

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF INTERMOUNTAIN)	CASE NO. INT-G-20-03
GAS COMPANY’S APPLICATION FOR)	
AUTHORITY TO FACILITATE)	ORDER NO. 34693
RENEWABLE NATURAL GAS ACCESS)	
)	

On May 4, 2020, Intermountain Gas Company (“Intermountain” or “Company”) applied to the Commission for authority to facilitate access for Renewable Natural Gas (“RNG”) producers to the Company’s distribution system for the purpose of moving RNG to their buyers. Intermountain requested its Application be processed under Modified Procedure, and that that the authority be granted by June 15, 2020.

On May 13, 2020, the Commission issued a Notice of Application and Modified Procedure, setting a May 29, 2020 comment deadline and a June 4, 2020 reply comment deadline. Commission Staff filed comments, and the Company did not file reply comments. No other comments were received.

On May 20, 2020, Intermountain filed a Motion for Clarification Regarding Customer Notice requesting the Commission determine whether direct notice of the Application to all of Intermountain’s customers is required. On May 29, 2020, the Commission issued an order clarifying that direct notice to Intermountain’s customers is not required in this case. Order No. 34680.

BACKGROUND

RNG is pipeline-quality biomethane produced from biogas. Increasingly in Idaho, livestock operations are using animal waste to produce biogas which is then cleaned to produce RNG for the burgeoning RNG market. Several nearby states subsidize RNG production or mandate the use of renewable energy sources. Intermountain believes these policies make RNG production profitable for producers.

To move RNG to its buyer, an RNG producer must access the local gas utility’s distribution system. So far, Intermountain has executed contracts with three RNG producers to facilitate access, but the Company seeks Commission approval of an RNG facilitation plan that will guide all future distribution system access by RNG producers. Once the Commission approves

the RNG facilitation plan, the Company would make all subsequent RNG agreements consistent with it.

THE APPLICATION

Monthly fee

Intermountain intends to “completely insulate utility customers from all potential impacts of RNG production.” Application at 5. Intermountain proposed a monthly fee for access to the Company’s distribution system. Also, if Intermountain must incur startup or extraordinary Operation & Maintenance (“O&M”) expenses at an RNG facility, “the producer will be billed for the actual additional expenses incurred by Intermountain.” *Id.* at 6.

The monthly fee will include a Maintenance Fee and an Access Fee. The Maintenance Fee will cover Intermountain’s monthly expenses to serve RNG producers. The Company’s anticipated maintenance expenses include “a) labor for inspection of meters, regulators, reliefs, odorizers, valves, etc., b) odorant, c) gas chromatograph, including calibration gas and helium, d) SCADA equipment, e) other utility costs which may include electricity and telephone, f) direct general administrative costs, g) direct contractor costs, h) an overhead loading rate, i) material replacement costs, j) [and] such other costs as may be necessary to provide service.” *Id.* at 5-6. Based on the current average of monthly costs, the Company anticipated the monthly Maintenance Fee will be \$2,500.

The other component of the monthly fee is the Access Fee, which provides a return to Intermountain for granting access to its distribution facilities. The Company stated the Access Fee “will be recorded as non-utility revenue for Intermountain.” *Id.* at 6.

The Company plans to update the Maintenance Fee annually. The new fee will be calculated each September based on actual expenses for the September 1 through August 31 time period. To align with the Company’s Purchased Gas Adjustment price changes, the new fee will take effect October 1 of each year.

Computing Intermountain’s proportionate regulatory fee assessment

The Company stated it will add its RNG access service revenue to its gross intrastate operating revenue report so the Commission can include the RNG access revenue when computing the Company’s annual regulatory fee assessment. *See Idaho Code* §§ 61-1001 through 61-1008.

Traditional natural gas service to RNG producers

RNG producers often use natural gas in their operations and receive natural gas delivery from Intermountain. The Company stated that natural gas service to RNG producers will be billed at Intermountain's standard tariffed rates. "All monthly billing will happen exactly as it would for any other Intermountain customer based upon the tariff selected." Application at 5.

Income tax gross up

Consistent with its intent that utility customers not bear the cost of letting RNG producers access its distribution system, Intermountain requested it be permitted to gross up an RNG producer's Contribution In Aid of Construction ("CIAC") to cover additional income tax generated by a CIAC payment. The Company plans to include all capital costs related to an RNG production project in rate base and then offset the capital costs with the CIAC payment from the RNG producer. However, the Company pointed out that under Commission Order No. 21933, "Intermountain is not permitted to gross up CIACs to cover the additional income tax generated by the CIAC payment." *Id.* at 8. Intermountain requested it be permitted to gross up CIACs from RNG producers, which will then "be booked as utility revenue to offset the additional income taxes and ensure zero financial impact on utility customers." *Id.*

Other matters

The Company stated its RNG agreements "will include safety provisions to protect the safety and reliability of service for utility customers." *Id.*

Intermountain asserted it would issue notice of its Application during the week of May 4, 2020 to RNG producers who may be affected by it.

STAFF COMMENTS

Staff's review focused on whether Intermountain's RNG facilitation plan would insulate its utility customers from any risks associated with providing access to RNG producers. Specifically, Staff verified whether the RNG facilitation plan would 1) identify all RNG delivery costs; 2) properly separate and allocate the costs; and 3) sufficiently recover from RNG producers to ensure Intermountain's utility customers "do not bear the risk of stranded assets and costs." Staff Comments at 2. Staff concluded the RNG facilitation plan is an appropriate method for achieving these objectives, and recommended the Commission approve the Application.

Staff noted that if market conditions or incentive structures change for RNG production, the industry may become unprofitable. Because of this risk, Staff believes "utility

customers need to be shielded from potential negative cost impacts of RNG production.” *Id.* at 2. Staff believes the Company’s proposed RNG producer fee structure will achieve this end.

The Company will bill each RNG producer directly for startup O&M expenses, capital expenses, and any unforeseen expenses. Staff noted an RNG producer’s payments to Intermountain for the Company’s capital expenses will be a CIAC. Staff believes utility customers will not be affected by RNG producer startup and facilities costs because these will be paid by the RNG producer and will not be included in rate base.

Staff noted that line extension facilities to provide gas to an RNG producer as an Intermountain *utility customer* will be separate from facilities needed to deliver RNG from the RNG producer to the Company’s pipeline. Staff observed that “[b]ecause this infrastructure is physically separated, the Company can easily identify and separately track both upfront facilities cost and O&M expenses, and separately recover the cost.” Staff Comments at 3.

Staff reviewed Intermountain’s proposed Maintenance Fee and Access Fee, noting the Company plans to include all revenues from RNG access service in its annual gross intrastate operating revenue report to the Commission.

To account for income tax generated by RNG producer payments, Staff recommended the Commission allow Intermountain to gross up CIACs charged to RNG producers. The Commission would have to provide a waiver to the prohibition against this practice in Order No. 21933. Staff observed that “[g]rossing up the CIAC paid by RNG producers will ensure that the entity causing the increased income tax liability will be the same entity that pays the increased income tax.” *Id.* at 4.

Staff noted the Company has executed contracts with three RNG producers to facilitate access to Intermountain’s distribution system. The Company intends its RNG facilitation plan to guide all future RNG producer contracts. Staff expressed concern that the existing three contracts may not isolate utility customers from RNG facility costs. Staff plans to audit the costs arising from these three contracts in the Company’s next general rate case to ensure utility customers will not bear these costs. Staff recommended the Commission require the Company to implement the RNG facilitation plan into all new and renewal contracts with RNG producers. Additionally, Staff recommended the Commission require the Company to update the Commission when any of the three existing RNG producer contracts become consistent with Intermountain’s RNG facilitation plan.

COMMISSION FINDINGS AND DECISION

The Commission has jurisdiction over this matter under *Idaho Code* § 61-501. The Commission has broad authority to regulate the practices and operations of public utilities and may prescribe rules and regulations. *Idaho Code* §§ 61-501 and 61-507. Notably, the Commission is authorized to set quality, safety, and service standards, and may regulate a public utility's accounting practices. *Idaho Code* §§ 61-520 and 61-524. Intermountain is a Commission-regulated public utility under *Idaho Code* § 61-129 and a gas corporation under *Idaho Code* § 61-117. As a public utility, Intermountain must provide service that is "in all respects adequate, efficient, just and reasonable," and at rates that are just and reasonable. *See Idaho Code* §§ 61-301 and 61-302.

The Commission has reviewed the record, including the Application and the comments of Staff. We find Intermountain's RNG facilitation plan reasonable. The Company's proposal adequately addresses how the Company plans to insulate utility customers from risks associated with providing access to RNG producers. We are confident the RNG facilitation plan's proposed fees and accounting mechanisms are structured to protect utility customers from bearing the cost of RNG producer access. Likewise, the Company has acceptable standards for ensuring the continued quality and safety of its utility service.

We find it reasonable for Intermountain to gross up CIAC payments from RNG producers to cover the income tax generated by the CIAC payment. The income tax liability from a CIAC payment should be borne by the RNG producer, not utility customers. Therefore, we grant a limited waiver to Order No. 21933 for this purpose.

The fast-growing RNG market is a phenomenon sustained by the incentives and policies of numerous states. Nationwide, natural gas utilities and their state regulators are responding to the transportation needs of RNG producers. The challenges and benefits of facilitating access to RNG producers will only be fully revealed over time. We are pleased to note that Intermountain's RNG facilitation plan satisfactorily protects Intermountain and its utility customers from sudden shifts in the RNG production industry. Therefore, we direct Intermountain to conform future RNG producer contracts to its RNG facilitation plan.

Regarding the three RNG producer contracts Intermountain has executed, we direct Intermountain to update the Commission as these existing contracts conform (either through amendment, renewal, or termination) to its RNG facilitation plan.

ORDER

IT IS HEREBY ORDERED that Intermountain's RNG facilitation plan is approved.

IT IS FURTHER ORDERED that Intermountain shall gross up each CIAC payment from RNG producers to cover the income tax generated by the CIAC payment.

IT IS FURTHER ORDERED that Intermountain shall make all future RNG producer contracts consistent with its RNG facilitation plan. This directive also applies to renewals of RNG producer contracts already in effect.

IT IS FURTHER ORDERED that Intermountain shall update the Commission when existing RNG producer contracts conform with the Company's RNG facilitation plan, whether through amendment, renewal, or termination.

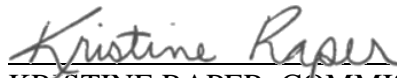
THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order about any matter decided in this Order. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. *See Idaho Code* § 61-626.

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DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 12th
day of June 2020.



PAUL KJELLANDER, PRESIDENT

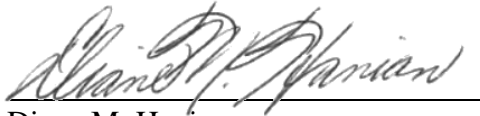


KRISTINE RAPER, COMMISSIONER



ERIC ANDERSON, COMMISSIONER

ATTEST:



Diane M. Hanian
Commission Secretary

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