

Decision No. R20-0902-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 20A-0284G

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.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
MELODY MIRBABA
GRANTING REVISED UNOPPOSED MOTION,
VACATING HEARING AND PROCEDURAL SCHEDULE,
AND REQUIRING FILING**

Mailed Date: December 18, 2020

I. STATEMENT, BACKGROUND, FINDINGS AND CONCLUSIONS

1. Only the procedural history necessary to understand this Decision is included. Colorado Natural Gas Inc. (CNG) initiated this matter by filing the above-captioned Application on June 26, 2020. The Colorado Public Utilities Commission Trial Staff (Staff) and the Office of Consumer Counsel (OCC) are the only interveners in this matter.

2. The Commission referred this matter to an Administrative Law Judge (ALJ) on August 19, 2020. Since then, the ALJ: twice scheduled an evidentiary hearing; modified and vacated deadlines three times per the parties' requests; vacated the original hearing date per the parties' request; ordered the parties to submit a proposed procedural schedule with hearing dates; established a procedural schedule with detailed requirements relating to exhibits and attachments; and ordered CNG to refile exhibits and attachments which do not comply with Decision No. R20-0633-I and the attachments thereto. Decision Nos. R20-0633-I issued August 31, 2020; R20-0666-

I issued September 17, 2020; R20-0681-I issued September 22, 2020; R20-0766-I issued October 30, 2020; and R20-0824-I issued December 1, 2020.

3. Under the latest procedural schedule, answer testimony is due by January 8, 2021, rebuttal and cross-answer testimony is due by February 5, 2021, and an evidentiary hearing is scheduled for February 16 and 17, 2021. Decision No. R20-0824-I, at 7-8.

4. On December 17, 2020, the Colorado Office of Consumer Counsel (OCC) filed an “Unopposed Motion Requesting the Administrative Law Judge Schedule a Remote Public Comment Hearing, Requiring Additional Public Notice of the Hearing, Vacating the Current Procedural Schedule and Requesting a Waiver of the Response Time of the Colorado Office of Consumer Counsel” (Original Motion).

5. The next day, the OCC filed a “Notice of Filing Revised Unopposed Motion Requesting the Administrative Law Judge Schedule a Remote Public Comment Hearing, Requiring Additional Public Notice of the Hearing, Vacating the Current Procedural Schedule and Requesting a Waiver of the Response Time of the Colorado Office of Consumer Counsel” (Notice). Contemporaneous with that Notice, the OCC filed a “Revised Unopposed Motion Requesting the Administrative Law Judge Schedule a Remote Public Comment Hearing, Requiring Additional Public notice of the Hearing, Vacating the Current Procedural Schedule and Requesting a Waiver of the Response Time of the Colorado Office of Consumer Counsel” (Revised Motion). The Notice states that the Original Motion included an error because it asserts that the deadline for answer testimony is January 8, 2020 instead of 2021. The Revised Motion corrects this error, in redline form.

6. The Revised Motion asks the ALJ to: schedule a remote public comment hearing; require CNG provide customers at least 30-days’ notice of the public comment hearing and detailed

notice of its Application and relief requested; and vacate the procedural schedule. Revised Motion at 2. The Revised Motion also asks that the remote public comment hearing be held before answer testimony is due. *Id.*

7. As grounds, the Revised Motion states that, “. . . no form of public notice has been issued by CNG which is evident in the Commission’s e-filing system or described in any of CNG’s filings.” *Id.* at 2. The Revised Motion points out that no public comments have been filed in this proceeding; the OCC believes that this suggests that customers may not be aware of this proceeding. *Id.* The Revised Motion relies on § 40-3-104(1)(a) and (c), C.R.S., to require additional notice. *Id.* at 3.

8. The OCC submits that holding a remote public comment hearing will be helpful to the ALJ and Commission in exercising their discretion by creating an additional opportunity for ratepayers and other interested individuals to comment on CNG’s proposal in this proceeding. *Id.* at 2.

9. The Revised Motion states that the parties are working collaboratively to develop the proposed content and manner of notice, and that they plan to file that for ALJ approval or modification by December 22, 2020. *Id.* at 2-3.

10. As its title states, the Revised Motion is unopposed. *Id.* at 3. For that reason, and because the answer testimony deadline is closely approaching, the OCC asks that the response time to the Revised Motion be waived. *Id.* at 3.

11. Because the Revised Motion is unopposed, the ALJ will waive the response time to it. *See* Rule 1400(b), of the Commission’s Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1.

12. The ALJ finds that a remote public comment hearing will invite participation and input in response to CNG's requested relief. This is consistent with Rule 1509 as a means for interested persons to encourage the ALJ and the Commission in the exercise of their discretion. 4 CCR 723-1. The additional notice requested is consistent with the mandates of § 40-3-104(1)(a) and (c), C.R.S., and will provide CNG's customers with information necessary to provide meaningful input in this proceeding. Because a public comment hearing with 30 days' notice cannot be held before the current evidentiary hearing dates, the ALJ finds that the procedural schedule should be vacated, including the hearing. For all these reasons, the ALJ concludes that the Revised Motion establishes good cause for the requested relief. The ALJ will grant the Revised Motion.

13. While the ALJ appreciates the parties' efforts to make a filing proposing the content and manner of notice by December 22, 2020, the ALJ notes that due to the holidays, it is unlikely that the ALJ will be in a position to issue a decision on such a filing before the end of the year. The parties may still make this filing by December 22, 2020 if they so desire, but the ALJ will not require it. The ALJ will instead set a deadline of January 5, 2021 for this submission. As a part of that filing, the ALJ will require the parties to propose a timeline for the additional notice authorized by this Decision, and proposed dates for a public comment hearing.

14. Finally, because granting the Revised Motion renders the Original Motion moot, the ALJ will deny the Original Motion.

II. ORDER

A. It Is Ordered That:

1. The Colorado Office of Consumer Counsel’s (OCC) “Revised Unopposed Motion Requesting the Administrative Law Judge Schedule a Remote Public Comment Hearing, Requiring Additional Public notice of the Hearing, Vacating the Current Procedural Schedule and Requesting a Waiver of the Response Time of the Colorado Office of Consumer Counsel” filed on December 18, 2020 is granted.

2. The remote evidentiary hearing scheduled for February 16 and 17, 2021 is vacated, and the procedural schedule established by Decision No. R20-0824-I issued December 1, 2020 is vacated.

3. The OCC’s “Unopposed Motion Requesting the Administrative Law Judge Schedule a Remote Public Comment Hearing, Requiring Additional Public Notice of the Hearing, Vacating the Current Procedural Schedule and Requesting a Waiver of the Response Time of the Colorado Office of Consumer Counsel” filed on December 17, 2020 is denied as moot.

4. Consistent with the above discussion, on or by January 5, 2021, the parties must submit a joint filing proposing: the content and manner of notice authorized by this Decision, a timeline for such notice, and proposed dates for a public comment hearing.

5. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

MELODY MIRBABA

Administrative Law Judge

ATTEST: A TRUE COPY

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

Doug Dean,
Director