

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

DOCKET NO. 13A-0319G

IN THE MATTER OF THE APPLICATION OF NIOBRARA NATGAS LLC FOR APPROVAL OF AN APPLICATION GRANTING A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR A DESIGNATED SERVICE TERRITORY AND FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO CONSTRUCT FACILITIES TO PROVIDE NATURAL GAS TRANSMISSION AND LOCAL DISBRIBUTION SERVICE

NIOBRARA NATGAS LLC SUPPLEMENT TO ITS APPLICATION FOR APPROVAL FOR THE GRANTING OF A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR A DESIGNATED SERVICE TERRITORY AND FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO CONSTRUCT FACILITIES

Comes now Niobrara NatGas LLC (Niobrara or Applicant) by its attorneys Rothgerber Johnson & Lyons LLP and pursuant to Decision No. C13-0733-I submits this Supplement to the Application for Approval of the Granting of a Certificate of Public Convenience and Necessity (CPCN) for a designated service territory and for a CPCN to construct facilities to provide natural gas transmission and local distribution service and in support thereof states as follows:

1. On April 2, 3013 Niobrara filed an application for a CPCN for a designated service territory and a CPCN to construct facilities to provide natural gas transmission and local distribution service as more fully described in the Application which commenced this docket. The purpose of the Application is for Niobrara to obtain Commission authority to serve the Niobrara Energy Park with natural gas service as local natural gas distribution company.

2. As described by Niobrara in its Application, there are presently no natural gas service customers in the proposed service territory for which the CPCNs are sought. Niobrara filed a Motion for Waiver of the Commission's Notice Requirement as set forth in 4 CCR 723-

4-4002(d) of the Commission's Rules Regulating Gas Utilities and Pipeline Operators. The Commission in denying the Motion, ordered Niobrara to publish notice of its application in the Fort Collins, Colorado and Greeley, Colorado newspapers. Niobrara subsequently had the required notice published in both newspapers and filed its Proof of Publication on May 8, 2013 with the Commission in this docket. *See generally, Decision No. C13-0461-I.*

3. An intervention was filed by Public Service Company of Colorado (PSCo) to which Niobrara submitted a response in opposition to PSCo's intervention. The Colorado Office of Consumer Counsel (OCC) late-filed its intervention to which Niobrara also responded in opposition to the OCC's intervention. By Decision No. C13-0733-I, the Commission denied the OCC's intervention and referred the PSCo's intervention and the docket to an Administrative Law Judge.

4. During the extended notice period established by Decision No. C13-0461-I, Niobrara conferred with the Commission's Staff regarding the Staff's position on the CPCNs sought by the instant Application. In discussions with Staff, Niobrara has agreed to submit this Supplement to the Application for the purpose of agreeing to the imposition of certain conditions on the CPCNs sought by Niobrara in this Application. Niobrara agrees to the following conditions to be placed on the grant of the CPCNs sought on this Application:

a. The CPCN for the designated service territory is granted by the Commission with the provision that Niobrara agrees to provide annual updates to the Commission on the progress of the addition of customers within the service territory.

b. The CPCN for the facilities necessary to provide transmission and local distribution service is granted with the requirement that Niobrara agrees to provide annual updates to the Commission on the progress of the build out of the facilities necessary to provide the proposed gas service.

c. To the extent that significant events occur within the time periods between the annual updates referred to in sub-paragraphs a and b above,

Niobrara agrees to provide a description of the event(s) within 30 days of their occurrence.

1) An example of such an event would be the issuance of a construction contract for the construction of a portion of the facilities governed by the CPCN granted by the Commission as a result of this Application.

d. Niobrara agrees that it will not commence the provision of natural gas distribution service pursuant to the CPCNs granted as part of this application without first filing an appropriate tariff covering the services to be provided and the rates for those services pursuant to Commission Rules 1210, 4108 and 4109.

e. Niobrara agrees that the Commission may keep this docket open for the purpose of receiving the reports referenced herein and the tariff referred to in paragraph d. immediately above.

5. In addition to the foregoing, Niobrara also provides the following supplemental information intended to clarify certain aspects of this Application:

a. This application only seeks approval of the requested CPCNs enabling the provision of natural gas transmission and distribution service to the Niobrara Energy Park.

b. Niobrara acknowledges that the service territory for which it seeks a CPCN for both natural gas facilities and service territory is located within the designated retail electric service territory of Poudre Valley Rural Electric Association (PVREA). Niobrara will abide by all Colorado statutes and Commission rules and regulations.

c. The Niobrara Energy Park is zoned for certain industrial and commercial uses only. As described in Niobrara's Application, there will be no residential customers allowed to locate in the Niobrara Energy Park. Likewise, there will be no small commercial customers located within the Niobrara Energy Park.

d. Niobrara agrees to inform the Commission's pipeline safety staff of its intent to commence installation of facilities 30 days before construction is scheduled to begin.

e. Niobrara's intent to construct a local distribution natural gas service within the Niobrara Energy Park is to enable the provision of local space heating and hot water heating to customer buildings to be located within the Park.

6. It is Niobrara's understanding that based upon the information contained in this Supplement, the interests of the Staff in this docket are satisfied and that Staff no longer seeks to

have a hearing in this docket. Niobrara hereby reasserts the arguments set forth in its Response to PSCo's intervention and requests that PSCo's intervention be denied, leaving this Application unopposed.

Wherefore for all the foregoing reasons Niobrara NatGas LLC respectfully supplements the instant Application with the information set forth herein.

Respectfully submitted this 28th day of June, 2013.

ROTHGERBER JOHNSON & LYONS LLP



Mark A. Davidson #10364
Thomas J. Dougherty #30954
Rothgerber Johnson & Lyons LLP
1200 17th Street, Suite 3000
Denver, CO 80202
Telephone: (303) 628-9577
Facsimile: (303) 623-9222
mdavidson@rothgerber.com

**ATTORNEYS FOR
NIOBRARA NATGAS LLC**

**CERTIFICATE OF SERVICE
DOCKET NO. 13A-0319G**

I hereby certify that on this 18th day of June, 2013 the foregoing notice of **NIOBRARA NATGAS LLC SUPPLEMENT TO APPLICATION** was e-filed with the Colorado Public Utilities Commission.

A copy was electronically served in Adobe.pdf format to the following:

Doug Dean, Director
Colorado Public Utilities Commission
1560 Broadway, 2nd Floor, Suite 250
Denver, Colorado 80202
doug.dean@state.co.us

Craig Harrision, President
Harrison Resource Corporation
2725 Rocky Mountain Ave Suite 400
Loveland, CO 80538
craig@harrisonresource.com

Geraldine Kim, Esq.
Xcel Energy Services, Inc.
1800 Larimer Street, Ste 1100
Denver, CO 80202
geraldine.kim@xcelenergy.com

Scott Brockett.
Xcel Energy Services, Inc.
1800 Larimer Street, Ste 1100
Denver, CO 80202
scott.b.brockett@xcelenergy.com

Jean S. Watson –Weidner
Assistant Attorney General
1300 Broadway, 8th Floor
Denver, CO 80203
jsw@state.co.us

Anne Botterud
First Assistant Attorney General
1300 Broadway, 8th Floor
Denver, CO 80203
Anne.botterud@state.co.us

Eugene Camp
Marianne Ramos
Sandi Kahl
1560 Broadway, Ste 250
Denver, CO 80202

Ron Davis
1560 Broadway, Ste 250
Denver, CO 80202

Todd Lundy, Esq.
First Assistant Attorney General
1300 Broadway, 8th Floor
Denver, CO 80203

s/ _____
Patty Sheley