

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO**

**DOCKET NO. 13AL-0153G**

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IN THE MATTER OF COLORADO NATURAL GAS INC. ADVICE LETTER NO. 63 TO ELIMINATE AND REPLACE TARIFF PAGES PUC NO. 1 – GAS IN ITS ENTIRETY TO BECOME EFFECTIVE APRIL 4, 2013

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**DOCKET NO. 12A-1140G**

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IN THE MATTER OF THE APPLICATION OF COLORADO NATURAL GAS, INC. FOR AN ORDER AUTHORIZING IT TO PUT INTO EFFECT A SYSTEM SAFETY AND INTEGRITY RIDER

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**STIPULATION AND SETTLEMENT AGREEMENT BETWEEN COLORADO  
NATURAL GAS, INC.  
COLORADO OFFICE OF CONSUMER COUNSEL, AND TRIAL STAFF OF THE  
COLORADO PUBLIC UTILITIES COMMISSION**

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Colorado Natural Gas, Inc., (“CNG” or the “Company”), the Colorado Office of Consumer Counsel (the “OCC”), and Trial Staff of the Colorado Public Utilities Commission (“Staff”), (collectively, the “Settling Parties”), hereby submit this Stipulation and Settlement Agreement (“Stipulation”) resolving issues which have been raised between the Settling Parties in the above referenced docket. CNG and OCC respectfully request that the Colorado Public Utilities Commission (“Commission”) approve this Stipulation between CNG and OCC for the purpose of resolving the issues identified in paragraphs 8 through 20 of this Stipulation in this docket between the Settling Parties. Staff and the Company resolve the issues in the following paragraphs; 8 (System Safety and Integrity Rider), 9 (Eastern Colorado Division Upgrades and True-up), 10 (Adjustment for South Park Expansion), 11 (Change from Volume-Based Rates to Therm-Based Rates), 12 (Weather Normalization and Billing Determinants), 13 (Change Fees),

15 (Service and Facility Fee), 17 (Property Tax Adjustment), 18 (Adjustment for Rate Case Expenses), 19 (Cost Allocations), 20 (Stay-Out Provision). Staff and the Company do not resolve the issue in paragraph 16 (Return on Equity and Capital Structure).

## **I. PROCEDURAL HISTORY**

1. On March 5, 2013, CNG filed Advice Letter No. 63 seeking an increase in rates of \$4.93 million based on a test year of 12 months ending December 31, 2012. CNG's filing encompassed both Phase I (cost of service or revenue requirement) and Phase II (rate design). In addition to rate relief, the Company sought to revise tariff pages and combine the former Eastern Colorado Utility (ECU) tariff with CNG's tariff in order to provide services under a single tariff. CNG also filed its direct testimony with its advice letter.

2. Additionally, on November 1, 2012, CNG filed an Application for an Order Authorizing CNG to put into effect a System Safety and Integrity Rider ("SSIR"). Interventions were filed by the OCC and Staff in the SSIR docket. On May 15, 2013, CNG filed a Motion to Consolidate the SSIR Docket No. 12A-1140G with the pending rate case, Docket No. 13AL-0153G. This request was consistent with CNG's Unopposed Motion to Waive Statutory Time Limits and Waive Response Time filed January 18, 2013 in Docket No. 12A-1140G whereby CNG indicated its intent to file a base rate case and consolidate its SSIR Application with that gas rate case. By Decision No. R13-0575-I, mailed May 16, 2013, the ALJ approved the consolidation of the SSIR and gas rate case dockets.

3. On April 1, 2013, by Decision No. C13-0372 entered in Docket No. 13AL-0153G, the Commission initially suspended the effective date of CNG's proposed tariffs to August 2, 2013, and set this matter for hearing before a Commission Administrative Law Judge ("ALJ").

4. Interventions in this docket were filed by Staff and OCC. By Decision No. R13-0575-I entered in Docket No. 13AL-0153G, a procedural schedule was established and the tariff sheets further suspended to October 31, 2013.

5. The OCC filed answer testimony and corrected answer testimony on behalf of Thomas Dixon and Ron Fernandez in these dockets. Answer testimony and corrected answer testimony was also filed by the Staff. CNG filed rebuttal testimony. These consolidated proceedings were subsequently assigned to ALJ Robert Garvey and are presently set for hearing on July 24, 2013.

6. Pursuant to a series of negotiations between the Settling Parties, these parties arrived at this Stipulation which resolves all of the issues which have been raised by CNG and OCC in this docket. The rates described herein will go into effect by a compliance tariff filing pursuant to an administratively final decision.

## **II. THE STIPULATION**

7. The following section sets forth the negotiated resolution of the disputed issues between the Settling Parties. These agreements are all compromises of the filed positions of the Settling Parties and are specifically based on the record in the case in its entirety, including, but not limited to, the answer testimony and exhibits filed by the OCC and Staff along with the direct and rebuttal testimony and exhibits filed by CNG in this docket. The Settling Parties submit this Stipulation to the ALJ for his approval and resolution of the issues in this docket as between the Settling Parties<sup>1</sup>. The Settling Parties submit that acceptance of this Stipulation is in the public interest and they will fully support the terms of this Stipulation and Settlement Agreement at the hearing scheduled in this docket.

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<sup>1</sup> With the exception of the issue of Return on Equity and Capital Structure between CNG and Staff.

**A. Settlement Terms**

8. System Safety and Integrity Rider CNG agrees to withdraw its request for an SSIR as stated in the Rebuttal Testimony of Michelle Moorman at page 14, line 22 through page 15, line 11, and page 16, lines 18-19. CNG reserves its right to make a future filing seeking an approval of an SSIR at such time as its system requirements may deem such a filing appropriate.

9. Eastern Colorado Division Upgrades and True-up In its original filing, CNG requested approval of approximately \$4.3 million in upgrades at its Eastern Colorado Division (formerly Eastern Colorado Utilities) necessitated by the upgrading and improvement of the Eastern Colorado Division. In its rebuttal testimony, CNG modified its requested relief regarding the Eastern Colorado Division facility upgrades to request an approval of an investment of \$2,961,856, as stated in Revised Exhibit No. MAM-6, of the Rebuttal Testimony of Michelle Moorman.

CNG intends to complete the work on the Eastern Colorado Division's system by November 1, 2013. The Settling Parties agree that the amount of investment that CNG may recover for the Eastern Colorado Division facility upgrades is capped at \$2,961,856, at which time it will have expended the \$2.9 million referred to herein. The Settling Parties agree that the revenue requirement determination related to this investment will be consistent with the analytical method used in CNG Exhibit No. KDT-9 attached to the Rebuttal Testimony of Mr. Kent Taylor on behalf of CNG. This analytical method acknowledges the return on rate base, income taxes, depreciation and property taxes attributable to the Eastern Colorado Division investment. CNG will file in these consolidated proceedings a report with supporting documentation that includes, for each project: (1) bid schedules related to the upgrades that are tied to master service agreements, (2) work orders, (3) any change orders authorized between

CNG and contractors, (4) invoices from contractors including invoices for materials purchased, and any subcontractor involvement, including the subcontractor invoices, (5) Commissioning documents (i.e. pressure tests and acceptance of work completed), and (6) General Ledger support for overhead consistent with the Company's Cost Allocation and Assignment Manual showing the actual amounts invested for the Eastern Colorado Division facility upgrades as soon as possible, but not later than December 1, 2013. In the event the amount invested is less than \$2,961,856, CNG will adjust the revenue requirement calculations to reflect the actual amount invested and will implement revised rates for the Eastern Colorado Division with a negative rider. In the event the actual invested exceeds \$2,961,856, the revenue requirement will not be adjusted upwards. The OCC and Staff will have 30 days to review and comment on the Company's filing showing the actual amount invested in the Eastern Colorado Division. If required, the negative rider will be filed with the Commission through an advice letter no later than January 1, 2014. The Capital Expenditure Rider from Docket No. 10A-916G will be terminated by a compliance tariff filing pursuant to an administratively final decision.

10. Adjustment for South Park Expansion. The Settling Parties agree to the inclusion of all South Park rate area expansion adjustments as set forth in the rebuttal testimony and exhibits filed by CNG. In its rebuttal testimony and exhibits, CNG demonstrated that it is actually providing gas service and has connected approximately 600 customers in Park County since filing its rate case on March 5, 2013, through June 2013. CNG also demonstrated that it has actually invested approximately \$7.7 million installing gas mains and service lines in Park County through June 2013, identified in Exhibit No. KDT-13, however only \$6.7 million is reflected in this settlement.

11. Change from Volume-Based Rate to Therm-Based Rate. The Settling Parties agree that the Eastern Colorado Division rates shall be changed to a therm-based rate from a volume-based measurement. There was no opposition to this proposal.

12. Weather Normalization and Billing Determinants. The weather normalization and the billing determinants presented by CNG in its direct testimony were agreed to by the Settling Parties.

13. Change Fees. The Company proposed in its Rebuttal Testimony that Change Fees for services rendered by CNG will be adjusted at the same percentage as the revenue requirement presented in the Company's rebuttal case is adjusted as a result of the administratively final decision in this docket. There was no opposition to this proposal.

14. Consolidation of Rate Areas. The Settling Parties agree that the Company may consolidate the Cripple Creek, Pueblo West and Bailey/South Park rate areas into the Mountain Division. The percentage change in residential customer rates over the current customer rates after consolidation of the Cripple Creek, Pueblo West and Bailey/South Park rate areas into the Mountain Division averages 18.0%. The percentage change in residential customer rates over the current customer rates without consolidation of the three rate areas is 17.3%. These percentages do not include the rate increase for the Eastern Colorado Division, as reflected in Exhibit 1 to this Stipulation. With the inclusion of the Eastern Colorado Division the overall percentage increase in residential rates is 15.5%.

15. Service and Facility Fee. In CNG's Advice Letter filing and direct and rebuttal testimony, CNG proposed a residential service and facility ("S&F") charge increase from \$12.50 to \$20.00 for the Cripple Creek, Pueblo West and Bailey/South Park rate areas and from \$8.50 to \$13.50 for the ECU rate area. The OCC opposed these proposed S&F charge increases in its

answer testimony. The Settling Parties agree to a stipulated service and facility fee structure as set forth in the table below:

S&F Fees	Residential	Commercial	Large Volume
Mountain	\$14.00	\$40.00	n/a
ECU	\$10.00	\$27.00	\$40.00

16. Return on Equity and Capital Structure. With respect to the return on equity and capital structure to be approved by the Commission in this docket, CNG and OCC agree that the Company will be authorized a 10.95% return on equity (“ROE”) with a forward-looking capital structure of 55 percent debt and 45 percent equity. These adjustments will produce an overall rate of return on rate base of 7.97 percent. Although CNG’s current capital structure is approximately 60 percent debt and 40 percent equity, the OCC believes, and CNG agrees, that CNG should be moving toward the proposed forward-looking capital structure over the next three years. The Company will use its best efforts to move to an actual 55 percent and 45 percent debt to equity capital structure by January 1, 2017. The Company will file a report annually in these consolidated proceedings beginning January 1, 2015, describing its best efforts to move to the 55 percent and 45 percent debt to equity capital structure by January 1, 2017. The Settling Parties note that the Stipulation and Settlement Agreement entered into in CNG’s last gas rate case, in Docket No. 06S-394G, addressed the concept of CNG utilizing its best efforts to migrate to a capital structure that includes a higher equity percentage and that CNG accomplished that transaction as reflected in its direct testimony and exhibits in this docket

The following discussion provides the history on the return on equity and net revenue requirement issues in this proceeding:

Return on Equity:

CNG filed direct testimony supporting a 12% ROE and the OCC filed answer testimony supporting a 10.6% ROE in this proceeding. (Staff supported a 10.5% ROE in its answer testimony.) The cost of debt and capital structure of 60%/40% were the same in CNG's and the OCC's testimony. CNG continued to support a 12% ROE in its rebuttal testimony. CNG and the OCC agree on a 10.95% ROE with a forward looking capital structure of 55% debt and 45% equity in this Stipulation.

The OCC and CNG note that all of the ROE witnesses, i.e., Mr. Anderson, Mr. Fernandez and Dr. England, in this proceeding identified risk premium adjustments applicable to CNG. CNG witness Mr. Anderson summarized his total risk premium adjustment of 4.3% on Pages 42 and 43 of his direct testimony. OCC witness Mr. Fernandez summarized his total risk premium adjustment of 1.9% on Exhibit RAF-7 of his answer testimony. Which risk premium adjustments are applicable to CNG and the size of each adjustment are subjective. CNG and the OCC agree that a 10.95% ROE with the forward-looking capital structure of 55% debt and 45% equity includes a reasonable risk premium adjustment for the additional risk factors faced by CNG at the present time.

Net Revenue Requirement:

CNG filed a net revenue requirement (rate increase) of \$4.9M in its direct testimony, while the OCC filed a \$2.8M net revenue requirement (rate increase) in its answer testimony. CNG corrected an error in its spreadsheet that increased its net revenue requirement to \$5.1M. In its rebuttal testimony, CNG accepted some adjustments proposed by the OCC and Staff which lowered its net revenue requirement to \$4.0M. Based on the agreements contained



in this Stipulation, the Settling Parties agree the net revenue requirement will be approximately \$3.8M subject to revisions.

Rate Impact on Customers:

The incremental impact on the average monthly total bills for residential customers is reflected in Exhibit 1 for each division.

17. Property Tax Adjustment. CNG agrees to remove its request and proposed adjustment for increased property taxes associated with the loss of the economic obsolescence discount that has been used by the State of Colorado's Division of Property Taxation to calculate its property taxes in the past. The Settling Parties agrees that CNG trued up its property taxes in its rebuttal case to match the 2013 notice of valuation it received in June of 2013 and that it may also include the trued-up property taxes associated with the South Park expansion and the Eastern Colorado Division. However, in the event the Company loses its economic obsolescence discount as determined by the State of Colorado's Division of Property Taxation, prior to January 1, 2017, it reserves the right to request appropriate recovery of property taxes.

18. Adjustment for Rate Case Expenses. CNG agrees to true-up its rate case expense in this docket and collect the actual rate case expenses through rates that result from the Commission Order in this docket. In its Rebuttal Testimony, CNG included \$300,000 amortized over three years. The Settling Parties agree that the actual rate case expenses will be amortized over 3 years. CNG will file with the Commission a tariff implementing a negative rider when the rate case expenses are fully amortized to terminate the collection of the actual rate case expenses no later than January 1, 2017.

19. Cost Allocations. The Settling Parties agree to the Cost Allocation and Assignment Manual included in the Company's direct case.

20. Stay-Out Provision. CNG agrees to a “stay-out” provision of three years from the mailed date of a final Commission decision issued in this case, during which time it will not file a retail rate case with the Commission requesting new retail rates to become effective earlier than the expiration of the three year stay-out period. CNG may file a retail rate case at any time within 210 days prior to the expiration of the stay-out period. This stay-out provision is conditioned upon the Eastern Colorado Division investment true-up referred to in paragraph 9 above being approved by the Commission.

### **III. GENERAL TERMS AND CONDITIONS**

21. Through active prehearing investigation and negotiations, the Settling Parties have negotiated agreements as set forth in this Stipulation resolving the enumerated, contested, and disputed issues in this docket in the manner which the Settling Parties agree is just and reasonable and in the public interest. This Stipulation reflects the compromise and settlement of those disputed issues between the Settling Parties in this docket. The Settling Parties further agree that reaching agreement by means of negotiations, stipulations and or settlement rather than through litigation is in the public interest and supported by the Commission pursuant to Rules 1407 and 1408 of the Commission’s Rules of Practice and Procedure. This Stipulation and Settlement Agreement is intended to comply with the provisions of Rule 1408.

22. The Settling Parties agree to present, to support and to defend this Stipulation before the Commission and in the Courts. They further agree to present testimony and exhibits in the evidentiary hearing in this docket for the purpose of obtaining the Commission’s approval of this Stipulation. In any such hearing, the Settling Parties hereby agree that all pre-filed testimony and exhibits filed by the Settling Parties in this docket shall be admitted into evidence without cross-examination by the Settling Parties of each other’s witnesses on the issues resolved

by this Stipulation<sup>2</sup>. In the event the Commission rejects this Stipulation or a certain issue contained within this Stipulation, the Settling Parties agree that either party as to that issue may request a hearing on that issue and must file written notice of the issue on which a hearing is requested and a motion requesting a hearing. The written notice and motion must be filed with the Commission within 5 calendar days of the effective date of the Commission's decision rejecting the Stipulation on that certain issue. If the Commission schedules a hearing on the rejected stipulated issues, the Settling Parties agree that they may cross examine each other's witnesses on the issue rejected by the Commission.

23. The Settling Parties agree that approval by the Commission of this Stipulation shall constitute a determination that the Stipulation represents a just, equitable and reasonable resolution of the disputed issues resolved herein.

24. The Settling Parties specifically agree and understand that this Stipulation represents a negotiated settlement that they believe is in the public interest with respect to the various matters and issues enumerated therein for the sole purpose of the settlement of the matters agreed to in this Stipulation. 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 Stipulation other than as specifically provided for herein. Notwithstanding the resolution of the issues set forth in this Stipulation, none of the methods or principles herein contained shall be deemed by the stipulating parties to constitute a settled practice or precedent in any future proceeding.

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<sup>2</sup> With the exception of the issue of Return on Equity and Capital Structure between CNG and Staff.

25. This Stipulation may be executed by counter parts and by facsimile or electronic copies of signatures all of which when taken together shall constitute the entire Stipulation with respect to the matters herein.

#### IV. CONCLUSION

26. For the reasons stated above, Colorado Natural Gas, Inc., the Colorado Office of the Consumer Counsel, and Trial Staff of the Colorado Public Utilities Commission respectfully request that the Commission enter an order approving this Stipulation with the finding that the Commission's approval of this Stipulation represents a fair, just and reasonable resolution of any and all disputes in this docket as to those issues except, the issue of Return on Equity and Capital Structure between CNG and Staff.

DATED this 25th day of July, 2013.

ROTHGERBER JOHNSON & LYONS LLP

*s/ Mark A. Davidson*

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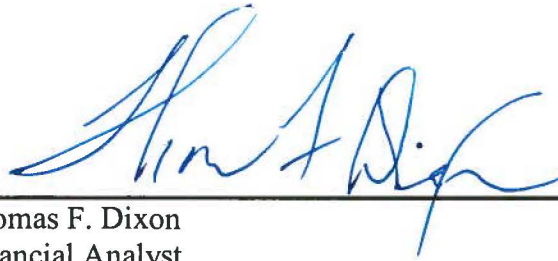
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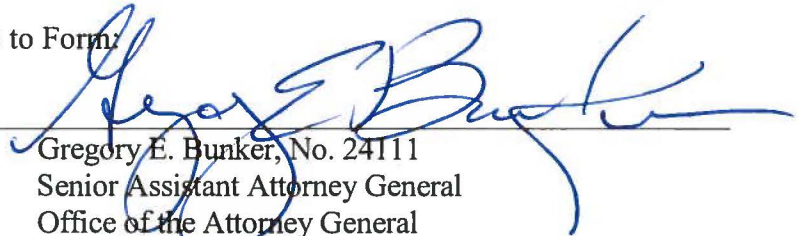
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## CERTIFICATE OF SERVICE

I hereby certify that on July 25th, 2013, a true and correct copy of the foregoing **Stipulation and Settlement Agreement between the Settling Parties** was e-filed with the Colorado Public Utilities Commission and served upon all parties herein via the Commission's E-Filing system:

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\*\* Denotes persons eligible to receive confidential proprietary information pursuant to the Commission's Rules on Confidentiality, 4 CCR 723-1100-1102

*s/ Patty Sheley*  
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