

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 19AL-0309G

IN THE MATTER OF ADVICE LETTER NO. 949-GAS FILED BY PUBLIC SERVICE COMPANY OF COLORADO TO REQUEST APPROVAL TO ELIMINATE THE CURRENTLY EFFECTIVE 24.19 PERCENT GENERAL RATE SCHEDULE ADJUSTMENT (“GRSA”) AND PLACE INTO EFFECT REVISED BASE RATES FOR ALL GAS RATE SCHEDULES THAT WILL REPLACE AND SUPERSEDE THE CURRENTLY EFFECTIVE BASE RATES TO BECOME EFFECTIVE JULY 1, 2019.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
STEVEN H. DENMAN
VACATING NOVEMBER 14, 15, 18,
AND 19, 2019 HEARING; VACATING
CERTAIN PROCEDURAL DATES; AND SCHEDULING
HEARING ON THE SETTLEMENT AGREEMENT**

Mailed Date: October 4, 2019

I. STATEMENT

1. This Interim Decision vacates the evidentiary hearing on the merits set for November 14, 15, 18, and 19, 2019, scheduled by Decision No. R19-0660-I (mailed on August 2, 2019); sets a hearing on the Stipulation and Settlement Agreement for December 5, 2019 (with December 6, 2019 reserved, if needed); and vacates certain procedural filing dates.

A. Procedural History.

2. On May 31, 2019, Public Service Company of Colorado (Public Service) filed with the Colorado Public Utilities Commission (Commission), Advice Letter No. 949-Gas, accompanying tariff sheets, and supporting testimony and attachments. The proposed effective date on the filed tariffs was July 1, 2019. This filing commenced Public Service’s 2019 Gas Phase II rate case.

3. By Decision No. C19-0541 (mailed on June 20, 2019), pursuant to § 40-6-111(1), C.R.S. (2019), the Commission set for hearing the tariffs filed with Advice Letter No. 949-Gas and thereby suspended their effective date for 120 days from the proposed effective date, or until October 29, 2019. The Decision also referred the matter to an Administrative Law Judge (ALJ) for disposition. Subsequently, the undersigned ALJ was assigned to preside over this Proceeding.

4. Pursuant to § 40-6-111(1)(b), C.R.S. (2019), Decision No. R19-0622-I (mailed on July 22, 2019), the ALJ suspended the effective date of the tariff sheets filed with Advice Letter No. 949-Gas for an additional 130 days, or until March 7, 2020.

5. The procedural history of the above-captioned Proceeding is stated in Decisions previously issued in this Proceeding and is repeated here as necessary to put this Decision into context.

6. Decision No. R19-0622-I acknowledged the interventions as of right filed by the Colorado Office of Consumer Counsel (OCC) on July 1, 2019, and filed by Trial Staff of the Colorado Public Utilities Commission (Staff) on July 9, 2019. Decision No. R19-0622-I also granted the Motion to Intervene, as a permissive intervenor, filed by Energy Outreach Colorado (EOC) on July 5, 2019.

7. Decision No. R19-0636-I (mailed on July 26, 2019) granted the motions for permissive intervention filed by Atmos Energy Corporation (Atmos) on July 11, 2019; by WoodRiver Energy, LLC (WoodRiver) on July 16, 2019; by Black Hills Colorado Gas, Inc. (Black Hills) on July 18, 2019; by Colorado Natural Gas, Inc. (CNG) on July 19, 2019; by Tiger Natural Gas, Inc. (Tiger) on July 19, 2019; and by Climax Molybdenum Company (Climax) on July 19, 2019.

8. The Parties to this Proceeding are Public Service, OCC, Staff, EOC, Atmos, WoodRiver, Black Hills, CNG, Tiger, and Climax.

9. Pursuant to Decision No. R19-0622-I, a prehearing conference in this Proceeding was held on August 1, 2019. Decision No. R19-0660-I, ¶ 14 at pages 5 and 6 (mailed on August 2, 2019), adopted a consensus procedural schedule for the litigation of this Proceeding, set an evidentiary hearing for November 14, 15, and 18, 2019 (with November 19th reserved if needed), and addressed other procedural matters. Decision No. R19-0660-I, ¶ 15 at page 6, noted that the ALJ would consider the Parties' request for a December 5 and 6, 2019 hearing on a settlement, only if the Parties reached an unopposed, comprehensive settlement of all the issues and filed a settlement agreement by the October 30, 2019 deadline.¹

10. On September 18, 2019, the Parties to this Proceeding filed their Unopposed Joint Motion for Approval of Settlement Agreement without Modification, to Modify Procedural Schedule, and Request for Waiver of Response Time (Unopposed Joint Motion), and attached a comprehensive Stipulation and Settlement Agreement (Settlement Agreement). The Settlement Agreement includes three attachments: (1) Attachment 1, a Rate Comparison; (2) Attachment 2, Bill Impacts; and (3) Attachment 3, Revenue Proof.

11. All Parties to this Proceeding joined the Unopposed Joint Motion and signed the Settlement Agreement, including Public Service, Staff, OCC, EOC, WoodRiver, Tiger, Climax, Atmos, Black Hills, and CNG (collectively, the Settling Parties).

¹ The ALJ observed that those Parties not signing the settlement agreement must either not oppose or must take no position on the Settlement Agreement before the settlement hearing would be scheduled for December 5 and 6, 2019. If any non-signing Party objected to the Settlement Agreement, the hearing on the Settlement Agreement would be scheduled for November 18 and 19, 2019. Decision No. R19-0660-I, ¶ 15 at page 6.

12. On October 3, 2019, the Settling Parties filed an Addendum and Corrections to Stipulation and Settlement Agreement, including Attachment 4, Summary of Tariff Changes; Attachment 5, Redlined Settlement Tariffs; and Attachment 6, Clean Settlement Tariffs.

13. Also on October 3, 2019, Public Service, Staff, OCC, EOC, and Black Hills each filed testimony in support of approval of the Settlement Agreement and Settlement Tariffs.

B. Findings and Conclusions.

14. The Unopposed Joint Motion requests that the ALJ:

- 1) Approve the Settlement Agreement, filed with the Unopposed Joint Motion, without modifications.
- 2) Modify the adopted procedural schedule to permit the filing of Settlement Tariff Sheets and the filing of testimony in support of the Settlement Agreement and the Settlement Tariff Sheets by October 3, 2019.
- 3) Vacate the remaining procedural deadlines, including the deadline for filing Answer Testimony and the November 14, 15, and 18, 2019 evidentiary hearing dates; and schedule a hearing on the Settlement Agreement for December 5 and 6, 2019 (Settlement Hearing).
- 4) Waive the response time for the Unopposed Joint Motion.²

15. Since the Settlement Agreement is comprehensive and unopposed, the Settling Parties have shown good cause to grant the Unopposed Joint Motion, in part. The ALJ will grant the relief requested, except for the request to approve the Settlement Agreement without modification. The ALJ will issue a Recommended Decision on the merits of the Settlement Agreement in due course after the conclusion of the Settlement Hearing.

16. Pursuant to Rule 1400(b) of the Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1, responses to the Unopposed Joint Motion were due to be filed 14 days after service on the Parties, or no later than October 2, 2019. No responses to the

² Unopposed Joint Motion, pages 1 and 2, and 13.

Unopposed Joint Motion were filed by that deadline. Therefore, the request to waive response time to the Unopposed Joint Motion is moot and will be denied.

17. The request to modify the adopted procedural schedule to permit the filing of the Settlement Tariff Sheets and the filing of testimony in support of the Settlement Agreement and the Settlement Tariff Sheets by October 3, 2019 is technically moot, since those materials were filed before this Interim Decision was issued. However, the ALJ will grant *nunc pro tunc* the request that Settlement Tariff Sheets and testimony in support of the Settlement Agreement and the Settlement Tariff Sheets should be filed no later than October 3, 2019.

18. The ALJ will vacate the remaining procedural deadlines established by Decision No. R19-0660-I, including the deadlines for filing Answer Testimony and attachments; Rebuttal and Cross-answer Testimony and Attachments; the Matrix of Order of Witnesses, Order of Cross-examination, and Estimated Cross-examination Times; Objections to the admissibility of any pre-filed Hearing Exhibits marked for identification; and Statements of Position.

19. The deadline for all Parties to file final electronic versions of all Hearing Exhibits will not be vacated, but will be extended to November 21, 2019, two weeks before the Settlement Hearing. Also no later than November 21, 2019, the Settling Parties will be ordered to file a notice clarifying what electronic exhibits they wish to be admitted at the Settlement Hearing.

20. The ALJ will vacate the evidentiary hearing scheduled for November 14, 15, and 18, 2019 (with November 19, 2019 reserved).

21. This Interim Decision will schedule a hearing on the Settlement Agreement for December 5, 2019 (with December 6, 2019 reserved).

22. The requirements and deadlines, pursuant to Rule 1405, 4 CCR 723-1, and Decision No. R19-0660-I, related to serving discovery requests, as well as the obligation to serve all pending discovery responses, will be suspended as of the effective date (*i.e.*, the mailed date) of this Decision.

23. Other Interim Decisions on procedural matters may be issued prior to the date of the Settlement Hearing.

II. ORDER

A. It Is Ordered That:

1. The Unopposed Joint Motion for Approval of Settlement Agreement without Modification, to Modify Procedural Schedule, and Request for Waiver of Response Time, filed on September 18, 2019 by Public Service Company of Colorado, Trial Staff of the Colorado Public Utilities Commission, the Colorado Office of Consumer Counsel, Energy Outreach Colorado, WoodRiver Energy, LLC, Tiger Natural Gas, Inc., Climax Molybdenum Company, Atmos Energy Corporation, Black Hills Colorado Gas, Inc., and Colorado Natural Gas, Inc. (collectively, the Settling Parties), is granted in part consistent with the findings and conclusions in this Decision.

2. The Settling Parties' request to modify the adopted procedural schedule to permit the filing of the Settlement Tariff Sheets and the filing of testimony in support of the Settlement Agreement and the Settlement Tariff Sheets by October 3, 2019 is granted *nunc pro tunc*.

3. The evidentiary hearing scheduled for November 14, 15, and 18, 2019 (with November 19, 2019 reserved) shall be vacated.

4. A hearing on the Stipulation and Settlement Agreement, filed on September 18, 2019 (Settlement Hearing), is scheduled in this matter as follows:

DATES: December 5, 2019 (December 6, 2019 is reserved, if needed)

TIME: 9:00 a.m.

PLACE: Hearing Room
Colorado Public Utilities Commission
1560 Broadway, Suite 250
Denver, Colorado

5. The following procedural deadlines established by Decision No. R19-0660-I (mailed on August 2, 2019) shall be vacated: the deadlines for filing Answer Testimony and Attachments, Rebuttal and Cross-answer Testimony and Attachments, the Matrix of Order of Witnesses, Order of Cross-examination, and Estimated Cross-examination Times; Objections to the admissibility of any pre-filed Hearing Exhibits marked for identification; and Statements of Position.

6. The deadline for all Parties to file final electronic versions of all Hearing Exhibits shall be extended to no later than November 21, 2019.

7. No later than November 21, 2019, the Settling Parties shall file a notice clarifying what electronic exhibits they wish to be admitted at the Settlement Hearing.

8. The requirements and deadlines, pursuant to Rule 1405 of the Rules of Practice and Procedure, 4 *Code of Colorado Regulations* 723-1, and Decision No. R19-0660-I, related to serving discovery requests and the obligation to serve all pending discovery responses, shall be suspended as of the effective date of this Decision.

9. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

STEVEN H. DENMAN

Administrative Law Judge

ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean,
Director