

Decision No. C22-0497-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 21A-0192EG

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR RECOVERY OF COSTS ASSOCIATED WITH THE FEBRUARY 2021 EXTREME WEATHER EVENT FOR ITS ELECTRIC AND GAS UTILITIES.

**INTERIM COMMISSION DECISION DENYING
MOTION FOR LEAVE TO RESPOND**

Mailed Date: August 22, 2022

Adopted Date: August 17, 2022

I. BY THE COMMISSION

A. Statement

1. On August 15, 2022, Tiger Natural Gas, Inc. (Tiger) filed a Motion to Submit Response to Application for Rehearing, Reargument, or Reconsideration (RRR) of Commission Decision No. C22-0413 (Motion).

2. This Decision denies the Motion and waives response time to the Motion.

B. Discussion

3. On May 17, 2021, Public Service Company of Colorado (Public Service or Company) initiated this Proceeding by filing its Verified Application for Recovery of Costs Associated with the February 2021 Extreme Weather Event for Its Electric and Gas Utilities (Application).

4. On May 11, 2022, ALJ Melody Mirbaba issued Recommended Decision No. R22-0279 (Recommended Decision).

5. By Decision No. C22-0413, the Commission addressed exceptions filed to the Recommended Decision. The Commission granted in part and denied in part the numerous exceptions to the Recommended Decision filed by the Office of the Utility Consumer Advocate (UCA) and Tiger.

6. On August 3, 2022, Public Service filed an Application for RRR (Public Service RRR) in which it requests the Commission strike certain language in Decision No. C22-0413 that delays the Company's ability to implement rates to recover the extraordinary gas costs recovery rider (EGCRR) until after the judicial appeal process has concluded.

7. Also on August 3, 2022, UCA filed an Application for RRR (UCA RRR) in which it requests the Commission (1) order that the \$10.7 million caused by shipper shortages may not be allocated to the residential and small commercial classes, and (2) find that the Company's actions during Winter Storm Uri were not prudent for the reasons set forth in UCA's Exceptions and summarized in its RRR filing.

8. In Tiger's Motion, it requests the Commission permit responses to UCA's RRR and requests the Commission shorten response time to the Motion to August 22, 2022. Tiger asserts the Company, the Colorado Energy Office, Staff of the Colorado Public Utilities Commission, and WoodRiver Energy, LLC took no position on the Motion, and UCA takes no position and reserves its right to respond.

9. Tiger makes two arguments as to why the Commission should grant it leave to respond to UCA's RRR filing. First, it argues the UCA RRR "incorrectly asserts that the Company's gas supply customer subsidized the transportation class."¹ Specifically, Tiger claims

¹ Motion, at p. 2.

that UCA misrepresented facts by stating that the \$10.7 million figure arises from “shippers collectively short[ing] the Public Service of \$10,670,776 worth of gas during the times when OFOs were in place.”² Tiger also argues that the UCA RRR presents a new legal theory not applicable to this proceeding by raising the principle of “cost causation.”

C. Findings and Conclusions

10. No response to the application for RRR may be filed, except by motion, in compliance with Rule 1506(b) of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations*, 723-1. Rule 1506(b) prohibits responses to an application for RRR, unless a motion for leave to file a response demonstrates:

a material misrepresentation of a fact in the record; an incorrect statement or error of law; an attempt to introduce facts not in evidence; accident or surprise, which ordinary prudence could not have guarded against; or newly discovered facts or issues material for the moving party which that party could not, with reasonable diligence, have discovered prior to the time the application for RRR was filed responses to applications for RRR upon a showing that the RRR application contains a material misrepresentation of fact or law.

11. We find that responses to the UCA RRR are unnecessary. While Tiger’s Motion does assert that UCA’s RRR demonstrates a material misrepresentation of a fact, we are aware of the record in this proceeding and do not find that responses to the UCA RRR would be helpful in our deliberations. Further, the Commission is under time constraints pursuant to § 40-6-114, C.R.S., and we must ensure that we have sufficient time to consider and deliberate upon UCA’s RRR as appropriate.³

² Motion, at p. 3, quoting UCA’s RRR at p. 4.

³ While the Commission’s Rules of Practice and Procedure do not set a deadline for motions for leave to respond under Rule 1506(b), it must be noted that Tiger filed its Motion at the close of business on the tenth day after UCA filed its RRR. Under Tiger’s Motion, it asks the Commission to set response time to its Motion to August 22, which would necessitate the Commission deliberate upon the UCA RRR filing on August 31, a mere two days prior to the Commission’s statutory deadline.

12. We deny the Motion and will not consider Tiger’s Motion and its attachments in our deliberations on UCA’s RRR.

II. ORDER

A. The Commission Orders That:

1. The Motion to Submit a Response to Application for Rehearing, Reargument, or Reconsideration of Commission Decision No. C22-0413 (Motion), filed on August 15, 2022, by Tiger Natural Gas, Inc. is denied. Response time to the Motion is waived.

2. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS’ WEEKLY MEETING
August 17, 2022.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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JOHN GAVAN

MEGAN M. GILMAN

Commissioners