an informed and reasoned decision in the future. It is, and will remain, Energy West's obligation to demonstrate the need for continuation of the surcharge and to anticipate what documentation is required.

CONCLUSIONS OF LAW

Energy West Montana provides natural gas service within the State of Montana and as such is a "public utility" within the meaning of § 69-3-101, MCA.

The Montana Public Service Commission properly exercises jurisdiction over the Energy West Montana's rates and operations pursuant to Title 69, Chapter 3, MCA.

ORDER

THEREFORE THE MONTANA PUBLIC SERVICE COMMISSION ORDERS THAT:

Energy West shall adhere to and abide by the Commission Analysis and Discussion in this Order. All rate schedules shall comply with all determinations set forth in this Order.

Energy West shall file tariffs reflecting the implementation of the Environmental Surcharge effective for service on and after September 1, 2004 in compliance with the Stipulation and Agreement entered into with MCC and the Commission Analysis and Discussion in this Order.

The Environmental Surcharge is approved for 2 years from the effective date of this order. If, after two years, Energy West finds it necessary to continue the environmental surcharge, it must file an application to continue the surcharge no later than July 1, 2006.

This Stipulated Final Order is effective for service on and after September 1, 2004. DONE IN OPEN SESSION at Helena, Montana on this 17th day of August 2004, by a 5 to 0 vote.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

BOB ROWE, Chairman

THOMAS J. SCHNEIDER, Vice Chairman

MATT BRAINARD, Commissioner

GREG JERGESON, Commissioner

JAY STOVALL, Commissioner

ATTEST:

Connie Jones
Commission Secretary

(SEAL)

NOTE: Any interested party may request the Commission to reconsider this decision. A motion to reconsider must be filed within ten (10) days. See 38.2.4806, ARM.