

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 17AL-0654G

IN THE MATTER OF ADVICE LETTER NO. 106 FILED BY ROCKY MOUNTAIN NATURAL GAS LLC DOING BUSINESS AS BLACK HILLS ENERGY TO INCREASE RATES FOR ALL RATE SCHEDULES, TO EXTEND AND MODIFY ITS SYSTEM SAFETY AND INTEGRITY RIDER, AND IMPLEMENT OTHER PROPOSED CHANGES TO ITS COLORADO PUC NO. 4 TARIFF TO BECOME EFFECTIVE NOVEMBER 3, 2017.

SETTLEMENT AGREEMENT

March 2, 2018

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I. INTRODUCTION

Pursuant to Rule 1408, Rocky Mountain Natural Gas LLC d/b/a Black Hills Energy (“RMNG” or the “Company”), Staff of the Public Utilities Commission of the State of Colorado (“Staff”), the Colorado Office of Consumer Counsel (“OCC”), and A M Gas Transfer Corp. (“A M Gas”) (collectively, “Settling Parties”) enter into this Settlement Agreement (“Settlement Agreement”) to resolve all of the issues that have been raised or could have been raised in this proceeding. The Settling Parties are the only parties to this proceeding.

II. BACKGROUND AND PROCEDURAL HISTORY

A. RMNG’s Advice Letter No. 106 Filing

1. On October 3, 2017, RMNG filed revised tariff sheets with Advice Letter No. 106 initiating this comprehensive rate review proceeding. In support of the proposed rate and tariff changes reflected therein, RMNG filed Direct Testimony (including attachments) of 13 witnesses. The Company’s filing in this proceeding was a combined revenue requirement (Phase I) and cost allocation and rate design (Phase II) proposal. RMNG sought in its filing to implement revised base rates to be effective June 1, 2018, that reflect the approved revenue requirement and rate design.

2. The principal purposes of RMNG’s filing were to increase the rates for all rate schedules under the Company’s Colorado P.U.C. No. 4 Tariff for all services offered by the Company and to extend the System Safety and Integrity Rider (“SSIR”) beyond the current expiration date of May 31, 2018 to recover the costs of eligible safety and integrity projects (“SSIR Projects”) for calendar years 2018 through 2022. The proposed tariff changes affect the rates and terms of service provided to Shippers under the following rate schedules: Rate Schedule FTS - Firm Transportation Service; Rate Schedule ITS- Interruptible Transportation

Service; Rate Schedule NNS - Firm No-Notice Storage Service; Rate Schedule APAL - Interruptible Automatic Park and Loan Service; and Rate Schedule MCS - Interruptible Market Center Services. Changes were also proposed to the Tariff's General Terms and Conditions.

3. The proposed tariff changes in the Company's filing, which were further detailed in the testimonies of the Company's witnesses filed in this proceeding, included the following:

- (a) Implementing revised base rates under all rate schedules, as reflected in the Statement of Rates,¹ to recover the proposed annual revenue requirement of \$29,003,865, based on an analysis of investments, revenues and expenses for the 12 months ending June 30, 2017, adjusted for known and measurable changes including capital projects scheduled to be completed on or before December 31, 2017 ("Original Proposed Revenue Requirement"²), which included the proposed roll-in of investment-related costs currently being recovered through the SSIR for 2017 and earlier SSIR Projects, as incorporated into individual base rate components using the Straight Fixed-Variable ("SFV") rate design method;
- (b) Revising the SSIR tariff to provide for continuation of the SSIR after the currently scheduled expiration date of May 31, 2018, to include projects undertaken as eligible SSIR Projects through 2022, refine the SSIR Project definition and other language to be more reflective of the current regulatory environment, including the addition of a Storage Integrity Management Program, provide for recovery of the costs of 2018-2022 SSIR Projects, extend the true-up provisions with respect to the costs of such projects and the revenues collected therefor, extend the annual reporting requirements, clarify that the SSIR will remain in effect until all SSIR Projects included in the rider, as extended, are rolled in to base rates, and other revisions;
- (c) Revising various provisions of Rate Schedule NNS to update the storage injection, withdrawal, and inventory requirements as well as other parameters to be followed by Shippers, among other things, to meet the Design Day deliverability and inventory cycling requirements of the Wolf Creek Storage Field, and other technical and clarifying changes to NNS Service;
- (d) Revising the Revenue Adjustment Mechanism ("RAM") to reflect updated liquids processing revenue requirement benchmarks for the Rifle and Piceance processing facilities, reset the date for off-system base contracts included in the RAM as they relate to revenue sharing, and allow for an interim RAM filing following a decision in this proceeding;

¹ Excluding the maximum and minimum rates for Statement of Rates FTS-1 and ITS-1, which apply to grandfathered contracts.

² The Original Proposed Revenue Requirement Study was included as Attachment MCC-1 to Mr. Clevinger's Direct Testimony.

- (e) Removing from the Tariff the Litigated Settlement Special Rate Surcharge (“LSSRS”) mechanism provisions due to the expiration of the LSSRS on October 31, 2017; and
- (f) Making certain textual, clarifying and housekeeping-type revisions that do not affect Shippers’ bills.

4. The proposed rate increase in the Company’s original filing, if approved, would have resulted in an increase of \$5,025,953, or 20.96% to annual base rate revenues collected under then-effective base rates. This included the effect of the roll-in of costs of SSIR Projects for 2017 and earlier that are currently being recovered through the SSIR. The roll-in of these SSIR costs into base rates accounted for \$3,049,108, or 12.72%, of the overall proposed increase. Thus, the net proposed increase to annual base rate revenues after removing the effect of the roll-in of SSIR costs was \$1,976,845, or 8.24%. The Company also proposed to reduce the SSIR to eliminate the costs being rolled into base revenues on the effective date of new base rates, or June 1, 2018.

5. The Original Proposed Revenue Requirement was proposed to be reflected in all demand and commodity components of the Company’s rates through use of the SFV rate design method. The SFV method was used to develop and design the Company’s currently effective rates, as approved by the Commission in Decision No. R14-0114 issued January 30, 2014, in RMNG’s previous rate review in Proceeding No. 13AL-0067G, *et al.*

6. Consistent with Commission rules and Colorado statutes, the proposed effective date for the changed tariffs accompanying the Advice Letter was November 3, 2017. However, the Company requested that such date be suspended by the Commission for the statutory 210 days and that the Commission set a hearing on the proposed rates and tariff changes. Based on

this suspension period, new rates from the Commission's rate review proceeding would go into effect on June 1, 2018, the day after the current SSIR tariff mechanism is scheduled to expire.

B. Procedural Background

7. By Decision No. C17-0844, issued October 20, 2017, the Commission suspended the effective date of the tariffs for 120 days pursuant to § 40-6-111(1), C.R.S., and referred the matter to an administrative law judge for disposition.

8. On October 20, 2017, the OCC filed its Notice of Intervention as a Matter of Right and Entry of Appearance. OCC is an intervenor as of right and a party in this proceeding.

9. On October 24, 2017, Staff filed its Notice of Intervention as of Right, Entry of Appearance, Notice Pursuant to Rule 1007(a) and Rule 1401, and Request for Hearing. Staff is an intervenor as of right and a party in this proceeding.

10. On October 25, 2017, A M Gas filed its Petition to Intervene. A M Gas stated that it operates a gas transportation business in the service area served by RMNG and the proposed advice letter and tariff will substantially affect its pecuniary and tangible interests. The intervention of A M Gas was granted through Decision No. R17-1044-I issued on December 15, 2017.

11. By Decision No. R17-0894-I, issued October 31, 2017, Administrative Law Judge Robert I. Garvey ("ALJ") issued an interim decision scheduling a prehearing conference for December 7, 2017, for purposes of establishing a procedural schedule and setting a hearing in this matter.

12. On December 6, 2017, the Parties filed their Unopposed Joint Motion to Adopt Proposed Procedural Schedule, Discovery Procedures, Confidentially Procedures, to Vacate Prehearing Conference and Waiver of Response Time.

13. The ALJ issued an interim decision, Decision No. R17-1020-I, on December 8, 2017, vacating the prehearing conference, adopting a procedural schedule in this proceeding, and setting the matter for a three-day evidentiary hearing commencing February 27, 2018. In the same interim decision, the ALJ also amended the caption of the proceeding and, pursuant to § 40-6-111(1), C.R.S., further suspended the tariff sheets filed with Advice Letter No. 106 an additional 90 days, or until June 1, 2018.

14. On January 19, 2018, Staff filed answer testimony and attachments of five witnesses. The OCC and A M Gas each separately filed the answer testimony and attachments of one witness. All intervening parties recommended a reduction in the return on equity (“ROE”) and requested that the Company address impacts of the Tax Cuts and Jobs Act (“TCJA”).³ Staff and the OCC raised concerns with respect to the SSIR and the requested SSIR extension. Staff also recommended adjustments relating to the Crystal River Project (new compressor unit and appurtenant facilities) and the Spring Valley Compressor Station, the new corporate headquarters, certain allocated costs from Black Hills Utility Holdings, Inc. (“BHUH”) and Black Hills Service Company (“BHSC”), and the Market Center Services (“MCS”) portion of the RAM sharing percentage. A M Gas likewise recommended adjustments relating to the Crystal River Project and the MCS portion of the RAM sharing percentage. A M Gas separately objected to the changes made in the Company’s determination of the System’s Design Day and recommended that the method approved in Proceeding No. 13AL-0067G, *et al*, the Company’s 2013 rate review (“2013 Rate Review”), continue to be used. A minor tariff clarification to

³ Public Law No. 115-97, an Act to Provide for Reconciliation Pursuant to Titles II and V of the Concurrent Resolution on the Budget for Fiscal Year 2018, is a congressional revenue act originally introduced in Congress as the “Tax Cuts and Jobs Act.”

resolve an ambiguity relating to the Available Daily Injection Quantity (“ADIQ”) percentages on Sheet No. 48 was also requested by A M Gas.

15. After several informal discussions between representatives of RMNG and each of the intervenors regarding the possibility of a settlement of the issues raised in answer testimony, the Settling Parties agreed to convene a settlement conference on February 13, 2018, in a conference room at the Commission’s offices. The Settling Parties thereafter came to an understanding and agreed to principles of settlement resolving all of the issues in this proceeding.

16. On February 14, 2018, Staff Witness Richard Reis filed Corrected Answer Testimony, whereby Staff’s original recommendations relating to Spring Valley Compressor Station were removed. On March 1, 2018, Staff Witness Ms. Ramos also filed Corrected Answer Testimony removing Staff’s original recommendations relating to Spring Valley Compressor Station.

17. On February 16, 2018, the Settling Parties filed their Notice of Settlement and Joint Motion to Vacate Procedural Schedule, advising the ALJ that they had resolved all issues in this proceeding, and requested that the hearing in this proceeding, scheduled to begin on February 27, 2018, be vacated. The parties anticipated filing a settlement agreement on or before March 2, 2018, and requested that any hearing on the settlement be scheduled after that date.

18. On February 20, 2018, through Decision No. R18-0129-I, the ALJ granted the Notice and Motion, through which the procedural schedule, including the evidentiary hearing, was vacated. The ALJ further indicated that a hearing on the settlement in this proceeding, if necessary, would be scheduled by a later decision.

19. Simultaneous with the filing of this Settlement Agreement and the accompanying Unopposed Motion of Settling Parties to Approve Settlement Agreement, RMNG is filing the Supplemental Testimony of Fredric C. Stoffel, wherein he presents an overview of the Settlement Agreement and presents additional evidence substantiating the need for the Crystal River Project. RMNG is also filing the Supplemental Testimony of Michael C. Clevinger. Mr. Clevinger presents the Settled Revenue Requirement, a comprehensive explanation of Company's calculations of the tax savings and other benefits of the TCJA as it relates to this Settlement Agreement, and how the revenue requirements will be developed for related filings to be made in conjunction with the revised base rates in this proceeding effective June 1, 2018. The Settling Parties agreed to the filing of this supplemental testimony.

III. SETTLEMENT AGREEMENT

The Settling Parties hereby stipulate and agree as follows:

A. General Overview of Settlement

20. This Settlement Agreement reflects the input and careful consideration of all issues by the Settling Parties. As memorialized in this Settlement Agreement, the Settling Parties have agreed to a resolution of all issues that were or could have been raised in this proceeding and the issues in dispute between them in this proceeding have been resolved to the satisfaction of the Settling Parties.

21. As discussed in more detail herein, the Settling Parties have agreed to the following:

- a. To pass along to RMNG Shippers 100% of the tax benefits resulting from the TCJA from January 1, 2018 forward;

- b. Incorporation of the rate review principles as discussed in Section III.C of this Settlement Agreement, including the (a) calculation of rate base; (b) authorized ROE; (c) cost of debt; (d) capital structure; (e) resulting weighted average cost of capital (“WACC”); (f) other revenue requirement adjustments including adjustments relating to the roll-in of certain SSIR Project costs, incorporation of the Crystal River Project into rate base, an updated Rifle Processing Plant additions adjustment, operations and maintenance (“O&M”) expenses, facility expense, and internal labor; (g) depreciation rates; and (h) treatment of rate case expenses;
- c. Use of the same method for determining the Design Day as used and approved by the Commission in the Company’s 2013 Rate Review;
- d. Adoption of the Settlement Functional Cost of Service Study (“Settlement FCOSS”) included as Attachment MCC-11 to Mr. Clevinger’s Supplemental Testimony, including the SFV rate design method, using a Design Day of 113,109 Dth and a 3.1561% growth factor, and implementation of the resulting rates;
- e. Extension of the SSIR through December 31, 2021, modifications to the SSIR tariff, and additional refinements regarding the content of future SSIR filings;
- f. Contents and principles applicable to an interim SSIR to be implemented in conjunction with revised base rates effective June 1, 2018;
- g. Implementation of the Company’s proposed Wolf Creek storage parameters;
- h. Revisions to the RAM, including but not limited to addressing the impact of the TCJA, as well as implementation of an interim RAM effective June 1, 2018;

- i. Approval of the Fully Distributed Cost Study and the Cost Assignment and Allocation Manuals for BHUH and BHSC; and
- j. RMNG Tariff changes.

B. Summary of Overall Impact to RMNG Shippers

22. The Settled Revenue Requirement, as contained in Attachment MCC-5 to the Supplemental Testimony of Michael C. Clevinger (“Settlement Revenue Requirement Study”) and summarized in Appendix 1 to this Settlement Agreement, results in an increase of \$162,188, or 0.7%, to RMNG’s annual base rate revenues, as compared to RMNG’s originally requested increase of \$5,025,953. This includes incorporation of the impacts of the TCJA and the effect of rolling into rate base the costs for SSIR Projects for 2016 and earlier that are currently being recovered through the SSIR. The resulting rates based on the Settled Revenue Requirement for service to Shippers under Rate Schedules FTS, ITS, NNS, APAL, and MCS, as compared to currently effective rates, are reflected in Appendix 2 to this Settlement Agreement.

23. The SSIR, which is charged to on-system FTS Shippers, will be reset effective June 1, 2018 to include SSIR Project costs from 2017 and 2018, recalculated to incorporate the reduced income taxes pursuant to the TCJA, resulting in an estimated SSIR of \$1.0231 per Dth of Maximum Daily Transportation Quantity (“MDTQ”) applied to the FTS Reservation Charge, or a reduction of 55.69% from the current SSIR of \$2.3092 per Dth of MDTQ.⁴

24. Also effective June 1, 2018, the RAM credit for on-system Shippers, will be reset and restructured as explained in more detail in this Settlement Agreement, with an estimated RAM credit of \$1.4392 per Dth of MDTQ applied to the FTS Reservation Charge and an

⁴ This will be a separate compliance filing from the compliance filing to implement the new base rates and tariff changes.

estimated RAM credit of \$0.1448 per Dth of Maximum Daily Withdrawal Quantity (“MDWQ”) applied to the NNS Reservation Charge.⁵

25. The total rate impact to on-system Shippers of the resulting base rate increase, and the revised SSIR and the new RAM credits as of June 1, 2018, is reflected on Appendix 3.

C. Incorporation of the Impacts of the Tax Cuts and Jobs Act

26. On December 22, 2017, the President signed into law the Tax Cuts and Jobs Act (previously defined as the TCJA). The newly enacted law represents the culmination of a lengthy process in pursuit of business tax reform. The most obvious implication to RMNG is the reduction in the federal corporate tax rate from 35% to 21%. However, other aspects of the TCJA are quite complicated and have significant impacts to RMNG and its Shippers. Since December 2017, RMNG and its parent corporation, Black Hills Corporation, have been diligently studying the TCJA and its impacts on its utility customers.

27. As mentioned above, Staff raised the issue of the TCJA in its answer testimony. Staff witnesses Mr. Hernandez and Mr. Reis recommended that the rates resulting from this proceeding incorporate the TCJA impacts.⁶ Specifically, Mr. Reis attached to his Corrected Answer Testimony an updated version of the Company’s revenue requirement model that incorporated TCJA impacts that was developed by the Company and provided in response to discovery.⁷ While Staff’s revenue requirement presented in Attachment BAM-1 to Ms. McGee’s Answer Testimony included a “normalized” income tax component based on the change in the corporate income tax from 35% to 21%, Mr. Reis indicated that the deferred tax consequences of

⁵ This will be a separate compliance filing from the compliance filing to implement the new base rates and tariff changes.

⁶ See Answer Testimony of Mr. Hernandez at p. 13, l. 15 – p. 14, l. 5 and Corrected Answer Testimony of Mr. Reis at p. 32, l. 4 through p. 33, l. 15.

⁷ Attachment RTR-3 to Mr. Reis’ Corrected Answer Testimony.

normalized tax rates, and other impacts of the TCJA still needed to be included in the revenue requirement model.

28. The OCC, through Dr. England's Corrected Answer Testimony, also took the position that the Company's revenue requirement should be reduced as a result of the TCJA, asking that the Company fully address the issue. A M Gas, through Mr. Levin's Answer Testimony, took a similar position.

29. The Company agrees with Staff, the OCC and A M Gas that the rates resulting from this proceeding should reflect the impacts of the TCJA. Mr. Clevinger, in his Supplemental Testimony, fully addresses these impacts, and an updated revenue requirement study is attached thereto as Attachment MCC-5 ("Settlement Revenue Requirement Study").

30. Through this Settlement Agreement, the Settling Parties agree that 100% of the tax benefits resulting from the TCJA from January 1, 2018 forward should be passed on to RMNG's Shippers through a combination of the base rates which go into effect June 1, 2018, the revised SSIR that will go into effect on June 1, 2018, and credits applied in future filings under the RAM. To this end, the Settling Parties acknowledge and agree as follows:

- a. The Settlement Revenue Requirement Study includes the full annual impact of the reduction in the corporate income tax rate from 35% to 21% under the TCJA as applied to the Original Proposed Revenue Requirement, as well as the change in income tax expenses resulting from the TCJA's termination of bonus tax depreciation, and the corresponding effect on the cash working capital allowance. The resulting impact of the TCJA reflected in the Settlement Revenue Requirement Study, after incorporating all other adjustments as agreed to by the

Settling Parties as set forth in this Settlement Agreement, is a reduction in the amount of \$1,471,402.⁸

- b. The impact of the reduction in the corporate income tax rate from 35% to 21% under the TCJA for the period January 1 through May 31, 2018, is \$576,158.

This amount was calculated based on the revenue requirement approved in RMNG's 2013 Rate Review, as reflected on Attachment MCC-8 to Mr.

Clevinger's Supplemental Testimony. This amount will be credited to on-system FTS Shippers through the RAM in an interim RAM filing to be effective June 1, 2018.

- c. As required by its SSIR Tariff, RMNG will revise the SSIR effective June 1, 2018 to synchronize cost recovery between base rates and the rider. The SSIR costs that will be recovered through the SSIR effective June 1, 2018, will reflect the impact of the reduced corporate income tax rate under the TCJA.

- d. Annual amortizations of the Regulatory Liability, or Excess Federal Deferred Income Taxes ("EDFIT"), resulting from the reduced income corporate tax rate under the TCJA will be credited to on-system FTS Shippers through future filings under the RAM beginning with the November 2018 RAM filing to be effective January 1, 2019. This RAM credit will be updated on an annual basis and continue until revised base rates are established in RMNG's next rate case.

31. With the consent of the Settling Parties, RMNG provided a summary of the above principles in its February 21, 2018 filing in Proceeding No. 18M-0074EG, in response to the Commission's directives set forth in Decision No. C18-0075. RMNG, in that filing, stated that

⁸ See Attachment MCC-7 to Mr. Clevinger's Supplemental Testimony.

additional details of how the TCJA tax benefits will be passed on to Shippers, and the corresponding dollar amounts, would be set forth in this Settlement Agreement.

D. Principles Incorporated into the Settlement Revenue Requirement Study

The Settling Parties acknowledge and agree that the following principles are incorporated into the Settlement Revenue Requirement Study used to calculate the \$162,188 base rate revenue increase agreed to herein:

1. Test Year

32. When developing its Original Proposed Revenue Requirement of \$29,003,865, the Company started with its per-book financial statements for the 12 months ending June 30, 2017, with known and measurable adjustments, including capital additions expected to be placed in service by December 31, 2017, and revenues and capital structure determined as of December 31, 2017. As summarized on Statement M of the Original Proposed Revenue Requirement Study (Attachment MCC-1 to Mr. Clevinger's Direct Testimony), the Company made a number of *pro forma* rate base adjustments to the per-book June 30, 2017 amounts, including (1) the impact of removing certain transmission assets which will be transferred to Black Hills Gas Distribution, LLC ("BHGD"); (2) the projects currently being recovered in the SSIR in 2017; (3) Construction Work In Progress ("CWIP") amounts for projects going into service before December 31, 2017; (4) Rifle Processing Plant additions; and (5) the new compressor unit and associated facilities installed at the Crystal River Compressor Station (previously referred to as the Crystal River Project).⁹

33. Staff, as reflected in the Answer Testimony of Ms. McGee, used RMNG's model in making its recommended adjustments and proposing its alternative revenue requirement of

⁹ See Mr. Clevinger's Direct Testimony at p. 4, ll. 14-23 and p. 6, l. 14 through p. 22, l. 16.

\$23,584,770.¹⁰ The OCC and A M Gas did not present an alternative revenue requirement study in their Answer Testimony.

34. The Settling Parties agree to continue to use the revenue requirement model developed by RMNG, with the adjustments provided for herein, in order to determine the Settled Revenue Requirement, as reflected in the Settlement Revenue Requirement Study and as summarized in Appendix 1 to this Settlement Agreement. The base rate revenue increase of \$162,188 reflects a settled total revenue requirement of \$24,141,761, or a reduction of \$4,862,104 from the original proposal of \$29,003,865.

2. Authorized Return on Equity

35. RMNG was authorized a ROE of 10.6% in its 2013 Rate Review. Based on the results of the analysis of Mr. McKenzie as set forth in his Direct Testimony and Attachments, RMNG witness Ms. Nooney recommended an ROE of 12.25%, which she determined would allow the Company to continue to meet the return expectations of Black Hills Corporation's investors, and to access capital markets.¹¹ The requested 12.25% ROE was within the recommended range determined by Mr. McKenzie in his Direct Testimony. Mr. McKenzie, in order to reflect the risks and prospects associated with RMNG's jurisdictional natural gas transmission and storage operations, focused his analysis on two groups of publicly traded natural gas pipeline companies. He applied the Discounted Cash Flow ("DCF"), Capital Asset Pricing Model ("CAPM"), Empirical CAPM ("ECAPM"), and risk premium methods to estimate a fair and reasonable ROE for RMNG, as well as referencing the expected earnings approach.

¹⁰ See Ms. McGee's Answer Testimony at p. 4, ll. 6-14.

¹¹ See Ms. Nooney's Direct Testimony at p. 7, ll. 1-16.

Mr. McKenzie concluded that the cost of equity for a natural gas pipeline company such as RMNG is in the 12.0% to 13.5% range, with a midpoint of 12.75%.¹²

36. Staff, through Mr. Dusenbury's Direct Testimony, disagreed with Mr. McKenzie's analysis and conclusions. Mr. Dusenbury also interpreted the provisions of the SourceGas acquisition settlement agreement attached to Mr. Stoffel's Direct Testimony as Attachment FCS-1 to require that RMNG's ROE be set in accordance with the risks to and characteristics of BHC as a whole. Mr. Dusenbury's recommended ROE range was 7.8% to 10.4%.¹³

37. Staff witness Mr. Hernandez recommended a ROE of 9.60%, a 100 basis point reduction from RMNG's current ROE of 10.6%. Mr. Hernandez stated that such a reduction was a reasonable benchmark to consider, and indicated that for 2017 the average gas and electric ROEs nationwide, as reflected on Mr. Dusenbury's Attachment GAD-7, were just under 9.75%.¹⁴

38. OCC witness Dr. England also disagreed with Mr. McKenzie's analysis and conclusions. The OCC focused its ROE determination based on its use of the DCF, Multi-Stage DCF, and CAPM analyses rather than the other models used by Mr. McKenzie, rejected the size adjustment used in Mr. McKenzie's CAPM and ECAPM models, and disagreed with Mr. McKenzie's choice of proxy companies. Dr. England recommended that RMNG's ROE be set at 9.0%, based on a range of 8.14% to 9.10%.¹⁵

¹² See Mr. McKenzie's Direct Testimony at p. 5, l. 1 through p. 6, l. 6 for a summary of Mr. McKenzie's analysis and recommendations.

¹³ See Mr. Dusenbury's Answer Testimony at p. 4, l. 1 through p. 5, l. 8 for a summary of Mr. Dusenbury's analysis and recommendations.

¹⁴ See Mr. Hernandez' Answer Testimony at p. 13, ll. 5-14.

¹⁵ See Dr. England's Corrected Answer Testimony at p. 12, ll. 10-19 and p. 47, ll. 6-11.

39. A M Gas witness Mr. Levin also critiqued Mr. McKenzie's analysis, particularly his discussion about RMNG and its operations as an intrastate pipeline. While Mr. Levin did not conduct a separate analysis, he recommended that RMNG's ROE be closer to 9.0% to 10.0%.¹⁶

40. In recognition of RMNG's current ROE of 10.6%, as well as its unique status as the only regulated intrastate pipeline in Colorado, the Settling Parties have agreed to an ROE of 9.9%. This ROE, which is a 70 basis point reduction from RMNG's current ROE, is within the range proposed by Staff.

3. Cost of Debt

41. RMNG's *pro forma* cost of long-term debt as of December 31, 2017 is 3.92%, which is lower than the cost of debt authorized for RMNG in its 2013 Rate Review, which was 5.178%.¹⁷

42. Staff and the OCC, in their Answer Testimony, agreed to RMNG's proposed cost of debt of 3.92%.¹⁸ A M Gas did not address the cost of debt. The Settling Parties agree that the cost of debt to be applied to the long-term debt component of RMNG's capital structure will be 3.92%.

4. Capital Structure

43. RMNG's capital structure as approved in the 2013 Rate Review was 50.77% common equity and 49.23% long-term debt.¹⁹ In its direct case in this proceeding, RMNG presented a *pro forma* capital structure as of December 31, 2017 of 46.63% equity and 53.37% long-term debt. This proposed *pro forma* capital structure is the capital structure that RMNG

¹⁶ See Mr. Levin's Answer Testimony at p. 7, l. 17 through p. 10, l. 2 and p. 39, ll. 8-9.

¹⁷ See Ms. Nooney's Direct Testimony at p. 12, ll. 4-7.

¹⁸ See Mr. Dusenbury's Answer Testimony at p. 4, ll. 6-8 and Dr. England's Corrected Answer Testimony at p. 5, l. 13.

¹⁹ See Ms. Nooney's Direct Testimony at p. 9, ll. 15-17.

anticipated would exist as of December 31, 2017. This capital structure is based on the actual per-book capital structure of RMNG as of June 30, 2017, with adjustments to reflect the planned equity infusion and pay down of \$5.0 million in intercompany loans and projected net income of \$976,929 for the remainder of 2017 as additional retained earnings in the equity component.²⁰

44. Staff and the OCC, in their Answer Testimony, agreed to RMNG's proposed capital structure.²¹ A M Gas did not address RMNG's proposed capital structure. The Settling Parties agree that RMNG's capital structure for this proceeding will be 46.63% equity and 53.37% long-term debt.

5. Resulting Weighted Average Cost of Capital

45. The Settling Parties acknowledge and agree that when applying the various principles outlined above for ROE, cost of debt and capital structure, the resulting WACC is 6.71%. This is the return on rate base applied in the Settlement Revenue Requirement Study.

6. Other Revenue Requirement Adjustments

46. The Settling Parties agree to the following adjustments in the Settlement Revenue Requirement Study for the roll-in of SSIR Projects, incorporation of Crystal River Project and Rifle Processing Plant amounts, adjustment to O&M expenses, and inclusion of facility expense and internal labor adjustments.

a) Roll-in of SSIR Projects

47. As part of its filing, RMNG proposed to roll-in to base rates all of the SSIR Projects currently being recovered through the SSIR (projects completed and placed in service on or before December 31, 2017). In accordance with Section 24.5 on First Revised Sheet No.

²⁰ See Ms. Nooney's Direct Testimony at p. 7, l. 18 through p. 8, l. 7.

²¹ See Mr. Dusenbury's Answer Testimony at p. 4, l. 9 and Dr. England's Corrected Answer Testimony at p. 5, ll. 11-12.

146 of RMNG's tariff, the SSIR must also be adjusted upon the effective date of base rates to reflect any roll-in of SSIR costs. This will effectively shift the recovery of these SSIR projects from the rider to base rates.²² In addition, the Company proposed to provide for a true-up mechanism for 2017 and later SSIR Projects.²³

48. In Answer Testimony, Staff witness Mr. Reis agreed that the roll-in of some level of capital costs into base rates as opposed to continued collection in the SSIR is warranted. As a result, Staff recommended that only the actual booked costs for SSIR projects completed on or before December 31, 2016 be incorporated into the base rate revenue requirement. Mr. Reis also asserted that none of the SSIR Project O&M expenses should be eligible for roll-in. Staff was not opposed to rolling the 2017 SSIR costs into rate base after completion of the 2018 true-up process for those projects, and recommended a procedure for doing so.²⁴

49. The OCC and A M Gas did not object to RMNG's proposed roll-in to rate base of SSIR Project costs.

50. The Settling Parties agree that only the costs associated with SSIR Projects from the inception of the SSIR in the 2013 Rate Review up to and including the 2016 SSIR Projects, will be rolled into the Settled Revenue Requirement and recovered through the base rates to become effective June 1, 2018. The true-up process for 2017 and future SSIR Projects are addressed in Section III.G below.

b) **Incorporation of Crystal River Project**

51. In its Original Proposed Revenue Requirement Study, at Schedule D-6, the Company made a rate base adjustment to include the Crystal River Project in the amount of

²² See Mr. Clevinger's Direct Testimony at p. 9, l. 18 through p. 10, l. 18 and p. 25, ll. 6-10.

²³ See Mr. Gillen's Corrected Direct Testimony at p. 7, ll. 1-22.

²⁴ See Mr. Reis' Corrected Answer Testimony at p. 19, l. 4 through p. 21, l. 2.

\$4,872,900, excluding depreciation expense. Mr. Pebley, in his Corrected Direct Testimony, indicated that RMNG was constructing a fourth compressor unit at the Crystal River Station, which was expected to be completed by October 17, 2017. The Station compresses and injects natural gas into the Wolf Creek Storage Field (“Wolf Creek”), facilitates delivery of natural gas to end users in the Roaring Fork and Eagle Valleys and withdraws gas from Wolf Creek and transports it over the System for firm on-system Shippers. Mr. Pebley further indicated the new compressor was needed to improve the functional operation of the Station due to the age and functional limitations of the three existing compressor units, particularly the 42-year Unit 818, which was no longer dependable.²⁵

52. Staff, in its Answer Testimony, raised a number of concerns about the Crystal River Project. Staff witness Ms. Ramos, based upon review of the Bureau of Land Management’s (“BLM’s”) Environmental Assessment (“EA”) relating to the Crystal River Project²⁶ took the position that while the project’s scope was consistent with the EA, it was Staff’s interpretation that the justification for the project in the EA was a capacity expansion project based on consumer need instead of in-kind replacement of an old compression unit based on maintenance. Ms. Ramos then concluded that RMNG should have applied for a certificate of public convenience and necessity (“CPCN”) before commencing the construction of the Crystal River Project.²⁷

53. Based on Ms. Ramos’ recommendation, Mr. Reis recommended that the revenue requirement for the Crystal River Project be credited to the RAM mechanism as an interim measure, with the Company retaining 50% until the Company filed for and obtained a CPCN for

²⁵ See Mr. Pebley’s Corrected Direct Testimony at p. 17, l. 8 through p. 19, l. 11.

²⁶ Mr. Pebley, at page 18, footnote 14 of his Corrected Direct Testimony, stated that the BLM Finding of No Significant Impact was dated December 16, 2017. This should have stated December 2016.

²⁷ See Ms. Ramos’ Corrected Answer Testimony at p. 36, l. 6 through p. 39, l. 14.

the project. Staff indicated that if the Company refused to accept this alternative cost recovery proposal, it would recommend that the costs for the project be denied recovery in rates, without prejudice.²⁸

54. A M Gas witness Mr. Levin also raised concerns about the Crystal River Project, but not in the context of needing a CPCN. Rather, Mr. Levin suggested that RMNG should be denied cost recovery for the project if it did not agree to a reduction in the MCS sharing percentage in the RAM.²⁹ The OCC did not raise any concerns with the project.

55. Staff and the Company have had several discussions regarding the project, and as a result of those discussions, and the compromises reflected herein, Mr. Stoffel is filing his Supplemental Testimony and Attachment that provides additional evidence regarding the Crystal River Project in further support of its need and justification. While Staff and the Company disagree on the issue of whether RMNG should have sought a CPCN for the project, all Settling Parties agree that the full investment costs for the Crystal River Project shall be included in rate base, with no conditional RAM credit as initially proposed by Staff. The Settlement Revenue Requirement Study includes an adjustment to update the cost of this project in the amount of \$5,171,138, to which the Settling Parties agree.

56. As part of the negotiated settlement of this matter, the Settling Parties agree that unless and until the Commission has promulgated applicable rules or established a definitive policy regarding whether and under what circumstances a CPCN is required under C.R.S. § 40-5-101 for a gas utility to construct a new compressor, RMNG agrees to file either an application for such a CPCN or a petition for a Commission declaratory order that a CPCN is not necessary for its construction of future compressors.

²⁸ See Mr. Reis' Corrected Answer Testimony at p. 22, l. 14 through p. 24, l. 15.

²⁹ See Mr. Levin's Answer Testimony at p. 36, footnote 3.

c) **Updated Adjustment for Rifle Processing Plant Projects**

57. In its original filing, the Company included a *pro forma* adjustment for capital additions at the Rifle Processing Plant, which is a facility that processes gas to pipeline quality for subsequent transportation and consumption. The plant is operated by Public Service Company of Colorado (“PSCo”) and RMNG is responsible for approximately 50% of its operating costs (based on throughput) and 40% of capital costs. PSCo has been working on several capital projects at the Rifle Processing Plant and RMNG made an adjustment in its Original Proposed Revenue Requirement in the amount of \$897,788 for its share of the costs.³⁰

58. In Answer Testimony, Staff, through Ms. Ramos, concluded that a CPCN was not required for the Rifle Processing Plant additions as they were likely part of the normal course of business.³¹ None of the parties objected to inclusion of the associated costs in rate base.

59. Based on updated information received from PSCo, the Settling Parties agree to reduce the Rifle Processing Plant adjustment by \$62,328, for a total of \$835,460.

d) **Adjustment to Operations and Management (“O&M”) Expenses**

60. In Answer Testimony, Staff, through Mr. Reis, objected to certain costs either allocated or directly charged to RMNG included in the historical period. While Staff notes that the costs were allocated correctly, Mr. Reis recommended removal of \$129,704 of these costs from the Original Proposed Revenue Requirement, as reflected on Attachment RTR-2 to Mr. Reis’ Corrected Answer Testimony.³² Neither OCC nor A M Gas objected to the inclusion of these costs by RMNG.

³⁰ See Mr. Pebley’s Corrected Direct Testimony at p. 20, l. 1 through p. 21, l. 8.

³¹ See Ms. Ramos’ Corrected Answer Testimony at p. 45, lines 9-14.

³² See Mr. Reis’ Corrected Answer Testimony at p. 28, l. 9 through p. 29, l. 5.

61. RMNG agreed with some of the expense disallowances recommended by Mr. Reis, but disagreed with others relating to consultant, relocation and severance costs, which RMNG believes to be reasonable and recurring test year expenses.

62. In resolution of this issue, the Settling Parties agree that \$78,348 in miscellaneous O&M expenses should be removed from the Original Proposed Revenue Requirement Study. The Settling Parties agree that RMNG will continue to include the remaining \$51,356 of O&M expenses shown on Attachment RTR-2 in the Settlement Revenue Requirement Study. The Settling Parties agree this is a just and fair resolution of the dispute regarding these expenses.

e) **Facility Expense Adjustment**

63. In its original filing, RMNG proposed a facilities expense adjustment of \$151,398, which reflected RMNG's allocated costs for the new corporate headquarters building in Rapid City, South Dakota, as well as RMNG's allocated savings from the four eliminated office buildings that are no longer needed as a result of the new corporate headquarters. At the time of the filing, employees occupied space in four separate buildings in Rapid City, which would no longer be needed as a result of construction of the new building. In Attachment CMO-10 to Mr. Otto's Corrected Direct Testimony, the allocated corporate headquarters amount was \$179,918, and the allocated savings from eliminated facilities was \$28,519, for a net expense adjustment of \$151,398.³³ Work papers were provided to Staff supporting this proposed adjustment and more detailed information was provided in response to discovery. The corporate headquarters is owned by Black Hills Power ("BHP"), a regulated electric utility serving South Dakota, Wyoming, and Montana. This ownership allows property tax to be centrally assessed,

³³ See Mr. Otto's Corrected Direct Testimony at p. 12, ll. 1-19.

and drives a property tax savings estimated to be almost \$1 million less per year for BHC and its subsidiaries, inclusive of RMNG.³⁴

64. Through Mr. Reis' Corrected Answer Testimony, Staff expressed concerns with this proposed adjustment and suggested that the Company explain more clearly the validity of the adjustment in rebuttal and consider if allocation of corporate investment is a more proper methodology. Staff therefore recommended removal of \$179,918, which was the total allocated amount for the new corporate headquarters. Staff did not remove the \$28,519 in allocated savings from eliminated office space. Staff did acknowledge that it understands the efficiencies that may be obtained by locating centrally in Rapid City, and that Staff was encouraged by the Company's claim that ownership of the new building by BHP resulted in lower overall property taxes. Staff's concern was not over the decision to centralize.³⁵

65. The OCC and A M Gas did not raise any concerns about either the new corporate headquarters or the proposed facilities expense adjustment.

66. During the course of settlement discussions, the Settling Parties further discussed the facilities expense adjustment and the Company provided a revised calculation of the adjustment, which applies the rate making principles agreed to by the Settling Parties in this Settlement Agreement, including the ROE, cost of debt, capital structure and the lower income tax rate resulting from the TCJA. The Settling Parties agree that RMNG's allocated share of the new corporate headquarters is \$157,075, as reflected on Appendix 4. Thus, after crediting RMNG's allocated share of the removed office space, the net facilities adjustment agreed to by the Settling Parties is \$128,556, also shown on Appendix 4. The Settling Parties agree that this

³⁴ See Mr. Clevinger's Supplemental Testimony at p. 15, l. 19 – p. 16, l. 2.

³⁵ See Mr. Reis' Corrected Answer Testimony at p. 27, ll. 1-19.

\$128,556 facilities expense adjustment will be included in the Settlement Revenue Requirement Study.

f) **Internal Labor Adjustment**

67. In its filing, RMNG requested a *pro forma* adjustment in order to reflect normalized corporate internal labor. The original amount of this adjustment was \$126,484 and through Corrected Direct Testimony of Company witness Mr. Otto, this internal labor adjustment was reduced to \$83,027.³⁶ However, as noted in RMNG's Notice of Filing of Corrected Direct Testimony, due to the small magnitude of the changes to the Original Proposed Revenue Requirement necessitated by this and other adjustments, the Company did not re-run the model at that time.

68. None of the parties objected to this internal labor adjustment in Answer Testimony. As a result, the Settling Parties agree to incorporation of the internal labor adjustment of \$83,027 in the Settlement Revenue Requirement Study.

7. **Depreciation Rates**

69. In its filing, the Company presented the Depreciation Study (Attachment MCC-3 to Mr. Clevinger's Direct Testimony), which was prepared by Gannett Fleming Valuation and Rate Consultants, LLC. The Company accepted all of Gannett Fleming's recommended depreciation rates.³⁷ The applicable depreciation rates for all gas plant accounts are shown under the "Calculated Annual Accrual Rate" column on pages VI-5 and VI-6 of the Gannett-Fleming Study (pages 50-51 of Attachment MCC-3).

70. Staff, OCC and A M Gas did not, in their Answer Testimony, object to the Gannett-Fleming Study or the application of its results. The Settling Parties agree that all of the

³⁶ See Mr. Otto's Corrected Direct Testimony at p. 11, ll. 5-16.

³⁷ See Mr. Clevinger's Direct Testimony at p. 33, ll. 14-21.

depreciation rates for RMNG's gas plant accounts, as recommended in the Gannett-Fleming Study included as Attachment MCC-3, shall be adopted. The Settling Parties also agree to the application of those recommendations as incorporated into the calculation of depreciation and amortization expense annualization as reflected on Statement J of the Settlement Revenue Requirement Study.

8. Rate Case Expenses

71. In its filing, the Company estimated that it would incur \$600,000 of external expenses related to this proceeding and proposed to recover those costs over a three-year amortization period, which results in an annual cost of \$200,000. Only the calculated rate case expense amortization of \$200,000 was included in the Original Proposed Revenue Requirement.³⁸ During the course of settlement discussions, RMNG revised its rate case expense estimate from \$600,000 to \$450,000 based on the rate case expenses incurred by RMNG to date, plus estimated expenses to be incurred during the remainder of this proceeding. To that end, the Settled Revenue Requirement includes \$150,000 reflecting the annual amortization (*i.e.*, one-third) of the current estimate of these expenses.

72. RMNG shall be entitled to recover its actual expenses incurred in this proceeding, not to exceed \$525,000; provided, however, if external expenses are incurred as a result of additional proceedings conducted pursuant to Paragraph 92 of this Settlement Agreement, the \$525,000 cap shall not apply to such expenses. Subject to the foregoing, the difference between actual rate case expenses and the amount included in the Settled Revenue Requirement shall be trued up through the RAM. The amortization period of rate case expenses shall be three years, as proposed by RMNG. Any remaining unamortized balance at the time revised base rates are

³⁸ See Mr. Clevinger's Direct Testimony at p. 32, l. 16 through p. 33, l. 2.

implemented in RMNG's next rate review shall be charged or credited, as applicable, to the rate case expenses for that rate review proceeding.

73. Within 90 days following a final Commission decision in this proceeding, including any additional proceedings conducted pursuant to Paragraph 92 hereof, whichever is later, RMNG shall provide OCC and Staff with a schedule of its total actual rate case expenses, broken down by category of expense and vendor. Within 15 days thereafter, RMNG shall confer with Staff and the OCC to resolve any issues with regard to any errors or inconsistencies in such expenses and, upon request, shall provide any non-privileged invoices or other information in support of such expenses. Following the resolution of any errors or inconsistencies, the difference between the actual rate case expenses and the amount RMNG is allowed to recover pursuant to this Settlement Agreement (either positive or negative) shall be credited or charged, as applicable, to on-system FTS Shippers through the RAM in the November 1, 2018 RAM filing, to be effective January 1, 2019.

E. Incorporation of 2013 Rate Review Design Day Analysis

74. In its filing, RMNG presented an updated Design Day analysis, which set the proposed Design Day requirements for RMNG's System. RMNG started with the methodology used in the 2013 Rate Review, with changes to the determination of the Heating Degree Day ("HDD") value, the use of daily flow data, data sets used in estimating the snow load factor and growth rate, and the contingency factor. Based on the filed analysis, the Company proposed a Design Day of 110,600 Dth. This is a slight reduction from the Design Day of 113,179 Dth agreed to in the 2013 Rate Review.³⁹

³⁹ See Mr. Fritz's Direct Testimony at p. 5, l. 11 and p. 13, l. 5 through p. 14, l. 15.

75. In Answer Testimony, neither Staff nor the OCC raised any concerns with RMNG's design day analysis. However, A M Gas critiqued the filed analysis, including the use of the Marquette Paper, which Mr. Levin argued was geared to local distribution companies and not intrastate pipelines. Mr. Levin disagreed with "(1) the general model used to predict peak demand, (2) the snow load tweak, (3) the method of adjusting for occupancy, (4) the method of adjusting for weekends, (5) the method of adjusting for wind, (6) the use of an HDD of 10 rather than zero as the base of observations and (7) the growth determination."⁴⁰ Mr. Levin recommended retaining the simple two factor regression model comparing demand to temperature, use of a consistent design day HDD of 80 across the system, adding a 5% contingency factor and using data from all twelve months.⁴¹

76. The Settling Parties agree to retain the design day analysis method used in the 2013 Rate Review, which applies a 5% contingency, and generated a 3.1561% growth factor. The Settling Parties agree that the Design Day is now 113,109 Dth, a slight increase from the 110,169 Dth initially proposed in this proceeding. The summary results of the settlement design day analysis are attached as Appendix 5. In addition, RMNG's pipeline flow simulation model shows that the volumes and sources of supply using the Design Day of 113,109 Dth are as follows: Wolf Creek storage – 12,700 Dth (no change); Rifle Area – 50,289 Dth; Olathe Area – 27,231 Dth; and Dudley Bluff or Roan Cliff receipt points – 22,889 Dth.

⁴⁰ See Mr. Levin's Answer Testimony at p. 19, l. 12-17 and p. 27, ll. 11-19.

⁴¹ See Mr. Levin's Answer Testimony at p. 34, ll. 5-8.

F. Functional Cost of Service Study

1. Straight-Fixed Variable Rate Design

77. In its filing, the Company developed base rates using a Straight-Fixed Variable rate design. This is the same methodology that was approved by the Commission in RMNG's 2013 Rate Review.⁴²

78. In Answer Testimony, none of the parties objected to use of the SFV rate design. Staff asserted that the RAM, which provides for the sharing of revenues for various services performed by the Company, including MCS, is a critical feature of allowing the SFV rate design to continue as structured.⁴³ Staff took the position that it would no longer support the SFV rate design if the Company stopped providing MCS in response to Staff's suggestion that the MCS sharing percentage be reduced.⁴⁴

79. The Settling Parties agree that continued use of the SFV rate design is appropriate for RMNG, and shall be adopted in this proceeding.

2. Functional Cost of Service Study

80. In its original filing, the Company presented its Functional Cost of Service Study (Attachment CRG-1 to Mr. Gray's Corrected Direct Testimony), as well as its proof of revenues (Attachment CRG-2 to Mr. Gray's Corrected Direct Testimony). In light of the changes in the design day analysis as referred to in Section III.E above, adjustments are also required to be made to the Settlement FCOSS to incorporate the 113,109 Dth Design Day and the 3.1561% growth factor.

⁴² See Mr. Gray's Corrected Direct Testimony at p. 5, ll. 1-17.

⁴³ See Mr. Reis' Corrected Answer Testimony at p. 29, ll. 8-22.

⁴⁴ See Mr. Reis' Corrected Answer Testimony at p. 32, ll. 2-3. As set forth in Section III.I of this Settlement Agreement, the Settling Parties have agreed not to change the MCS sharing percentage.

81. The Settling Parties agree that the Settlement FCOSS should be used to develop the new rates in this proceeding. A copy of the Settlement FCOSS and the updated proof of revenues are attached to Mr. Clevinger's Supplemental Testimony as Attachments MCC-11 and MCC-12, respectively.

G. System Safety and Integrity Rider

82. The Company's SSIR, which was implemented as a result of the 2013 Rate Review, is currently set to expire on May 31, 2018. One of the principle purposes of the Company's filing, as mentioned above, is a requested extension of the SSIR through 2022.

83. RMNG is the only utility in Colorado that is a stand-alone intrastate pipeline. RMNG's System consists of pipeline facilities of varying diameters and carrying capacities, compressors, natural gas storage and processing, and related facilities. It extends across the Western Slope of Colorado primarily to receipt points and town border stations ("TBSs") served by BHGD, and includes 518 miles of pipeline classified as transmission and 118 miles of pipeline classified as gathering.⁴⁵ RMNG's System, which runs through some of the most rugged terrain in the State, is the only source of natural gas for many of Colorado's mountain communities. Many of the records for the System were destroyed in a December 1985 propane explosion.

84. Prior to implementation of RMNG's SSIR, there were a number of tragic natural gas pipeline-related events across the country that triggered a wave of legislative and regulatory activity. This caused many state public utility commissions, including the Commission, to respond to, among other things, PHMSA⁴⁶ Administrator Quarterman's recommendation that state public utility commissions consider accelerating work on high-risk natural gas

⁴⁵ See Mr. Pebley's Corrected Direct Testimony at p. 8, l. 4-15.

⁴⁶ PHMSA refers to the Pipeline and Hazardous Materials Safety Administration.

infrastructure by implementing special rate mechanisms. The Commission's subsequent authorization of RMNG's SSIR has allowed the Company to begin addressing safety and integrity-related pipeline infrastructure requirements in an expedited manner. New regulations affecting RMNG continue to be proposed and implemented by PHMSA, with underground storage emerging as a new area of focus.⁴⁷ RMNG is now required by PHMSA to have and implement a Storage Integrity Management Program ("SIMP"), which RMNG has added as a separate SSIR Project category.

85. RMNG's SSIR Projects have thus far included projects such as replacement of at-risk pipe and aging infrastructure, expansion of the piggability of its System and improvement of data gathering ability, mitigation of external corrosion risks, and assessments at Wolf Creek.⁴⁸ While the current SSIR has improved the System's safety and integrity consistent with its objectives, RMNG still has work to complete. The extension of the SSIR is a key component to the long-term success of RMNG's system safety and integrity program. The requested extension of the SSIR will allow RMNG to continue to address the challenges presented by new, changing, and increasingly stringent regulations, as well as to proactively identify, manage, and mitigate the risk inherent in natural gas pipeline infrastructure, including storage.

86. The Settling Parties agree that the SSIR should be extended, but that the SSIR process itself needs improvement. As a result, with respect to the SSIR, the Settling Parties agree as follows:

1. SSIR Extension and True-Up

87. The SSIR shall be extended to recover capital expenditures for SSIR Projects placed in service through December 31, 2021, including trailing costs (*e.g.* capital costs

⁴⁷ See Ms. Moorman-Applegate's Corrected Direct Testimony at p. 3, l. 12 through p. 4, l. 2.

⁴⁸ See Ms. Moorman-Applegate's Corrected Direct Testimony at p. 4, ll. 4-8.

processed after the project is placed in service). The revenue requirement for SSIR Projects placed in service as of the sunset date (subject to the subsequent April 2022 true-up) shall continue to be recovered through the SSIR, as updated annually, until such costs are rolled into base rates in a future RMNG rate review.

88. The SSIR tariff definition of “System Safety and Integrity Projects” shall be revised to remove the Distribution Integrity Management Program category, add the SIMP category, and to make refinements to the Other SSIR-Eligible Projects category, as reflected in the *pro forma* tariff sheets discussed in Section III.K below.

89. RMNG may request an extension of the SSIR beyond 2021 through an application or advice letter, which may be made outside of a rate review proceeding.

2. SSIR Process and Reporting Improvements

90. The SSIR timeline reflected in the attached Appendix 6 shall be implemented. Under this timeline, Staff and OCC shall have the ability, after the November 1 SSIR advice letter filing, to request a hearing on (a) RMNG’s proper completion of the agreed-upon templates or (b) whether a proposed project qualifies as an SSIR Project under RMNG’s tariff.

91. RMNG, Staff and the OCC⁴⁹ will continue to work together in good faith to mutually agree on five-year plan reporting templates that will be completed for RMNG’s November SSIR filings beginning with the November 1, 2018 filing, which will contain the information included in Appendix 7. In addition, the five-year plan reporting templates will include forms for (a) the next calendar year SSIR quarterly capital forecast and (b) the updated SSIR five year annual capital forecast.

⁴⁹ A M Gas represents that it does not intend to participate in these negotiations.

92. RMNG, Staff, and the OCC shall endeavor to agree upon final templates and to make a compliance filing of the agreed-upon templates in Proceeding No. 17AL-0654G by May 1, 2018. If RMNG, Staff and the OCC are not able to reach agreement on these templates, the matter shall be resolved by decision of the Commission, in accordance with the following procedures:

- a. On or before May 15, 2018, RMNG, either on its own or jointly with Staff and/or the OCC, shall file in this Proceeding No. 17AL-0654G a Petition for Declaratory Ruling pursuant to Rule 1304(i), setting forth and requesting the Commission's resolution of the remaining disputes or disagreements regarding the five-year plan reporting templates referenced in paragraph 91 above. Such Petition for Declaratory Ruling shall include a proposed briefing schedule based on conferral between and among RMNG, Staff, and the OCC, but in no event proposing initial briefs after June 1, 2018, and response briefs after June 14, 2018. The Petition for Declaratory Ruling shall request a Commission decision resolving the remaining disputes or disagreements on or before October 1, 2018, to allow RMNG to incorporate its compliance with any directives or rulings contained in such decision by its November 1, 2018 SSIR filing.
- b. Upon the request of RMNG, Staff, or the OCC for a hearing, or upon the Commission's own motion, a hearing may be convened for the purpose of taking of additional evidence germane to the disputes or disagreements presented for resolution in the Petition for Declaratory Ruling. Such hearing may be before the Commission or before an administrative law judge, if the matter is so delegated by the Commission for handling.

- c. The Parties agree that any final decision by the Commission addressing the remaining disputes or disagreements set forth in the Petition for Declaratory Ruling shall definitively resolve the issues raised in this proceeding regarding the five-year plan reporting templates. RMNG, Staff, and the OCC agree that that they shall not continue to raise the same issues and advocate positions inconsistent with the Commission's directives and rulings continued in said decision in any proceeding initiated through the December 31, 2021 extension period.

3. SSIR Performance Reporting

- 93. The Settling Parties agree that RMNG will include the following performance reporting information in its April Annual Reports, beginning with the April 2019 Annual Report:
 - a. Transmission: A copy of the Company's most recent PHMSA Annual Report (Form PHMSA F 7100.2-1) and updated risk score per pipe segment;
 - b. Underground Storage: A copy of the Company's most recent PHMSA Annual Report and updated risk score for underground storage field projects; and
 - c. Improvements resulting from completion of the prior year's SSIR Projects.

4. SSIR Project Additions and Exclusions

- 94. Beginning with the November 1, 2018 SSIR filing, the Company will not present any new stand-alone site remediation SSIR projects. Stand-alone SSIR site remediation projects that have been submitted to the Commission before this filing will not be subject to rejection during the April true-up process solely on the basis that they were not presented as part of the completed SSIR project to which they relate. In addition, no operations and maintenance expenses shall be included as Eligible SSIR Costs for 2019 and later SSIR Projects.

95. The Settling Parties recognize that conditions on the System may warrant the implementation of a new SSIR-type project outside of the plan filed with the prior November 1 advice letter, or changes to scheduled SSIR Projects included in such plan. RMNG agrees to present such developments to Staff and the OCC on a timely basis as such situations arise for further consideration and discussion regarding the potential impacts to the SSIR.

H. Wolf Creek Storage and NNS Storage Parameters

96. In its original filing, RMNG presented several changes relating to Wolf Creek, including the storage parameters for NNS Shippers. The overall maximum available capacity (“MAC”) for Wolf Creek in this proceeding is 1,542,000 Dth, as compared to the facility’s current MAC of 1,272,000 Dth, which was determined in the 2013 Rate Review. In its original filing, the Company proposed that it would (a) continue to use 1,060,000 Dth of Wolf Creek’s available MAC for its on-system Shippers required to take NNS service,⁵⁰ and (b) retain the remaining balance of 482,000 Dth of Wolf Creek’s available MAC for operational purposes, MCS and other potential future use.⁵¹ RMNG also proposed changes to the storage withdrawal capacity, storage injection capacity, and storage inventory plan, all of which provide more flexibility for RMNG’s NNS Shippers.⁵²

97. In Answer Testimony, A M Gas witness Mr. Levin expressed concern with RMNG’s proposal to retain 482,000 Dth of the Wolf Creek MAC and relating to how RMNG would use that capacity and who would benefit from RMNG’s use of such capacity. Mr. Levin recommended (a) a reduction in RMNG’s portion of the RAM sharing percentage (from 70/30 to 90/10) and (b) that all revenue derived from “other potential future use” should be returned to

⁵⁰ This is the same volumetric quantity provided to NNS Shippers as a result of the 2013 Rate Review.

⁵¹ See Mr. Fritz’s Direct Testimony at p. 25, ll. 1-12.

⁵² See Mr. Fritz’s Direct Testimony at p. 6, l. 1 through p. 7, l. 2.

Shippers through the RAM credit.⁵³ Mr. Levin did not request any changes to the proposed Wolf Creek storage parameters, including the storage withdrawal capacity, storage injection capacity, and storage inventory plan.

98. The Settling Parties agree that RMNG shall retain 482,000 Dth of the Wolf Creek MAC, with 1,060,000 of the MAC being reserved for on-system Shippers required to take NNS service. The Settling Parties have, however, agreed to make some changes to the RAM, as discussed in Section III.I below.

I. Revenue Adjustment Mechanism

99. The current RAM is used to pass through certain net revenues generated across its various services to the on-system FTS shippers, as more specifically described in Section 22.5 of the General Terms and Conditions of RMNG's Tariff. In its filing, RMNG proposed updates relating to the sharing of off-system contracts, and to the "base" amounts above which there is sharing relating to revenues from liquid products at or near the Rifle and Piceance processing facilities. RMNG proposed that none of the sharing percentages change as part of this proceeding.⁵⁴

100. Staff, through Mr. Reis' Corrected Answer Testimony, recommended an adjustment to the MCS portion of the RAM sharing percentage based on his observation that the Company's investments are making the opportunities for "off-system" business more viable, and recommended a reduction in the sharing percentage from 70/30 to 80/20.⁵⁵

101. A M Gas, through Mr. Levin's Answer Testimony, recommended an adjustment of the MCS sharing percentage to 90% for Shippers and 10% for the Company, since the

⁵³ See Mr. Levin's Answer Testimony at p. 35, l. 1 through p. 36, l. 6.

⁵⁴ See Mr. Boughner's Direct Testimony at p. 20, l. 15 through p. 23, l. 11.

⁵⁵ See Mr. Reis' Corrected Answer Testimony at p. 31, ll. 3-9.

Company was proposing to retain 482,000 Dth of the Wolf Creek storage capacity. Also, A M Gas suggested that all revenue derived from “other potential future use” should be returned to shippers through the RAM credit.⁵⁶

102. The Settling Parties agree that while the existing MCS sharing percentages will not change, 70% of MCS revenue will be credited to the NNS Reservation Charge rather than the FTS Reservation Charge effective June 1, 2018. The Settling Parties agree that this is a just and reasonable resolution of the dispute regarding the MCS sharing percentage, as the Wolf Creek storage facility contributes to the Company’s ability to transact MCS deals. In addition, the Settling Parties agree that any additional margins from new storage services (gross revenues less incremental costs) will be credited 100% to Rate Schedule NNS Shippers through the RAM until revised base rates are established in RMNG’s next rate review proceeding.

103. The Settling Parties also agree that as part of this proceeding, RMNG will update the Rifle Liquids Processing Plant Benchmark as a result of the income tax rate changes under the TCJA to \$242,000, rather than the \$266,000 proposed in RMNG’s filing.

104. The Settling Parties agree that RMNG will make an interim RAM filing to adjust the RAM credits effective June 1, 2018, on not less than two business days’ notice. The RAM credit will be adjusted to:

- a. update the base contracts defined in Section 22.5(a) the General Terms and Condition of RMNG’s tariff to include off-system FTS and ITS contracts in effect as of May 31, 2018 to a 100% credit to on-system Shippers;
- b. credit the January 1 through May 31, 2018 income tax savings under the TCJA to on-system FTS Shippers as provided for in Section III.C above;

⁵⁶ See Mr. Levin’s Answer Testimony at p. 35, l. 19 through p. 36, l. 6.

- c. update the Rifle Liquids Processing Plant Benchmark as a result of the income tax rate changes under the TCJA to be \$242,000;
- d. update the Piceance Liquids Processing Plant Benchmark to \$142,000; and
- e. Segregate the RAM Credit between RAM-FTS and RAM-NNS, as contemplated by this Settlement Agreement.

J. Other Approvals

105. The Settling Parties agree that the Commission should approve the Fully Distributed Cost Study attached to Mr. Clevinger's Direct Testimony as Attachment MCC-4.

106. The Settling Parties agree that the Commission should approve the BHUH and BHSC Cost Assignment and Allocation Manuals, attached to the Corrected Direct Testimony of Mr. Otto as Attachments CMO-4 and CMO-5, respectively.

K. RMNG Tariff Changes

107. The Settling Parties agree to the settlement rates and tariff sheets in substantially the same form as the *pro forma* tariff sheets as forth in Appendix 8 ("*Pro Forma* Tariff Sheets"). The Settling Parties agree that the *Pro Forma* Tariff Sheets incorporate the changes contemplated by this Settlement Agreement. Appendix 9 contains redlined Tariff sheets reflecting the changes being implemented as compared to the currently effective RMNG tariff sheets.

108. Aside from incorporation of the settlement rates, formatting changes and interim tariff changes, the table below summarizes the substantive changes made to RMNG's Tariff contained in the *Pro Forma* Tariff Sheets that were not reflected in the tariff changes proposed by the Company as reflected in redline in Corrected Attachment EJG-1 to Mr. Gillen's Corrected Direct Testimony:

<i>Pro Forma</i> Colorado P.U.C. Sheet Number	Title of Sheet	Summary of Changes
Eighth Revised Sheet No. 9	Statement of Rates (Continued)	Added "Total Rate" column and footnote reference to allow for the RAM-NNS Credit
Eighth Revised Sheet No. 9A	Statement of Rates (Continued)	Footnote 1 adds reference to RAM-NNS
Second Revised Sheet No. 23	Firm Transportation Service Rate Schedule FTS (Continued)	Revision of Revenue Adjustment Mechanism Section to shorten provision and add reference to RAM-FTS
Third Revised Sheet No. 48	Rate Schedule NNS Firm No Notice Storage Service (Continued)	Clarification of ADIQ percentages
Third Revised Sheet No. 53	Rate Schedule NNS Firm No Notice Storage Service (Continued)	Newly included page that adds a paragraph on RAM-NNS
Third Revised Sheet No. 141	General Terms and Conditions (Continued)	Revision of Revenue Adjustment Mechanism language to comply with Settlement Agreement
Second Revised Sheet No. 142	General Terms and Conditions (Continued)	Revision of Revenue Adjustment Mechanism language to comply with Settlement Agreement
Second Revised Sheet No. 143	General Terms and Conditions (Continued)	Revision of Revenue Adjustment Mechanism language to comply with Settlement Agreement
Third Revised Sheet No. 144	General Terms and Conditions (Continued)	Revision of Revenue Adjustment Mechanism language to comply with Settlement Agreement
Third Revised Sheet No. 145	General Terms and Conditions (Continued)	Revision of Revenue Adjustment Mechanism language to comply with Settlement Agreement
Original Sheet No. 145A	General Terms and Conditions (Continued)	Newly included page. Moved FL&U language to new sheet 145A
Third Revised Sheet No. 146	General Terms and Conditions (Continued)	Revision of SSIR language to comply with Settlement Agreement
Second Revised Sheet No. 147	General Terms and Conditions (Continued)	Revision of SSIR language to comply with Settlement Agreement
Second Revised Sheet No. 148	General Terms and Conditions (Continued)	Revision of SSIR language to comply with Settlement Agreement
Third Revised Sheet No. 149	General Terms and Conditions (Continued)	Newly included page which inserts SSIR Eligible Costs definition and corrects the reference to the FTS rate schedule

IV. IMPLEMENTATION

109. The Settling Parties agree that the rate and tariff changes resulting from this Settlement Agreement should be approved by the Commission to become effective June 1, 2018. Upon the issuance of a Commission decision approving this Settlement Agreement in all material respects, RMNG shall first file with the Commission an advice letter to place into effect revised tariff sheets in substantially the same form as the *pro forma* tariff sheets contained in Appendix 8 hereto to become effective on not less than two business days' notice, but no later than June 1, 2018. The Company will then file, on not less than two business days' notice, revisions to its SSIR and RAM rates through separate, sequential advice letter filings, consistent with the terms of this Settlement Agreement, to be effective June 1, 2018.

V. GENERAL TERMS AND CONDITIONS

110. Through active prehearing investigation and negotiations, the Settling Parties have negotiated agreements set forth in this Settlement Agreement, resolving the enumerated contested and disputed issues in this proceeding in a manner which the Settling Parties agree is just and reasonable and in the public interest. This Settlement Agreement reflects the compromise and settlement of those issues between the Settling Parties in this proceeding. The Settling Parties further agree that reaching agreement by means of negotiations, rather than through litigation, is encouraged by Rule 1408 and is in the public interest.

111. This Settlement Agreement shall not become effective until the issuance of a final Commission decision approving the Settlement Agreement that does not contain any modification of the terms and conditions of this Settlement Agreement that is unacceptable to any of the Settling Parties. In the event the Commission modifies this Settlement Agreement in a manner unacceptable to any of the Settling Parties, that Party shall have the right to withdraw

from this Agreement and proceed to hearing on the issues that may be appropriately raised by that Party in this proceeding.

112. Approval by the Commission of this Settlement Agreement shall constitute a determination that the Settlement Agreement represents a just, equitable, and reasonable resolution of the disputed issues resolved herein.

113. The Settling Parties specifically agree and understand that this Settlement Agreement represents a negotiated settlement that is in the public interest with respect to the various matters and issues enumerated herein. The Settling Parties shall not 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 Agreement, other than as specifically provided for herein. Notwithstanding the resolution of the issues set forth in this Settlement Agreement, none of the methods or principles herein contained shall be deemed by the Settling Parties to constitute a settled practice or precedent in any future proceeding.

114. The Settling Parties agree to join in a motion that requests that the Commission approve this Settlement Agreement, and to support the Settlement Agreement in any subsequent pleadings or filings. Each Settling Party further agrees that in the event that it sponsors a witness to address the Settlement Agreement at any hearing that the Commission may hold to address it, the Settling Party's witness will testify in support of the Settlement Agreement and all of the terms and conditions of the Settlement Agreement.

115. The Settling Parties agree that all their pre-filed testimony and exhibits shall be admitted into evidence in this proceeding without cross examination by the Settling Parties.

116. The discussions among the Settling Parties that have produced this Settlement Agreement have been conducted with the understanding, pursuant to Colorado law, that all offers

of settlement, and discussions relating thereto, are and shall be privileged and shall be without prejudice to the position of any of the Settling Parties and are not to be used in any manner in connection with this or any other proceeding.

117. All Parties have had the opportunity to participate in the drafting of this Settlement Agreement and the term sheet upon which it was based. There shall be no legal presumption that any specific Settling Party was the drafter of this Settlement Agreement.

118. This Settlement Agreement embodies the entire agreement and understanding between the Settling Parties with respect to the subject matter hereof and supersedes all prior oral or written agreements and understandings relating to the subject matter hereof. The parties are not relying on any statement or representation not contained herein.

119. This Settlement Agreement may be executed in counterparts and by electronic copies of signatures, all of which when taken together shall constitute the entire Settlement Agreement with respect to the matters addressed herein.

Date: March 2, 2018

Approved as to form:

ROCKY MOUNTAIN NATURAL GAS LLC:



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Agreed on behalf of:

TRIAL STAFF OF THE COLORADO
PUBLIC UTILITIES COMMISSION

By: 

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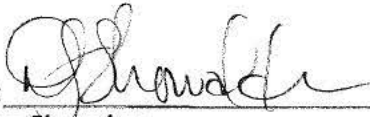
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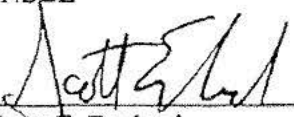
APPROVED AS TO FORM:

AGREED ON BEHALF OF:

OFFICE OF THE ATTORNEY GENERAL

**COLORADO OFFICE OF CONSUMER
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