

Decision No. R23-0036-I

**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  
EXTENDING TIME FOR A COMMISSION DECISION,  
AND SETTING PROCEDURAL SCHEDULE**

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Mailed Date: January 13, 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 Colorado Office of the Utility Consumer Advocate (UCA) filed a Protest to RMNG's Advice Letter on October 17, 2022. UCA raised nineteen "specific issues" concerning RMNG's Advice Letter.<sup>2</sup>

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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.

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

3. By Decision No. C22-0684 mailed on November 3, 2022, the Commission suspended the effective date of RMNG's Advice Letter for 120 days, or up to and including March 7, 2023. The Commission also ordered that any Interventions be filed within 30 days, or on or before December 3, 2022. Finally, the Commission referred the matter to an Administrative Law Judge (ALJ) for disposition.

4. UCA filed its Notice of Intervention as a Matter of Right on November 16, 2022. Commission Staff filed a Notice of Intervention of Right on November 21, 2022. Last, on November 28, 2022, AM Gas Transfer Corporation (AM Gas) filed a Motion to Intervene seeking permissive intervention in the Proceeding. No other interventions have been received.

5. On November 23, 2022, RMNG moved to strike UCA's Intervention as a Matter of Right.<sup>3</sup>

6. By Decision No. R22-0821-I, RMNG's motion to strike UCA's Intervention was denied. Decision No. R22-0821-I also granted AM Gas's motion for permissive intervention.

7. Consequently, the parties to this Proceeding are RMNG, UCA, AM Gas, and Commission Staff.

## **II. TIME FOR A COMMISSION DECISION**

8. In its Advice Letter, RMNG requested that its tariff pages become effective November 7, 2022. The Commission, in its discretion, referred the Advice Letter to a hearing, and pursuant to § 40-6-111(1), C.R.S., suspended the tariff pages' effective date for an additional 120 days, or up to and including March 7, 2023.<sup>4</sup>

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<sup>3</sup> RMNG's Motion to Deny UCA Intervention of Right, filed Nov. 23, 2022.

<sup>4</sup> Decision No. C22-0684, issued November 3, 2022; and Errata, mailed November 10, 2022.

9. However, if the Commission in its discretion finds that additional time is necessary for a decision, the period of suspension may be extended an additional 130 days. *See* § 40-6-111(1)(b), C.R.S.

10. In order to facilitate the unopposed procedural schedule to which the parties have agreed, it is found necessary to extend the time for issuance of a Commission decision. The applicable statutory period shall be extended by an additional 130 days up to and including July 15, 2023.

**III. PROCEDURAL SCHEDULE**

11. On December 29, 2022, January 5, 2023, and January 10, 2023, the parties conferred by email with undersigned ALJ regarding a proposed, unopposed procedural schedule to govern this Proceeding.

12. RMNG, UCA, AM Gas, and Commission Staff unanimously agreed to the following proposed procedural schedule:

<b>Answer Testimony</b>	February 17, 2023
<b>Rebuttal/Cross Answer Testimony</b>	March 17, 2023
<b>Prehearing Motions</b>	March 31, 2023
<b>Corrected Testimony and Exhibits</b>	April 5, 2023
<b>Stipulation(s) or Settlement Agreement(s)</b>	April 5, 2023
<b>Witness Order and Cross Examination Matrix</b>	April 5, 2023
<b>EVIDENTIARY HEARING</b>	<b>April 11-13, 2023</b>
<b>Statements of Position</b>	April 27, 2023

13. Through RMNG's counsel, the parties requested a hybrid hearing. The undersigned ALJ will therefore schedule a hybrid hearing. If at some time in the future the parties desire a different hearing format, they may so request by motion to be determined by the ALJ.

14. The ALJ notes that 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 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.

15. The Parties are further advised and are on notice that this proceeding is governed by the Rules of Practice and Procedure found at 4 CCR 723-1. The ALJ expects the Parties to be familiar with and to comply with these rules. The rules are available on the Commission's website (<https://puc.colorado.gov/pucrules>).

16. The parties are also on notice that failure to appear at the scheduled evidentiary hearing may result in decisions adverse to their interests, including granting the complete relief opposing parties seek, dismissing interventions, and dismissing or granting the Application.

17. The ALJ has reviewed the parties' proposed schedule and finds that it is reasonable. It will be adopted, as order below.

18. **Informal Video-Conference Practice Session:** The ALJ will hold an informal practice video-conference session if requested by any party to give the parties an additional opportunity to practice using Zoom and box.com before the hearing.

19. The parties may contact a Commission Legal Assistant by email at casey.federico@state.co.us, to schedule an informal practice video-conference session.

20. The parties will receive information and a link to participate in the informal practice session by email.

**IV. ORDER**

**A. It Is Ordered That:**

1. Pursuant to § 40-6-111(1)(b), C.R.S., the period of suspension of RMNG’s Advice Letter and the period for issuance of a Commission decision is extended by an additional 130 days, up to and including July 15, 2023.

2. A **hybrid** hearing is scheduled as follows:

Date: April 11-13, 2023

Time: 9:00 a.m.

Location: Commission Hearing Room B  
1560 Broadway, Suite 250  
Denver, Colorado

**METHOD:** In-person and by videoconference using Zoom at the link to be provided to counsel and the parties via email prior to the hearing.

**Optionally**, any party may participate remotely by joining a video conference using Zoom at the link provided to the established parties in an e-mail prior to the scheduled hearing, as addressed above.<sup>5</sup>

3. The parties and witnesses may not distribute the Zoom link and access code to anyone not participating in the remote hearing.

4. The following procedural schedule is adopted:

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<sup>5</sup> Instructions for using the Zoom videoconferencing platform are provided in Attachment A to this Decision.

<b>Answer Testimony</b>	February 17, 2023
<b>Rebuttal/Cross Answer Testimony</b>	March 17, 2023
<b>Prehearing Motions</b>	March 31, 2023
<b>Corrected Testimony and Exhibits</b>	April 5, 2023
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5. **Video-Conference Participation.** Counsel for the parties, parties, and witnesses may attend in person or participate in the evidentiary hearing by videoconference using the Zoom platform.

6. **Evidence Presentation at the Evidentiary Hearing.** Because the hearing may accommodate remote participation by videoconference, all evidence must be presented electronically. Each party is responsible for ensuring that they and their respective witnesses: (a) have access to all pre-filed exhibits; and (b) can download and view documents available from box.com during the hearing.

7. **The ALJ will hold an informal Zoom practice session upon request.**

8. **Instructions for Preparation and Presentation of Exhibits at Hearing:** In addition to other requirements of the Commission’s Rules of Practice and Procedure, 4 *Code of Colorado Regulations* 723-1 (e.g., Rule 1202 regarding pre-filed testimony), detailed additional instructions governing the preparation and presentation of exhibits at the hearing are set out in Attachment B to this order, which is incorporated into and made part of this order.

9. **Instructions for Remote Hearings Via Zoom:** Detailed instructions governing participation in and procedures for remote hearings conducted via Zoom are set out in Attachment A to this order, which is incorporated into and made part of this order.

10. 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