

DECISION MEMORANDUM

TO: COMMISSIONER KJELLANDER
COMMISSIONER RAPER
COMMISSIONER ANDERSON
COMMISSION SECRETARY
COMMISSION STAFF
LEGAL

FROM: MATT HUNTER
DEPUTY ATTORNEY GENERAL

DATE: MAY 22, 2020

SUBJECT: IN THE MATTER OF INTERMOUNTAIN GAS COMPANY'S
APPLICATION FOR AUTHORITY TO FACILITATE RENEWABLE
NATURAL GAS ACCESS; CASE NO. INT-G-20-03.

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 end-use customers. Application at 2. Intermountain requested approval of its RNG facilitation plan by June 15, 2020. *Id.* at 10.

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. Order No. 34667.

THE COMPANY'S MOTION FOR CLARIFICATION

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. Company's Motion at 1. While Intermountain believes direct notice is not required under the Commission's Rules of Procedure because Intermountain is not requesting a change in rates, the Company seeks clarification from the Commission in order to avoid delay in the case due to notice issues. *Id.* at 3.

The Company has already provided direct notice to RNG producers by sending a letter to each producer who may be affected by the Company's proposal. *Id.* at 1; *see* Application at 7-8. The Company notes procedural Rule 125, IDAPA 31.01.01.125, requires direct notice to utility

customers when a utility proposes to change rates for utility customers. Company's Motion at 2. The Company asserts its Application "does not seek to change rates for Intermountain's utility customers, but instead proposes measures to fully insulate utility customers from rate impacts." *Id.* at 1; *see* Application at 7-8. Therefore, the Company does not believe direct notice to customers of the Application is required by Commission rules. Company's Motion at 2.

Intermountain states it previously considered providing direct notice to all customers but decided against it because, in addition to not being required by Commission rules, such notice might cause confusion among utility customers. *Id.* The Company "particularly wanted to avoid a situation in which customers perceived that Intermountain was proposing to purchase RNG, was proposing to provide RNG to its customers, or that Intermountain was proposing any action with respect to RNG other than allowing the producer access to Intermountain's system for the producer to transport RNG to the producer's eventual end use customers." *Id.* at 2-3.

Intermountain asserts it is seeking clarification from the Commission because it is aware of recent Commission cases in which direct notice to customers was provided under circumstances not required by the Commission's rules. *Id.* at 3. The Company cites Case No. GSW-W-19-01 as an example.¹ *Id.* Because "Intermountain would like to avoid a delay in the case due to notice issues," the Company "requests that the Commission clarify what type of customer notice is required in this case." *Id.*

If the Commission orders direct notice to all customers, Intermountain states it will include customer notices with bills beginning May 28, 2020. *Id.* Because of the billing cycle, it will take Intermountain through June 26, 2020 to reach all of its customers. *Id.* In its Application, Intermountain proposed a June 15, 2020 effective date for its RNG facilitation plan. If direct notice to all customers is ordered by the Commission, Intermountain proposes the Commission suspend the proposed effective date until July 15, 2020 to allow all customers to receive direct notice and have an opportunity to comment on the Application. *Id.*

¹ In Case No. GSW-W-19-01, Gem State Water Company, LLC applied to the Commission for approval of its acquisition of the water business assets of two small regulated water corporations. In its application, Gem State Water asserted the rates and charges paid by customers of the two small water corporations would be maintained post-acquisition. While deliberating on the case, the Commission noted the two small water corporations had not notified their customers about the proposed acquisitions. The Commission declined to issue a final order until the record reflected that the customers of the two small water corporations had been notified of the proposed acquisitions and had been given an opportunity to comment. Gem State Water swiftly mailed notice to these customers, and a new comment period was set by the Commission. *See* Order No. 34579.

STAFF RECOMMENDATION

Staff does not believe the Commission's Rules of Procedure require the Company to provide direct notice of its Application to its customers. Rule 125 requires a utility to provide direct notice to its customers (either as a bill stuffer or as a separate mailing) if the utility is requesting a rate change. A rate change includes an "increase, decrease or change [to] any rate, fare, toll, rental or charge or any classification, contract, practice, rule or regulation resulting in any such increase, decrease or change..." *See* IDAPA 31.01.01.121.01. The standard for direct notice in Rule 125 can be roughly summarized as follows: if the utility's proposal will cause an increase or decrease in rates for any customer class, direct notice must be given to the utility's customers.

The Company asserts RNG producers are not utility customers, and that granting them access to the Company's distribution system will not impact utility customers in any way. *See* Application at 7; Company's Motion at 1. At this point, Staff has no reason to expect a contrary result. Therefore, Staff believes direct notice to customers is not required.

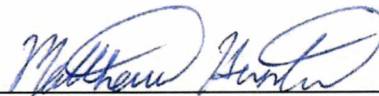
However, Staff believes it would be in the public interest for Intermountain to notify its customers of the Application through mediums other than direct mail. Intermountain has only recently begun to facilitate RNG producer access to its distribution system. It is difficult to predict what issues will arise as more and more RNG producers put RNG into Intermountain's distribution system. Realistically, the RNG will mix with Intermountain's natural gas and be used by the Company's customers. Customers may have safety and quality concerns about RNG making up a percentage of the natural gas they use in their homes and businesses. Customers may also be interested in how the Company will keep RNG producer access expenses separate from the Company's utility business. Regardless, customers should be made aware of a new aspect to Intermountain's business that is closely tied to its public utility services.

Therefore, Staff recommends the Commission clarify that, while direct notice is not necessary in this case, the Company shall attempt to provide notice to its customers through multiple electronic mediums. For example, the Company might email notice to those customers for which the Company has an email, post notifications on various social media platforms, post a notification on the Company's website, and issue a press release. Staff believes this or a similar combination of mediums would provide reasonable notice of the Application to Intermountain's customers.

COMMISSION DECISION

Does the Commission wish to:

1. Clarify that direct notice of the Application to all of Intermountain's customers is required, and that the Company shall provide direct notice through customer bills or a separate mailing?
 - a. If so, does the Commission wish to:
 - i. Set a July 3, 2020 comment deadline?
 - ii. Set a July 8, 2020 reply comment deadline?
 - iii. Suspend Intermountain's proposed effective date until July 15, 2020?
2. Clarify that, rather than direct notice through customer bills or a separate mailing, Intermountain shall notify its customers of the Application through multiple electronic mediums (email, social media, the Company's website, a press release, etc.)?
3. Clarify that direct notice to Intermountain's customers is not required for this Application, and that the Company has already provided sufficient notice by sending letters to all RNG producers who may be affected by the Application?



Matt Hunter
Deputy Attorney General

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