

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE SUSPENSION OF)
THE COMMISSION'S GAS SERVICE RULE) **CASE NO. GNR-G-08-01**
102, IDAPA 31.31.01.102)
) **ORDER NO. 30625**
)

In July 2008, the Commission Staff received an inquiry from Avista Utilities regarding an apparent conflict between two Commission rules. The issue was brought to Avista's attention when a Post Falls City building official asked Avista about the utility's procedures for inspecting a customer's installation of a natural gas appliance. More specifically, the City official was referring to the Commission's Gas Service Rule 102, IDAPA 31.31.01.102. This rule states in pertinent part:

The gas corporation shall inspect the customer's installation [of a gas appliance] before the connection of a meter to ascertain that the installation conforms to the provisions contained in the National Fuel Gas Code and the Uniform Mechanical Code, as adopted by the Commission.

Gas Rule 102, IDAPA 31.31.01.102 (1993) (emphasis added).

The apparent conflict arises with Subsection .02 of the Commission's Safety Rules 202 and 203, IDAPA 31.11.01.202.02 and 203.02. Safety Rules 202 and 203 were most recently amended in 2008. These two rules are nearly identical and read in pertinent part:

02. Utility Compliance. All gas corporations subject to the jurisdiction of this Commission are required to abide by applicable provisions of the International Mechanical Code [or International Fuel Gas Code] and to connect for service and light only those installations that:

- a. Have been inspected and approved by authorized agencies; or
- b. When inspecting agencies do not exist, to require their customers to abide by applicable provisions of the International Mechanical Code [or Fuel Gas Code] as a condition of receiving service or continuing to receive service.

Safety Rules 202.02 and 203.02, IDAPA 31.11.01.202.02 and 203.02 (emphasis added). Safety Rule 202 adopts the International Fuel Gas Code of 2006 and Safety Rule 203 adopts the

International Mechanical Code of 2006. The International Codes are updated and published every three years by the International Code Council.

Based upon its review, Staff asserts there are two inconsistencies between Gas Service Rule 102 and the two Safety Rules. First, in 2006 the Commission adopted the “International Mechanical Code” and “International Fuel Gas Code” which superseded the Uniform Mechanical Code and National Fuel Gas Code, respectively. The Commission took this action after the Legislature adopted the International Mechanical Code and the International Fuel Gas Code in 2004, *Idaho Code* § 54-5001. Second, the new International Codes no longer require a gas utility to inspect the installation of gas appliances. As the Commission explained in its 2004 Notice of Rulemaking, the new International Codes establish a new regulatory framework that employs permits and inspections. *Idaho Code* § 54-5016 requires that any installation of a gas appliance be accomplished pursuant to the issuance of a permit. *Idaho Code* §§ 54-5001 and 54-5018 require an inspection for each permit.

For local governments that have adopted the International Codes, the current regulatory practice is for these jurisdictions to issue permits and conduct subsequent inspections. For areas of the State that do not have inspection agencies, the State Division of Building Safety issues permits and performs the inspections. IDAPA 07.07.01.¹ In addition, the installation of gas appliances is generally required to be performed by a licensed installer and the license holder is required to comply with the International Mechanical Code. Thus, gas utilities are no longer required to inspect the installation of gas appliances – inspections are the responsibility of other entities. Consistent with the applicable International Codes, Safety Rules 202.02.b. and 203.02.b. simply compel utilities to “require their customers to abide by applicable provisions of the International Mechanical [and Fuel Gas] Code[s] as a condition of receiving or continuing to receive service.” IDAPA 31.11.01.202.02.b. and 31.11.01.203.02.b.

DISCUSSION AND FINDINGS

Based upon our review of the rules in question, we find that Gas Service Rule 102 is incompatible with the Commission’s Safety Rules 202.02 and 203.02. In particular, the safety codes referenced in Gas Rule 102 have been superseded. We further find that Gas Rule 102 compels utilities to perform actions that are no longer required under the International Codes

¹ *Idaho Code* § 54-5002 does list certain exemptions but even if exempted, the installation of gas appliances “shall comply with” the applicable International Codes.

adopted in 2004 by our Legislature in *Idaho Code* § 54-5001. Consequently, on our own motion, we suspend Gas Service Rule 102, IDAPA 31.31.01.102.

We further find that it is appropriate for us to undertake a comprehensive review of our Gas Service Rules. More specifically, we direct the Staff to meet with the gas utilities and other interested persons and informally review the Gas Service Rules, IDAPA 31.31.01. This informal review could be the basis for a negotiated rulemaking to update the Commission's Gas Service Rules next year.

ORDER

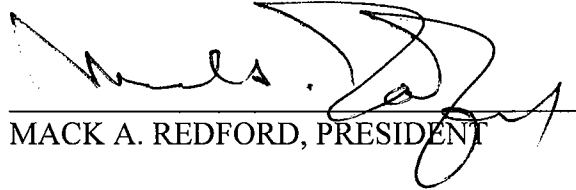
IT IS HEREBY ORDERED that Gas Service Rule 102, IDAPA 31.31.01.102, be suspended.

IT IS FURTHER ORDERED that the Commission Staff undertake an informal review of our Gas Service Rules with gas utilities and other interested persons.

IT IS FURTHER ORDERED that the Commission Secretary serve this Order upon our gas utilities.

THIS IS A FINAL ORDER. Any person interested in this Order (or in issues finally decided by this Order) or in interlocutory Orders previously issued in this Case No. GNR-G-08-01 may petition for reconsideration within twenty-one (21) days of the service date of this Order with regard to any matter decided in this Order or in interlocutory Orders previously issued in this case. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. See *Idaho Code* § 61-626.

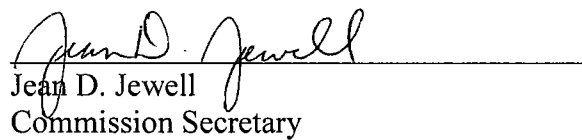
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 19th
day of August 2008.


MACK A. REDFORD, PRESIDENT


MARSHA H. SMITH, COMMISSIONER


JIM D. KEMPTON, COMMISSIONER

ATTEST:


Jean D. Jewell
Commission Secretary

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