

Decision No. R23-0460-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23A-0218G

IN THE MATTER OF THE APPLICATION OF COLORADO NATURAL GAS, INC. FOR APPROVAL OF A NUMBER OF STRATEGIC ISSUES RELATING TO ITS GAS DEMAND SIDE MANAGEMENT PLAN.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
ALENKA HAN
REQUIRING COLORADO NATURAL GAS, INC. TO SHOW
CAUSE WHY THE APPLICATION
SHOULD NOT BE DISMISSED**

Mailed Date: July 14, 2023

I. STATEMENT AND PROCEDURAL HISTORY

A. Summary

1. This Decision requires Colorado Natural Gas, Inc. (CNG) to make a filing on or by July 28, 2023, showing cause why its above-captioned Application should not be dismissed.

B. Procedural History¹

2. CNG initiated this matter on May 1, 2023, by filing the above-captioned Application with the Public Utilities Commission of the State of Colorado (PUC or Commission) seeking approval of its 2024-2027 Demand-Side Management (DSM) Strategic Issues Plan (DSM SI Plan) and its 2024-2025 DSM Plan.²

¹ Only the procedural history necessary to understand this Decision is included.

² Verified Application of Colorado Natural Gas, Inc., filed May 1, 2023, p. 1.

3. Contemporaneously with and attached to its Application, CNG filed the following documents:

- Attachment A: CNG's 2024-2027 Demand-Side Management Strategic Issues, dated May 1, 2023;
- Attachment B: CNG's 2024-2025 Natural Gas Demand-Side Management Plan, dated May 1, 2023; and,
- Attachment C: CNG's Portfolio M&V 2020-2021, Evaluation Report, prepared by Demand Side Analytics, March 2022, updated November 2022.

4. On May 3, 2023, the Commission sent out a Notice of Application Filed (Notice) to interested persons. The Notice stated that CNG "**has not** filed testimony and is seeking a Commission decision within 250 days."³ In addition, the Commission's Notice mandated that "Unless [it] orders otherwise, the applicant(s) [CNG] shall file testimony within 60 days of the filing of this application."⁴

5. After the Commission's issuance of the Notice, the following entities filed Interventions as of right in this Proceeding:

- The Office of the Utility Consumer Advocate (UCA) filed its Notice of Intervention of Right, Request for Hearing and Entry of Appearances on May 18, 2023;
- Trial Staff of the Commission filed its Notice of Intervention as of Right, Entry of Appearance, Notice Pursuant to Rule 1007(a) and Rule 1401, and Request for Hearing on May 25, 2023; and
- The Colorado Energy Office (CEO) filed its Notice of Intervention by Right on June 2, 2023.

6. In addition, on June 2, 2023, Energy Outreach Colorado (EOC) filed an Unopposed Motion to Intervene and Entry of Appearance in this Proceeding.

³ Notice of Application Filed by Colorado Natural Gas, Inc., May 3, 2023, p. 1.

⁴ *Id.*

7. On June 21, 2023, the Commission by minute order deemed the Application complete and assigned the Proceeding to an Administrative Law Judge (ALJ) for disposition. The Proceeding was subsequently assigned to the undersigned ALJ.

II. FINDINGS AND CONCLUSIONS

8. Section 40-3.2-103(1), C.R.S., requires “investor-owned gas distribution utilit[ies] . . . to open a DSM strategic issues proceeding to develop energy savings targets.” As part of approving a DSM strategic issues application, the Commission is also tasked with “develop[ing] an estimated DSM budget commensurate with natural gas savings targets, funding and cost-recovery mechanisms, and a financial bonus structure for DSM programs implemented by a gas utility.” Pursuant to § 40-3.2-103(2.5), a gas utility with fewer than 250,000 “full-service customers,” the issues that must be considered in a proceeding mandated by § 40-3.2-103(1) may be addressed “in the same proceeding in which the utility’s gas DSM program plan is submitted for approval.”

9. As permitted by § 40-3.2-103(2.5), CNG’s Application seeks approval of both its DMS program plan and its DSM strategic issues.

10. Section 40-6-109.5, C.R.S., permits an applicant to file its application with or without prefiled testimony.

11. Here, CNG chose to file its Application without prefiled testimony, as permitted by § 40-6-109.5(2), C.R.S.

12. However, in the Commission’s Notice of Application Filed, issued two days after CNG filed its Application, the Commission expressly ordered CNG as the applicant to “file testimony within 60 days of the filing of this application,” unless the Commission ordered

otherwise. The Commission entered no further orders altering its mandate to file prefiled testimony.

13. Given that CNG filed its Application on May 1, 2023, the deadline for CNG to file prefiled testimony as ordered by the Commission was June 30, 2023.

14. The administrative record shows that CNG has filed no testimony to date.

15. The ALJ is concerned that unless the mandated prefiled testimony is filed within fourteen days of this Decision, the Intervenors will not have adequate time to prepare their Answer Testimony. Even more concerning, unless CNG's prefiled testimony is received soon, the Commission may not have sufficient time to consider and rule upon the issues raised in this Proceeding and issue a final decision within the 250 days allotted by § 40-6-109.5(2), C.R.S.

16. Therefore, the ALJ will order CNG to make a filing by 5:00 p.m. on July 28, 2023, showing cause why its Application should not be dismissed for failing to comply with the Commission's Notice of Application Filed, issued on May 3, 2023. Any testimony CNG intends to file should accompany its response to this Order to Show Cause.

17. If CNG is unable to meet this deadline or does not file prefiled testimony by the above deadline, CNG is advised that it may be asked to waive the statutory deadline to allow the Commission ample time to give CNG's Application the consideration it is due.

18. CNG *is further advised and on notice* that failure to make the required show cause filing by the date and time required may result in dismissal of the Application.

III. ORDER**A. It Is Ordered That:**

1. On or by 5:00 p.m. on July 28, 2023, Applicant Colorado Natural Gas, Inc. (CNG) must make a filing showing cause why its Application should not be dismissed for failing to comply with the Commission's Notice of Application Filed (issued May 3, 2023). CNG's filing must address its reasons for not complying with the Commission's order to file prefiled testimony within 60 days of the filing of its Application (by June 30, 2023), and/or file the requisite prefiled testimony by the above deadline.

2. This Decision is effective immediately.

(S E A L)



ATTEST: A TRUE COPY

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ALENKA HAN

Administrative Law Judge

Rebecca E. White,
Director