

13-07018

Public Utilities Commission of Nevada

Electronic Filing

Submitted: 9/27/2013 9:04:04 AM

Reference: 3420ac1a-6b00-4cf2-8d9a-772522352dc4

Filed For: Staff Counsel Division

In accordance with NRS Chapter 719,
this filing has been electronically signed and filed
by: /s CranoTMR

By electronically filing the document(s),
the filer attests to the authenticity of the electronic signature(s) contained therein.

This filing has been electronically filed and deemed to be signed by an authorized agent or
representative of the signer(s) and
Staff Counsel Division

**PUBLIC UTILITIES COMMISSION OF NEVADA
Docket No. 13-07018**

**Prepared Direct Rebuttal Testimony of
Rex Bosier, Manager, Financial Analysis Division, on behalf of the
Regulatory Operations Staff**

1
2
3
4
5 **1. Q. Please state your name, occupation, and business address.**

6 A. My name is Rex Bosier. I am the Manager of the Financial Analysis Division for the
7 Regulatory Operations Staff ("Staff") of the Public Utilities Commission of Nevada
8 ("Commission"). My business address is 1150 East William Street, Carson City,
9 Nevada 89701.

10 **2. Q. Are you the same person that filed Prepared Direct Testimony in this docket on**
11 **August 30, 2013, and a supplement to Prepared Direct Testimony**
12 **("Supplemental Testimony") on September 4, 2013?**

13 A. Yes, I am.

14 **3. Q. What is the purpose of your rebuttal testimony?**

15 The purpose of my rebuttal testimony is to provide Staff's general comments on the
16 Prepared Reply Testimonies of Nancy J. Green on behalf of Wendover Gas Company
17 ("WGC") and Steven Shute, Receiver, on behalf of Wendover Gas Company (the
18 Reply Testimonies"), and to rebut certain positions articulated in those testimonies.

19 **4. Q. Please discuss Staff's general comments on the Reply Testimonies of WGC's**
20 **witnesses.**

21 A. Overall, Staff does not believe that WGC's witnesses put forth any significantly new
22 information about how they plan to overcome, and permanently resolve, what Staff
23 asserts is a breach of WGC's duty to provide safe, reliable and adequate service as
24 discussed in my Prepared Direct Testimony filed on August 30, 2013, and my
25 Supplemental Testimony filed on September 4, 2013.

26 Instead, it appears that Mr. Shute is focused on a long-term strategy to bring
27 natural gas to the community via compressed natural gas ("CNG"), liquefied natural
28 gas ("LNG"), or via a 60 mile pipeline from Ruby to West Wendover. See Q & A 11

1 at pages 7-8. In the meantime, it appears the plan is 1) for Mr. Shute to personally
2 acquire a 40 percent interest in WGC and its affiliate, Propane of Wendover ("POW"),
3 2) to cause Pinedale Natural Gas ("PNG") to enter into an operating agreement with
4 WGC and POW to control and operate WGC and POW, 3) to the extent necessary,
5 PNG will loan money to WGC and POW, and 4) to the extent necessary, Mr. Shute
6 will apparently loan personal funds to WGC and POW.

7 Finally, in Ms. Green's Reply Testimony, she states that the termination date
8 of September 15, 2013 for the Term Sheet filed with the Commission on August 28,
9 2013, was extended to September 24, 2013 in order to address Staff's concerns
10 identified in my Supplemental Testimony filed on September 4, 2013. I simply point
11 out here that, with Staff's Rebuttal testimony due at 2:00 p.m. on September 27, 2013,
12 Staff needs sufficient lead time to evaluate a new Term Sheet (or Definitive
13 Agreement) and an operating agreement between WGC/POW and PNG. Furthermore,
14 while I am not a lawyer, it is my understanding that if/when a Definitive Agreement is
15 filed, it cannot be approved in this Docket. Rather, a separate proceeding would be
16 required for approval of a change in control pursuant to Nevada Revised Statutes
17 704.329, captioned "Mergers, acquisitions or changes in control of public utility or
18 entity that holds controlling interest in public utility: Authorization of Commission
19 required; time within which Commission must act; exceptions".

20 **5. Q. What is Staff's reaction to a long-term strategy of bringing CNG, LNG or a**
21 **natural gas pipeline to West Wendover?**

22 A. With respect to CNG or LNG, as discussed in Mr. Shute's Reply Testimony at Q & A
23 5 and Ms. Green's Reply Testimony at Q & A 11, these concepts have been tried
24 before but failed because the community's large customers, whose participation is
25 vital to make such a project viable, would not commit to it. There is no new
26 information on which to conclude that such a project would be feasible in the future.

27 With respect to a natural gas pipeline from Ruby to West Wendover, as
28 discussed in Mr. Shute's Reply Testimony at Q & A 5 and Ms. Green's Reply

1 Testimony at Q & A 11, this possibility was explored in conjunction with a sale of
2 WGC and POW assets to the City of West Wendover. That attempt at an arrangement
3 also failed. Furthermore, Mr., Shute acknowledges it is unlikely that PNG could
4 finance such a pipeline. Staff gas pipeline engineer, Neil Pascual, will further discuss
5 the natural gas pipeline option in his Rebuttal Testimony. Again, there is no new
6 information on which to conclude that such a project would be feasible in the future.

7 **6. Q. What new information has WGC provided through the Reply Testimonies?**

8 A. In response to item 1 of Staff's concerns listed in my Supplemental Testimony at Q &
9 A 3, Ms. Green states that that section was meant to convey that Mr. Shute has never
10 received compensation for his duties as receiver, and that WGC did not intend to
11 imply that the Commission is obligated to compensate Mr. Shute. Staff is satisfied
12 with this response so long as it is reflected in a new Term Sheet and/or definitive
13 agreement.

14 In response to item 2 of Staff's concerns, Mr. Shute states that PNG's
15 accountant Warren & Associates is experienced at regulatory accounting and would
16 keep WGC and POWs books, including allocation and separation of regulated and
17 unregulated activities. See Q & A 7. This appears to be an attempt to assuage Staff's
18 concerns regarding the mingling of the regulated and unregulated operations. While
19 clear, separate accounting between regulated and unregulated operations is critical,
20 Staff believes there is a larger point at issue: the viability of the regulated company
21 should not be dependent on the viability of an unregulated affiliate. As discussed in
22 Mr. Shute's Q & A 4, WGC is not viable on a stand-alone basis. Thus, the two
23 operations appear to be inextricably intertwined. In addition, Mr. Shute does not
24 explain why this change to an experienced regulatory accountant has not occurred in
25 the five years he has acted as receiver for WGC.

26 In response to items 3, 4 and 5 of Staff's concerns, Mr. Shute states: "Since
27 the PNG utility will not borrow funds or see any impact on utility income or expenses,
28 the Wyoming PSC has no jurisdiction." See Q & A 9 at page 6, lines 31-38. Staff

1 finds this statement problematic. Immediately above Q & A 9 on page 6, at lines 25-
2 29, Mr. Shute asserts that PNG typically carries \$100,000 to \$150,000 in cash, has a
3 \$200,000 line of credit, and that the WGC winter float will not strain PNG. This
4 certainly implies that PNG cash, and possibly credit, will be used to support the WGC
5 float, with personal funds from Mr. Shute being used only as a last resort.
6 Presumably, any loans from PNG to WGC and or POW would carry interest, thus
7 affecting PNG's income, and accessing the line of credit would certainly constitute
8 borrowing funds that would carry some interest cost.

9 In support of having PNG funding available, a balance sheet for PNG as of
10 June 30, 2013 showing a balance of approximately \$304,000 was provided in
11 Attachment SS-1. Based on Mr. Shute's Reply Testimony, it appears to Staff that
12 PNG is committing to loan WGC/POW the necessary funds to get through the winter
13 season for as long as the definitive agreement is in effect. However, based on the facts
14 and circumstances, it is still not clear to Staff whether Wyoming PSC review and
15 approval would be required.

16 **7. Q. Based on the balance sheet of PNG provided by Mr. Shute, does Staff believe that**
17 **PNG has the financial wherewithal to fund loans as needed by WGC and POW?**

18 **A.** Yes, conditioned upon the representations by Mr. Shute at Q & A 8: 1) PNG usually
19 carries \$100,000 to \$150,000 in cash, 2) PNG has a \$200,000 line of credit, and 3) a
20 typical shortfall is 1-2 tank loads, representing a cash outlay of \$13,000 to \$52,000.

21 With respect to the representation that PNG usually carries \$100,000 to
22 \$150,000 in cash, as stated above, I note that the balance sheet provided in Attachment
23 SS-1 shows a balance of cash as of a specific date in time. It does not show a daily
24 cash balance. Therefore, the claim cannot be substantiated based on the balance sheet
25 provided.

26 With respect to the representation that PNG has a \$200,000 line of credit, I
27 note that the balance sheet provided in Attachment SS-1 does not reflect a line of
28 credit. However, that could be because there are no outstanding borrowings against

1 the line of credit. In such instances, the existence of a line of credit would typically be
2 disclosed in the notes to the financial statements, if such notes are prepared for third
3 party users of the financial statements.

4 With respect to the representation that a typical shortfall is 1-2 tank loads,
5 representing a cash outlay of \$13,000 to \$52,000, I believe this to be substantially
6 correct.

7 From the PNG balance sheet, I also calculated a current ratio¹ for PNG of
8 0.88². This is roughly comparable to the current ratio of 0.86³ for Southwest Gas
9 Corporation as of December 31, 2012. I also calculated that assets are financed by
10 approximately 50 percent debt⁴ and 50 percent equity⁵, thus PNG does not appear to
11 carry too much debt.

12 **8. Q. Based on the Reply Testimonies, does Staff still have other concerns?**

13 A. Yes, it does. With respect to item 9 of Staff's concerns, the issue of repaying Turner
14 Gas for the amounts it is owed is still a very large obligation⁶ with an indefinite term
15 of repayment.

16 With respect to item 10 of Staff's concerns, Staff still believes the ability to
17 initiate bankruptcy proceedings and/or seek enforcement of the Exclusive Franchise
18 should be part of the Receiver's modified duties. As previously discussed in my
19 Prepared Direct Testimony in this Docket, Mr. Shute has suggested he will not
20 participate in winding up the affairs of the Company. See my Prepared Direct
21

22 ¹ The current ratio is a measure of an entity's ability to pay its current assets and is equal to current assets divided
23 by current liabilities. Generally speaking, the higher the ratio, the more likely an entity is to be able to meet its current
24 obligations, and the lower the ratio, the less likely an entity is to be able to meet its current obligations.

24 ² $\$719,383 / \$813,812 = 0.88$

25 ³ $\$458,417 / 535,129 = 0.86$; source 2012 SEC Form 10-K, pages 38-39.

26 ⁴ $\$1,341,857 / \$ 2,675,272 = 50\%$

27 ⁵ $\$1,333,415 / \$ 2,675,272 = 50\%$

28 ⁶ Staff does not have current information on the amount owed to Turner Gas. As of April 13, 2013, Turner Gas
was owed \$246,731. *See* my Prepared Direct Testimony, Attachment RAB-2, page 37 of 101, in this docket.

1 Testimony at page 13, lines 18-19. Mr. Shute's Reply Testimony in this docket
2 suggests he will not seek enforcement of the Exclusive Franchise because WGC/POW
3 does not have the funds for costly litigation. Thus, as the current Receiver, he has
4 ruled out two potential courses of action.

5 **9. Q. Do you have any further information to provide to the Commission at this time?**

6 A. Yes, I do. In my Prepared Direct Testimony, I stated that Staff would provide the
7 responses of AmeriGas and Wells Propane to Staff's data requests regarding whether
8 they are ready, willing and available to provide service in the event WGC' Certificates
9 of Public Convenience are revoked in this rebuttal testimony. As of the date this
10 testimony was written, Staff has not received responses from either AmeriGas or
11 Wells Propane.

12 **10. Q. Based on the Reply Testimonies, does Staff modify its positions articulated in**
13 **Staff's Petition filed in Docket No. 13-05037⁷ or its recommendations articulated**
14 **in my Prepared Direct Testimony and supplement to my Prepared Direct**
15 **Testimony?**

16 A. No, it does not.

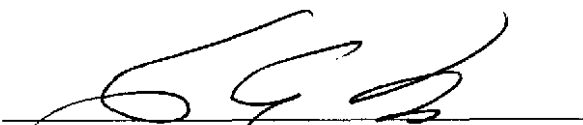
17
18
19
20
21
22
23
24
25
26 ⁷ Petition of the Regulatory Operations Staff for an order requiring Wendover Gas Company to appear and show
27 cause: why it should not be found to have breached its duty to provide safe, continuous and adequate service; why it
28 should not be ordered to cease and desist from further violation of its duty to provide safe, continuous and adequate
service; why its receivership should not be modified and/or the duties of the appointed receiver modified; why its
Certificates of Public Convenience and Necessity should not be suspended or revoked; why it should not be found to have
violated certain provisions of the Federal Gas Code and/or its own O&M manual and fined for such violations; and/or
why the Commission should not impose any and all other remedies that the Commission may deem appropriate.

AFFIRMATION

1
2 STATE OF NEVADA)
 : ss.
3 CARSON CITY)

4
5 REX A. BOSIER, being first duly sworn, deposes and says:

6 That he is the person identified in the Prepared Direct Testimony on file in Docket No. 13-
7 07018, and the exhibits applicable to his Testimony; that such Testimony and exhibits were prepared
8 by or under his direction; that the answers and information set forth therein are true to the best of his
9 own knowledge and belief; and that if asked the questions set forth therein, his answers thereto
10 would, under oath, be the same.

11
12 
13 _____
14 REX A. BOSIER

15 SUBSCRIBED and SWORN to before
16 me this 25th day of September, 2013.

17 
18 _____
19 Notary Public

