

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 20A-0284G

IN THE MATTER OF THE APPLICATION OF COLORADO NATURAL GAS, INC. FOR AN ORDER AUTHORIZING IT TO PUT INTO EFFECT A SYSTEM SAFETY AND INTEGRITY RIDER.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
MELODY MIRBABA
SCHEDULING REMOTE HEARING**

Mailed Date: January 8, 2021

I. STATEMENT, BACKGROUND, FINDINGS AND CONCLUSIONS

1. Only the procedural history necessary to understand this Decision is included. Colorado Natural Gas Inc. (CNG) initiated this matter by filing the above-captioned Application on June 26, 2020 seeking to implement a System Safety Integrity Rider (SSIR). The Colorado Public Utilities Commission Trial Staff (Staff) and the Office of Consumer Counsel (OCC) are the only interveners in this matter.

2. On December 18, 2020, the OCC filed a “Revised Unopposed Motion Requesting the Administrative Law Judge Schedule a Remote Public Comment Hearing, Requiring Additional Public Notice of the Hearing, Vacating the Current Procedural Schedule and Requesting a Waiver of the Response Time of the Colorado Office of Consumer Counsel” (Revised Motion), which is unopposed. The Revised Motion asks the ALJ to: schedule a remote public comment hearing; require CNG provide customers at least 30 days’ notice of the public comment hearing and detailed notice of its Application and relief requested; and vacate the procedural schedule. Revised Motion at 2.

3. On December 18, 2020, the ALJ granted the Revised Motion, and required the parties to submit a joint filing by January 5, 2021 proposing: the content and manner of notice, a timeline for such notice, and proposed dates for a public comment hearing. Decision No. R20-0902-I.

4. On January 5, 2021, the parties filed a “Joint Filing of the Proposed Additional Notice and Date For Public Comment Hearing . . . “ (Joint Filing). The Joint filing proposes that a remote public comment hearing be held on February 18, 2021, from 4:00 to 6:00 p.m., and that notice of that hearing and CNG’s proposed SSIR be provided by newspaper publication in its service territories. Joint Filing at 3. The Joint Filing also includes Attachment A, proposing language for the content of the notice to customers. *Id.* at 2; Attachment A to Joint Filing.

5. Also on January 5, 2021, the OCC filed a “Notice of Receipt of Public Comment Received by the Colorado Office of Consumer with Request to Provide it to the Administrative Law Judge” (Notice of Public Comment). With its Notice of Public Comment, the OCC filed a public comment from a member of the Colorado State Senate. *See* Attachment A to Notice of Public Comment.¹

6. The parties’ Joint Filing states that the additional notice is intended to provide: CNG’s customers with information on how to provide comments to the Commission on its proposed SSIR; an additional opportunity to register written comments with the Commission; and notice of the date and time of a remote public comment hearing. *Id.* at 2. CNG requests that the proposed form of notice be accepted “pursuant to Section 40-3-104(c)(I)(D).”² *Id.*

¹ That public comment questions the effectiveness of providing public notice by publication and suggests that it would be more effective to mail notices by postcard, and to set up one or more automated calls to customers providing verbal notice. *Id.*

² The ALJ notes that this statutory citation is likely a typographical error, as there is no such section. The ALJ construes the reference as being to § 40-3-104(1)(c)(I)(D), C.R.S.

7. Section 40-3-104(1)(c)(I)(D), C.R.S., (2020) allows a utility to provide notice by emailing or texting customers for whom the utility has an email address or mobile phone number. However, the Joint Filing makes no mention of texting and emailing customers notice. Instead, the Joint Filing states that CNG wishes to publish notice in local newspapers within its service territories. Joint Filing at 2.

8. Section 40-3-104(1)(c)(I)(A), C.R.S. allows public utilities to provide notice by publication in each newspaper of general circulation once each week for two successive weeks during the first twenty days of the thirty-day period prior to the effective date of the increase or change. § 40-3-104(1)(c)(I)(A), C.R.S. A utility that provides notice by publication must also include, “with each regular billing statement mailed to affected customers during the first regular billing cycle following the filing of the application for an increase or other change, a bill insert containing the same information contained in the notice by newspaper publication.” *Id.* The Joint Filing does not state that CNG intends to include such bill inserts.

9. Moreover, CNG specifically asserts that mailing notice to each of its approximately 23,000 customers would be cost prohibitive in “comparison to the additional notice being provided by this Joint Filing.” Joint Filing at 3. CNG explains that the cost of such a mailing ranges from \$10,000 to \$13,200. CNG’s objection to mailing notice raises questions as to whether CNG also objects to providing a bill insert notice.

10. All of these issues raise questions about the parties’ intentions and agreement concerning the manner of notice. At the hearing, the parties should be prepared to address these matters.

11. If the parties object to mailing a bill insert as set forth in § 40-3-104(1)(c)(I)(A), C.R.S., during the hearing, they should also be prepared to provide legal authority supporting their

position that notice by publication is appropriate without following all the provisions of § 40-3-104(1)(c)(I)(A), C.R.S., or, should be prepared to propose another notice method consistent with § 40-3-104(1)(c)(I), C.R.S.

II. ORDER

A. It Is Ordered That:

1. Consistent with the above discussion, a remote hearing is scheduled in this matter as follows:

DATE : January 12, 2021

TIME: 11:00 a.m.

METHOD: Join by video conference online at the meeting link to be sent to parties before the hearing.

2. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

MELODY MIRBABA

Administrative Law Judge

ATTEST: A TRUE COPY

Doug Dean,
Director