

Decision No. C14-0580

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14AL-0285G

IN THE MATTER OF ADVICE LETTER NO. 84 FILED BY ROCKY MOUNTAIN NATURAL GAS LLC TO RECOVER COSTS FOR SYSTEM SAFETY AND INTEGRITY PROJECTS THROUGH THE SYSTEM SAFETY AND INTEGRITY RIDER (SSIR) TO BECOME EFFECTIVE JUNE 1, 2014.

**DECISION SUSPENDING EFFECTIVE DATE
OF TARIFFS, REFERRING THE MATTER
TO AN ADMINISTRATIVE LAW JUDGE, AND
DENYING MOTION FOR WAIVER OF RULE 1308(A)**

Mailed Date: May 30, 2014
Adopted Date: May 28, 2014

IMPORTANT NOTICE: ANY PERSON DESIRING TO PARTICIPATE ONLY BY MAKING A STATEMENT MAY DO SO BY APPEARING AT THE HEARING. IF YOU DESIRE TO ASK QUESTIONS OF A WITNESS OR OTHERWISE PARTICIPATE AS A PARTY IN THIS RATE MATTER, YOU MUST REQUEST PERMISSION FROM THE COMMISSION TO BE AN INTERVENOR (EVEN IF YOU HAVE ALREADY FILED AN OBJECTION). ANYONE DESIRING TO INTERVENE MUST CAREFULLY FOLLOW THE LAW AND COMMISSION RULES FOR BECOMING AN INTERVENOR. FOR FURTHER INFORMATION ON HOW TO INTERVENE, CALL (303) 894-2070 (PUC EXTERNAL AFFAIRS OFFICE).

I. BY THE COMMISSION

A. Statement

1. On March 31, 2014, Rocky Mountain Natural Gas, LLC (Rocky Mountain or Company) filed Advice Letter No. 84 (attached as Exhibit 1). Rocky Mountain states that the purpose of this filing is to comply with the terms of a Stipulation and Agreement (Stipulation) approved in consolidated Proceeding Nos. 13A-0046G, 13AL-0067G, and 13AL-0143G (Consolidated Proceedings). Rocky Mountain agreed in that Stipulation that it would file an

Advice Letter to implement a cost recovery mechanism for pipeline system safety and integrity projects through a System Safety and Integrity Rider (SSIR).

2. Rocky Mountain requests an effective date of June 1, 2014 for the tariff sheets submitted under Advice Letter No. 84.

3. On May 13, 2014, Staff of the Colorado Public Utilities Commission (Staff) filed a protest letter requesting that the Commission suspend the tariff sheets and set the matter for hearing.¹ Staff questions whether the \$1,768,699 of increased revenue to be recovered through the SSIR is reasonable and determined properly, whether the 19 projects whose costs are to be recovered through the SSIR are within the scope and purpose of the rate rider and meets all the criteria as established in the SSIR tariff, and whether it is reasonable to develop substantive reporting criteria for the SSIR at this time.

4. On May 14, 2014, the Colorado Office of Consumer Counsel (OCC) filed a protest letter also requesting that the Commission to suspend the tariff sheets and set the matter for hearing. The OCC argues that Rocky Mountain has failed to demonstrate that any of the proposed projects are entitled to accelerated cost recovery under the SSIR and applicable federal rules.

5. On May 16, 2014, Rocky Mountain filed a response to the protest letters. Rocky Mountain argues that, because the Commission approved the Stipulation reached by the parties in the Consolidated Proceeding, the Commission has already approved the SSIR, which was part of the Stipulation. Rocky Mountain argues that the OCC's protest is an improper and untimely attempt by the OCC to re-litigate issues already addressed in the Consolidated Proceedings.

¹ Staff's protest letter is dated May 13, 2014; however, the letter was not filed with the Commission until May 15, 2014.

Rocky Mountain further argues that the OCC's protest ignores the after-the-fact review of the appropriateness of SSIR projects and SSIR cost recovery as set forth in the SSIR tariff. Rocky Mountain requests that the Commission deny the relief requested in the protest letters and allow the tariffs to become effective on June 1, 2014 by operation of law. Rocky Mountain also filed a Motion for a Waiver of Rule 1308(a)² and Waiver of Response Time with its response to the protest letters (Motion).

6. On May 23, 2014, Staff filed an objection to the Company's request for a waiver of response time to the Motion, seeking an opportunity to respond to Rocky Mountain's response to the protest letters.

7. Pursuant to § 40-6-111(1), C.R.S., the Commission may, in its discretion, set the tariff page(s) filed under Advice Letter No. 84 for hearing which will suspend the effective date for 120 days from the proposed effective date. If the Commission does not establish new rates before the expiration of the suspension period of 120 days, or, in this proceeding, September 29, 2014, the tariff page(s) filed by Rocky Mountain may become effective.

8. Section 40-6-111(1), C.R.S., also provides that the Commission may, in its discretion, by a separate decision, suspend the effective date of the tariff page(s) for an additional 90 days. Thus, the Commission has the power and authority to suspend the effective date of the tariff page(s) for a maximum of 210 days or, in this proceeding, until December 28, 2014. If the Commission further suspends, by separate decision, the effective date of the tariff page(s)

² Rule 1308(a) of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* 723-1, states: "A response may only be filed to: an application or petition, to the extent included in a notice of intervention or motion for permissive intervention; a complaint, or counterclaim or order to show cause, as provided in this rule and paragraphs 1302(g) and (h); a motion, as provided in rule 1400; or exceptions, as provided in rule 1505."

for an additional 90 days, and if no new rates are established by the Commission before December 28, 2014, the tariff page(s) filed by Rocky Mountain may become effective.

B. Conclusions and Findings

9. The Commission finds good cause to suspend the tariff page(s) submitted with Advice Letter No. 84 and set this matter for hearing. The concerns raised by Staff and the OCC in their protest letters warrant further investigation. We also therefore deny the Motion. Rocky Mountain shall have an opportunity to address Staff's and OCC's objections to the SSIR tariff filing in the course of this proceeding.

10. We refer this matter to an Administrative Law Judge (ALJ). We further direct the ALJ to set a hearing date and establish other procedures by separate decision.

11. A pleading to intervene may be filed by any person, firm, or corporation desiring to be a party and fully participate in this proceeding, as ordered below. The filing of any other document protesting the tariff page(s) shall not allow participation as an intervenor in this matter.

II. ORDER

A. The Commission Orders That:

1. The proposed effective date, June 1, 2014, of the tariff page(s) filed by Rocky Mountain Natural Gas LLC (Rocky Mountain) with Advice Letter No. 84 is suspended for 120 days until September 29, 2014, or until further order of the Commission.

2. The tariff pages filed by Rocky Mountain with Advice Letter No. 84 are set for hearing before an Administrative Law Judge (ALJ). The ALJ shall set a hearing date and establish other procedures by separate decision.

3. The Motion for a Waiver of Rule 1308(a) and Waiver of Response Time filed by Rocky Mountain on May 16, 2014 is denied, consistent with the discussion above.

4. Any person, firm, or corporation, including any who have previously filed a document protesting the proposed tariff page(s), who desire to intervene and participate as a party in this proceeding shall file a motion to intervene with the Commission within 30 days after the mailing date of this Decision, and shall serve a copy of the motion on Rocky Mountain's attorney of record.

5. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
May 28, 2014.**

(S E A L)



ATTEST: A TRUE COPY

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

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JOSHUA B. EPEL

PAMELA J. PATTON

GLENN A. VAAD

Commissioners