

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

PROCEEDING NO. 19AL-0309G

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IN THE MATTER OF ADVICE LETTER NO. 949-GAS FILED BY PUBLIC SERVICE COMPANY OF COLORADO TO REQUEST APPROVAL TO ELIMINATE THE CURRENTLY EFFECTIVE 24.19 PERCENT GENERAL RATE SCHEDULE ADJUSTMENT (“GRSA”) AND PLACE INTO EFFECT REVISED BASE RATES FOR ALL GAS RATE SCHEDULES THAT WILL REPLACE AND SUPERSEDE THE CURRENTLY EFFECTIVE BASE RATES TO BECOME EFFECTIVE JULY 1, 2019.

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**INTERIM DECISION OF  
ADMINISTRATIVE LAW JUDGE  
STEVEN H. DENMAN  
GRANTING PERMISSIVE INTERVENTIONS**

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Mailed Date: July 26, 2019

**I. STATEMENT**

**A. Procedural History.**

1. On May 31, 2019, Public Service Company of Colorado (Public Service or the Company) filed with the Colorado Public Utilities Commission (Commission), Advice Letter No. 949-Gas, accompanying tariff sheets, and supporting testimony and attachments. The proposed effective date on the filed tariffs was July 1, 2019. The Company also requested that the Commission set a hearing on the proposed rates and tariff changes and thereby suspend the effective date of the proposed tariffs. This filing commenced Public Service’s 2019 Gas Phase II rate case.

2. By Decision No. C19-0541 (mailed on June 20, 2019), pursuant to § 40-6-111(1), C.R.S. (2019), the Commission set for hearing the tariffs filed with Advice Letter No. 949-Gas and thereby suspended their effective date for 120 days from the proposed effective

date, or until October 29, 2019. The Decision also referred the matter to an Administrative Law Judge (ALJ) to set hearing dates, to rule on interventions, and to establish other procedures by separate decisions. Subsequently, the undersigned ALJ was assigned to preside over this Proceeding.

3. The procedural history of the above-captioned Proceeding is set forth in Decisions previously issued in this Proceeding and is repeated here as necessary to put this Decision into context.

4. Pursuant to § 40-6-111(1)(b), C.R.S. (2019), Decision No. R19-0622-I (mailed on July 22, 2019), the ALJ suspended the effective date of the tariff sheets filed with Advice Letter No. 949-Gas for an additional 130 days, or until March 7, 2020.

5. Decision No. R19-0622-I acknowledged the interventions as of right filed by the Colorado Office of Consumer Counsel (OCC) on July 1, 2019, and by Trial Staff of the Colorado Public Utilities Commission (Staff) on July 9, 2019. Decision No. R19-0622-I also granted the Motion to Intervene (as a permissive intervenor) filed by Energy Outreach Colorado (EOC) on July 5, 2019.

6. Decision No. R19-0622-I scheduled a prehearing conference in this Proceeding for August 1, 2019 at 1:30 p.m., directed Public Service and the Parties, and interested persons that had filed intervention pleadings, to negotiate a consensus procedural schedule, and gave them certain advisements.

7. Decision No. R19-0622-I also noted the filing of motions for permissive intervention by Atmos Energy Corporation (Atmos) on July 11, 2019; WoodRiver Energy, LLC (WoodRiver) on July 16, 2019; Colorado Natural Gas, Inc. (CNG) on July 19, 2019; Tiger Natural Gas, Inc. (Tiger) on July 19, 2019; and Climax Molybdenum Company (Climax) on

July 19, 2019. Pursuant to Rule 1400(b) of the Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1, Decision No. R19-0622-I shortened to Monday July 29, 2019, the time for filing responses to the motions for permissive intervention filed by WoodRiver, CNG, Tiger, and Climax.<sup>1</sup>

8. Decision No. R19-0627-I (mailed on July 23, 2019) noted the filing of the Motion to Permissively Intervene by Black Hills Colorado Gas, Inc. (Black Hills) on July 18, 2019, and the Decision shortened to Monday July 29, 2019, the time for filing responses to Black Hills' Motion to Permissively Intervene.

9. Decision No. R19-0628-I (mailed on July 24, 2019) established procedures for the presentation of electronic exhibits and confidential information and documents during the evidentiary hearing.

10. On July 25, 2019, Public Service filed a response to the motions to intervene filed by Atmos, WoodRiver, CNG, Tiger, Climax, and Black Hills (Public Service's Response). Public Service states that it does not oppose the permissive interventions of these parties.<sup>2</sup>

**B. Pending Motions for Permissive Intervention.**

11. Rule 1401(c) of the Rules of Practice and Procedure, 4 CCR 723-1, states the minimum standards for permissive intervention in Commission proceedings and requires that:

A motion to permissively intervene shall state the specific grounds relied upon for intervention; the claim or defense within the scope of the Commission's jurisdiction on which the requested intervention is based, including the specific interest that justifies intervention; and why the filer is positioned to represent that interest in a manner that will advance the just resolution of the proceeding. *The motion must demonstrate that the subject proceeding may substantially affect the pecuniary or tangible interests of the movant (or those it may represent) and*

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<sup>1</sup> Decision No. R19-0622-I, ¶ 24 at page 9, observed that, pursuant to Rule 1400(b), 4 CCR 723-1, Public Service's response to Atmos' motions for permissive intervention was due on or before July 25, 2019.

<sup>2</sup> Public Service's Response, at page 2.

*that the movant's interests would not otherwise be adequately represented. ... Subjective, policy, or academic interest in a proceeding is not a sufficient basis to intervene. Motions to intervene by permission will not be decided prior to expiration of the notice period.*

(Emphasis added.) The following paragraphs briefly summarize the pending motions for permissive intervention and whether the motions for permissive intervention satisfy the requirements of Rule 1401(c).

12. On July 11, 2019, through counsel, Atmos filed a Motion to Permissively Intervene (Atmos' Intervention). Atmos asserts that, as the largest natural gas transportation customer of Public Service, the proposed transportation-related tariff changes will substantially affect its pecuniary or tangible interests, which cannot be adequately represented by any other party.<sup>3</sup> Public Service does not oppose Atmos' intervention.

13. The ALJ finds that Atmos has satisfied the standards for permissive intervention in Rule 1401(c), 4 CCR 723-1. Atmos' Intervention will be granted, and Atmos is a permissive intervenor in this Proceeding.

14. On July 16, 2019, through counsel, WoodRiver filed a Motion to Intervene (WoodRiver's Intervention). WoodRiver is a gas transportation customer of Public Service. WoodRiver asserts that the proposed increase in gas transportation rates will substantially affect its pecuniary or tangible interests, and that its interests are not adequately represented by any other party.<sup>4</sup> Public Service does not oppose WoodRiver's intervention.

15. The ALJ finds that WoodRiver has satisfied the standards for permissive intervention in Rule 1401(c), 4 CCR 723-1. WoodRiver's Intervention will be granted, and WoodRiver is a permissive intervenor in this Proceeding.

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<sup>3</sup> Atmos Intervention, at page 2.

<sup>4</sup> WoodRiver's Intervention, at page 2.

16. On July 19, 2019, CNG, through counsel, filed a Notice of Intervention as of Right and Motion to Intervene (CNG's Intervention).<sup>5</sup> CNG is a gas transportation customer of Public Service and asserts that this Proceeding may substantially affect its pecuniary or tangible interests, which cannot be adequately represented by any other party.<sup>6</sup> Public Service does not oppose CNG's intervention.

17. The ALJ finds that CNG has satisfied the standards for permissive intervention in Rule 1401(c), 4 CCR 723-1. CNG's Intervention will be granted, and CNG is a permissive intervenor in this Proceeding.

18. On July 19, 2019, Tiger, through counsel, filed a Supplemented Motion for Intervention by Permission [and] Notice of Entries of Appearance of Counsel (Tiger's Intervention).<sup>7</sup> Tiger states that it supplies natural gas and electricity to over 43,000 customers in 18 states, including Colorado, and partners with the Company to distribute natural gas to Tiger's customers. Tiger believes that the proposed transportation-related tariff changes would impact service to its Colorado customers. Tiger asserts that it has a tangible and substantial pecuniary interest in this Proceeding and that no other party can represent its interest.<sup>8</sup> Public Service does not oppose Tiger's intervention.

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<sup>5</sup> Contrary to its assertion, CNG does not have a statutory or other lawful right to intervene as of right. Therefore, CNG's Intervention will be treated as a motion for permissive intervention.

<sup>6</sup> CNG's Intervention, at page 2.

<sup>7</sup> On June 20, 2019, according to Tiger, it prematurely filed an intervention pleading on the same day the Commission issued Decision No. C19-0541 establishing the intervention deadline. Hence, Tiger decided to file the supplemented intervention pleading on July 19, 2019. (Tiger's Intervention, at pages 1 and 2.)

<sup>8</sup> Tiger's Intervention at pages 2 through 5. Tiger does not claim to be a transportation customer, but Public Service's Response states that Tiger is an authorized marketer or agent (Shipper) acting on behalf of individual transportation customers of Public Service. Public Service's Response, at page 2.

19. The ALJ finds that Tiger has satisfied the standards for permissive intervention in Rule 1401(c), 4 CCR 723-1. Tiger's Intervention will be granted, and Tiger is a permissive intervenor in this Proceeding.

20. On July 19, 2019, Climax, through counsel, filed a Motion to Intervene (Climax's Intervention). Climax asserts that it is a substantial natural gas transportation customer of Public Service. Climax asserts that the Commission's decision in this case will substantially affect its pecuniary or tangible interests, which will not be adequately represented unless Climax is allowed to intervene.<sup>9</sup> Public Service does not oppose Climax's Intervention.

21. The ALJ finds that Climax has satisfied the standards for permissive intervention in Rule 1401(c), 4 CCR 723-1. Climax's Intervention will be granted, and Climax is a permissive intervenor in this Proceeding.

22. On July 18, 2019, Black Hills, through counsel, filed a Motion to Permissively Intervene (Black Hills' Intervention). Black Hills is a natural gas transportation customer of Public Service. Black Hills asserts that the proposed transportation-related tariff changes will substantially affect its pecuniary or tangible interests, which cannot be adequately represented unless Black Hills is allowed to intervene.<sup>10</sup> Public Service does not oppose Black Hills' Intervention.

23. The ALJ finds that Black Hills has satisfied the standards for permissive intervention in Rule 1401(c), 4 CCR 723-1. Black Hills' Intervention will be granted, and Black Hills is a permissive intervenor in this Proceeding.

24. No other interested parties timely filed motions for permissive intervention.

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<sup>9</sup> Climax's Intervention, at page 2.

<sup>10</sup> Black Hills' Intervention, Certificate of Service at page 5.

25. The following are the Parties to this Proceeding: Public Service, OCC, Staff, EOC, Atmos, WoodRiver, CNG, Tiger, Climax, and Black Hills.

26. Finally, the ALJ notes that Decision No. R19-0622-I scheduled a prehearing conference in this Proceeding for August 1, 2019 at 1:30 p.m. At the prehearing conference, the Parties must be prepared to discuss all matters set forth in Decision No. R19-0622-I. A Party may raise any additional issues relevant to the litigation of this Proceeding.

## II. ORDER

### A. It Is Ordered That:

1. Pursuant to Rule 1401(c) of the Rules of Practice and Procedure, 4 *Code of Colorado Regulations* 723-1, the following requests for permissively intervention shall be, and are, granted:

- a. The Motion to Permissively Intervene filed on July 11, 2019, by Atmos Energy Corporation (Atmos);
- b. The Motion to Intervene filed on July 16, 2019, by WoodRiver Energy, LLC (WoodRiver);
- c. The Motion to Intervene filed on July 19, 2019, by Colorado Natural Gas, Inc. (CNG);
- d. The Supplemented Motion for Intervention by Permission filed on July 19, 2019, by Tiger Natural Gas, Inc. (Tiger);
- e. The Motion to Intervene filed on July 19, 2019, by Climax Molybdenum Company (Climax); and
- f. The Motion to Permissively Intervene filed on July 18, 2019, by Black Hills Colorado Gas, Inc. (Black Hills).

2. Atmos, WoodRiver, CNG, Tiger, Climax, and Black Hills are permissive intervenors and Parties to this Proceeding.

3. The procedural requirements and advisements set forth in Decision No. R19-0622-I (mailed on July 22, 2019) and in Decision No. R19-0628-I (mailed on July 24, 2019) shall apply to all Parties in this Proceeding.

4. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

STEVEN H. DENMAN

Administrative Law Judge

ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean,  
Director