

Decision No. R23-0222-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 21A-0188G

IN THE MATTER OF THE APPLICATION OF COLORADO NATURAL GAS, INC. FOR RECOVERY OF THE EXTRAORDINARY GAS COSTS RELATED TO THE EXTREME WEATHER EVENT OF FEBRUARY 13-16, 2021.

PROCEEDING NO. 23AL-0029G

IN THE MATTER OF COMPLIANCE ADVICE LETTER NO. 126 FILED BY COLORADO NATURAL GAS, INC. TO MODIFY THE COMPANY'S GAS TARIFF P.U.C. NO. 2 TO IMPLEMENT THE EXTRAORDINARY GAS COST RECOVERY RIDER ("EGCRR") WITH DECISION NO. C23-0006 IN PROCEEDING NO. 21A-0188G IN ITS RATE AREAS OF BAILEY/SOUTH PARK AND PUEBLO WEST, TO BECOME EFFECTIVE JANUARY 11, 2023.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
CONOR F. FARLEY
VACATING REMOTE PREHEARING CONFERENCE,
EXTENDING STATUTORY DEADLINE, ESTABLISHING
PROCEDURAL SCHEDULE, ASSIGNING EXHIBIT
NUMBER BLOCKS, AND SCHEDULING REMOTE
HEARING**

Mailed Date: March **, 2023

I. STATEMENT

A. Background

1. In May 2021, Colorado Natural Gas, Inc. (CNG) filed an application for recovery of extraordinary gas costs associated with the extreme weather event in February 2021 (Application for Cost Recovery) in Proceeding No. 21A-0188G. The Application for Cost Recovery was the subject of a Comprehensive Joint Stipulation and Settlement Agreement

(Settlement Agreement) between CNG, Trial Staff of the Commission (Staff), and UCA. The Settlement Agreement allowed CNG to recover \$7.1 million over 24 months through an Extraordinary Gas Cost Recovery Rider (EGCRR). The Commission approved the Settlement Agreement in Decision No. R21-0759.

2. The Settlement Agreement also anticipated CNG receiving an operational flow order (OFO) penalty from Public Service Company of Colorado (Public Service) for transportation service during the Extreme Weather Event and allowed CNG to either file a new application for recovery of the OFO penalty or amend the previous application.¹ The Settlement Agreement did not address the amount of the potential penalty or how it would be recovered.

3. On November 22, 2022, CNG filed its Motion to Reopen and Amend the Application for Recovery of Extraordinary Gas Costs Related to the Extreme Weather Event of February 13 – 16, 2021 (Motion) and Amended Application. CNG requested authorization to amend its original Application for Cost Recovery to include a \$1.2 million OFO penalty issued by Public Service in September 2022. In its Motion, CNG stated that it conferred with Staff and UCA and neither objected to the Application for Cost Recovery being re-opened, amended, and re-noticed. In accordance with that statement and the Commission's Rules of Practice and Procedure, the Commission issued a Notice of Amended Application Filed. No new interventions were filed, and neither Staff nor UCA filed an objection or another pleading to request a hearing as instructed in the Commission's notice.

¹ Comprehensive Joint Stipulation and Settlement Agreement, p. 6.

4. On January 5, 2023, the Commission issued Decision No. C23-0006, granting CNG's Motion in Proceeding No. 21A-0188G.

5. On January 6, 2023, CNG filed Advice Letter No. 126 with tariff sheets amending the EGCRF to include recovery of \$1.2 million from the OFO penalty in accordance with Decision No. C23-0006. The effective date of the tariffs was January 11, 2023. CNG's filing of Advice Letter No. 126 with tariff sheets amending the EGCRF initiated Proceeding No. 23AL-0029G.

6. On January 10, 2023, UCA filed an Application for Rehearing, Reargument, or Reconsideration (RRR) of Decision No. C23-0006 and Request for Expedited Ruling. UCA contended that the Commission erred in finding that the Amended Application was unopposed and erred in granting CNG's Motion and authorizing the modification of the EGCRF. UCA stated that the Amended Application was opposed by the Intervenors in the case, stating that UCA and Trial Staff have served discovery on CNG related to the OFO penalty.

7. On January 10, 2023, the Commission issued Decision No. C23-0028 in Proceeding No. 23AL-0029G suspending the tariff sheets filed with CNG's AL 126 for 120 days, through May 11, 2023, and set the matter for hearing.

8. On January 26, 2023, Staff filed an Application for RRR, stating that CNG's Motion only requested that Proceeding No. 21A-0188G be re-opened but does not request approval of the Amended Application, and that Decision No. C23-0006 denied intervening parties the opportunity to review the prudence of the recovery of extraordinary gas costs related to the Extreme Weather Event of February 13-16, 2021.

9. On February 7, 2023, the Commission issued Decision No. C23-0086 that granted UCA's Application for RRR, denied Staff's RRR as filed out of time, consolidated Proceeding Nos. 21A-0188G and 23AL-0029G pursuant to Rule 1402 of the Commission's Rules of Practice and Procedure,² established an intervention period through March 9, 2023, and referred the proceeding to an Administrative Law Judge (ALJ). The proceeding was subsequently assigned to the undersigned ALJ.

10. On February 22, 2023, UCA filed a Notice of Intervention in this proceeding.

11. On March 20, 2023, the ALJ issued Decision No. R23-0186-I that scheduling remote prehearing conference for March 31, 2023, and required the parties to confer regarding a schedule for this proceeding, any discovery procedures that are inconsistent with the Commission's rules governing discovery, and the method by which the hearing should be conducted. Decision No. R23-0186-I also required CNG to file a report of the conferral by 12:00 p.m. on March 28, 2023.

12. On March 28, 2023, CNG filed the report required by Decision No. R23-0186-I.

B. Pre- and Post-Hearing Schedule

13. The following procedural schedule proposed by the parties will be adopted in this proceeding.

² 4 Code of Colorado Regulations 723-1.

<u>Event</u>	<u>Deadline</u>
Direct Testimony	April 5, 2023
Answer Testimony	May 1, 2023
Rebuttal Testimony and Cross-Answer Testimony	May 11, 2023
Remote Evidentiary Hearing	May 17-18, 2023
Statements of Position	June 2, 2023

14. In addition, the parties agree for Commission Rule 1405 to govern discovery except they propose to modify the response time to discovery to 7-calendar days.

15. The ALJ finds and concludes that the foregoing is acceptable, except that the ALJ will add a deadline for the filing of prehearing motions, settlement agreements, and a cross-examination matrix as follows:

<u>Event</u>	<u>Deadline</u>
Direct Testimony	April 5, 2023
Answer Testimony	May 1, 2023
Rebuttal Testimony and Cross-Answer Testimony	May 11, 2023
Prehearing Motions Settlement Agreements Cross-Examination Matrix	May 15, 2023
Remote Evidentiary Hearing	May 17-18, 2023
Statements of Position	June 2, 2023

C. Extension of Time for Commission Decision

16. As noted above, the Commission set the tariff pages for hearing, which suspended the effective date for 120 days from the proposed effective date (January 11, 2023) to May 11, 2023.

17. Section 40-6-111(1), C.R.S., provides that the Commission may, in its discretion, by a separate decision, suspend the effective date of the tariff page(s) for an additional 130 days. Thus, the Commission has the power and authority to suspend the effective date of the tariff pages for a maximum of 250 days.

18. Here, in light of the time available, the schedule proposed by the parties, the time necessary to address other pending matters, and the need for the Commission to have adequate time to deliberate the issues presented in this matter, it is not feasible for a final Commission decision to issue by May 11, 2023. Accordingly, it is necessary to extend the effective date of the tariff sheets filed with the Advice Letter for an additional 130 days pursuant to § 40-6-111(1), C.R.S. The new effective date of the Advice Letter and accompanying tariff sheets, after suspension, is September 18, 2023.

D. Hearing Exhibit Number Block Assignments

19. In order to efficiently organize the numbering and preparation of exhibits for the hearing, all parties must use a unified numbering system for all hearing exhibits. Blocks of hearing exhibit numbers are assigned as follows:

- CNG is assigned hearing exhibit numbers 100 to 299;
- Staff is assigned hearing exhibit numbers 300 to 399; and
- UCA is assigned hearing exhibit numbers 400 to 499.

E. Remote Hearing

20. The evidentiary hearing will be held remotely, which means that the participants will appear from remote locations. The participants may not appear at the hearing in-person. The remote evidentiary hearing will be held using the web-hosted service, Zoom. This Decision and Attachments A and B provide critical information and instructions to facilitate holding the hearing by video-conference, which all parties must follow.

21. To minimize the potential that the video-conference hearing may be disrupted by non-participants, the link, meeting ID code, and passcode to attend the hearing will be provided to the participants by email before the hearing, and the participants will be prohibited from distributing that information to anyone not participating in the hearing.

22. Attachment A to this Decision provides the information addressing how to use the Zoom platform for participating in the remote hearing. Attachment B outlines procedures and requirements for marking and formatting exhibits to facilitate efficient and smooth electronic evidence presentations at the remote hearing. It is extremely important that the parties carefully review and follow all requirements in this Decision and Attachments A and B.

F. Remote Prehearing Conference

23. In the Conferral Report, the parties requested that the remote prehearing conference be vacated if the foregoing proposed schedule is acceptable. Because the proposed schedule with the additions made by the ALJ is acceptable, the remote prehearing conference scheduled for March 31, 2023, is vacated.

II. ORDER

A. It is Ordered That:

1. The effective date of the tariff sheets filed with Advice Letter No. 126 is suspended for an additional 130 days pursuant to § 40-6-111(1), C.R.S.

2. The schedule detailed in paragraph 15 above is adopted.

3. The remote prehearing conference scheduled for March 31, 2023, is vacated.

4. A remote hearing is scheduled as follows:

DATE: May 17 and 18, 2023

TIME: 9:00 a.m. to 5:00 p.m.

WEBCAST: Commission Hearing Room

METHOD: Join by video conference using Zoom at the link to be provided in an email from the Administrative Law Judge OR Commission Staff³

5. Nobody should attend the hearing in person.

³ Additional information about the Zoom platform and how to use the platform are available at: <https://zoom.us/>. All are strongly encouraged to participate in a test meeting prior to the scheduled hearing. See <https://zoom.us/test>.

6. This Decision is effective immediately.

(S E A L)



ATTEST: A TRUE COPY

A handwritten signature in cursive script, appearing to read "G. Harris Adams".

G. Harris Adams,
Interim Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

CONOR F. FARLEY

Administrative Law Judge