

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 22AL-0426G

**IN THE MATTER OF ADVICE LETTER NO. 126 FILED BY ROCKY MOUNTAIN
NATURAL GAS LLC DOING BUSINESS AS BLACK HILLS ENERGY TO REVISE ITS
COLORADO PUC NO. 4 TARIFF FOR AN INCREASE IN RATES AND TO
IMPLEMENT OTHER PROPOSED CHANGES, TO BECOME EFFECTIVE
NOVEMBER 7, 2022.**

SETTLEMENT AGREEMENT

April 7, 2023

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I. INTRODUCTION

Pursuant to Rule 1408, Rocky Mountain Natural Gas LLC d/b/a Black Hills Energy (“RMNG” or the “Company”), Staff of the Public Utilities Commission of the State of Colorado (“Staff”), and A M Gas Transfer Corp. (“A M Gas”) enter into this Settlement Agreement (“Settlement Agreement”) to resolve all of the issues that have been raised or could have been raised in this proceeding as between them. RMNG, Staff, and A M Gas shall be referred to herein collectively as the “Settling Parties” and individually as a “Settling Party.” This Settlement Agreement is a full and complete resolution of RMNG’s Advice Letter No. 126 tariff filing to place into effect new base rates for all gas transportation and storage service customers. The Settling Parties are three of the four parties to this proceeding.¹

II. PROCEDURAL BACKGROUND

1. On October 7, 2022, RMNG filed revised tariff sheets with Advice Letter No. 126 with an effective date of November 7, 2022. RMNG proposed to increase the rates for all rate schedules under the Company’s Colorado P.U.C. No. 4 Tariff for all gas transportation and storage services offered by the Company, roll-in of System Safety and Integrity Rider (“SSIR”) costs into base rates, eliminate the SSIR Surcharge, revise and update the Revenue Adjustment Mechanism, remove or modify tariff provisions that are no longer applicable, and correct certain outdated information.

2. On November 3, 2022, the Commission found good cause to suspend the effective date of the tariffs for 120 days pursuant to § 40-6-111(1), C.R.S. By Decision No. C22-0684 Commission suspended the effective date of the tariffs until March 7, 2023, set a period of 30 days

¹ The Colorado Office of the Utility Consumer Advocate (“UCA”), the only other party to this proceeding, does not join in this settlement.

after the issuance of its decision for the filing of interventions by interested persons, and referred the matter to an administrative law judge for disposition.

3. Interventions in this proceeding were filed by Staff, the UCA, and AM Gas. On November 23, 2022, RMNG filed its Motion to Deny UCA Intervention of Right, and on December 7, 2022, the UCA filed its Response. By Decision No. R22-0821-I issued December 19, 2022, Administrative Law Judge Alenka Han (“ALJ”) denied RMNG’s Motion to Deny UCA’s Intervention of Right and granted AM Gas Transfer’s Motion to Intervene.

4. The parties conferred by e-mail with the ALJ regarding a proposed, unopposed procedural schedule to govern the proceeding. By Decision No. R23-0036-I issued January 13, 2023, the ALJ adopted the proposed procedural schedule, set a hybrid hearing for April 11-13, 2023, and further suspended the tariff sheets filed with Advice Letter No. 126 by an additional 130 days pursuant to § 40-6-111(1), C.R.S., or until July 15, 2023.

5. On February 17, 2023, Staff, UCA, and AM Gas filed answer testimony. On March 17, 2023, RMNG filed rebuttal testimony.

6. As a result of several settlement negotiations, the Settling Parties have come to an understanding and reached an agreement to resolve all of the issues in this proceeding. This Settlement Agreement memorializes such agreement.

III. SETTLEMENT AGREEMENT

7. This Settlement Agreement reflects the input and careful consideration of all issues by the Settling Parties. As memorialized in this Settlement Agreement, the Settling Parties have agreed to a resolution of all issues that were or could have been raised in this proceeding as between them and the issues in dispute between them in this proceeding have been resolved to the satisfaction of the Settling Parties. To the extent that an issue has not been addressed specifically

herein, the Settling Parties agree that the principles underlying the Company's Rebuttal Revenue Requirement Study² shall govern until the Company's next rate review filing.

8. In resolution of the issues raised or which could have been raised by the Settling Parties, the Settling Parties hereby stipulate and agree as follows:

A. Settled Revenue Requirement and Roll-in of SSIR Costs.

9. The Settling Parties agree that the Commission should approve the Settled Revenue Requirement, as reflected in the Settlement Revenue Requirement Study attached as Appendix 1 to this Settlement Agreement. The Settlement Revenue Requirement Study was developed using the revenue requirement model originally filed by the Company as Executable Attachment SKJ-4 to Hearing Exhibit 110, Rebuttal Testimony and Attachments of Samantha K. Johnson ("RMNG's Rebuttal RRS"), as modified in accordance with this Section III.A. The Settled Revenue Requirement includes the roll-in of investments being recovered through the SSIR, as proposed by the Company. Commencing with the June 1, 2023 effective date of the Settled Rates provided for herein, the costs associated with the SSIR investments will cease being recovered through the SSIR and will begin being recovered through RMNG's base rates. As reflected in Table 1 below, the net base rate revenue increase resulting from the Settled Revenue Requirement and the roll-in of SSIR investments is \$8,159,924.

² The Company's Rebuttal Revenue Requirement Study was filed as Attachment SKJ-4 to Hearing Exhibit 110, Rebuttal Testimony and Attachments of Samantha K. Johnson.

Table 1

Settlement Revenue Requirement and Net Increase	
Settlement Revenue Requirement	\$39,525,004
Less:	
Revenues Under Present Base Rates	\$23,435,422
Gross Base Rate Increase	\$16,089,582
Less:	
Roll-in of SSIR Investment Recovery from SSIR to Base Rates	\$8,262,205
Other Pro Forma Revenue Adjustments	\$332,547
Net Base Rate Increase	\$8,159,924

The Settling Parties acknowledge and agree that the following principles and adjustments are incorporated into the Settlement Revenue Requirement Study used to calculate the net \$8,159,924 base rate revenue increase agreed to herein:

1. Test Year

10. **Background.** In its direct case, RMNG proposed to set rates based on a Future Test Year revenue requirement. In developing the revenue requirement proposed in its revenue requirement study submitted with its direct case,³ the Company started with actual accounting and financial data for the 12 months ending June 30, 2022 (the “Per-Book Base Period”), and made known and measurable and other *pro forma* adjustments to reflect the revenues, expenses and investments expected to occur during the 12-month period ending June 30, 2024 (“Future Test Year” or “FTY”). As an interim step to develop the FTY revenue requirement, the Company’s RRS model first made known and measurable and other *pro forma* adjustments to the Per-Book Base Period data to reflect the revenues, expenses and investments expected to occur during the 12-month period ending June 30, 2023 (“Current Test Year” or “CTY”).

³ Hearing Exhibit 104, Direct Testimony and Attachments of Samantha K. Johnson, Attachment SKJ-1.

11. In answer testimony, both Staff and the UCA recommended that the Commission adopt a revenue requirement based on a Historical Test Year comprised of the 12 months ending December 31, 2022. As part of its answer testimony, Staff submitted a HTY Revenue Requirement Study as Hearing Exhibit 203, Attachment LRL-5 (“Staff’s HTY RRS”), which was based in large part on a revised RRS model provided to the parties by RMNG in discovery that updated the actual accounting and financial data that was used as the starting point in the Company’s initial proposed RRS from the 12 months ending June 30, 2022 (*i.e.*, the Per-Book Base Period) to the 12 months ending December 31, 2022 (the “Revised Per-Book Base Period”). Staff’s HTY RRS incorporated many, but not all, of the known and measurable adjustments made by the Company for purposes of developing its CTY revenue requirement, but notably did not include any adjustment to include capital additions that RMNG anticipated would be placed in service after December 31, 2022. The UCA did not submit a revenue requirement study as part of its answer testimony, but instead recommended that the Commission convene a technical conference to incorporate its decisions on the various revenue requirement issues.

12. In its rebuttal testimony, the Company submitted its Rebuttal RRS which, while still developing a FTY revenue requirement, included certain updates and revisions from its original proposed RRS. The Company’s Rebuttal RRS begins with the Revised Per-Book Base Period for the 12 months ended December 31, 2022, and includes *pro forma* adjustments to arrive at the FTY revenue requirement. The Revised Per-Book Base period is that same base of actual accounting and financial data adopted by Staff in its HTY RRS from which to make known and measurable adjustments.

13. **Resolution.** The Settling Parties agree that RMNG’s rates will be based on a HTY revenue requirement for the 12 months ending December 31, 2022, which includes per-book

accounting and financial information through December 31, 2022 and applies known and measurable adjustments to revenues and expenses as outlined below. No pro forma capital additions beyond December 31, 2022 will be included in the Settlement Revenue Requirement Study.

2. Method of Calculating Rate Base.

14. **Background.** In both its direct and rebuttal cases, RMNG proposed the use of the 13-month average method for calculating the rate base for its informational CTY revenue requirement and its proposed FTY revenue requirement but argued that use of the year-end rate base valuation method, and not the 13-month average method, should be used if the Commission were to adopt a HTY revenue requirement in this proceeding. Staff and the UCA recommended that the 13-month average method, and not the year-end method, be used for calculating rate base in conjunction with adoption of an the HTY revenue requirement.

15. **Resolution.** The HTY rate base in the Settlement Revenue Requirement shall be calculated using the year-end method. The year-end rate base amount as of December 31, 2022 is \$209,294,542.

3. Capital Structure

16. **Background.** In its direct case, RMNG proposed a *pro forma* capital structure of 52.00% equity and 48.00% long-term debt based on a 13-month average capital structure for RMNG during the FTY. In its answer testimony, Staff recommended adoption of the capital structure of 39.05% common equity and 60.95% long-term debt, reflecting the capital structure of Black Hills Corporation (“BHC”), RMNG’s parent company, as of December 31, 2022. In its answer testimony, the UCA recommended adoption of BHC’s capital structure 41.94% common equity and 58.06% long-term debt as of September 30, 2022.

17. **Resolution.** The Settling Parties agree that the capital structure shall reflect an equity range of 50% to 52% and a long-term debt range of 50% to 48%.

4. Return on Equity (“ROE”)

18. **Background.** In its direct case, RMNG proposed an ROE of 12.25%. In answer testimony, Staff recommended an ROE of 9.20% and the UCA recommended an ROE of 9.22%.

19. **Resolution.** The Settling Parties agree that the ROE for RMNG shall reflect a range of 9.5% to 9.7%.

5. Cost of Long-Term Debt

20. **Background.** In its direct case, the Company proposed a cost of long-term debt of 4.03% reflecting the weighted average cost of long-term debt during the FTY. In answer testimony, both Staff and the UCA recommended the Commission adopt a cost of long-term debt for RMNG of 3.91%, which represents the weighted-average cost of long-term debt as of December 31, 2022. In the Company’s rebuttal testimony, the Company updated the cost of long-term debt based on a new bond issuance which occurred on March 7, 2023. The Company’s proposed cost of long-term debt was consequently increased to 4.37% for the FTY.

21. **Resolution.** The Settling Parties agree that the Settled Revenue Requirement shall include a cost of long-term debt of 4.15%, which is based on the weighted average cost of long-term debt as of April 1, 2023 and includes the refinancing that occurred on March 7, 2023.

6. Resulting Weighted Average Cost of Capital

22. **Background.** Based on RMNG’s original proposals regarding capital structure, the cost of long-term debt and ROE in its direct case, RMNG proposed a weighted-average cost of capital (“WACC”) of 8.30%. In its rebuttal case, RMNG revised its proposed cost of debt based on updated information regarding refinancing in 2023 which changed its proposed WACC to

8.47%. Based on their positions reflected in their answer testimony, Staff recommended a WACC of 5.97% and the UCA recommended a WACC of 6.14%.

23. **Resolution.** RMNG's WACC shall be set at 6.93%. While expressly only agreeing to the ranges noted above for capital structure and ROE, the Settling Parties agree that for purposes of the Settlement Revenue Requirement Study, the revenue requirement will be calculated using a capital structure of 48% long-term debt, 52% equity, and an ROE of 9.5%.

7. Inclusion of Gas Plant Investments in Rate Base.

24. **Background.** All three of the intervenors made recommendations to remove certain plant investments from rate base. UCA recommended disallowance of \$1.1 million of capital additions made by RMNG in its gas gathering facilities since the 2017 RMNG rate case. Staff recommended "suspension from rate base" of \$850,000 in 2022 project costs associated with the Rifle Processing Plant, as well as \$1.2 million in 2023 Rifle Plant project costs, \$16.3 million of certain non-SSIR capital additions put into commercial operation prior to December 31, 2021, and \$26.0 million of capital additions put into commercial operation in 2022 pending the submission of additional supporting information by RMNG. Lastly, Staff recommended disallowance of recovery for all requested capital investments having dates of commercial operation after December 31, 2022. In its rebuttal testimony, the Company defended the prudence of all of the challenged investments and provided additional supporting information.

25. **Resolution.** The Settled Revenue Requirement rate base shall include all investments reflecting RMNG's actual plant in-service as of December 31, 2022, with no disallowances. The settlement of the issues surrounding the recovery of RMNG's capital investments associated with its gas gathering facilities, the Rifle Processing Plant and the Wolf Creek Storage Facility in this rate proceeding is in conjunction with RMNG's further agreement

to conduct additional studies and make certain filings with the Commission as provided for in Sections III.D.1. and III.D.2. below.

8. Annual Depreciation Expenses

26. **Background.** In Staff's proposed HTY RRS submitted with its answer testimony,⁴ Staff proposed to calculate depreciation expense using a 13-month convention for the HTY as calculated in the Company's RRS model for the Revised Per-Book Period. In its rebuttal testimony, the Company explained that use of the 13-month average calculation of depreciation expense reflected in its RRS model was incorrect for a HTY revenue requirement in that it failed to incorporate a known and measurable adjustment that reflects the level of depreciation expense when rates would be in effect, which the Company contended requires annual depreciation expense to be calculated based on year-end plant in-service balances.⁵

27. **Resolution.** For purposes of the Settlement Revenue Requirement Study, annual depreciation expense shall be calculated based on a full year of depreciation on plant in-service balances as of December 31, 2022.

9. Commission Regulatory Fees Tracker

28. **Background.** In its direct case, RMNG proposed to establish a deferred accounting mechanism to track and recover the annual Commission fees it pays to the Colorado Department of Revenue consistent with statutory changes enacted in Senate Bill 21-272. Under this tracking mechanism, the Company proposed to establish a base level of expense to include in its revenue requirement and to defer into a regulatory asset account any subsequent incremental changes to the fees it incurred for purposes of adjusting its recovery of Commission fees, as appropriate, to

⁴ Hearing Exhibit 203, Direct Testimony and Attachments of Luis Rivera Lugo, Attachment LRL-5.

⁵ Hearing Exhibit 110, Rebuttal Testimony of Samantha K. Johnson, at 34:1-35:19.

ensure dollar-for-dollar recovery in future rate cases.⁶ The Company's initially proposed FTY Revenue Requirement included a base level amount of \$21,334 which was equal to the actual amount incurred by RMNG for Commission fees during the Per-Book Base Period (12 months ending June 30, 2022). In the Company's Rebuttal RRS, which incorporated an update to reflect RMNG's accounting and financial for the Revised Per-Book Period (12 months ending December 31, 2022), the base level amount for Commission regulatory fees included in the Rebuttal RRS revenue requirement was updated to \$9,943.

29. **Resolution.** The Settling Parties agree that the Company shall establish a tracking mechanism for Commission regulatory fees and create a regulatory asset to track incremental Commission fees incurred by the Company as proposed. The Settlement Revenue Requirement shall include \$9,943 as the annual base amount for Commission fees incurred by RMNG.

10. Pension and Retiree Healthcare Expenses

30. **Background.** In its direct case, the Company included in its FTY revenue requirement the actuarially forecasted pension and retiree healthcare expenses for the FTY and the annual amortization of RMNG's allocated portion of the remaining legacy regulatory asset for pension recorded at the time of the SourceGas acquisition. In addition, the Company proposed to include in rate base the actuarial liability balance of the plan, reflecting the cumulative difference between what has been contributed to the plan and what has been expensed, as well as the legacy SourceGas regulatory assets, resulting in a net reduction to rate base of \$723,224. In answer testimony, Staff recommended that the Company establish a deferred accounting mechanism to track annual pension and retiree healthcare expenses using the calendar year 2022 pension and retiree healthcare expenses as the base level of expense, to eliminate the remaining amortizations

⁶ Hearing Exhibit 107, Direct Testimony of Matthew J. Christofferson, at 45:10-46:16.

associated with the legacy SourceGas regulatory assets, and to remove the legacy SourceGas regulatory assets from rate base. In rebuttal testimony, the Company agreed with Staff's recommendation to establish a deferred accounting mechanism to track pension and retiree healthcare expenses, but disagreed that the base level of expense should be set at the 2022 levels since an updated actuarial study was received in January 2023 upon which the Company is recording pension and retiree healthcare expenses for 2023. The Company also agreed to remove the legacy SourceGas regulatory assets from rate base, agreed to discontinue any further recovery of the amortization associated with the retiree healthcare regulatory asset, which is scheduled to terminate in July 2023, but opposed the discontinuation of recovery associated with the amortization associated with the last remaining pension regulatory asset, which is not scheduled to expire until June 2025. However, to address Staff's concerns regarding potential over-recovery of the amortization expenses upon termination of the amortization period, the Company proposed to include a credit equal to the amortization expense in the tracker to be established for pension and retiree healthcare expenses.

31. **Resolution.** The Settling Parties agree that RMNG shall establish a deferred accounting mechanism to track the annual costs related to pension and retiree healthcare expenses. The annual base level for pension and retiree medical expenses shall be set at the 2023 expense accrual amounts in the Settlement Revenue Requirement. The base level of pension expense shall be \$46,134 and the base level of retiree healthcare expenses shall be \$78,804. RMNG also agrees to remove the legacy SourceGas regulatory assets for both pension and retiree healthcare from rate base and to eliminate the retiree healthcare amortization expense from the Settlement Revenue Requirement. The Settling Parties agree that RMNG shall include the ongoing pension regulatory asset amortization in the Settlement Revenue Requirement with any over/under recovery flowing

through the pension/retiree healthcare tracker. The base level of amortization expense for the pension regulatory asset included in the Settlement Revenue Requirement shall be \$28,782. The regulatory asset balance allocable to RMNG as of December 31, 2022 is \$68,221. Actual amortization will be tracked against the base level amount beginning with the effective date of rates and trued up in the next rate case through inclusion in the pension/retiree medical expenses tracker.

11. Operating and Maintenance (“O&M”) Expenses

32. **Background.** As stated above, Staff’s HTY RRS included many of the same known and measurable adjustments included in the Company’s RRS model for purposes of developing its CTY revenue requirement. The Company’s Rebuttal RRS eliminated certain adjustments opposed by intervening parties. The Settlement Revenue Requirement Study incorporates the O&M adjustments reflected in the Company’s Rebuttal RRS, except as otherwise addressed in this Settlement Agreement.

33. **Resolution.** The Settling Parties agree to use the adjustments to O&M expenses as shown on Statement H in the Settlement Revenue Requirement Study, with the exception of the items identified in Section III.A.12. below, which are combined as a single Settlement Adjustment in column (I) of Statement H.

12. Other Expense Adjustments Settled Together

34. **Background:** The Settling Parties were unable to resolve certain specific issues concerning whether or to what extent the following items of expenses should be included in the Settled Revenue Requirement.

a. Employee Compensation - Equity Compensation and the Long Term Incentive Plan ("LTIP").

35. In its direct case, RMNG proposed a *pro forma* adjustment to exclude 50 percent of its per-book equity compensation incurred as part of the LTIP and to recover the remaining 50% of equity compensation in base rates. This adjustment was carried forward into the Company's Rebuttal RRS as shown on Schedules H-4 and H-6 of Hearing Exhibit 110, Attachment SKJ-4. In its answer testimony, Staff recommended disallowing recovery of 100% of equity compensation.

b. Employee Compensation - Geographic Pay Differential.

36. In its direct case, RMNG's proposed base wages included geographic differentials paid to employees in certain locations with a higher cost of living who are required to respond to service calls within a specific timeframe. In answer testimony, Staff and the UCA recommended disallowing all recovery of geographic differential pay.

c. Employee Compensation - Bonus Pay.

37. In its direct case, RMNG's proposed inclusion of bonus pay as part of the per-book O&M expenses. In its answer testimony, Staff recommended that bonus pay be disallowed unless the Company could come forth in rebuttal testimony substantiating the reasonableness of these costs. In its rebuttal testimony, the Company provided additional support for these costs.

d. Board of Directors Expenses.

38. In its direct case, the Company proposed recovery of RMNG's allocated share of costs associated with BHC's Board of Directors. In its answer testimony, Staff recommended that RMNG only be allowed to recover 50% of these costs.

e. Rate Case Expenses.

39. In its direct case, RMNG proposed to recover its actual incurred rate case expenses for this rate review originally estimated at \$450,000 and to include in the proposed revenue

requirement an annual amortization expense of \$150,000 reflecting a proposed amortization period of three years. In their answer testimony, Staff and UCA both opposed recovery by RMNG of all rate case expenses, with Staff promoting a change in current Commission policy and the UCA promoting application of a revised legal standard for supporting such costs.

40. **Resolution.** In resolution of the above issues regarding the Company's proposals and the intervenors' recommendations regarding equity compensation and LTIP, geographic pay differentials, bonus pay, Board of Director expenses, and rate case expenses, the Settling Parties agree and acknowledge that they each assign different values to resolution of these issues independently and agree, in the interest of compromise to reach a comprehensive settlement in this proceeding, that it is just and reasonable to resolve the above listed issues taken together as a whole. Accordingly, the Settling Parties agree that the test year O&M expenses will be reduced by an additional \$250,000 in settlement of the above issues taken together. While not agreeing to the specific treatment or amount recoverable by RMNG as to each of the disputed issues, and without prejudice to (and reserving their respective rights) to make whatever arguments they choose in future rate proceedings with respect thereto, the Settling Parties agree that the overall amount for the above items, taken together, represents a just and reasonable resolution of these disputed issues.

13. Summary of Revenue Requirement Adjustments

41. The Settled Revenue Requirement, as summarized in Statement A of the Settlement Revenue Requirement Study included as Appendix 1 to this Settlement Agreement, results in an increase of \$8,159,924 to RMNG's annual base rate revenues. This increase is based on a Settled Revenue Requirement of \$39,541,091 on test year revenues of \$31,381,167. This compares to the

Company's original requested increase of \$12,302,874 based on an overall revenue requirement of \$43,754,207 on test year revenues of \$31,451,333.

B. Settled Functional Cost of Service and Rate Design

42. The Settling Parties agree that the Settled Revenue Requirement, as modified in accordance with Section III.A. above, shall be incorporated into the Company's proposed Functional Class Cost of Service Study ("FCOSS"). The FCOSS is incorporated in the Settlement Revenue Requirement Study included in Appendix 1. The results are the Settled Base Rates reflected in Table 2 below and the tariff sheets included as Appendices 2 and 3 to this Settlement Agreement. The Settling Parties agree that the Commission should approve the Settled Base Rates.

1. Straight Fixed-Variable Rate Design

43. **Background.** In its direct case, RMNG proposed to continue the use of the Straight Fixed-Variable ("SFV") method for designing rates, which has been used for developing RMNG rates since its 2013 rate case in Proceeding No. 13AL-0076G, *et al.* In answer testimony, none of the parties objected to use of the SFV rate design.

44. **Resolution.** RMNG's base rates shall continue to be designed using the SFV rate design.

2. Revenue Adjustment Mechanism ("RAM")

45. **Background.** In its direct case, the Company proposed several modifications to the RAM to update the Company's tariff to reflect changed circumstances but proposed to retain the existing sharing percentages as between the Company and its shippers for Market Center Service ("MCS") revenues and off-system gas transportation service revenues. Specifically, the Company proposed to continue the existing 30%/70% (Company/shippers) sharing for MCS revenues and the 75%/25% (Company/shippers) sharing for off-system transportation revenues

under contracts entered into after the effective date of rates approved in this proceeding.⁷ In answer testimony, Staff and A M Gas recommended changes to the current revenue sharing percentages for MCS and off-system transportation. Specifically, Staff recommended changing the sharing for both MCS and incremental off-system transportation revenues to 10%/90% (Company/shippers) and that revenues from all off-system sources be calculated individually for each revenue source, with negative revenues not shared with customers. A M Gas recommended that the Company perform an annual evaluation of MCS revenues and costs and return all but 10 percent of MCS revenues to NNS customers through a credit that would be re-evaluated annually.

46. **Resolution.** The current RAM sharing percentage for MCS revenues shall be revised to reflect a 15%/85% (Company/shipper) sharing. The Company agrees to modify the RAM sharing percentages for MCS revenues in its next rate case to reflect a 10%/90% (Company/shipper) sharing. The current RAM sharing percentage for incremental off-system transportation revenues shall be revised to reflect a 60%/40% (Company/shipper) sharing. The Settling Parties agree that the Rifle Plant liquids processing revenue requirement benchmark shall be reset at \$336,000, as proposed by the Company in its direct case.

3. Resulting Settled Base Rates and Impact to Firm On-System Shippers

47. The resulting Settled Base Rates for service under RMNG's gas transportation and storage service rate schedules, as compared to currently effective rates, are reflected in the *pro forma* tariff sheets included as Appendix 2 hereto and, for On-System Shippers, in Table 2 below.

⁷ As proposed by the Company, 100% of off-system transportation revenues generated from contracts established before the effective date of rates will be credited to On-System Shippers via the RAM.

Table 2

Total On-system Shippers Rate Changes				
	Current Rates	Proposed Rates	Settled Rates	Difference
FTS - reservation	\$ 15.5744	\$ 27.8643	\$ 25.3873	\$ 9.8129
FTS - commodity	\$ 0.0307	\$ 0.1233	\$ 0.1038	\$ 0.0731
NNS	\$ 12.5828	\$ 29.1434	\$ 25.0905	\$ 12.5077
SSIR	\$ 6.0872	\$ -	\$ -	\$ (6.0872)

Table 3 below provides the Settled Revenue Requirement and revenue increase for each base rate component for service to On-System Firm Shippers:

Table 3

Total On-system Shippers Annual Revenue Impacts					
	Annual Revenues Under Current Rates	Annual Revenues Proposed - Direct Case	Annual Revenues - Settled Rates	Difference	Percent Increase
FTS - reservation	\$ 21,201,094	\$ 37,820,458	\$ 34,458,356	\$ 16,619,364	
FTS - commodity	\$ 357,333	\$ 1,476,213	\$ 1,242,849	\$ 1,118,880	
NNS	\$ 1,933,754	\$ 4,441,450	\$ 3,823,799	\$ 2,507,697	
SSIR Surcharge	\$ 7,702,655	\$0	\$0	\$ (7,702,655)	
Total	\$ 31,194,836	\$ 43,738,121	\$ 39,525,003	\$ 12,543,285	26.70%

C. Settled Base Rates to Be Effective June 1, 2023.

48. The Settling Parties agree that it is in the public interest to have the Settled Base Rates become effective as of June 1, 2023. To this end, the Settling Parties recognize and request that the Commission issue a final decision approving this Settlement Agreement without modification such that the Company may make its compliance tariff filing on or before May 29, 2023 (i.e., on at least two business days' notice).

D. Other Issues

1. RMNG's Gas Gathering and Gas Processing Assets

49. **Background.** Staff recommends the Commission order RMNG and Staff to work together to create a cost benefit analysis examining the prudence of continuing investments in gas

gathering, gas processing, and liquids extraction. UCA recommends the Commission consider a cost-benefit analysis to determine the prudence of future gas gathering service asset additions.

50. **Resolution.** RMNG agrees to study the options associated with gathering assets for future consideration (e.g., sell to third party, spin off to BHC non-regulated entity, retire and abandon, retain for RMNG operations, etc.) and to work with Commission Staff on the specific contents of the analysis, including the potential off-system transportation revenues associated with the gathering assets. The Company shall also analyze options regarding the future operation of the Rifle Processing Plant. The Company agrees to reach out to Public Service Company of Colorado, joint owner of the Rifle Processing Plant with RMNG, to begin discussions to address long-term plans associated with additional investments at the Rifle Processing Plant. Within 12 months of a final Commission Decision in this proceeding, the Company will file the analysis on the gas gathering assets and the Rifle Processing Plant. To the extent necessary to implement any Company recommendations, the Company shall file an application thereafter.

2. RMNG'S Wolf Creek Storage Facility.

51. **Background.** A M Gas questioned the prudence of investments in the Wolf Creek Storage Facility made since 2017 and recommended the Commission require RMNG to conduct an engineering study for the purpose of updating the operating parameters of its Wolf Creek Storage Facility.

52. **Resolution.** RMNG agrees to conduct an engineering study to assess capacity storage expansion opportunities and to report the findings of such study within 12 months of a final Commission decision in this proceeding.

3. Depreciation Study for RMNG's Next Rate Case

53. **Background.** The Company proposed to use the depreciation rates approved in its 2017 rate review. Staff recommended RMNG be directed to commission a new depreciation study

soon after Black Hills Corporation submits a Clean Heat Plan that considers transition to the Equal Life Group grouping procedure to determine the updated annual depreciation accrual rates for book and ratemaking purposes.

54. **Resolution.** RMNG agrees to conduct a new depreciation study for all gas plant assets in its next rate review and will present an analysis of the Equal Life Group method.

4. Modification of RMNG's Quality of Service Plan

55. **Background.** In its answer testimony, Staff recommended the Commission order the Company and Staff work together to craft appropriate Quality of Service Plan ("QSP") metrics, goals, and penalties that should be filed with the Commission for approval prior to the expiration of the existing QSP.

56. **Resolution.** The Company agrees to work with Staff to include a greenhouse gas reduction metric in its existing QSP. The revised QSP will be filed with the Commission in advance of December 31, 2024.

5. Termination of the SSIR

57. **Background.** Pursuant to prior Commission authorizations and the terms and conditions of its SSIR tariff, the SSIR was terminated with respect to the Company's ability to recover costs associated with system safety and integrity investments placed in service after December 31, 2021. In its direct case, the Company offered as an alternative to the establishment of base rates in this proceeding using a FTY revenue requirement study to agree to a limited extension of the SSIR to continue to recover certain system safety and integrity investments into the future. In their answer testimony, both Staff and the UCA opposed any extension of the SSIR with the UCA recommending the imposition of certain conditions if the Commission were to entertain such an extension.

58. **Resolution.** The Settling Parties agree that there shall be no extension of the SSIR.

E. RMNG Tariff Changes

59. The Settling Parties agree to RMNG's implementations of the Settled Base Rates and tariff sheets in substantially the same form as the *pro forma* tariff sheets set forth in Appendix 2 ("*Pro Forma* Tariff Sheets"). The Settling Parties agree that the *Pro Forma* Tariff Sheets incorporate the changes contemplated by this Settlement Agreement. Appendix 3 contains tariff sheets in legislative format reflecting the changes being implemented as compared to the currently effective RMNG tariff sheets.

60. In addition to the changes necessary to implement the Settled Base Rates and related issues addressed above, the Settling Parties agree that the Commission should approve the tariff language changes reflected in Appendix 2, as originally proposed by the Company in its direct case,⁸ which include the following:

- a. Resetting the Rifle Processing Plant liquids processing revenue requirement benchmark set forth on Sheet No. 143 at \$336,000;
- b. Removing tariff language in the RAM for the Piceance Processing Facility, which has been decommissioned and is no longer in service (Sheet No. 144);
- c. Resetting of the base contract dates in the RAM on Sheet No. 141 for off-system transportation shippers;
- d. Description of the "interim" RAM filing on Sheet No. 141 to implement revised RAM credits to be made following a decision in this rate review proceeding to reflect the updated base contract dates mentioned above;
- e. Removal of SSIR tariff language (Sheet Nos. 24 and 146 through 149);

⁸ Hearing Exhibit 107, Direct Testimony of Matthew J. Christofferson, at 33:1-38:14, and Attachment MJC-5.

- f. Changes to outdated tariff language, such as elimination of Grandfathered Contracts and references thereto; and
- g. General housekeeping tariff revisions.
- h. Additional textual changes of a conforming and clarifying nature.

IV. IMPLEMENTATION

61. The Settling Parties agree that the rate and tariff changes resulting from this Settlement Agreement should be approved by the Commission to become effective June 1, 2023. Upon the issuance of a Commission decision approving this Settlement Agreement in all material respects, RMNG shall file with the Commission a compliance advice letter to place into effect revised tariff sheets in substantially the same form as the *Pro Forma* Tariff Sheets contained in Appendix 2 hereto to become effective on not less than two business days' notice, but no later than June 1, 2023.

V. GENERAL TERMS AND CONDITIONS

62. Through active prehearing investigation and negotiations, the Settling Parties have negotiated agreements set forth in this Settlement Agreement, resolving the contested and disputed issues in this proceeding in a manner which the Settling Parties agree is just and reasonable and in the public interest. This Settlement Agreement reflects the compromise and settlement of those issues between and among the Settling Parties in this proceeding. The Settling Parties further agree that reaching agreement by means of negotiations, rather than through the formal adversarial litigation process, is encouraged by Rule 1408 and is in the public interest.

63. This Settlement Agreement shall not become effective until the issuance of a final Commission decision approving the Settlement Agreement that does not contain any modification of the terms and conditions of this Settlement Agreement that is unacceptable to any of the Settling

Parties. In the event the Commission modifies this Settlement Agreement in a manner unacceptable to any of the Settling Parties, that Party shall have the right to withdraw from this Agreement and proceed to hearing on the issues that may be appropriately raised by that Party in this proceeding.

64. Approval by the Commission of this Settlement Agreement shall constitute a determination that the Settlement Agreement represents a just, equitable, and reasonable resolution of the disputed issues resolved herein.

65. The Settling Parties specifically agree and understand that this Settlement Agreement represents a negotiated settlement that is in the public interest with respect to the various matters and issues enumerated herein. The Settling Parties shall not be deemed to have approved, accepted, agreed to, or consented to any concept, theory or principle underlying or supposed to underlie any of the matters provided for in this Settlement Agreement, other than as specifically provided for herein. Notwithstanding the resolution of the issues set forth in this Settlement Agreement, none of the methods or principles herein contained shall be deemed by the Settling Parties to constitute a settled practice or precedent in any future proceeding.

66. The Settling Parties agree to join in a motion that requests that the Commission approve this Settlement Agreement, and to support the Settlement Agreement in any subsequent pleadings or filings. Each Settling Party further agrees that in the event that it sponsors a witness to address the Settlement Agreement at any hearing that the Commission may hold to address it, the Settling Party's witness will testify in support of the Settlement Agreement and all of the terms and conditions of the Settlement Agreement.

67. The Settling Parties agree that all their pre-filed testimony and exhibits shall be admitted into evidence in this proceeding without cross examination by the Settling Parties.

68. The discussions among the Settling Parties that have produced this Settlement Agreement have been conducted with the understanding, pursuant to Colorado law, that all offers of settlement, and discussions relating thereto, are and shall be privileged and shall be without prejudice to the position of any of the Settling Parties and are not to be used in any manner in connection with this or any other proceeding.

69. All Settling Parties have had the opportunity to participate in the drafting of this Settlement Agreement and the term sheet upon which it was based. There shall be no legal presumption that any specific Settling Party was the drafter of this Settlement Agreement.

70. This Settlement Agreement embodies the entire agreement and understanding between the Settling Parties with respect to the subject matter hereof and supersedes all prior oral or written agreements and understandings relating to the subject matter hereof. The parties are not relying on any statement or representation not contained herein.

71. This Settlement Agreement may be executed in counterparts and by electronic copies of signatures, all of which when taken together shall constitute the entire Settlement Agreement with respect to the matters addressed herein.

Date: April 7, 2023

**ROCKY MOUNTAIN NATURAL GAS LLC
D/B/A BLACK HILLS ENERGY**

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