

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

2006 MAY -2 AM 9:47

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**RE: THE INVESTIGATION AND SUSPENSION)
OF TARIFF SHEETS FILED BY EASTERN)
COLORADO UTILITY COMPANY WITH) DOCKET NO. 05S-439G
ADVICE LETTER NO. 135.)**

**STIPULATION AND AGREEMENT
IN RESOLUTION OF PROCEEDING**

This Stipulation and Agreement in Resolution of Proceeding (“Stipulation”) is entered into by and among Eastern Colorado Utility Company (“Eastern” or “Company”), the Staff of the Public Utilities Commission of the State of Colorado (“Staff”) and the Colorado Office of Consumer Counsel (“OCC”). Eastern, Staff and the OCC are referred to herein collectively as the Parties and individually as a Party. This Stipulation sets forth the terms and conditions by which the Parties have agreed to resolve all outstanding issues presented by the Company’s September 23, 2005 gas rate case filing that have or could have been contested in this proceeding.

The Parties state that (1) the results of the compromises reflected herein are a just and reasonable resolution of this gas rate case proceeding and (2) that implementing the compromises and settlements reflected in this Stipulation will result in substantial savings to all concerned by establishing certainty and avoiding litigation. The Parties respectfully request that the Public Utilities Commission of the State of Colorado (“Commission”) approve this Stipulation, without modification.



Each Party hereto pledges its support of this Stipulation and states that each will defend the settlement reached; provided, however, that by this Stipulation, the Parties make no express or implied warranties, representations, endorsements, agreements, determinations, and/or findings as to the contents of the underlying books and records of Eastern, nor as to the accounting principles used to maintain such books and records. Further, the Parties' pledge to support and defend this Stipulation shall be limited to the purposes of ratemaking before the Commission and not for any other purpose or before any other jurisdiction.

I. BACKGROUND

On September 23, 2005, Eastern filed Advice Letter No. 135 and accompanying tariff sheets,¹ proposing to implement revised base rates² for its gas sales services to its residential and commercial customers, to be effective October 25, 2005. This filing represents Eastern's first rate case in over 15 years.³ In its last rate case, the Commission established 12.91% and 11.75%, respectively, as Eastern's authorized rates of return on common equity ("ROE") and rate base. Annual revenues at the rates established through Advice Letter No. 90 generated approximately \$3,132,898 in revenue in the twelve-month test year period ending December 31, 2004. Under Eastern's existing rates, Eastern asserts that during the test year Eastern's "per books" ROE and rate base were 3.22% and 2.64%, respectively.

¹ The Company's filing also included supporting direct testimony and exhibits by Mr. Gary Woodward.

² The term "base rates" as used herein are exclusive of any gas costs.

³ Eastern's current rates were set through Advice Letter No. 90 with a filing date of December 10, 1990.

In order to mitigate the effects of this under-earnings condition, Eastern initiated this proceeding wherein it proposed that new sales service base rates would supersede the current sales base rates. Eastern's Advice Letter No. 135 filing proposed to increase base rates revenues by approximately \$158,802 on an annual basis, or about 20.30% on jurisdictional base rate revenues of \$782,254. The proposed increase would be approximately 4.85% on total test year jurisdictional revenues of \$3,272,899. Eastern's proposed increase would allow Eastern the opportunity to earn 12.29% as ROE and 9.77% as a return on rate base. Eastern's filing also proposed to redesign its rates to better match recovery of fixed costs associated with its natural gas delivery system with the incurrence of such costs. More specifically, the Company's proposed rate design would increase the Monthly Facility Charge for residential and commercial customer classes. In addition, the Company's filing proposed to increase the Distribution Delivery Charge (previously known as the Usage Charge) on each ccf of sales for the residential and commercial customer classes.

On October 19, 2005, by Decision No. C05-1260, the Commission suspended the effective date of the tariffs filed with Advice Letter No. 135 for 120 days, or until February 22, 2006. Decision No. C05-1260 also set this matter for hearing on February 13, 2006, prescribed a date for interventions by interested persons, and established certain other filing obligations for parties in the proceeding. By Decision No. C06-0125 (Mailed Date: February 14, 2006), the Commission further suspended the effective date of the tariff sheets filed on September 23, 2005 for an additional 90 days, or until May 23, 2006.

On November 3, 2005, the OCC filed its Intervention of Right and Entry of Appearance. On November 7, 2005, Staff filed its Intervention of Right, Entry of

Appearance, Notice Pursuant to Rules 9(d) and 24(a)(1) and Request for Hearing in this matter. No other person or entity filed to intervene in this proceeding.

On January 24, 2006, Eastern, Staff and the OCC filed a Joint Unopposed Motion seeking to modify the procedural schedule established by the Commission in Decision No. C05-1260 in certain respects in order to allow the Parties time to explore settlement. Administrative Law Judge (ALJ) William J. Fritzel granted the Parties' motion orally on January 24, 2006. A written decision granting the Parties' motion followed in the form of Decision No. R06-0099-I, mailed on February 7, 2006.

On February 15, 2006, Eastern, Staff and the OCC filed a Joint Unopposed Motion requesting that the Commission adopt their agreed-upon procedural schedule to govern the remainder of this proceeding. ALJ Fritzel granted the Parties' motion by Decision No. R06-0172-I, mailed on February 24, 2006. Among other dates established in the Parties' motion as approved by the ALJ was a March 15, 2006 date for the filing of Staff and intervenor answer testimony and exhibits.

On March 14, 2006, and in recognition of the progress that the Parties had made toward reaching a settlement in this proceeding, Eastern, Staff and the OCC once again filed a Joint Unopposed Motion requesting a modification to the procedural schedule in this case. ALJ Fritzel granted the Parties' motion by Decision No. R06-0267-I, mailed on March 22, 2006.

On April 25, 2006, the Parties contacted ALJ Fritzel to advise him of their progress toward settlement and to request a modest extension of time within which to file a written agreement memorializing their settlement. ALJ Fritzel granted the Parties' request orally.

With specific regard to the Parties' settlement efforts, such efforts began in earnest in December, 2005 and have continued since that time. After several exchanges of offers of settlement encompassing a variety of principles, the Parties came to an agreement in principle on all issues that were or could have been raised in this proceeding and have now reduced that agreement in principle to a comprehensive settlement. This Stipulation reflects the terms of that comprehensive settlement.

This Stipulation incorporates by reference the S&A Attachments A through E, appended hereto, which are identified as follows:

- S&A Attachment A - Settled Cost of Service Study
- S&A Attachment B - Settled Revisions to Colorado PUC No. 1 – Gas Tariff
- S&A Attachment C - Schedule of Other Charges for Rendering Services
- S&A Attachment D - Rate Comparisons – Present and Settled
- S&A Attachment E - Bill Impacts

II. TERMS OF SETTLEMENT

A. Revenue Requirement

The Parties have reached a black box settlement of Eastern's total revenue requirement in this rate case for rate making purposes only. The Parties acknowledge that the settled revenue requirement can be supported a number of ways and, as a result, the Settled Cost of Service Study attached as S&A Attachment A serves as an illustration of the derivation of the Company's total revenue requirement and the corresponding rates, (i.e. the Monthly Facility and Distribution Delivery charges). More particularly, S&A Attachment A

reflects a settlement revenue requirement of \$903,736, resulting in an increase in jurisdictional base rate revenues of approximately \$71,732, or 7.94%.

Notwithstanding the Parties' agreement to a black box settlement of the Company's total revenue requirement, the Parties have agreed to the specific resolution of certain disputed issues concerning revenue requirements, as set forth in Sections II.A.1 through II.A.7 below.

1. Rate of Return on Equity

Background. Eastern witness Woodward presented testimony in support of Eastern's proposed authorized ROE of 12.29%. Staff and the OCC challenged the validity of continuing such a percentage, arguing instead that a ROE percentage in the range of 8.5% to 10.5% was more appropriate.

Resolution. For purposes of settlement, the Parties agree that the authorized ROE for the Company shall be 10.5%. This level of authorized ROE will be used to monitor Eastern's over-earnings, if any.

2. **Capital Structure and Return on Rate Base**

Background. Exhibits supporting Eastern witness Woodward's testimony demonstrate that Eastern's actual capital structure at December 31, 2004 consisted of 78.67% common equity, with the balance of Eastern's capital structure being comprised of deferred taxes and customer deposits. Eastern has not had any long-term debt for more than 15 years. Staff and the OCC raised certain concerns regarding the absence of long-term debt from Eastern's capital structure and recommended instead that a hypothetical capital structure be used to develop rates for Eastern.

Resolution. For purposes of settlement, the Parties have agreed to use a hypothetical capital structure consisting of 45% debt and 55% equity. The Parties further agreed upon a hypothetical cost of debt of 6.50%. The combination of the agreed upon ROE and the agreed upon hypothetical capital structure and cost of debt yields an authorized rate of return on rate base of 8.70%. This level of authorized rate of return on rate base will be used to monitor Eastern's over-earnings, if any.

3. Rate Base

Background. The Company's filing reflects the use of average rate base, as more particularly shown in Schedule F of Exhibit ____ (GW-1). Staff and the OCC support the use of average rate base to develop rates in this proceeding from a conceptual standpoint, but, after reviewing the Company's books and records for conformance with the Uniform System of Accounts ("USOA") prescribed by the Federal Energy Regulatory Commission, question whether the rate base claimed by Eastern was accurate.

Resolution. For purposes of settlement, the Parties have agreed to a rate base amount for purposes of determining Eastern's revenue requirement and associated rates in this proceeding, as illustrated in S&A Attachment A. Notwithstanding the settlement on rate base, neither Staff nor the OCC has made a determination of whether all or a partial amount of the rate base is used and useful or has attempted to determine whether the level of rate base reflected in the Company's books and records as maintained since the Company's last rate case associated with Eastern's Advice Letter No. 90 has been properly entered.

4. Cash Working Capital Calculation

Background. The Company's filing used imputed cash working capital factors, consistent with the methodology it utilized in its last rate case proceeding. Staff and the OCC disagreed with the Company's imputed factor numbers.

Resolution. For purposes of settlement, the Parties have agreed to the figures used in S&A Attachment A.

5. Amortization of Rate Case Expenses

Background. The Company's filing included estimated rate case expenses of \$40,000, which the Company intends be amortized over a 2-year period. Staff and the OCC questioned the amount and the short amortization period, given that the Company has not filed a rate case in 15 or so years.

Resolution. For purposes of settlement, the Parties have agreed to the amount and the amortization period included within S&A Attachment A.

6. GCA Recovery of Certain Costs Currently Recovered in Base Rates

Background. In its filed case, Eastern proposed that that portion of natural gas commodity and upstream pipeline service costs that have historically been recovered in Eastern's base rates and included in the test-year revenue requirement be recovered instead through the Company's Gas Cost Adjustment ("GCA") mechanism. Staff and the OCC raised a question regarding the appropriate forum for addressing issues related to revenue requirements (phase I of a rate case) and tariffs, cost allocation and rate design (phase II of a rate case) in the future.

Resolution. For purposes of settlement, Staff and the OCC accept the Company's proposed modification to carve all gas costs out from Eastern's base rates and to recover such gas costs through Eastern's GCA. The Parties recognize, however, that the Commission will speak to the forum issue raised by Staff and the OCC in Docket No. 06D-053G, In the Matter of the Joint Petition of Commission Trial Staff and Public Service Company of Colorado for a Declaratory Order Stating the Proper Forum to Address Issues Affecting Gas Costs.

7. **Weather Normalization**

Background. In its filed case, Eastern proposed weather normalized sales volumes wherein test period unadjusted sales volumes were adjusted by a normalization factor resulting from the use of a twelve year period consistent with the Company's annual report for the year ended December 31, 2004. Staff and the OCC recommend instead that weather normalization factors should be calculated using National Oceanic and Atmospheric Administration ("NOAA") monthly normals for the period 1971-2000.

Resolution. The Parties agree that Eastern shall utilize the weather normalization adjustment agreed to by the parties in the settlement of Public Service Company of Colorado's most recent natural gas rate case filing in Docket No. 05S-264G (said weather normalization adjustment methodology was approved by the Commission in Decision No. C99-0579 in Docket No. 98S-518G.) Specifically, the adjustment is calculated by first averaging thirty years of actual annual heating degree days for the period 1971-2000. The actual thirty-year average for the period 1975-2004 is then calculated. Next, the ratio of the 1975-2004 thirty-year average to the 1971-2000 thirty-year average is multiplied by the 1971-2000 NOAA thirty-year normal. This result is then divided by the actual test-year heating degree days to derive the weather normalization factor. Test year temperature-sensitive sales volumes for the residential and commercial classes are then multiplied by the weather normalization factor. The adjusted sales volume is then added to the non-temperature-sensitive sales volume to calculate test year weather normalized sales volume. The test year weather normalized sales volume is used in both the test year adjusted revenue calculation and in the derivation of new commodity rates pursuant to the test year revenue requirements.

B. Cost Allocation and Rate Design

Background. In its filed case, Eastern proposed that the Monthly Facility and Distribution Delivery charges for residential and commercial customers be the same, for the reason that both customer classes are predominantly heating load in nature. In addition, the Company proposed to recover an increased level of its fixed costs through the Monthly Facility Charge. Staff and the OCC recommended instead that there continue to be a differentiation in rates between the two classes of service and that the level of the Monthly Facility Charge for each class of customers be reduced from that proposed by the Company.

Resolution. For rate making purposes only, the Parties have reached a black box settlement on the Monthly Facility charges and have provided the justification for such charges and the method for the calculation of a uniform Distribution Delivery Charge. The results of the black box settlement include maintenance of separate residential and commercial Monthly Facility charges in the amount of \$7.50 for the residential class of service, \$8.50 for the small commercial class of service and \$25.00 for the large commercial class of service. The Distribution Delivery Charge for each class of service will be \$.1385/ccf, it being agreed that the Distribution Delivery Charge is the function of the difference in the settlement revenue requirement and the cumulative total of the settled Monthly Facility charges. Eastern represents that it generally subscribes to the principle of having the same Distribution Delivery Charge for both sales and transportation customers for the same class of service, therefore, the Distribution Delivery Charge for transportation service will also be \$.1385/ccf.

C. Affiliate Transactions

Background. Eastern has undertaken certain transactions with related parties since its inception, including leasing of office space. As a general matter, and consistent with Staff and the OCC's understanding of the Commission's rules concerning cost assignment and allocation for gas utilities, Staff and the OCC expressed their belief that affiliate transactions should be based on the lower of cost or market from affiliates/related parties to Eastern and the higher of cost or market from Eastern to affiliates/related parties. Staff and the OCC did not, however, allege in this rate case that Eastern's transactions with related parties violated this general belief.

Resolution. The Parties agree that Eastern will maintain proper records surrounding affiliate transactions to which it is a party and that the pricing terms of such transactions will comport with the Commission's Rules Regulating Gas Utilities and Pipeline Operators, 4 CCR 723-4 at Rule 4500, *et. seq.*, concerning cost assignment and allocation for gas utilities, as same may be amended from time to time.

D. Schedule of Charges for Rendering Services

Background. In its filed case, Eastern did not propose to modify its Schedule of Charges for Rendering Services. Staff and the OCC questioned the appropriateness of maintaining these rates and instead requested that they be updated to reflect more current costs.

Resolution. The Parties agree that the Schedule of Charges for Rendering Services included within S&A Attachment C should be adopted by the Commission. Said charges are based on engineering, financial, or economic estimates with updated labor and other expenses.

E. Agreement to File Rate Case

Background. This is the first rate case filing by Eastern in over 15 years. Staff and the OCC raised concerns about the length of time that might elapse between the conclusion of this proceeding and the filing of another rate case by Eastern. Staff and the OCC also raised concerns about the lack of review of Eastern's books and records in the context of a rate case for over 15 years.

Resolution. For the purposes of settlement, the Parties agree that Eastern shall file a rate case with the Commission no later than May 30, 2008, utilizing a test period comprised of the twelve months ended December 31, 2007. Eastern understands its obligation to maintain its books of accounts and records using Generally Accepted Accounting Principles ("GAAP"), and to comply with the USOA.

F. Terms and Conditions of Gas Transportation Service

1. Revised Fuel Reimbursement Percentage

Background. During settlement negotiations, Staff and the OCC inquired of Eastern regarding the process by which Eastern determines its Fuel Reimbursement Percentage applicable to gas transportation service. Specifically, Staff recommended that Eastern implement a process by which such percentage is updated periodically.

Resolution. For purposes of settlement, the Parties agree that Eastern shall separately identify in its tariff an update to the Fuel Reimbursement Percentage for natural gas transportation service concurrent with its regularly scheduled annual GCA filing. The first such filing would be submitted for implementation no later than November 1, 2006.

2. Back-Up Commodity Sales Charge

Background. During settlement negotiations, Staff inquired of Eastern regarding the development of its Back-Up Commodity Sales Charge for gas transportation service. Specifically, Staff recommended that Eastern's Back-Up Commodity Sales Charge be set at the highest of indexes used by Colorado Interstate Gas Company ("CIG") for the month in which such service is provided or the highest incremental price paid by Eastern for system sales gas during such month.

Resolution. For purposes of settlement, the Parties agree that Eastern's Back-Up Commodity Sales Charge shall be set at the higher of the CIG Rocky Mountain spot index for the month in which such service is provided or the highest incremental price paid by Eastern for system sales gas during such month, as more particularly set forth in S&A Attachment B (Sheet No. 4.1) hereto.

G. Agreement to Update Construction Allowance

Background. Eastern's filing does not include any change or modification to Eastern's Main Extension Policy as set forth in its tariff. Staff recommended Eastern update such policy as it relates to the determination of construction allowances, such that construction allowances are determined on a revenue-based approach which incorporates the new rates agreed to in this Stipulation as well as the revised annual usage estimates used to calculate the settlement rates in this proceeding.

Resolution. For purposes of settlement, the Parties agree to a recalculation of Eastern's construction allowance available to new customers, which recalculation yields the construction allowances set forth on Sheet No. 15.3, included in S&A Attachment B.

H. Merchandise Sales

Background. Eastern included revenues and expenses from its non-jurisdictional merchandise sales business as revenues and expenses. Eastern believes that its non-jurisdictional merchandise sales business was profitable and that this simplified accounting procedure of including such revenues and expenses benefited ratepayers. Staff and the OCC believe proper accounting of all expenses is required and that such would incorporate not simply direct assignments of costs, but allocation of corporate overhead.

Resolution. For the purposes of Eastern's next Phase I rate case filing, as well as its annual reports to the Commission in the interim, Eastern agrees to maintain its books and records in such a way as to allocate certain corporate level costs to its non-jurisdictional merchandise sales business pursuant to what the Parties refer to as the net revenue (i.e., net of gas costs) approach to corporate allocation. Such costs shall include corporate salaries and benefits, rents, transportation, etc. To the extent practical, Eastern shall directly assign such costs and shall maintain underlying books and records relating to such allocations and direct assignments.

I. Other Revenues

Background. Eastern includes all construction payments as other revenues in this rate case but did not offset the construction payments against rate base.

Resolution. Eastern agrees that it will net customer contributions received in aid of construction against Eastern's capitalized construction costs prior to booking such construction costs in the relevant accounts as plant in service. Eastern will endeavor to maintain its books and records so that, if subjected to audit, compliance with the terms of the Stipulation may be verified.

J. Maintenance of Accounting Records

Eastern hereby confirms its understanding of the obligation to maintain its accounting books and records in accordance with GAAP as well as in accordance with the USOA. Eastern further agrees that it will endeavor to observe all prospective accounting treatments specifically identified herein.

K. No Settled Practice

The Parties agree that this Stipulation and the settlement rates, terms and conditions of service, and the cost allocation, rate design and other methods contained in the S&A Attachments have been agreed to by the Parties solely for purposes of settlement and do not constitute a settled practice or otherwise have precedent-setting value in any future proceedings. Neither Eastern, the Staff, nor the OCC shall be deemed to have approved, accepted, agreed to or consented to any concept, theory or principle underlying or supposed to underlie any of the matters provided for in this Settlement. Further, the Parties represent that should the Commission find such approval, acceptance, agreement or consent, one or more of the Parties deem such a finding unacceptable and may exercise its rights in Section V of this Stipulation. Nothing in this Stipulation shall preclude the Company from seeking

prospective changes in its natural gas service rates by an appropriate filing with the Commission. Nothing in this Stipulation shall preclude Staff or the OCC from filing a complaint to obtain prospective changes in the Company's natural gas service rates and/or provisions in the Company's tariff.

III. TERM OF THIS STIPULATION AND AGREEMENT

This Stipulation shall take effect upon its approval by the Commission. Nothing in this Stipulation shall be construed as precluding the Company from filing a general rate case to change the rates for its natural gas services at any time. Nothing in this Stipulation shall be construed to limit the Company from applying to the Commission for adjustment clauses or for any other change to the Company's gas rates. Nothing in this Stipulation shall be construed to prevent Staff or the OCC from filing a complaint seeking review by the Commission of the justness and reasonableness of the Company's natural gas service rates.

Except as provided in this paragraph, the provisions of this Stipulation shall terminate and have no continuing effect upon the effective date of the revised rates for natural gas services resulting from Eastern's next revenue requirement rate case, whether initiated through the Company's filing of a rate case or a complaint. Where reference is made in the Stipulation to provisions that apply for a period of time, all such time period provisions of this Stipulation may be modified by a subsequent filing with the Commission or subsequent stipulation approved by the Commission.

IV. EFFECTIVE DATE OF SETTLEMENT RATES AND TERMS AND CONDITIONS OF SERVICE

Subject to implementation of the Stipulation in accordance with Article V hereof, the rates and terms and conditions of service set forth herein shall go into effect upon the date as directed by order of the Commission. The settlement in this case recognizes that the Company is currently not recovering its cost of service. The Parties agree that the increased rates resulting from this settlement should become effective as early as practicable as ordered by the Commission and further agree to request expedited review and approval of this Stipulation in order to facilitate such an early effective date.

V. IMPLEMENTATION

This Stipulation shall not become effective until the issuance of a final Commission order approving the Stipulation that does not modify the Stipulation in a manner that is unacceptable to any of the Parties. In the event the Commission modifies this Stipulation in a manner unacceptable to any Party, that Party shall have the right to withdraw from this Stipulation and proceed to hearing on the issues that may be appropriately raised by that Party in this docket. The withdrawing Party shall notify the Commission and the Parties to this Stipulation by e-mail within three business days of the Commission modification that the Party is withdrawing from the Stipulation and that the Party is ready to proceed to hearing; the e-mail notice shall designate the precise issue or issues on which the Party desires to proceed to hearing (the "Hearing Notice").

The withdrawal of a Party shall not automatically terminate this Stipulation as to the withdrawing Party or any other Party. However, within three business days of the date of the Hearing Notice from the first withdrawing Party, all Parties shall confer to arrive at a

comprehensive list of issues that shall proceed to hearing and a list of issues that remain settled as a result of the first Party's withdrawal from this Stipulation. Within five business days of the date of the Hearing Notice, the Parties shall file with the Commission a formal notice containing the list of issues that shall proceed to hearing and those issues that remain settled. The Parties who proceed to hearing shall have and be entitled to exercise all rights with respect to the issues that are heard that they would have had in the absence of this Stipulation.

A Hearing shall be scheduled on all of the issues designated in the formal notice filed with the Commission as soon as practicable. In the event that this Stipulation is not approved, or is approved with conditions that are unacceptable to any Party who subsequently withdraws, the negotiations or discussions undertaken in conjunction with the Stipulation shall not be admissible into evidence in this or any other proceeding, except as may be necessary in any proceeding to enforce this Stipulation.

The Parties agree that, upon final Commission approval of this Stipulation, the Company will file an Advice Letter with the Commission, on not less than one day's notice prior to the effective date ordered by the Commission, that will include a citation to the order approving the Stipulation, and the settlement rates, terms and conditions and tariff sheets set forth herein in S&A Attachment B. The Parties agree that the Commission's order should direct Eastern to place into effect tariff sheets reflecting the tariff changes that are in all respects identical to the *pro forma* tariff sheets contained in S&A Attachment B hereto, with the exception that the effective date of the Commission's order shall be inserted in the tariff sheets where such reference is indicated, and with the further exception that the tariff sheets

will contain the gas cost related rates pursuant to the Company's most recently approved Gas Cost Adjustment filing. The settlement rates, terms and conditions shall then become final rates, terms and conditions to be effective as provided in Articles III and IV hereof and shall not be subject to refund, nor shall they be subject to modification except in accordance with the Public Utilities Law and the Commission's Rules and Regulations promulgated thereunder.

VI. GENERAL TERMS AND CONDITIONS

The Parties hereby agree that all pre-filed testimony and exhibits shall be admitted into evidence in this docket without cross-examination. This Stipulation reflects compromise and settlement of all issues raised or that could have been raised in this docket. This Stipulation shall be filed as soon as possible with the Commission for Commission approval.

Approval by the Commission of this Stipulation shall constitute a determination that the Stipulation represents a just, equitable and reasonable resolution of issues that were or could have been contested among the parties in this proceeding. The Parties state that reaching agreement as set forth herein by means of a negotiated settlement rather than through a formal adversarial process is in the public interest and that the results of the compromises and settlements reflected in this Stipulation are in the public interest.

This Stipulation may be executed in counterparts, each of which when taken together shall constitute the entire Stipulation with respect to the issues addressed by this Stipulation.

The Parties agree to a waiver of compliance with any requirements of the Commission's Rules and Regulations to the extent necessary to permit all provisions of this Stipulation to be carried out and effectuated.

DATED this 29 day of April, 2006.

Respectfully submitted,

EASTERN COLORADO UTILITY COMPANY

Approved as to form:

By: Joseph F. Schmitt
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Attorney for Eastern Colorado Utility Company

**STAFF OF THE COLORADO
PUBLIC UTILITIES COMMISSION**

Approved as to form:

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**COLORADO OFFICE OF
CONSUMER COUNSEL**

Attachment
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Decision No. R06-0564
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Approved as to form:

By: P.B. Schechter

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Attorney for the
Colorado Office of Consumer Counsel

CERTIFICATE OF SERVICE

I hereby certify that on this 28th day of April, 2006, a true and correct copy of the foregoing **STIPULATION AND AGREEMENT IN RESOLUTION OF PROCEEDING** was deposited in the mail postage prepaid to the following:

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Thomas R. O'Donnell

S&A ATTACHMENT A

Eastern Colorado Utility Company
Rate Base, Hypothetical Capital Structure & Rate of Return

Docket No. 05S-439G
Exhibit on RB, CS, & RR
Settlement Attachment A
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Rate Base

	Dec 31, 2003	Dec 31, 2004	Average	Staff Adjustments	Adjusted Rate Base
Utility Plant in Service	2,103,846	2,198,509	2,151,178	(26,546) (2)	2,124,632
Reserve for Depr and Amort	1,221,396	1,312,133	1,266,765	(804) (2)	1,265,960
Net Utility Plant in Service	882,450	886,376	884,413	(25,741)	858,672
Plant Held for Future Use					
Construction Work in Progress					
Utility Materials and Supplies (1)	33,499	70,018	51,759		51,759
Regulatory Asset/Liabilities			-		-
Gas Stored Underground	278,250	235,401	256,826		256,826
Prepaid Assets (1)	60,907	61,912	61,410		61,410
Accum Def Income Taxes	(172,354)	(181,744)	(177,049)	804 (2)	(176,245)
AFUDC			-		-
Customer Deposits	(87,385)	(103,880)	(95,633)		(95,633)
Customer Advances for Const	(16,586)	(18,100)	(17,343)		(17,343)
Net Original Cost Rate Base	978,781	949,982	964,382	(24,937)	939,445
Cash Working Capital					15,580
Net Average 2004 Rate Base					955,025

(1) Eastern's 2004 FERC Form 2-A, p.111

(2) Adjustment to rate base for net customer construction payments

Hypothetical Capital Structure & Rate of Return

	Weights	Return	ROR
Equity	55.00%	10.50%	5.78%
Debt	45.00%	6.50%	2.93%
Rate of Return on Rate Base	100.00%		8.70%

Eastern Colorado Utility Company
Cash Working Capital Calculation

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Exhibit on CWC
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<u>Category</u>	<u>\$ Amount</u>	<u>Imputed CWC Factor</u>	<u>Cash Working Capital</u>
Cost of Gas (1)	2,350,644	0.007699	18,097.61
O&M	656,009	0.008919	5,850.94
Taxes Other Income (2)	14,764	-0.706461	(10,430.21)
Payroll Tax	29,002	0.059183	1,716.45
Fed Income Tax	25,662	0.020932	537.16
State Income Tax	5,280	-0.184959	(976.50)
Franchise Tax (2)	3,160	0.03189	100.77
Sales Tax (2)	34,337	0.019918	683.92
			<u>15,580.15</u>

- (1) Eastern's Rate Case Filing, Schedule C, Page 1 of 1
(2) Eastern's Rate Case Filing, Schedule F, Page 2 of 2

Eastern Colorado Utility Company
Adjustment to Current Revenue

Docket No. 05S-439G
Exhibit on Current Revenue
Settlement Attachment A
Page 3 of 6

	<u>Current Revs Per Books</u>	<u>Gas Adjustment</u>	<u>Staff Adjustments</u>	<u>Adjusted Current Revenues</u>
Gas Sales	3,132,899	(2,350,644) (1)	30,512 (2)	812,766
Merchandise Sales	35,506		(35,506) (3)	(0)
Other Revenues	<u>142,596</u>		<u>(123,358) (4)</u>	<u>19,238 (5)</u>
Total Operating Revenues	3,311,000	(2,350,644)	(128,352)	832,004

(1) Cost of Gas, Eastern's Rate Case Filing, Schedule C, Page 1 of 1

(2) Weather normalization adjustment

(3) Eliminate Merchandise Sales

(4) Eliminate other revenues not related to regulated activities

(5) Reconcile to Column G under Salary Breakdown Tab of 19,303

Eastern Colorado Utility Company
Revenue Requirement Calculation

Docket No. 05S-439G
Exhibit on Prop Revenue Requirement
Settlement Attachment A
Page 4 of 6

		<u>\$ Amount</u>	
Rate Base	955,025		
Return on Rate Base	8.70%		
Required Earnings		83,087	
Imputed Interest Expense		<u>27,934</u>	(1)
Taxable Income		55,153	
Taxes - State		5,280	(2)
Taxes - Federal		25,662	(2)
Expenses		789,707	
Calculated Revenue Requirement (Required Earnings+Taxes+Expenses)		903,736	
Adjusted Current Rate Revenues		<u>832,004</u>	
Gas Revenue Increase		71,732	

- (1) Rate base x debt ratio x debt cost
(2) Tax Allowance based on Required Earnings

Eastern Colorado Utility Company
Expenses

Docket No. 05S-439G
Exhibit on Expenses
Settlement Attachment A
Page 5 of 6

<u>Category</u>	<u>Filed</u>	<u>Adjustments</u>	<u>Expenses as Adjusted</u>
O & M	746,092	(110,083) (1)	636,009
ECUC Payroll Adjust	26,076	(26,076) (2)	-
ECUC Rate Case Exp	<u>20,000</u>	<u>-</u>	<u>20,000</u>
Total Adj O&M	792,168 (3)	(136,159)	656,009
Depreciation	90,736	(804) (4)	89,932
Taxes Other			-
Property	14,764		14,764
Other (Payroll)	<u>35,544</u>	<u>(6,542) (5)</u>	<u>29,002</u>
Total Expenses	933,212	(143,505)	789,707

- (1) Eliminate expenses related to construction payments, merchandise sales cost of goods sold (\$18,806) and allocation for merchandise sales \$ 18,806 from Schedule B, Page 1 of 1 & \$ 13,173 expense allocation to merchandise sale
- (2) Eliminate Payroll Adjustment
- (3) Eastern's Rate Case Filing, Schedule B, Page 1 of 1
- (4) Eliminate Misc Revenue construction payments from rate base depreciation
- (5) Eliminate Payroll Tax related to construction payments

**Eastern Colorado Utility Company
Calculation of Monthly Facility and Distribution Delivery Charges**

Docket No. 05S-439G
Exhibit on Rates
Settlement Attachment A
Page 6 of 6

	<u>Residential</u>	<u>Small Commercial</u>	<u>Large Commercial</u>	
Monthly Facility Charge per Stipulation	\$ 7.50	\$ 8.50	\$ 25.00	
Number of Customers	2,931	528	32	
Annual Revenue from Monthly Facility Charge	\$ 263,790.00	\$ 53,856.00	\$ 9,600.00	\$ 327,246.00
Total Revenue Requirement				\$ 903,736.10
Amount to be Collected from Distribution Delivery Charge				\$ 576,490.10
Adjusted Sales				<u>4,162,237</u>
Distribution Delivery Charge (\$/CCF)				\$ 0.13850

Rate Summary

	<u>Residential</u>	<u>Small Commercial</u>	<u>Large Commercial</u>
Monthly Facility Charge	\$ 7.5	\$ 8.5	\$ 25.0
Distribution Delivery Charge (\$/CCF)	\$ 0.13850	\$ 0.13850	\$ 0.13850

S&A ATTACHMENT B

Attachment
Docket No. 05S-439G
Decision No. R06-0564
Page 32 of 49

(General Service Classification)	Company Rate Code
(Rate Title or Number)	SG-1
RESIDENTIAL AND COMMERCIAL GENERAL GAS SERVICE	RATE
<u>AVAILABILITY</u>	
Natural Gas Service under this schedule is available to any separately metered customer for residential or commercial in and around the Towns of Dear Trail, Byers, Strasburg, Bennett, Watkins, Kit Carson, and Sheridan Lake.	
Service under this schedule is not available for resale or standby service.	
<u>RATE</u>	
Monthly Facility Charge - Residential Customers	7.50
Monthly Facility Charge - Commercial Customers	8.50
Distribution Delivery Charge,* per 1000 Ccf	1.3850
<u>PAYMENT</u>	
Gas service may be discontinued if an account is not paid when due. A charge of \$40.00 will be made for reconnection if gas service is discontinued, or if collection of a past due bill is made on the customer's premises. In the event gas service is discontinued, it will not be resumed until the customer's account is paid in full to date.	
<u>BAD CHECK CHARGE</u>	
Customer's checks which are returned by the bank for insufficient funds will be charged an additional \$10.00 fee.	
*Excludes gas costs which have been carved out in the GCA.	

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FORTY-FIRST

Sheet No. 2.1

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Cancels
Sheet No. 2.1

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Page 34 of 49

(General Service Classification)	Company Rate Code
(Rate Title or Number)	SG-2
LARGE COMMERCIAL GAS SERVICE	RATE
<u>AVAILABILITY</u>	
Natural Gas Service under this schedule is available to any separately metered customer for commercial purposes with large meters such as 1.5m American Rotary in and around the Towns of Dear Trail, Byers, Strasburg, Bennett, Watkins, Kit Carson, and Sheridan Lake.	
Service under this schedule is not available for resale or standby service.	
<u>RATE</u>	
Monthly Facility Charge - Large Commercial Customers.....	25.00
Distribution Delivery Charge,* per 1000 Ccf.....	1.3850
<u>PAYMENT</u>	
Gas service may be discontinued if an account is not paid when due. A charge of \$40.00 will be made for reconnection if gas service is discontinued, or if collection of a past due bill is made on the customer's premises. In the event gas service is discontinued, it will not be resumed until the customer's account is paid in full to date.	
<u>BAD CHECK CHARGE</u>	
Customer's checks which are returned by the bank for insufficient funds will be charged an additional \$10.00 fee.	
*Excludes gas costs which have been carved out in the GCA.	

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Sheet No. 2.2

Cancels

Sheet No.

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Page 35 of 49

(General Service Classification)	Company Rate Code
(Rate Title or Number)	RATE
SCHEDULE OF OTHER CHARGES FOR RENDERING SERVICES	
To institute or reinstitute gas service requiring a premise visit.....	\$40.00 I
To transfer service at a specific location from one customer to another customer where such service is continuous not requiring a premise visit.....	\$10.00 I
To provide a non-regularly scheduled final meter reading at customer request.....	\$25.00 I
To provide non-gratuitous labor for service work in addition to charges for material is as follows:	
Trip Charge, when no actual service work, other than a general diagnosis of the customer's problem is performed.....	\$32.00 I
For service work during normal working hours, Minimum Charge, one hour.....	\$40.00 I
For service work before or after normal working hours and on weekends and holidays, Minimum Charge, one hour.....	\$57.00 I
To process a check from a customer that is returned to the Company by the bank as not payable.....	\$10.00

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SEVENTH REVISED

Sheet No. 3

SIXTH REVISED

Cancel Sheet No. 3

Attachment
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(General Service Classification)	Company Rate Code
Rules, Regulations, or Extension Policy	RATE
<p><u>APPLICABILITY</u></p> <p>All gas utility sales rate schedules are subject to a Gas Cost Adjustment (GCA) in accordance with this tariff and Rules 4600-4609 of the Commission's Rules Regulating Gas Utilities and Pipeline Operators, 4 CCR 723-4.</p> <p><u>GCA FILING SCHEDULE</u></p> <p>The Company shall file annually a GCA application with an effective date of November 1 with the Commission. Additional GCA applications may also be filed provided that the resulting change to the GCA rate equates to at least one cent (\$.01) per MCF or DTH.</p> <p><u>DEFINITIONS</u></p> <p>Account No. 191 - An account under the Federal Energy Regulatory Commission Uniform System of Accounts used to accumulate actual gas supply costs, and corresponding actual revenues in a given purchase year, resulting in a net under or over-recovery to be amortized in the next GCA Effective Period.</p> <p>Actual Gas Cost - Actual Gas Cost is the account recorded as natural gas purchase - 799(excludes Gas Research Data Change GRI).</p> <p>Current Gas Cost - A rate component of the GCA expressed in mils per MCF or DTH, which reflects the Forecasted Gas Commodity Cost and Forecasted Upstream Service Cost projected to be incurred by the Company during the GCA Effective Period.</p> <p>Deferred Gas Cost - A rate component of the GCA, expressed in mils per MCF or DTH, designed to amortize over the GCA Effective Period the under- or over-recovered gas costs reflected in the Company's Account No. 191 or other appropriate costs for a defined Gas Purchase Year.</p> <p>Forecasted Gas Commodity Cost - The cost of gas commodity, including appropriate adjustments for storage gas injections and withdrawals and exchange gas imbalances, projected to be incurred by the Company during the GCA Effective Period.</p> <p>Forecasted Sales Gas Quantity - The quantity of gas commodity projected to be sold by the Company during the GCA Effective Period, based upon the Normalized, historic quantity of gas commodity sales, adjusted for anticipated changes.</p> <p>Forecasted Upstream Service Cost - The total cost of upstream services projected to be incurred by the Company during the GCA Effective Period.</p>	

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SECOND REVISED

Sheet No. 3.2

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Cancels
Sheet No. 3.2

Attachment
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Page 38 of 49

(General Service Classification)	Company Rate Code
Rules, Regulations, or Extension Policy	RATE
<p>(3) The Deferred Gas Cost will be calculated to the nearest one tenth of one mil (\$0.0001) per thousand cubic feet.</p> <p><u>ACTUAL GAS COST</u></p> <p>The Actual Gas Cost will be the amounts recorded in Account No. 799.</p> <p><u>DETERMINATION OF GAS COST AJUSTMENT RATE</u></p> <p>The following formula will be used to determine the Gas Cost Adjustment rate.</p> $\frac{\text{Current Gas Cost}}{\text{Forecasted Sales Gas Quantity}} + \text{or} - \frac{\text{Deferred Gas Cost}}{\text{Forecasted Sales Gas Quantity}} = \text{Gas Cost Adjustment}$ <p><u>INTEREST ON UNDER-OR OVER-RECOVERY</u></p> <p>Interest on over-recovered and under-recovered costs recorded in Account No. 191 shall be calculated at a rate equal to the Commission's authorized customer deposit rate for gas utilities for that applicable month. The Company will calculate interest on both under-recovered and over-recovered amounts during the GCA Effective Period. If the net interest is positive, it will be excluded from the calculation of the Deferred Gas Cost.</p> <p><u>TREATMENT OF REFUND</u></p> <p>Application shall be made to the Commission for approval of a refund plan for the disposition of each refund received by the Company including the interest received thereon.</p> <p><u>INFORMATION TO BE FILED WITH THE COMMISSION</u></p> <p>Each proposed revision to the Gas Cost Adjustment Rate will be accomplished by filing an application and exhibits as required by Rules 4600-4609 of the Commission's Rules Regulating Gas Utilities and Pipeline Operators, 4 CCR 723-4, et seq. Such application will be accompanied by such supporting data and information as the Commission may require from time to time.</p> <p>The Company's Gas Cost Adjustment Rate as set forth above incorporates by reference the rules regarding gas cost adjustment found in Rules 4600-4609 of the Commission's Rules Regulating Gas Utilities and Pipeline Operators, 4 CCR 723-4. The intent of the gas cost adjustment rules shall prevail in case of any errors or omissions in the Company's GCA tariffs stated herein.</p>	

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TWENTY-FIRST REVISED Sheet No. 3.3

TWENTIETH REVISED Canceled Sheet No. 3.3

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(General Service Classification)	Company Rate Code
Rules, Regulations, or Extension Policy	RATE
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TWELFTH REVISED

Sheet No. 3.4

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Cancels
Sheet No. 3.4

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(General Service Classification)					RATE
Rules, Regulations, or Extension Policy					
<u>GAS RATE COMPONENT SUMMARY</u>					
<u>Monthly Facility Charge</u>					
Residential Customers					7.50
Commercial Customers					8.50
Large Commercial Customers					25.00
<u>Commodity Charge</u>					
Commodity Gas Costs per CCF					0.92858
Upstream Delivery Service Costs per CCF					0.05314
Distribution Delivery Charge (Local Distribution Company Costs) per CCF					0.13850
Total Commodity Rate					1.12022
<u>COMPONENTS OF GCA</u> [COMMODITY GAS COSTS AND UPSTREAM SERVICE COSTS]					
				TOTAL GAS	
RATE	SHEET	CURRENT	DEFERRED	COST	
SCHEDULE	NUMBER	GAS COSTS	GAS COSTS	ADJUST	
		PER CCF	PER CCF	PER CCF	
SG-1 & SG-2	2 & 2.1	\$0.89262	(\$0.0891)	\$0.98172	

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Sheet No. 4.1

ORIGINAL

Cancels
Sheet No. 4.1

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(General Service Classification)	Company Rate Code
Gas Transportation (GT-1)	RATE
Distribution Delivery Charge:	
The Distribution Delivery Charge applicable to all gas transported up to the nominated Peak Day Volume(s), is as contained in the Service Agreement:	
Maximum Rate, per MCF at LPB	\$1.3850
Minimum Rate, per MCF at LPB	\$0.05
Authorized Overrun Transportation Charge, all gas transported in excess of the nominated Peak Day Volume(s), per MCF at LPB ...	(2)
Note 2: Authorized Overrun Transportation Service will be provided for at the same Distribution Delivery Charge rate as set forth in the Transportation Service Agreement unless otherwise agreed.	
Unauthorized Overrun Transportation Charge, per MCF at LPB	\$25.00
Back-Up Commodity Sales Charge.....	(3)
Note 3: Back-Up supply set at the higher of CIG Rocky Mountain spot gas index for the month or the price for the Company's highest incremental purchase in the month.	
Unauthorized Overrun Commodity Sales Charge.....	\$25.00
<u>Payment</u>	
Gas service may be discontinued if an account is not paid when due. A charge of \$40.00 will be made for reconnection if gas service is discontinued, or if collection of a past due bill is made on the premises of the party liable for the bill.	

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Sheet No. 4.2

ORIGINAL

Cancels Sheet No. 4.2

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(General Service Classification)	Company Rate Code
Gas Transportation (GT-1)	RATE
<p>In the event gas service is discontinued, it will not be resumed until the Shipper's account is paid in full to date.</p> <p><u>Bad Check Charge</u></p> <p>Shipper's checks which are returnable by the bank for insufficient funds will be charged an additional \$10.00 fee.</p> <p><u>Shipper and End User(s) Acknowledgements</u></p> <p>Shipper and the party who ultimately consumes the natural gas at the Delivery Point(s) (the "End User"), if not the same party as Shipper, receiving Shipper's Gas through Company's distribution system acknowledges that all service provided to Shipper and the End User(s) hereunder is for the benefit of the End User(s), and in the event that Shipper or the End User fails to make timely payment for any service provided under this schedule, or is in violation of any rule or regulation of Company or the Public Utilities Commission of the State of Colorado, all service provided to Shipper and End User shall be subject to termination in accordance with Company's Rules and Regulations for Natural Gas Service.</p> <p><u>Rules and Regulations</u></p> <p>Service supplied under this schedule is subject to the terms and conditions set forth in Company's Gas Transportation terms and conditions.</p>	

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ORIGINAL Sheet No. 15.3
Cancels Sheet No.

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RULES AND REGULATIONS

NATURAL GAS SERVICE

SERVICE LATERAL AND DISTRIBUTION MAIN EXTENSION POLICY

CONSTRUCTION ALLOWANCE BY SERVICE CLASS

<u>Service Class</u>	Construction Allowance	
	<u>Service Lateral Portion</u>	<u>Distribution Main Portion</u>
Residential	\$ 92.00	\$134.00
Commercial/Large Commercial	122.00	2.063/DTH
Transportation (GT-1)	0.047/DTH	0.141/DTH

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S&A ATTACHMENT C

Attachment
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**Eastern Colorado Utility Co.
Schedule of Other Charges for Rendering Services**

**Attachment C
Page 1 of 1**

SCHEDULE OF OTHER CHARGES FOR RENDERING SERVICES

To institute or reinstitute gas service requiring a premise visit	\$40.00
To transfer service at a specific location from one customer to another customer where such service is continuous not requiring a premise visit	\$10.00
To provide a non-regularly scheduled final meter reading at customer request	\$25.00
To provide non-gratuitous labor for service work in addition to charges for material is as follows: Trip Charge, when no actual service work, other than a general diagnosis of the customer's problem is performed.	\$32.00
For service work during normal working hours, per man hour Minimum Charge, one hour	\$40.00
For service work before or after normal working hours and on weekends and holidays	\$57.00
To process a check from a customer that is returned to the Company by the bank as not payable	\$10.00

S&A ATTACHMENT D

Attachment
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**Eastern Colorado Utility Co.
Present and Settled Rates**

**Attachment D
Page 1 of 1**

Customer Class

	<u>Existing Rate</u>	<u>Proposed Rate</u>
Residential		
Monthly Facility Charge	\$ 4.47	\$ 7.50
Distribution Delivery Charge	\$ 0.1457 /ccf	\$ 0.1385 /ccf
Commodity Charge*	\$ 0.6351 /ccf	\$ 0.6351 /ccf
Commerical		
Monthly Facility Charge	\$ 8.00	\$ 8.50
Distribution Delivery Charge	\$ 0.1457 /ccf	\$ 0.1385 /ccf
Commodity Charge*	\$ 0.6351 /ccf	\$ 0.6351 /ccf
Large Commercial		
Monthly Facility Charge	\$ 8.00	\$ 25.00
Distribution Delivery Charge	\$ 0.1457 /ccf	\$ 0.1385 /ccf
Commodity Charge*	\$ 0.6351 /ccf	\$ 0.6351 /ccf

*Commodity Charge at the time of filing of this advice letter and not updated for subsequent GCA changes.

S&A ATTACHMENT E

Attachment
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EASTERN COLORADO UTILITY CO.
Gas Rate Case Customer Impact Study - Settlement

Attachment E
Bill Impacts

Customer Class	Existing Rate	Proposed Rate	Monthly Average Usage	Monthly Existing Bill	Monthly Proposed Bill	Difference \$	Difference %
Residential							
Monthly Facility Charge	\$ 4.47	\$ 7.50		\$ 4.47	\$ 7.50	\$ 3.03	
Distribution Delivery Charge	0.14568 /ccf	0.13850 /ccf	75 ccf	10.93	10.39	(0.54)	
Subtotal				\$ 15.40	\$ 17.89	\$ 2.49	
Commodity Charge*	0.63514 /ccf	0.63514 /ccf		47.64	47.64	-	
Total Bill				\$ 63.04	\$ 65.53	\$ 2.49	3.95%
Small Commercial							
Monthly Facility Charge	\$ 8.00	\$ 8.50		\$ 8.00	\$ 8.50	\$ 0.50	
Distribution Delivery Charge	0.14568 /ccf	0.13850 /ccf	194 ccf	28.26	26.87	(1.39)	
Subtotal				\$ 36.26	\$ 35.37	\$ (0.89)	
Commodity Charge*	0.63514 /ccf	0.63514 /ccf		123.22	123.22	-	
Total Bill				\$ 159.48	\$ 158.59	\$ (0.89)	-0.56%
Large Commercial							
Monthly Facility Charge	\$ 8.00	\$ 25.00		\$ 8.00	\$ 25.00	\$ 17.00	
Distribution Delivery Charge	0.14568 /ccf	0.13850 /ccf	1,414 ccf	205.99	195.84	(10.15)	
Subtotal				\$ 213.99	\$ 220.84	\$ 6.85	
Commodity Charge*	0.63514 /ccf	0.63514 /ccf		898.09	898.09	-	
Total Bill				\$ 1,112.08	\$ 1,118.93	\$ 6.85	0.62%

*Commodity Charge at the time of filing of this advice letter and not updated for subsequent GCA changes.