

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 20AL-0220G

IN THE MATTER OF ADVICE LETTER NO. 107 FILED BY COLORADO NATURAL GAS, INC. TO RECOVER AN OVER REFUNDED AMOUNT FOLLOWING COLLECTIONS RELATED TO THE FEDERAL TAX CUTS AND JOBS ACT OF 2017 (TCJA) TO BECOME EFFECTIVE AUGUST 1, 2020.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
G. HARRIS ADAMS
ESTABLISHING PROCEDURAL SCHEDULE AND
SCHEDULING REMOTE EVIDENTIARY HEARING**

Mailed Date: August 24, 2020

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I. STATEMENT

A. Background

1. On May 27, 2020, Colorado Natural Gas, Inc. (CNG) filed Advice Letter No. 107-Gas with tariff sheets establishing a one-time non-volumetric charge to recover

over-refunding in CNG's Tax Cut and Jobs Act Refund Plan (TCJA Refund Plan) implemented in 2018.

2. On May 29, 2020, CNG filed an Amended Advice Letter No. 107 correcting the Issue Date on the tariff pages.

3. On June 9, 2020, CNG filed a Second Amended Advice Letter No. 107. CNG states that it over-refunded customers in its TCJA Refund Plan. CNG seeks to recover \$138,062 for the Mountain Division and \$9,125 for the Eastern Colorado Division. CNG requests an August 1, 2020 effective date for the tariff sheets.

4. On June 26, 2020, Trial Staff of the Colorado Public Utilities Commission (Staff) filed a protest letter, requesting that the Commission reject the Second Amended Advice Letter No. 107, or suspend it and set it for hearing. Staff states that CNG's TCJA Refund Plan did not include a provision for a true-up and that CNG is proposing multiple true-ups, having previously collected over-refunded amounts in 2019. Staff also states that CNG's customers are subject to economic stresses from the novel coronavirus pandemic (COVID-19) pandemic, so it is inappropriate for CNG to seek recovery of over-refunds at this time.

5. By Decision No. C20-0498 (mailed July 9, 2020), the Commission referred this proceeding to an Administrative Law Judge (ALJ).

6. On July 13, 2020, Staff filed its Notice of Intervention as of Right by Staff, Entry of Appearance, Notice Pursuant to Rule 1007(a) and Rule 1401 and Request for Hearing. Staff's intervention is by right. Staff is a party in this proceeding.

7. CNG and Staff, collectively, are the Parties.

B. Procedural Schedule

8. On August 10, 2020, the ALJ informally contacted the Parties, inviting them to confer and propose a consensus procedural schedule in lieu of conducting a prehearing conference in this matter.

9. On August 14, 2020, CNG informally responded, copying Counsel for Staff, and informed that the Parties agreed to a proposed procedural schedule, including a date for hearing.

10. The ALJ finds that the proposed schedule is reasonable and will be adopted as ordered below. Additionally, response time to prehearing motions will be shortened as ordered below.

C. Suspension Period

11. By Decision No. C20-0498, issued July 9, 2020, the Commission suspended the proposed effective date, August 1, 2020, of the tariff pages filed by CNG with Second Amended Advice Letter No. 107-Gas in Proceeding No. 20AL-0220G until November 29, 2020, or until further order of the Commission.

12. Section 40-6-111(1), C.R.S., provides that the Commission may, in its discretion and by separate order, suspend the effective date of the tariff page(s) for a further period not exceeding 130 days. Thus, the Commission has the power and authority to suspend the effective date of the tariffs for a maximum of 250 days or, in this proceeding, through April 8, 2021.

13. In order to accommodate the proposed procedural schedule and ensure the Commission has an opportunity to fully deliberate in the proceeding, it is found that the Commission's consideration of this matter cannot be completed prior to the expiration of the current suspension. It is therefore necessary to further suspend the effective date of these tariffs for an additional 130 days.

D. Remote Hearing

14. As noted above, a remote evidentiary hearing will be scheduled. The hearing will be held on December 10, 2020.

15. Colorado Governor Jared Polis declared a state of emergency over COVID-19 on March 10, 2020. Since then, Colorado State government and the Commission have been working diligently to address how to safely and effectively manage the challenges presented by COVID-19. These efforts have focused on limiting the disruption to the services delivered by the Commission (and other State agencies), while attempting to mitigate the risks to State employees and the public.

16. Under these circumstances, the hearing in this proceeding shall be conducted as a remote hearing at which the participants will appear from remote locations. The ALJ finds that holding a remote hearing is consistent with current public health advisories to prevent the spread of COVID-19. The ALJ concludes that it is in the public interest to hold the hearing in this proceeding as a remote hearing.

E. Instructions for Participating in, and Observing, the Remote Hearing

17. Attachment A to this Decision provides instructions on how to use the GoToMeeting platform for participating in the remote hearing.

F. Electronic Exhibits

18. The presentation of evidence at the hearing shall be through electronic exhibits to the fullest extent possible. Instructions for the electronic presentation of exhibits at the hearing (and for preparing prefiled testimony) are included in Attachment B.

II. ORDER

A. It Is Ordered That:

1. The effective date of the proposed tariff sheets suspended by Decision No. C20-0498, issued July 9, 2020, and filed by Colorado Natural Gas, Inc. with Second Amended Advice Letter No. 107-Gas in Proceeding No. 20AL-0220G filed June 9, 2020, is further suspended for an additional 130 days through April 8, 2021.

2. A remote evidentiary hearing is scheduled as follows:

DATE: December 10, 2020

TIME: 9:00 a.m.

FOR WEBCASTS: Hearing Room B

METHOD: Join by video conference at the link to be provided by an email from the Administrative Law Judge

3. Nobody should attend the remote evidentiary hearing in-person.

4. In addition to other requirements of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* 723-1 (e.g., Rule 1202 regarding pre-filed testimony), all pre-filed hearing exhibits shall be marked for identification and filed in accordance with Attachment B hereto.

5. The following procedural schedule will be adopted for this proceeding:

<u>Event</u>	<u>Deadline</u>
CNG’s Direct Testimony	September 21, 2020
Staff’s Answer Testimony	October 26, 2020
CNG’s Rebuttal Testimony	November 16, 2020
Deadline for Settlement Agreement, Prehearing Motions, and Corrections to Testimony	November 30, 2020
Response time to Prehearing Motions	The shorter of the period provided in Rule 1400, or December 4, 2020
Deadline for Post-Hearing Statements of Position	December 21, 2020

6. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

G. HARRIS ADAMS

Administrative Law Judge

ATTEST: A TRUE COPY

Doug Dean,
Director