

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

PROCEEDING NO. 23A-0570G

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IN THE MATTER OF THE APPLICATION OF COLORADO NATURAL GAS, INC. FOR APPROVAL OF ITS COST ASSIGNMENT AND ALLOCATION MANUAL AND FULLY DISTRIBUTED COST STUDY.

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**COMMISSION DECISION DENYING APPLICATION FOR REHEARING, REARGUMENT, OR RECONSIDERATION, AND DENYING MOTION FOR LEAVE TO RESPOND**

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Issued Date: April 25, 2025  
Adopted Date: April 16, 2025

**I. BY THE COMMISSION**

**A. Statement**

1. Through this Decision, the Commission denies the Application for Rehearing, Reargument, or Reconsideration (“Application for RRR”) filed by Colorado Natural Gas, Inc. (“CNG” or the “Company”) on March 27, 2025.

2. Also through this Decision, the Commission denies the Motion for Leave to Respond and Response to CNG’s Application for RRR (“Motion for Leave to Respond”) filed by the Colorado Office of the Utility Consumers Advocate (“UCA”) on April 2, 2025.<sup>1</sup>

**B. Background**

3. On November 21, 2023, CNG filed a Verified Application for approval of its Cost Assignment and Allocation Manual (“CAAM”) and Fully Distributed Cost Study (“Application”).

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<sup>1</sup> Because we deny UCA’s Motion for Leave to Respond, we do not address CNG’s response filed on April 8, 2025.

4. Through Decision No. R24-0776 (“Recommended Decision”), issued October 25, 2024, the Administrative Law Judge (“ALJ”) approved CNG’s Application (with one typographical correction). The ALJ found that CNG’s proposed CAAM met the requirements of Rules 4502 and 4503 of the Commission’s Rules Regulating Gas Utilities, 4 *Code of Colorado Regulations* (“CCR”) 723-4, and thus approved the Application.

5. On November 14, 2024, Trial Staff of the Public Utilities Commission (“Staff”) and UCA filed exceptions to the Recommended Decision.

6. The Company filed its response to the exceptions on December 2, 2024.

7. Through Decision No. C25-0041, the Commission granted, in part, and denied, in part, Staff’s exceptions, and denied UCA’s exceptions.

8. UCA filed an Application for RRR (“UCA’s Application for RRR”) on February 6, 2025. In UCA’s Application for RRR, UCA presented two arguments: (1) the organizational chart provided by CNG does not list all of the regulated or non-regulated affiliates associated with the utility and thus fails to satisfy Rule 4503(b)(II), 4 CCR 723-4; and (2) Paragraph 77 of the Recommended Decision places an unnecessary and incorrect limitation on the Commission’s authority under federal law to access books and records of public utility holding companies with utilities operating in Colorado.

9. Through Decision No. C25-0170, the Commission granted, in part, and denied, in part, UCA’s Application for RRR. Specifically, the Commission agreed with UCA that Rule 4503(b)(II) requires that the utility provide a listing of all regulated and non-regulated utilities and while CNG’s chart was not inaccurate, it may not be complete – *i.e.*, it may not display the full extent of the utility’s regulated and non-regulated affiliates.

10. Accordingly, for purposes of providing the Commission transparency (and thus not for purposes of re-litigating matters in this Proceeding), as well as to comply with the intent of Rule 4502(b)(II), we ordered CNG to file a more fulsome organizational chart depicting all of the utility's regulated and non-regulated affiliates.

11. In its Application for RRR, CNG now objects and requests that the Commission reconsider its order to include a more fulsome organizational chart.

12. UCA filed a Motion for Leave to Respond on April 2, 2025.

13. CNG filed a Response to UCA's Motion for Leave to Respond on April 8, 2025.

**C. CNG's Application for RRR**

14. CNG requests that the Commission reconsider its order to include a more fulsome organizational chart, contending the Commission must do so to avoid a result that is arbitrary, capricious, and an abuse of the Commission's discretion.

15. Pointing to the definition of "affiliate" in Rule 4001(b), CNG contends there exist no entities that are affiliates of CNG that are not listed in the chart filed with the Company's CAAM. CNG argues this is significant because the essential purpose of a CAAM is to describe and explain "the calculation methods the utility uses to segregate and account for revenues, expenses, assets, liabilities, and rate base cost components assigned or allocated to Colorado jurisdictional activities."<sup>2</sup>

16. CNG argues none of the other entities contained in the supplemental chart suggested by UCA are affiliates under the rule, and that CNG does not have transactions with any of these other entities such as to trigger inclusion of those entities in its CAAM.

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<sup>2</sup> Quoting Rule 4503(a), 4 CCR 723-4.

17. CNG asserts that Rule 4503(b)(II) is unambiguous and that the Commission's order to produce a more fulsome organizational chart is expanding what is required by rule and argues the Commission provided no explanation as to how a supplemental chart depicting a variety of entities that do not allocate or assign costs to or from a Colorado utility advances the purpose of a CAAM or the intent of the rule.

18. We disagree with CNG's narrow interpretation of Rule 4503(b)(II), which requires a utility to include in its CAAM "[a] listing of all regulated or non-regulated affiliates of the Colorado utility together with an identification of which affiliates allocate or assign costs to and from the Colorado utility." "Affiliates" is defined broadly in Rule 4001(b) as "a subsidiary of a utility, a parent corporation of a utility, a joint venture organized as a separate corporation or partnership to the extent of the individual utility's involvement with the joint venture, a subsidiary of a parent corporation of a utility or where the utility or the parent corporation has a controlling interest over an entity."

19. Accordingly, a utility must list *all* affiliates, both regulated and non-regulated, and identify which entities allocate or assign costs from the utility. Therefore, CNG's assertion that because it does not have transactions with any of the other entities listed in UCA's supplemental chart, it is not required to include those entities in its organizational chart, is erroneous.

20. The plain language of the definition of "affiliate" is broad and requires, among other things, a listing of subsidiaries of the utility's parent corporation and where the utility or parent corporation has a controlling interest over an entity. If there is an entity that has a controlling interest over CNG's parent corporation, that too should be included in the organizational chart.

21. The Commission's decision to require a more fulsome chart of CNG's corporate structure is neither beyond the scope of the Rule nor of a CAAM proceeding. The stated purpose

of a CAAM, pursuant to § 40-3-114(1), C.R.S., is to “ensure that regulated electric and gas utilities do not use ratepayer funds to subsidize nonregulated activities.” One of the tools the Commission may use to ensure such subsidization does not occur is requiring complete and transparent filings by the utilities, to provide the Commission with an accurate representation of a regulated utility’s complete corporate structure.

22. We therefore deny CNG’s Application for RRR and uphold the Commission’s prior directive to provide a more fulsome organizational chart pursuant to Rule 4503(b)(II).

**D. UCA’s Motion for Leave to Respond and Response**

23. In its Motion for Leave to Respond, UCA contends that CNG’s Application for RRR incorrectly attributes a misquote to the Commission. Specifically, UCA points to CNG’s characterization, in Paragraph 12 of Decision No. C25-0170, that the Commission ordered a “more fulsome organizational chart beyond what is required by the rule,” “[s]olely for the purpose of providing the Commission with full transparency regarding the corporate structure, as well as to comply with the intent of Rule 4503(b)(II).”

24. UCA asserts this statement amounts to a misrepresentation of facts in the record under Rule 1506(b), 4 CCR 723-1.

25. No response to an application for RRR may be filed, except by motion, in compliance with Rule 1506(b). Rule 1506(b) prohibits responses to an application for RRR, unless a motion for leave to respond demonstrates one of the following: (1) a material misrepresentation of a fact in the record; (2) an incorrect statement or error of law; (3) an attempt to introduce facts not in evidence; (4) accident or surprise, which ordinary prudence could not have guarded against; or (5) 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.

26. UCA’s argument that CNG’s quotation of the Commission’s Decision amounts to a material misrepresentation of fact in the record is not compelling.<sup>3</sup> We find that UCA fails to satisfy the criteria required by Rule 1506(b) and therefore deny UCA’s Motion to for Leave to Respond.

**II. ORDER**

**A. The Commission Orders That:**

1. The Application for Rehearing, Reargument, or Reconsideration filed by Colorado Natural Gas, Inc. on March 27, 2025, is denied, consistent with the discussion above.

2. The Motion for Leave to Respond and Response to CNG’s Application for RRR filed by the Colorado Office of the Utility Consumers Advocate on April 2, 2025, is denied.

3. The 20-day time period provided for in § 40-6-114, C.R.S., within which to file an Application for Rehearing, Reargument, or Reconsideration shall begin on the first day after the effective date of this Decision.

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<sup>3</sup> While it does appear that CNG misquoted the Commission’s Decision – we required a “more fulsome organizational chart” but did not characterize it as “beyond what is required by the rule” – we do not view this as rising to the level of a material misrepresentation of fact in the record.

4. This Decision is effective immediately upon its Issued Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING  
April 16, 2025.**

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ATTEST: A TRUE COPY

Rebecca E. White,  
Director

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

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Commissioners