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Attorney for the Commission Staff

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF INTERMOUNTAIN GAS)	
COMPANY'S APPLICATION FOR)	CASE NO. INT-G-20-03
AUTHORITY TO FACILITATE RENEWABLE)	
NATURAL GAS ACCESS)	COMMENTS OF THE
)	COMMISSION STAFF
)	
)	
)	

The Staff of the Idaho Public Utilities Commission submits the following comments regarding the above referenced case.

BACKGROUND

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 purchasers of RNG. RNG is pipeline-quality biomethane produced from biogas. Biogas is the mixture of gases produced by the breakdown of organic matter in the absence of oxygen (anaerobically), primarily consisting of methane and carbon dioxide. It can be produced from raw materials such as agricultural waste, manure, municipal waste, plant material, sewage, or food waste.

STAFF ANALYSIS

Staff reviewed the Company's Application requesting authority to facilitate RNG access. The Company's willingness to facilitate the delivery of RNG to market carries risks that could cause the Company's core retail customers to inappropriately incur additional costs. Because of this risk, Staff's review focused on three objectives to protect the Company's retail customers: (1) identify all the costs related to RNG delivery; (2) sufficiently separate and properly allocate these costs; and (3) establish recovery from RNG customers to ensure that costs are recovered by the Company to ensure that the Company's retail customers do not bear the risk of stranded assets and costs.

After careful review of the Company's proposal, Staff believes that the Company's Application is appropriate to establish a method to facilitate RNG producer's access to their distribution system.

Risk Evaluation

Livestock operations in Idaho are increasingly using animal waste to produce biogas which is then cleaned to produce RNG for the expanding RNG market. Several nearby states incent RNG production or require the use of renewable energy sources. Intermountain believes these policies currently make RNG production profitable.

While current market prices are driving interest in new RNG ventures in Idaho, RNG prices could decrease to levels that make RNG production unprofitable. If market conditions or incentive structures change, the Company could be left with stranded assets and costs that have not been fully recovered. Because of this risk, utility customers need to be shielded from potential negative cost impacts of RNG production. Staff believes the Company's proposed financial structure recovers incurred Operations and Maintenance ("O&M") costs through Maintenance Fees charged to RNG producers and infrastructure costs recovered under the current line extension policies, and will protect utility customers from paying increased rates.

Financial Structure and Accounting

The Company proposes to collect RNG production facilities and infrastructure costs through separate fees. Staff has reviewed the Company's proposed fees and believes that utility customers will not pay increased rates if the proposed RNG facilitation plan is approved.

The Company proposes to charge the RNG producer for startup O&M expenses and other unforeseen expenses at the RNG facility. Any capital expenses incurred by the Company will be directly billed to the RNG producer and considered a Contribution in Aid of Construction ("CIAC"). All capital costs related to RNG projects will be included in the Company's plant-in-service and offset by the CIAC. Because all startup and facilities costs are paid by the producer and will not be included in rate base, utility customers will not be affected.

RNG producers often use natural gas in their operations and receive natural gas delivery from Intermountain. Staff agrees with Intermountain that natural gas service to RNG producers should be billed at Intermountain's standard tariffed rates.

Staff confirmed that line extension facilities to provide gas as an Intermountain customer will be completely separate from the facilities needed to deliver gas from the RNG facility to Intermountain's pipeline. In response to Production Request No. 2, the Company confirmed that it has not and does it intend to install common infrastructure for providing gas to the facility and taking RNG from the facility. Because this infrastructure is physically separated, the Company can easily identify and separately track both upfront facilities cost and O&M expense, and separately recover the cost. The Company plans to recover facilities cost for delivery of gas to the project through the line extension tariff authorized at the time of installation, and to recover the cost of facilities to deliver RNG through a separate charge.

By separately tracking the two sets of infrastructure costs, the Company can also directly assign most of the O&M expense between the two sets of facilities. The only portion of O&M expense that is common between the two sets of facilities is overhead-related expense, such as maintenance equipment and indirect labor. The Company has proposed to include an overhead loading rate to the Maintenance Fee to properly allocate these types of costs.

Maintenance Fee

The monthly Maintenance Fee paid by the RNG producer will cover the Company's anticipated expenses and includes items such as: 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 that may include electricity and telephone, f) direct general administrative costs, g) direct contractor costs, h) an overhead loading rate, i) material replacement costs, and j) other costs as may be necessary to provide service.

Based on the current average of monthly costs, the anticipated monthly Maintenance Fee will be set at \$2,500. The Company proposes to update the Maintenance Fee each year to ensure that it accurately reflects the costs of providing service to RNG producers. The Company will calculate the new fee each September based on actual expenses for the previous year beginning on September 1 through August 31, with the new fee taking effect on October 1 of each year to align with the annual Purchased Gas Adjustment (“PGA”) changes.

Access Fees

The Access Fee is designed to provide a financial return to the Company for granting access to its distribution facilities and to move the RNG to the end use customer. It will compensate the Company for bearing the financial risk associated with providing pipeline access to the RNG projects.

When Intermountain files its annual gross intrastate operating revenue report with the Commission (Fiscal), it will include all revenues from RNG access service—including the Access Fee. This will allow the proper assessment of Commission Fees to be made.

CIAC and Income Tax

Because CIAC is considered taxable income to the Company, it must be grossed up for income taxes to ensure that utility customers are not paying the additional income tax liability associated with the CIAC from RNG producers. In Order No. 21933 (Case No. U-1500-176) issued in 1988, the Commission prohibited the Company from grossing up CIACs to cover the additional income tax generated by the CIAC payment. Instead, the Company adds the additional income tax paid to rate base where it is charged to customers over time. While there is a valid reason for ratepayers to pay the increased income tax on plant that is used by utility customers, in the case of RNG projects this process would result in a negative financial impact to utility customers. Grossing 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. To protect utility customers, Staff recommends the Commission grant a waiver from Order No. 21933 in this case and allow the Company to gross up the CIAC charged to RNG producers for the additional income taxes generated by RNG customer payments.

Existing RNG Producers with Contracts

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. If the Commission approves the RNG facilitation plan, the Company proposes to make all subsequent RNG agreements consistent with it. In response to Production Request No. 4, the Company describes how it will align current RNG producers:

The existing contracts the Company has executed do not address the Access Fee and they allow the Company to directly bill the RNG producers each quarter for actual O&M expenses relating to each RNG facility, rather than following the Maintenance Fee process outlined in the Application. Intermountain has already contacted the counterparties to the contracts for each facility to 1) notify them of the Company's RNG filing, 2) clarify what terms Intermountain proposes to adjust or revise to bring these agreements into alignment with terms outlined in the filing, 3) remind the counterparties that the Company cannot arbitrarily change existing contractual terms without mutual agreement, and 4) explain the specifics regarding the Access Fee and Maintenance Fee that Intermountain proposes to incorporate. If the Commission issues an Order in this proceeding, with an effective date of June 15, 2020, that is substantially similar to Intermountain's proposal, the Company is hopeful it can conclude these negotiations by August 1, 2020.

Staff is concerned that the framework in existing contracts may not isolate core customers from RNG facility costs. Staff will routinely audit these costs before RNG fee changes and review these costs in the next general rate case to ensure customers do not bear the burden of these costs.

Staff recommends that if the Company's proposal is authorized by the Commission, the Company should be required to incorporate provisions in all new or renewal contracts that implement the Company's proposal.

CUSTOMER IMPACT AND NOTIFICATION

Intermountain contends that it will "completely insulate utility customers from all potential impacts of RNG production." Application at 5. Intermountain proposes RNG producers pay a monthly fee for access to the Company's distribution system. Also, if Intermountain must incur startup or extraordinary Operation & Maintenance expenses at an RNG facility, "the producer will be billed for the actual additional expenses incurred by Intermountain." *Id.* at 6.

The Company sent a letter directly to its RNG producers who may be affected by the proposal. The Company did not provide direct notice to its utility customers because Commission rules do not require it. Staff believes that keeping utility customers informed is desirable and encourages RNG communication with all customers. Staff notes that the Company provides functional links to Commission filings on its website in the Rates & Services section. Information for this and other open cases can be accessed on the Company's or Commission's website by anyone with internet capability.


STAFF RECOMMENDATIONS

Staff believes approval of Intermountain's Application is appropriate to establish a method to facilitate RNG producer access to the Company's distribution system, while simultaneously protecting utility customers from any increases associated with that access.

Staff recommends the Commission:

1. Approve the Company's Application to facilitate RNG as described in the Company's filing, including the financial structure and accounting methodology.
2. Approve the Company's request to gross up CIAC payments for income taxes as described in the Application.
3. Require the Company to include provisions in all new or renewal contracts that implement the Company's proposal.
4. Require the Company to provide updates to the Commission when existing RNG producer contracts become consistent with the Company's RNG facilitation plan.

Respectfully submitted this 29th day of May 2020.



Matt Hunter
Deputy Attorney General

Technical Staff: Kevin Keyt
Johan Kalala-Kasanda
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 29th DAY OF MAY 2020,
SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF**, IN
CASE NO. INT-G-20-03, BY E-MAILING A COPY THEREOF, TO THE
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