

Decision No. R19-0737-I

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

PROCEEDING NO. 17AL-0736G

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IN THE MATTER OF ADVICE LETTER NO. 108 FILED BY ROCKY MOUNTAIN  
NATURAL GAS LLC DBA BLACK HILLS ENERGY TO AMEND THE SYSTEM  
SAFETY AND INTEGRITY RIDER TO BECOME EFFECTIVE JANUARY 1, 2018.

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**INTERIM DECISION OF  
ADMINISTRATIVE LAW JUDGE  
STEVEN H. DENMAN  
REQUIRING FILING OF STATUS REPORT**

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Mailed Date: September 6, 2019

**I. STATEMENT**

**A. Procedural History**

1. On November 1, 2017, Rocky Mountain Natural Gas LLC (Rocky Mountain or the Company) filed Advice Letter No. 108 and accompanying tariff sheets with the Colorado Public Utilities Commission, which was docketed as Proceeding No. 17AL-0736G. The principal purpose of the filing was to amend the Company's Colo. PUC No. 4 Tariff pursuant to the System Safety and Integrity Rider (SSIR), Tariff Sheet No. 146, Section 24, with a proposed effective date of January 1, 2018.<sup>1</sup> The proposed amendment was a result of updating the 2014 through 2017 SSIR Project revenue requirements included in the then-current SSIR; of including the 2018 SSIR Projects; and of including \$150,000 of additional SSIR Operating and Maintenance expense, not previously included in the SSIR, that would be incurred during November and December of 2017. Rocky Mountain proposed to increase the SSIR from

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<sup>1</sup> The SSIR was approved by the Commission in Decision No. R14-0114 (mailed on January 30, 2014) in Proceeding No. 13A-0046G *et al.* The SSIR is designed to collect Eligible System Safety and Integrity Costs as defined in Sections 24.3(b) on Rocky Mountain's Tariff Sheet No. 147.

\$2.1692 to \$2.3092 per dekatherm of Maximum Daily Transportation Quantity per monthly billing period.<sup>2</sup>

2. On December 5, 2017, Rocky Mountain filed an Amended Attachment C, which updated the 2018 SSIR Project Narratives.

3. At the Weekly Meeting held on December 20, 2017, the Commission deliberated on the Advice Letter No. 108 filing and allowed the amended SSIR tariff and new rates to become effective by operation of law on January 1, 2018.<sup>3</sup>

4. On September 10, 2018, Rocky Mountain made an informational filing, which provided supplemental information to update the 2018 SSIR filing in Advice Letter No 108. This filing included Attachments A through D, which amended two capital projects, added one new project, and cancelled one project. Rocky Mountain advised the Commission that, by this filing, it was not seeking any change in the SSIR rate (that went into effect on January 1, 2018). The Company also advised that it intended to incorporate the updated project costs in its November 2019 filing for 2018 SSIR costs and to include the updated project explanations in its 2018 SSIR Annual Report filing in April 2019.<sup>4</sup>

5. On April 1, 2019, Rocky Mountain filed, in this proceeding, its 2018 SSIR Annual Report, along with nine Attachments (three of which were filed under seal as confidential).

6. On June 18, 2019, Staff of the Public Utilities Commission (Staff) filed a Notice of Intervention as of Right, Entry of Appearance, Notice Pursuant to Rule 1007(a) and

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<sup>2</sup> Advice Letter No. 108, dated November 1, 2017, at pages 1 and 2.

<sup>3</sup> See § 40-6-111, C.R.S. When the Commission allows filed tariffs to become effective by operation of law without suspension, the Commission issues no written decision and its non-suspension determination is not appealable. See *Public Utilities Comm'n. v. District Court*, 186 Colo. 278, 281, 527 P.2d 233, 234 (1974).

<sup>4</sup> Proceeding No. 17AL-0736G – 2018 SSIR Project Supplemental Filing, dated September 10, 2018, at page 1.

Rule 1401, and Request for Hearing (Staff's Intervention).<sup>5</sup> Staff advised it would participate in this proceeding and requested a hearing, in which it would raise and address three specific issues.<sup>6</sup>

7. Both Rocky Mountain and Staff are represented by counsel.

8. On July 17, 2019, by minute entry, the Commission decided to set this matter for hearing and referred this proceeding to an Administrative Law Judge (ALJ) for disposition. Initially, Chief ALJ G. Harris Adams was assigned to this matter. Subsequently, the undersigned ALJ was assigned to preside over this proceeding.

9. By Decision No. R19-0632-I issued on July 24, 2019, Chief ALJ Adams scheduled a prehearing conference in this matter for August 5, 2019.

10. On August 1, 2019, counsel for Rocky Mountain and Staff (collectively Joint Parties) filed an Unopposed Joint Motion to Vacate Prehearing Conference (Motion). Since Rocky Mountain and Staff joined in the requested relief, the Motion was unopposed. Counsel advised that the Joint Parties were in discussions concerning the issues raised in Staff's Intervention and requested that the prehearing conference be vacated so that they could continue those discussions. The Joint Parties committed to propose, no later than August 26, 2019, a new date for the prehearing conference and/or a proposed procedural schedule.<sup>7</sup>

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<sup>5</sup> The authority cited by Staff for its intervention and request for hearing were Rules 1401(a) and 1007(a) of the Rules of Practice and Procedure, 4 *Code of Colorado Regulations* 723-1 (2015). Rule 1401(a) allows interested persons to file for an intervention as of right or a motion for permissive intervention within 30 days of notice of an administrative or adjudicatory proceeding. (Rule 1401(d) gives Staff an additional 7 days after the 30 days' notice to file its intervention.) Rule 1007(a) requires that, when Staff intervenes in any adjudicatory proceeding, its counsel's entry of appearance must specify the Staff members assigned to serve as Trial Staff and Advisory Staff in the proceeding.

<sup>6</sup> Staff's Intervention at pages 1 and 2.

<sup>7</sup> Motion at page 1.

11. By Decision No. R19-0654-I issued on August 1, 2019, Chief ALJ Adams vacated the prehearing conference set for August 5, 2019.

**B. Required filing of a Joint Status Report.**

12. By the close of business on August 26, 2019, as well as by the mailed date of this Interim Decision, the Joint Parties had filed no further pleadings in this proceeding.

13. Counsel for Rocky Mountain and Staff will be ordered to file a written Joint Status Report detailing the status of their negotiations concerning the issues raised in Staff's Intervention filed on June 18, 2019. If any stipulations have been reached, they should propose a date for filing stipulations or a settlement agreement. Counsel should advise the ALJ whether Staff continues to request a hearing in this proceeding. If this proceeding will continue as an active contested docket, the Joint Parties should propose a new date for a prehearing conference and/or suggest a proposed procedural schedule. The Status Report will be due no later than 3:00 p.m. on September 13, 2019.

**II. ORDER**

**A. It Is Ordered That:**

1. No later than 3:00 p.m. on September 13, 2019, Rocky Mountain Natural Gas LLC and Staff of the Public Utilities Commission (Staff) (collectively Joint Parties) shall file a Joint Status Report detailing the status of their negotiations concerning the issues raised in Staff's June 18, 2019 Notice of Intervention as of Right.

2. If any stipulations have been reached, the Joint Parties shall propose in the Joint Status Report a date for filing stipulations or a settlement agreement. Counsel shall advise the Administrative Law Judge whether Staff continues to request a hearing in this proceeding. If this

proceeding is to continue as an active contested docket, the Joint Parties shall propose a new date for a prehearing conference and/or suggest a proposed procedural schedule.

3. Additional procedural matters may be addressed in subsequent Interim Decisions.
4. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

STEVEN H. DENMAN

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Administrative Law Judge

ATTEST: A TRUE COPY

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

Doug Dean,  
Director