Public Service Commission

THAD LeVAR
Chair

DAVID R. CLARK
Commissioner

JORDAN A. WHITE
Commissioner

State of Utah

GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

August 16, 2017

Senator Daniel Hemmert, Senate Chair
Representative Stephen G. Handy, House Chair
Members of the Public Utilities, Energy, and Technology Interim Committee

Re: Sunset Review: Utah Code Ann. § 54-4-13(1)(a)(ii)

Chairs and Committee Members,

Thank you for the opportunity to address this committee on the sunset review related to Utah Code Ann. § 54-4-13, Natural gas fueling stations and facilities -- Recovery of expenditures for stations and facilities. For context, I've listed the entire statute below. The bolded and underlined language is what will sunset on July 1, 2018,[1] absent further legislative action.

> (1) The commission shall find that a gas corporation's expenditures for the construction, operation, and maintenance of natural gas fueling stations and appurtenant natural gas facilities for use by the state, political subdivisions of the state, and the public are in the public interest and are just and reasonable, if:
>
> (a) the gas corporation's expenditures for the fueling stations and appurtenant facilities:
>
> (i) are prudently incurred; and
>
> (ii) do not exceed $5,000,000 in any calendar year**, unless the commission determines after the first year, through the general rate making process, that a higher amount is appropriate and in the best interest of the public**;
>
> (b) the gas corporation shows that the estimated annual incremental increase in revenue related to the stations and facilities exceeds 50% of the annual revenue requirement of the stations and facilities; and
>
> (c) the stations and facilities are in service and are being used and are useful.

[1] *See* Utah Code Ann. § 63I-1-254(1).

(2) (a) A gas corporation may seek the recovery of expenditures under Subsection (1) through a mechanism designed to track and collect the expenditures between general rate cases.

(b) (i) The commission shall allow a gas corporation to recover, through an incremental surcharge to all of its rate classes, expenditures that the gas corporation incurs that are directly related to the construction, operation, and maintenance of the stations and facilities described in Subsection (1), reduced by revenues the gas corporation receives during the same time period directly attributable to the stations and facilities.

(ii) The commission shall assign a surcharge under Subsection (2)(b)(i) to each rate class based upon the pro rata share, approved by the commission, of the tariff revenue ordered in the gas corporation's most recent general rate case.

(iii) A gas corporation may file an application to adjust a surcharge under Subsection (2)(b)(i) as frequently as semiannually.

(iv) At the gas corporation's next general rate case, the commission shall include in base rates all expenditures that the gas corporation prudently incurs associated with a surcharge under Subsection (2)(b)(i).

Background

The only gas corporation regulated by the PSC is Dominion Energy Utah, formerly known as Questar Gas ("Dominion").[2] The PSC originally approved a Natural Gas Vehicle ("NGV") rate for Dominion in 1991, using a 3-part structure including distribution, supplier, and commodity cost components. The PSC has approved Dominion's NGV rate in each subsequent rate case. Dominion's total sales of NGV fuel have declined from over 700,000 Decatherms in 2013 and 2014 to under 400,000 Decatherms in 2016. Several factors likely influence that decrease including competition from unregulated NGV fueling stations, the price of gasoline, and the expiration of the alternative fuel tax credit.

During the 2013 General Session, Senator Stuart J. Adams sponsored S.B. 275, Energy Amendments. In addition to creating an interlocal entity to encourage alternative fuel vehicles, the bill enacted two provisions affecting the PSC:

- The PSC was required to explore options and opportunities for cleaner air through alternative fuel vehicles (the report issued by the PSC to fulfill this requirement is available at: http://bit.ly/2wbiqpV); and
- The PSC was charged to administer Utah Code Ann. § 54-4-13, with a July 1, 2018 sunset date for one portion of that statute.

[2] For simplicity, this letter will refer to "Dominion" even when referring to times when the company was known as Questar Gas.

Utah Code Ann. § 54-4-13 allows Dominion, if it meets the requirements of the statute, to receive recovery of up to $5,000,000 from its regulated rates for costs related to NGV fueling stations. Dominion is allowed to recover those costs through a surcharge and accounting mechanism described in the statute. The $5,000,000 described in the statute would be first spent by Dominion, then collected by Dominion from its ratepayers. Pursuant to S.B. 275, those funds may never be in the possession of the PSC or distributed to any entities other than Dominion for NGV purposes.

Sunset Review

Utah Code Ann. § 54-4-13 provides an option to Dominion should it seek to recover those costs for NGV fueling stations from its ratepayers. Since the enactment of S.B. 275, Dominion has not sought any rate recovery under that statute. The statutory language contains a $5,000,000 cap, but authorizes the PSC to exceed that cap after the first year if the PSC considers the higher amount to be appropriate and in the public interest. The ability of the PSC to exceed the $5,000,000 cap is the language currently scheduled to sunset on July 1, 2018.

Because the PSC has never considered an application by Dominion under Utah Code Ann. § 54-4-13, the PSC has never approved an increase to the $5,000,000 cap. The setting of a cap like this one is generally a legislative function, one that was delegated in part to the PSC by S.B. 275. A legislative delegation like this warrants continued review, which could take two different forms.

1. Extending the sunset date beyond July 1, 2018, triggering a legislative review when the new sunset date approaches.
2. Leaving the sunset date in place, thus repealing the PSC's authority to increase the $5,000,000 statutory cap and requiring legislative action if a gas corporation seeks to increase the cap.

Considering that Utah Code Ann. § 54-4-13 has never been utilized by Dominion in the four years since the enactment of S.B. 275, the PSC recommends the second option: allowing the relevant statutory language to sunset.

I hope this information is helpful. Please contact me if you would like additional information on this or any other PSC issue. You can reach me at tlevar@utah.gov or at (801) 530-6929.

Sincerely,

Thad LeVar

Thad LeVar, Chair
Public Service Commission of Utah