

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

PROCEEDING NO. 22AL-0426G

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IN THE MATTER OF ADVICE LETTER NO. 126 FILED BY ROCKY MOUNTAIN NATURAL GAS LLC DOING BUSINESS AS BLACK HILLS ENERGY TO REVISE ITS COLORADO PUC NO. 4 TARIFF FOR AN INCREASE IN RATES AND TO IMPLEMENT OTHER PROPOSED CHANGES, TO BECOME EFFECTIVE NOVEMBER 7, 2022.

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**INTERIM DECISION OF  
ADMINISTRATIVE LAW JUDGE  
ALENKA HAN,  
GRANTING REQUEST TO SHORTEN RESPONSE TIME,  
AND WAIVING RESPONSE TIME TO THE  
REQUEST TO SHORTEN RESPONSE TIME**

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Mailed Date: January 27, 2023

**I. STATEMENT**

**A. Procedural Background**

1. On October 7, 2022, Rocky Mountain Natural Gas LLC, doing business as Black Hills Energy (RMNG), commenced this Proceeding by filing Advice Letter No. 126 with the Public Utilities Commission (PUC or Commission) seeking approval of a rate increase of 39.1%.<sup>1</sup>

2. The procedural history of this Proceeding is set out in previously issued Interim Decisions and is repeated here as necessary to put this Interim Decision in context.

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<sup>1</sup>, Advice Letter No. 126, issued by Rocky Mountain Natural Gas LLC, d/b/a Black Hills Energy, filed Oct. 7, 2022.

3. The Colorado Office of the Utility Consumer Advocate (UCA) filed a Protest to RMNG's Advice Letter on October 17, 2022.<sup>2</sup>

4. By Decision No. C22-0684 mailed on November 3, 2022, the Commission suspended the effective date of RMNG's Advice Letter and referred the matter to an Administrative Law Judge (ALJ) for disposition.

5. UCA and Commission Staff have filed Interventions as of Right. AM Gas Transfer Corporation's (AM Gas) Motion to Intervene in the Proceeding was granted by Decision No. R22-0821-I. No other interventions have been received. RMNG, UCA, AM Gas, and Commission Staff are the parties to this Proceeding.

6. Decision No. R23-0036-I, issued January 13, 2023, extended the statutory period within which the Commission must issue its decision by an additional 130 days, or up to and including July 15, 2023. Decision No. R23-0036-I also established a procedural schedule to govern this Proceeding and set the matter for an evidentiary hearing commencing April 11-13, 2023. As pertinent here, pursuant to that procedural schedule, Answer Testimony is due in this Proceeding on or before February 17, 2023.

**B. Request to Shorten Response Time**

7. Commission Staff served RMNG discovery requests on December 21, 2022.

8. On January 20, 2023, RMNG responded to Staff's discovery requests objecting to certain discovery requests propounded upon it.<sup>3</sup>

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<sup>2</sup> Utility Consumer Advocate's Protest, ¶ 6(a)-(s), filed Oct. 17, 2022.

<sup>3</sup> See Exhibits A, B, C, D, and E attached to Commission Staff's Motion to Compel RMNG to Provide an Informational Historic Test Year and Request for Shortened Response Time, filed January 25, 2023.

9. On January 25, 2023, Commission Staff filed a Motion to Compel RMNG to Provide an Informational Historic Test Year and Request for Shortened Response Time.

10. Rule 1400(b), 4 *Code of Colo. Regulations* (CCR) 723-1, establishes the response time to a motion. Absent an interim decision that changes the response time, response to the Staff's Motion to Compel and Request for Shortened Response Time is due no later than "14 days after service of the" January 25, 2023 Filing (*i.e.*, February 8, 2023).

11. Rule 1308(b), 4 CCR 723-1, permits the Commission to "shorten or waive response time to a motion upon motion of a party or on its own motion upon a finding that time is of the essence. . . . The Commission can act immediately where response time is waived and after expiration of the shortened response time."

12. Commission Staff argues that because the deadline to file Answer Testimony is fast approaching — February 17, 2023 — the time to respond to and rule upon its Motion to Compel is of the essence.

13. The ALJ finds that because the deadline for filing Answer Testimony is three weeks away, time for responding to and ruling upon Staff's Motion to Compel is of the essence. In addition, the ALJ finds that if the response time to the Motion to Compel is not shortened, the ALJ will not have sufficient time to issue a ruling on the Motion to Compel in advance of the upcoming deadlines. The ALJ therefore finds that shortening the response time to the Motion to Compel will serve to maintain the existing scheduled hearing dates. Good cause therefore exists to shorten the response time to Staff's Motion to Compel. The response time will therefore be shortened to and including February 1, 2023.

14. This Interim Decision addresses only the Request to Shorten Response Time. The ALJ takes under advisement, pending expiration of the time for filing a response, Staff's Motion to Compel.

15. In order to ensure RMNG is timely advised of the shortened deadline to respond to Staff's Motion to Compel, the ALJ will waive the response time to Staff's Request to Shorten response time because (a) no party is prejudiced if the response time to the request to shorten the response time to the Motion to Compel is waived; and (b) waiting for the 14-day response time to expire effectively moots the Request to Shorten.

**II. ORDER**

**A. It Is Ordered That:**

1. Consistent with the discussion above, the Request to Shorten Response Time filed on January 25, 2023, is granted.

2. Response time to Staff's Motion to Compel RMNG to Provide an Informational Historic Test Year, filed January 25, 2023, is shortened to, and including February 1, 2023.

3. Response time to the Request to Shorten Response Time is waived.

4. The parties are held to the advisements in the Interim Decisions issued in this Proceeding.

5. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

ALENKA HAN

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Administrative Law Judge

ATTEST: A TRUE COPY

A handwritten signature in cursive script, appearing to read "G. Harris Adams".

G. Harris Adams,  
Interim Director