

Decision No. R23-0186-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 21A-0188G

IN THE MATTER OF THE APPLICATION OF COLORADO NATURAL GAS, INC. FOR AN ORDER AUTHORIZING IT TO RECOVER THE COSTS ASSOCIATED WITH THE FEBRUARY 2021 EXTREME WEATHER EVENT THROUGH THE COMPANY'S GAS COST ADJUSTMENT MECHANISM.

PROCEEDING NO. 23AL-0029G

IN THE MATTER OF COMPLIANCE ADVICE LETTER NO. 126 FILED BY COLORADO NATURAL GAS, INC. TO MODIFY THE COMPANY'S GAS TARIFF P.U.C. NO. 2 TO IMPLEMENT THE EXTRAORDINARY GAS COST RECOVERY RIDER ("EGCRR") WITH DECISION NO. C23-0006 IN PROCEEDING NO. 21A-0188G IN ITS RATE AREAS OF BAILEY/SOUTH PARK AND PUEBLO WEST, TO BECOME EFFECTIVE JANUARY 11, 2023.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
CONOR F. FARLEY
SCHEDULING REMOTE
PREHEARING CONFERENCE, AND
REQUIRING PARTIES TO CONFER, AND CNG TO FILE
A REPORT REGARDING THE CONFERRAL BEFORE
THE REMOTE PREHEARING CONFERENCE**

Mailed Date: March 20, 2023

I. STATEMENT

A. Background

1. On May 17, 2021, Colorado Natural Gas, Inc. (CNG) filed an application for recovery of extraordinary gas costs associated with the extreme weather event in February 2021 (Application for Cost Recovery) in Proceeding No. 21A-0188G. The Application for Cost

Recovery was the subject of a Comprehensive Joint Stipulation and Settlement Agreement (Settlement Agreement) between CNG, Trial Staff of the Commission (Staff), and UCA. The Settlement Agreement allowed CNG to recover \$7.1 million over 24 months through an Extraordinary Gas Cost Recovery Rider (EGCRR). The Commission approved the Settlement Agreement in Decision No. R21-0759.

2. The Settlement Agreement also anticipated CNG receiving an operational flow order (OFO) penalty from Public Service Company of Colorado (Public Service) for transportation service during the Extreme Weather Event and allowed CNG to either file a new application for recovery of the OFO penalty or amend the previous application.¹ The Settlement Agreement did not address the amount of the potential penalty or how it would be recovered.

3. On November 22, 2022, CNG filed its Motion to Reopen and Amend the Application for Recovery of Extraordinary Gas Costs Related to the Extreme Weather Event of February 13 – 16, 2021 (Motion) and Amended Application. CNG requested authorization to amend its original Application for Cost Recovery to include a \$1.2 million OFO penalty issued by Public Service in September 2022. In its Motion, CNG stated that it conferred with Staff and UCA and neither objected to the Application for Cost Recovery being re-opened, amended, and re-noticed. In accordance with that statement and the Commission's Rules of Practice and Procedure, the Commission issued a Notice of Amended Application Filed. No new interventions were filed, and neither Staff nor UCA filed an objection or another pleading to request a hearing as instructed in the Commission's notice.

¹ Comprehensive Joint Stipulation and Settlement Agreement, p. 6.

4. On January 5, 2023, the Commission issued Decision No. C23-0006, granting CNG's Motion in Proceeding No. 21A-0188G.

5. On January 6, 2023, CNG filed Advice Letter No. 126 with tariff sheets amending the EGCRR to include recovery of \$1.2 million from the OFO penalty in accordance with Decision No. C23-0006. The effective date of the tariffs was January 11, 2023. CNG's filing of Advice Letter No. 126 with tariff sheets amending the EGCRR initiated Proceeding No. 23AL-0029G.

6. On January 10, 2023, UCA filed an Application for Rehearing, Reargument, or Reconsideration (RRR) of Decision No. C23-0006 and Request for Expedited Ruling. UCA contended that the Commission erred in finding that the Amended Application was unopposed and erred in granting CNG's Motion and authorizing the modification of the EGCRR. UCA stated that the Amended Application was opposed by the Intervenors in the case, stating that UCA and Trial Staff have served discovery on CNG related to the OFO penalty.

7. On January 10, 2023, the Commission issued Decision No. C23-0028 in Proceeding No. 23AL-0029G suspending the tariff sheets filed with CNG's AL 126 for 120 days, through May 11, 2023, and set the matter for hearing.

8. On January 26, 2023, Staff filed an Application for RRR, stating that CNG's Motion only requested that Proceeding No. 21A-0188G be re-opened but does not request approval of the Amended Application, and that Decision No. C23-0006 denied intervening parties the opportunity to review the prudence of the recovery of extraordinary gas costs related to the Extreme Weather Event of February 13-16, 2021.

9. On February 7, 2023, the Commission issued Decision No. C23-0086 that granted UCA's Application for RRR, denied Staff's RRR as filed out of time, consolidated Proceeding Nos. 21A-0188G and 23AL-0029G pursuant to Rule 1402 of the Commission's Rules of Practice and Procedure,² established an intervention period through March 9, 2023, and referred the proceeding to an Administrative Law Judge (ALJ). The proceeding was subsequently assigned to the undersigned ALJ.

10. On February 22, 2023, UCA filed a Notice of Intervention in this proceeding.

B. Remote Prehearing Conference

11. It is appropriate to hold a remote prehearing conference in this proceeding. Accordingly, a remote prehearing conference shall be scheduled for March 31, 2023, at 10:00 a.m. The remote prehearing conference will be conducted over the Zoom videoconferencing platform. The ALJ or a member of Commission Staff will email the log-in information in advance of the hearing.

C. Conferral and Conferral Report

12. CNG shall confer with the other parties in advance of the remote prehearing conference regarding a schedule for this proceeding, any discovery procedures that are inconsistent with the Commission's rules governing discovery, and the method by which the hearing should be conducted. 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

² 4 Code of Colorado Regulations 723-1.

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.

13. CNG shall file a report of the results of the conferral. If there is agreement on a schedule, including dates for the hearing, discovery procedures that are inconsistent with the Commission's rules governing discovery, and/or the method for conducting the hearing (*i.e.*, remote, hybrid, or in-person), the report shall state as much and detail the stipulated procedural schedule, discovery procedures, and/or method for conducting the hearing. If no agreement is achieved, the report shall state as much and identify the competing schedules, discovery procedures, and/or methods for conducting the hearing proposed by the parties. The parties are on notice that the ALJ will retain the discretion to change the method by which the hearing will be conducted.

14. The parties are urged to review the Commission's public calendar to identify suitable days for the hearing in this proceeding and propose more than one date or consecutive dates for the hearing. The latest date on which the hearing can conclude is May 18, 2023, which assumes that the effective date of the tariff sheets filed with Advice Letter No. 126 will be extended an additional 130 days pursuant to § 40-6-111(1), C.R.S. The deadline for CNG to file the report is 12:00 p.m. on March 28, 2023.

15. All parties must appear at the remote prehearing conference. Failure to attend or to participate in the remote prehearing conference is a waiver of any objection to the rulings made, to the procedural schedule established, and to the hearing dates scheduled during the remote prehearing conference.

II. ORDER

A. It Is Ordered That:

1. The parties in this proceeding are Colorado Natural Gas, Inc. (CNG), Commission Trial Staff, and the Office of the Utility Consumer Advocate.

2. A remote prehearing conference in this proceeding is scheduled as follows:

DATE: March 31, 2023

TIME: 10:00 a.m.

WEBCAST: Commission Hearing Room

METHOD: Join by video conference using Zoom at the link to be provided in an email from the Administrative Law Judge³

3. Nobody should appear in-person for the remote prehearing conference.

4. CNG shall file the report of the conferral identified above on or before 12:00 p.m. on March 28, 2023.

³ Additional information about the Zoom platform and how to use the platform are available at: <https://zoom.us/>. All are strongly encouraged to participate in a test meeting prior to the scheduled hearing. See <https://zoom.us/test>.

5. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

CONOR F. FARLEY

Administrative Law Judge

ATTEST: A TRUE COPY

G. Harris Adams,
Interim Director