

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23A-0570G

IN THE MATTER OF THE APPLICATION OF COLORADO NATURAL GAS, INC. FOR
APPROVAL OF ITS COST ASSIGNMENT AND ALLOCATION MANUAL AND FULLY
DISTRIBUTED COST STUDY.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
ALENKA HAN
SHORTENING RESPONSE TIME TO MOTION TO
COMPEL, SCHEDULING EVIDENTIARY HEARING,
ESTABLISHING PROCEDURAL SCHEDULE, AND
ADOPTING PROCEDURES FOR EXHIBITS**

Mailed Date: April 1, 2024

I. STATEMENT

A. Summary

1. This Decision shortens by two days the time within which Applicant Colorado Natural Gas, Inc. (CNG) must respond to the Motion to Compel filed by Commission Trial Staff (Staff); schedules a three-day fully-remote evidentiary hearing for May 29, 30, and 31, 2024; establishes a procedural schedule; and adopts procedures for the submission of exhibits.

B. Procedural History and Background

2. CNG initiated this matter on November 21, 2023, by filing its Verified Application with the Public Utilities Commission of the State of Colorado (PUC or Commission) seeking approval of its Cost Assignment and Allocation Manual (CAAM) and Fully Distributed Cost (FDC) Study.¹

¹ Verified Application of Colorado Natural Gas, Inc., filed Nov. 21, 2023, p. 1.

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

- Attachment A: CNG’s 2023 Cost Assignment and Allocation Manual; and
- Attachment B: CNG’s Fully Distributed Cost Study for the 12 months ending December 31, 2022.

4. On November 22, 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.”² 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.”³ Further, the Commission’s order provided that any intervenors to this Proceeding “shall file testimony within 45 days of the filing of the applicant’s testimony.”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 December 19, 2023; and
- Staff filed its Notice of Intervention of Right by Staff, Entries of Appearance, Notice Pursuant to Rule 1007(a) and Rule 1401, and Request for Hearing on December 22, 2023.

6. In addition, on December 21, 2023, ARM, LLC (ARM) and Heartland Industries, LLC (Heartland) (collectively ARM/Heartland) jointly filed a Motion to Intervene and Entry of Appearance in this Proceeding (Motion to Intervene).

² Notice of Application Filed by Colorado Natural Gas, Inc., Nov. 22, 2023, p. 1.

³ *Id.*

⁴ *Id.*

7. On January 10, 2024, the Commission deemed the Application complete and assigned the Proceeding by minute entry to an Administrative Law Judge (ALJ) for disposition. The Proceeding was subsequently assigned to the undersigned ALJ.

8. In compliance with the Commission's Notice, on January 22, 2024, CNG filed the direct testimony of (1) Angela Monroe, the Director of Regulatory Affairs – Maine and Colorado, for Summit Utilities, Inc.⁵; and (2) Timothy S. Lyons, a partner with ScottMadden, Inc.⁶

9. On March 15, 2024, the undersigned ALJ issued Decision No. R24-0169-I, granting ARM/Heartland's Motion to Intervene and acknowledging Staff's and UCA's interventions of right. The parties to this Proceeding are thus CNG, Staff, UCA, and ARM/Heartland.

10. Decision No. R24-0169-I also scheduled a prehearing conference for March 22, 2024, commencing at 10:00 a.m. to discuss and determine a procedural schedule to govern this Proceeding and to set an evidentiary hearing.

11. On March 21, 2024, Staff filed a Motion to Compel and Challenge Confidentiality Designation and Request to Shorten Response Time (Motion to Compel). Staff seeks to require CNG to supplement the latter's responses to discovery requests propounded by Staff and asks that the response time to the Motion be shortened.

12. Later that day, counsel for CNG, Mark Davidson, contacted the undersigned ALJ informally by email with a proposed procedural schedule and dates for an evidentiary hearing, and also requested that a timeline for CNG to respond to the Motion to Compel be discussed at the March 22, 2024 prehearing conference.

⁵ Hearing Ex. 100, Direct Testimony of Angela Monroe, p. 3, lines 3-5

⁶ Hearing Ex. 101, Direct Testimony of Timothy S. Lyons, p. 4, lines 3-5.

II. PREHEARING CONFERENCE

13. The undersigned ALJ held the second prehearing conference as scheduled on March 21, 2024.

14. The following individuals appeared at the prehearing conference on behalf of the parties:

CNG:	Mark Davidson;
Staff:	Mark Valentine and Fiona Sigalla;
UCA:	Patrick Witterschein; and,
ARM/Heartland:	Gabriella Stockmayer.

15. At the prehearing conference, the parties discussed the proposed schedule and their preferred hearing format with the ALJ. Mr. Davidson indicated that all parties had agreed to the schedule he proposed by email on March 21, 2024.

16. In addition, Mr. Davidson and Mr. Valentine addressed the pending Motion to Compel. Although neither Mr. Witterschein nor Ms. Stockmayer spoke about the Motion to Compel, both indicated that their clients' interests were aligned with Staff's position.

III. TIME FOR RESPONDING TO MOTION TO COMPEL

17. At the prehearing conference, Mr. Valentine requested that the response time within which CNG must respond to Staff's Motion to Compel be shortened.

18. Pursuant to Rule 1400(b) of the Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1, parties responding to motions "shall have 14 days after service of the motion, or such lesser or greater time as the Commission may allow, in which to file a response."

19. Mr. Davidson, on behalf of CNG, requested that CNG be given the full 14 days available under Rule 1400(b) to respond to the Motion to Compel.

20. After discussing how CNG's response to the Motion to Compel will affect the remainder of the procedural schedule, the ALJ suggested, and the parties agreed, that shortening the timeline within which CNG must respond by two days would provide CNG with adequate time to craft a response, while also ensuring that Staff and the other Intervenors receive a response to the Motion to Compel before their Answer Testimony is due.

21. The ALJ therefore finds and concludes that shortening the time within which CNG must respond to the Motion to Compel by two days, or up to and including April 2, 2024, will balance the parties' goals of having adequate time to respond while minimizing the impact on the parties' proposed procedural schedule.

22. The ALJ will therefore order that a response to the Motion to Compel is due 12 days after service of the Motion to Compel, or on or before April 2, 2024.

IV. PROCEDURAL SCHEDULE AND HEARING DATES

A. Procedural Schedule

23. On behalf of the parties, Mr. Davidson informally proposed the following procedural schedule:

Answer Testimony	April 5, 2024
Rebuttal Testimony and Cross-Answer Testimony	May 3, 2024
Stipulations and Settlement Agreements	May 22, 2024
Prehearing Motions Deadline	May 24, 2024
Corrected Testimony	May 24, 2024
Cross-Examination Matrix	May 24, 2024
Evidentiary Hearing	May 29-31, 2024
Statements of Position	June 14, 2024

24. The statutory time period within which a final Commission decision must be issued expires September 12, 2024. The ALJ finds and concludes that the procedural schedule proposed

by the parties allows sufficient time for the issuance of a final Commission decision before that deadline. The proposed schedule will therefore be adopted.

B. Evidentiary Hearing

25. At the prehearing conference, representatives for all four parties expressed a preference for a fully remote hearing format. The ALJ will therefore schedule a fully remote hearing to be held on the dates proposed by the parties, May 29, 30, and 31, 2024.

26. The ALJ notes that the Commission can conduct in-person, remote, or hybrid hearings. A remote hearing is one in which all of the participants appear and participate from remote locations over the Zoom web conferencing platform. A hybrid hearing involves the ALJ and at least one party and/or witness participating from one of the Commission's hearing rooms in Denver, and the remaining party(ies) and witness(es) participating from one or more remote locations using the Zoom web conferencing platform. An in-person hearing is one in which the ALJ and all parties and witnesses participate in the hearing at the same location.

27. The parties are advised that if circumstances or conditions change, the ALJ retains the discretion to alter the hearing format as necessary.

C. Unified Numbering System for Hearing Exhibits

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

- | | |
|-------------------|--------------------------|
| a) CNG | Hearing Exhibits 100-199 |
| b) Staff | Hearing Exhibits 200-299 |
| c) UCA | Hearing Exhibits 300-399 |
| d) ARM/Heartland: | Hearing Exhibits 400-499 |

29. The parties are instructed to adhere to this exhibit numbering system for any prefiled testimony filed in this Proceeding, as well as any documentary evidence sought to be offered into evidence.

D. Advisements

30. The Parties are advised and are on notice that this proceeding is governed by the Rules of Practice and Procedure found at 4 CCR 723-1. The ALJ expects the Parties to be familiar with and to comply with these rules. The rules are available on the Commission's website (<https://puc.colorado.gov>).

31. The parties are also on notice that failure to appear at the scheduled evidentiary hearing may result in decisions adverse to their interests, including granting the complete relief opposing parties seek, dismissing interventions, and dismissing or granting the Application.

E. Informal Video-Conference Practice Session

32. The ALJ will hold an informal practice video-conference session if requested by any party to give the parties an additional opportunity to practice using Zoom and box.com before the hearing.

33. The parties may contact a Commission Legal Assistant by email at casey.federico@state.co.us and stephanie.kunkel@state.co.us, to schedule an informal practice video-conference session.

34. The parties will receive information and a link to participate in the informal practice session by email.

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

1. Response time to the Motion to Compel and Challenge Confidentiality Designation and Request to Shorten Response Time filed by Commission Trial Staff on March 21, 2024, is shortened to 12 days. A response to the Motion to Compel is due on or before April 2, 2024.

2. A fully-remote evidentiary hearing in this Proceeding is scheduled as follows:

DATE: May 29, 30, and 31, 2024

TIME: 9:00 a.m.

PLACE: Join by video conference using Zoom

3. Participants in the hearing may not distribute the hearing link, access, or ID code to anyone not participating in the hearing. Participants may not appear in person at the Commission for the above-scheduled hearing. Instead, they must participate in the hearing from remote locations, consistent with the requirements of this Decision.

4. **Instructions for Remote Hearings Via Zoom:** Detailed instructions governing participation in and procedures for remote hearings conducted via Zoom are set out in Attachment A to this order, which is incorporated into and made part of this order.

5. The ALJ will hold an informal Zoom practice session upon request.

6. The following procedural schedule is adopted:

Answer Testimony	April 5, 2024
Rebuttal Testimony and Cross-Answer Testimony	May 3, 2024
Stipulations and Settlement Agreements	May 22, 2024
Prehearing Motions Deadline	May 24, 2024
Corrected Testimony	May 24, 2024
Cross-Examination Matrix	May 24, 2024
Evidentiary Hearing	May 29-31, 2024

Statements of Position

June 14, 2024

7. **Evidence Presentation at the Evidentiary Hearing.** Because the hearing will be remote and participation will be by videoconference, all evidence must be presented electronically. Each party is responsible for ensuring that they and their respective witnesses: (a) have access to all pre-filed exhibits; and (b) can download and view documents available from box.com during the hearing.

8. **Instructions for Preparation and Presentation of Exhibits at Hearing:** In addition to other requirements of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1 (e.g., Rule 1202 regarding pre-filed testimony), detailed additional instructions governing the preparation and presentation of exhibits at the hearing are set out in Attachment B to this order, which is incorporated into and made part of this order.

9. The parties shall adhere to the following numbering system for their respective exhibits and prefiled testimony:

Colorado Natural Gas, Inc.	Hearing Exhibits 100-199
Commission Trial Staff	Hearing Exhibits 200-299
Office of Utility Consumer Advocate	Hearing Exhibits 300-399
ARM, LLC and Heartland Industries, LLC	Hearing Exhibits 400-499

10. This Decision is effective immediately.

(S E A L)



ATTEST: A TRUE COPY

A handwritten signature in dark ink that reads "Rebecca E. White". The signature is fluid and cursive, with the first and last names being more prominent.

Rebecca E. White,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ALENKA HAN

Administrative Law Judge