

Decision No. R14-0114

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

PROCEEDING NO. 13A-0046G

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IN THE MATTER OF THE APPLICATION OF ROCKY MOUNTAIN NATURAL GAS LLC FOR AN ORDER AUTHORIZING IT TO PUT INTO EFFECT A SYSTEM SAFETY AND INTEGRITY RIDER.

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PROCEEDING NO. 13AL-0067G

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IN THE MATTER OF THE ADVICE LETTER NO. 77 FILED BY ROCKY MOUNTAIN NATURAL GAS LLC TO RESTRUCTURE AND UNBUNDLE ITS SERVICE AND TO REPLACE TARIFF NO. 3 IN ITS ENTIRETY TO BECOME EFFECTIVE MARCH 4 2013.

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PROCEEDING NO. 13AL-0143G

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IN THE MATTER OF THE ADVICE LETTER NO. 261 OF SOURCEGAS DISTRIBUTION LLC TO REVISE ITS COLORADO SCHEDULE OF RATES FOR NATURAL GAS SERVICE AVAILABLE IN THE ENTIRE TERRITORY SERVED BY THE COMPANY, WITH TARIFF SHEETS FOR PUC NO. 7, TO BECOME EFFECTIVE MAY 1, 2013.

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**RECOMMENDED DECISION OF  
ADMINISTRATIVE LAW JUDGE  
PAUL C. GOMEZ  
GRANTING JOINT MOTION TO APPROVE AMENDED  
STIPULATION AND AGREEMENT; APPROVING  
AMENDED STIPULATION AND AGREEMENT IN ITS  
ENTIRETY WITHOUT MODIFICATION;  
PERMANENTLY SUSPENDING TARIFF SHEETS;  
AND REQUIRING COMPLIANCE FILINGS**

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Mailed Date: January 30, 2014

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## I. STATEMENT

### A. Background

1. As explained in more detail in Decision No. R13-0460-I, **Proceeding No. 13A-0046G** issued April 18, 2013, is the Joint Application of SourceGas Distribution LLC (SourceGas) and Rocky Mountain Natural Gas LLC (RMNG) seeking Commission authorization for each utility to implement a System Safety and Integrity Rider (SSIR) as described in the filing. The filing commenced Proceeding No. 12A-1145G, which originally was captioned *In the Matter of the Joint Application of SourceGas Distribution LLC and Rocky Mountain Natural Gas LLC for an Order Authorizing Them to Put into Effect a System Safety and Integrity Rider* (RMNG SSIR).<sup>1</sup>

2. The procedural history of Proceeding No. 12A-1145G is set out in previous Decisions; however, it is noted that the Colorado Office of Consumer Counsel (OCC) and Trial Staff of the Commission (Staff) intervened by right in Proceeding No. 12A-1145G.

3. Regarding **Proceeding No. 13AL-0067G**, on January 31, 2013 RMNG filed Advice Letter No. 77 with appended tariff sheets in order to initiate a general RMNG rate case, to update RMNG's rate structure, to restructure and to unbundle RMNG's services, and to replace RMNG's entire tariff. This proceeding was designated as: *Re: The Tariff Sheets Filed by Rocky Mountain Natural Gas LLC with Advice Letter No. 77* (RMNG Rate Case).

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<sup>1</sup> SourceGas was permitted to withdraw its application to implement a SSIR in Proceeding No. 12A-1145G by Recommended Decision No. R13-0498, issued April 29, 2013.

4. Staff and the OCC filed interventions as of right and requests for hearing in Proceeding No. 13AL-0067G. Other intervenors include, A M Gas Transfer Corporation (A M Gas); Colorado Natural Gas, Inc. (CNG); American Gypsum Company, LLC (AGC); and, Public Service Company of Colorado (Public Service).

5. On April 8, 2013, Rocky Mountain made a filing in response to Decision No. R13-0376-I regarding the RMNG Rate Case. Rocky Mountain stated that it would be willing to file an amended Advice Letter No. 77 with an effective date of May 1, 2013. In order to address the timing issue identified by the Administrative Law Judge (ALJ) in Interim Decision No. R13-0376-I issued April 2, 2013.

6. Regarding **Proceeding No. 13AL-0143G**, on February 22, 2013 SourceGas filed Advice Letter No. 261 with appended tariff sheets which seeks to revise the SourceGas rate schedules, the general terms and conditions, and related forms of agreement to address various proposed changes to the upstream requirements on the Rocky Mountain pipeline system.<sup>2</sup> However, it was noted that this filing is not intended to be a general SourceGas rate case. This proceeding was designated as: *In the Matter of the Advice Letter No. 261 of SourceGas Distribution LLC to Revise its Colorado Schedule of Rates for Natural Gas Service Available in the Entire Territory Served by the Company, with Tariff Sheets for P.U.C. 7, to Become Effective May 1, 2013* (SourceGas Proceeding).

7. Staff and the OCC filed interventions as of right and requests for hearing in Proceeding No. 13AL-0143G. A M Gas and Seminole Energy Services, LLC (Seminole) are intervenors in Proceeding No. 13AL-0143G.

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<sup>2</sup> The changes on the Rocky Mountain system are proposed in the RMNG Rate Case.

8. As a result, the intervenors in this consolidated proceeding are Staff, OCC, A M Gas, CNG, American Gypsum, Seminole, and Public Service.

9. Due to the sequence in which RMNG and SourceGas filed their respective applications and advice letters, a timing issue pertaining to the time in which the Commission must enter a final decision in this consolidated proceeding was identified by the ALJ in Interim Decision No. R13-0460-I issued April 18, 2013. Regarding RMNG's SSIR application in Proceeding No. 13A-0046G, the Commission was required to issue its Decision in that application no later than October 8, 2013. Regarding RMNG's rate case filing in Proceeding No. 13AL-0067G, the Commission was required to issue its Decision there no later than September 30, 2013 or the RMNG tariff sheets would go into effect by operation of law. Regarding SourceGas's Advice Letter filing in Proceeding No. 13AL-0143G, the Commission is required to issue its Decision in that filing no later than November 27, 2013.

10. In order to remedy those time discrepancies, the ALJ required RMNG to indicate whether it would take action to address this timing issue and, if it will take action, the action that it proposed to take. In response, RMNG made a filing regarding Proceeding No. 13A-0046G in which it stated that it waived the provisions of § 40-6-109.5, C.R.S., through November 27, 2013. RMNG also made a filing in Proceeding No. 13AL-0067G in which it amended Advice Letter No. 77 by extending the effective date of the underlying tariffs until May 1, 2013.

11. Regarding the SourceGas Advice Letter No. 261 filing in Proceeding No. 13AL-0143G, the Commission, by Decision No. C13-0343 issued March 25, 2013, suspended the proposed May 1, 2013 effective date for 120 days or through August 29, 2013.

The Commission indicated that the suspension period may be extended an additional 90 days or through November 27, 2013.

12. By Interim Decision No. R13-0460-I, the suspension period of Advice Letter No. 261 was extended an additional 90 days or through November 27, 2013. It was found that further suspending the effective date was appropriate in that the three consolidated proceedings were then synchronized so that a final Commission Decision may be issued by November 27, 2013.

13. The procedural schedule was amended by several Interim Decisions, and by Interim Decision No. R13-1046-I issued August 22, 2013, it was noted that RMNG agreed to further waive the 210-day statutory deadline pursuant to § 40-6-109.5, C.R.S., through March 27, 2014 regarding Proceeding No. 13A-0046G. Regarding Advice Letter No. 77 in Proceeding No. 13AL-0067G, RMNG agreed to amend the Advice Letter by extending the proposed effective date to August 29, 2013. Regarding Advice Letter No. 261 in Proceeding No. 13AL-0143G, SourceGas agreed to amend the Advice Letter by extending the effective date to August 29, 2013. The effect of further amending Advice Letter Nos. 77 and 261 extended the suspension period of each Advice Letter through March 27, 2014, which synchronized the deadlines for a final Commission decision in all three consolidated proceedings. Among other things, an evidentiary hearing was scheduled for November 4 through 8, 2013.

14. By Interim Decision No. R13-1387-I issued November 4, 2013, a Joint Motion to Vacate Evidentiary Hearing (Joint Motion) filed by the settling parties<sup>3</sup> was granted. The settling

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<sup>3</sup> The “settling parties” included all intervenors to these consolidated proceedings with the exception of American Gypsum and Public Service.

parties indicated they had reached a comprehensive settlement agreement in the consolidated proceedings and requested that the evidentiary hearing be vacated and reset for December 2 and 3, 2013 on the terms of the settlement agreement. The parties were required to file a settlement agreement no later than November 13, 2013. The Joint Motion further indicated that the OCC, while a signatory to the settlement agreement, did not support the 10.6 percent return on equity (ROE) contained in Paragraph 2 of the agreement and intended to present evidence at the hearing regarding that issue.

15. On November 13, 2013, the settling parties filed a Stipulation and Agreement in Resolution of Proceedings. The Joint Motion for Approval of the Stipulation and Agreement in Resolution of Proceedings represented that the settling parties supported the terms of the agreement in full (with the exception of the OCC which did not support the 10.6 percent ROE) as proposed in the agreement and therefore requested that the terms of the agreement be found to be just and reasonable and in the public interest, and approved without modification.

16. A hearing was held on the terms of the settlement agreement on December 2, 2013. Through agreement of the parties, Hearing Exhibit Nos. 1 through 49,<sup>4</sup> 100 through 137, 200 to 201, 300 through 304, and 400 through 403 were admitted into the record. In addition, Hearing Exhibit No. 54, the exhibit list detailing all exhibits offered was entered into the record. Other exhibits entered into the record included Hearing Exhibit Nos. 50 through 53, and 166. Testimony was received by Mr. Richard A. Maceyka on behalf of RMNG and SourceGas, and

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<sup>4</sup> Hearing Exhibit No. 21 was designated as a “Highly Confidential Exhibit.”

Mr. Micheal J. Vilbert on behalf of RMNG. Mr. Richard Reis and Mr. Charles B. Hernandez testified on behalf of Staff. Mr. Thomas F. Dixon and Mr. Ronald Fernandez testified on behalf of the OCC.

17. In accordance with § 40-6-109, C.R.S., the ALJ now transmits to the Commission the record in this proceeding along with a written Recommended Decision.

## **II. FINDINGS OF FACT**

### **A. RMNG/SourceGas Direct Case**

#### **1. RMNG/SourceGas SSIR Applications**

18. RMNG and SourceGas's SSIR Application in Proceeding No. 13A-0046G requests approval of an SSIR for each company as proposed in the tariff sheets filed concomitantly with the Application, as well as the rates also set forth in the tariff sheets.

19. The Application states that SourceGas serves approximately 87,000 residential, commercial, industrial, and agricultural customers in two Base Rate Areas in Colorado. Base Rate Area 1 includes the Western Slope area of Colorado. SourceGas serves over 30 towns on the Western Slope with retail distribution of natural gas. Base Rate Area 1 also includes Front Range towns such as Frederick, Erie, Mead, Firestone, Dacono, and Wellington. Base Rate Area 1 includes approximately 65,000 customers.

20. Base Rate Area 2 includes northeastern Colorado and the Towns of La Junta, Pagosa Springs, and Bayfield. Base Rate Area 2 includes approximately 22,000 customers.

21. RMNG is identified as a wholly-owned subsidiary of SourceGas and as an intrastate natural gas pipeline providing transportation and sales for resale services along the Western Slope region. RMNG's pipeline consists of approximately 561 miles of pipe extending from Eagle to San Miguel and Ouray Counties in Colorado. RMNG's only sale-for-resale

customer is SourceGas. In addition, RMNG operates the Wolf Creek Storage Field as part of its system.

22. RMNG and SourceGas (collectively, the Applicants) point to a series of federal acts and regulatory rulemaking proceedings addressing gas pipeline safety improvement over the last few years which require accelerated pipeline repair, rehabilitation, and replacement programs for gas pipeline systems whose integrity cannot be positively confirmed. The Applicants also note that the federal government encouraged state utility commissions to approve rate mechanisms that would facilitate the replacement or repair of high-risk pipelines.

23. The Applicants represent that they designed their proposed SSIR tariffs using the Public Service Pipeline System Integrity Adjustment (PSIA) mechanism as a template, and the provisions of the Applicants' SSIR tariffs track the provisions of Public Service's PSIA tariff closely.

24. According to the Application, each Applicant's proposed SSIR is designed to collect Eligible System Safety and Integrity Costs.<sup>5</sup> The type of projects included in the proposed SSIR are as follows: 1.) Projects in accordance with the Gas Transmission Integrity Management (TIMP) Rule, including projects in accordance with SourceGas's TIMP and projects in accordance with State enforcement of the TIMP Rule and SourceGas's TIMP; 2.) Projects in accordance with the Integrity Management Program for Gas Distribution Pipelines (DIMP) Rule, including projects in accordance with SourceGas's DIMP and projects in

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<sup>5</sup> Applicants define those costs as: (1) a return, at a percentage equal to the Applicant's projected weighted average cost of capital grossed up for taxes, on the projected increase in the retail jurisdictional portion of the month ending net plant in-service balances associated with the System Safety and Integrity Projects for the following 12-month period in which the SSIR rates will be in effect, exclusive of all plant in-service included in the determination of the revenue requirements approved in the Applicant's last general rate case; (2) the plant-related ownership costs associated with such incremental plant investment, including depreciation, accumulated deferred income taxes, and all taxes including income taxes and property taxes; and (3) the projected O&M expenses related to the Projects for the following 12-month period in which the SSIR rates will be in effect.

accordance with State enforcement of the DIMP Rule and SourceGas's DIMP; 3.) Projects in accordance with the Pipeline and Hazardous Materials Safety Administration's final rules and regulations that become effective on or after the filing date of this Joint Application; and, 4.) Facility relocation projects with a per-project total cost of \$20,000 or more, exclusive of all costs that have been, are being, or will be reimbursed otherwise, required due to construction or improvement of a highway, road, street, public way or other public work by or on behalf of the United States, the State of Colorado, a political subdivision of the State of Colorado or another entity having the power of eminent domain.

25. The Applicants provided direct testimony regarding the projected capital costs and operations and maintenance expenditures (O&M) for RMNG and SourceGas for the years 2013, 2014, and 2015. However, if approved, the Applicants proposed making annual SSIR filings on November 1st of each year, which would include the projected capital costs and O&M expenses for inclusion in the SSIRs for the following calendar year. The Applicants proposed reconciling the projected Eligible System Safety and Integrity Costs with actual Eligible System Safety and Integrity Costs through a "SSIR True-up Amount," which would be equal to the difference, positive or negative, between the Applicants' Eligible System Safety and Integrity Costs as projected for the 12-month period for the year prior to the annual SSIR filing, and the actual Eligible System Safety and Integrity Costs incurred by the Applicants for that 12-month period.

26. The Applicants also proposed to reconcile the projected revenues generated through the recovery of Eligible System Safety and Integrity Costs with the actual revenues generated through the recovery of Eligible System Safety and Integrity Costs through the "Deferred SSIR Balance." The Deferred SSIR Balance is equal to the balance, positive or negative, of the Applicant's SSIR revenues at the end of the 12-month period for the year prior to

the annual SSIR filing less the Eligible System Safety and Integrity Costs as projected by the Applicant for that 12-month period. Because actual SSIR revenues for that 12-month period will not be known until after the Applicants make the next annual SSIR filing, the reconciliation is to be reflected in the SSIR rates included in the subsequent annual SSIR filing. Each proposed revision in the SSIR rates will be accomplished by the Applicants filing an advice letter on November 1st to take effect on the following January 1st.

27. The Applicants also proposed submitting a report each year by April 1st detailing the project costs incurred during the previous year. The report would explain how the project costs were managed and any deviations between budgeted and actual costs. To the extent interested parties would challenge any of the activities or their respective costs, those parties could request that the Commission could hold a hearing. Applicants proposed filing the first report on April 1, 2014.

**a. Staff's Response**

28. Staff generally supported RMNG's SSIR request and associated adjustment clauses with several modifications. Staff wanted to: shorten the duration of the rider; exclude relocation costs as expenses eligible for recovery under the rider; allow cost recovery for only those projects included in RMNG's Transmission Integrity Management Plan; and, allow cost recovery for only like-size replacements of existing facilities.

29. Staff's conditional recommendation for approval is based on what it considered the Commission's standardized criteria as follows:

- A new rider should be considered only in the context of a general rate case proceeding
- A utility must demonstrate that pipeline safety integrity costs are reasonable and supported by historical costs adequately recorded in the Company's financial records;

- Although not dispositive, a proposed pipeline safety integrity rider should be assessed utilizing established adjustment clause implementation criteria which are:
  - (1) Whether the costs to be recovered are a significant portion of a utility's total capital expenditure and operation and maintenance (O&M) costs.
  - (2) Whether the costs are beyond the control of the utility, and
  - (3) Whether the costs are volatile.
- A proposed SSIR adjustment clause must be deemed just and reasonable and be approved with the caveat that costs associated with the clause are further considered in the context with the entire costs and revenues of the Company in a general rate case.

30. Pursuant to Staff's analysis in its answer testimony, it noted that RMNG's SSIR request was being made concomitantly with its general rate case in Proceeding No. 13AL-0067G meeting the first criteria. Staff was satisfied that RMNG had provided adequate documentation of its TIMP projects and had supplied estimates and financial data sufficiently detailed to satisfy Staff that the TIMP costs were reasonable with the exception of costs classified as relocation costs or costs associated with anything other than like-size replacements of existing facilities.

31. With regard to whether the SSIR costs constitute a significant portion of RMNG's total capital expenditure, Staff was satisfied that is the case here, since RMNG's SSIR costs were approximately 25 percent of all its other annual system expenditures, and that the magnitude of the additional SSIR costs would significantly impact RMNG's rate of return (ROR) over the duration of the SSIR.

32. As to whether the costs are beyond RMNG's control, Staff believed that the capital expenditure and O&M costs submitted by RMNG were based on RMNG's best estimates, and Staff acknowledged that the extent of equipment repairs or replacements was unknown until the equipment was removed from service and dismantled and as a result, Staff considered those

costs volatile. Staff was further satisfied that RMNG's proposed SSIR adjustment clause was conceptually just and reasonable.

33. Despite Staff's general acquiescence to RMNG's SSIR, it did recommend that the capital costs and O&M costs representing SSIR costs be removed from the base rate request and instead be recovered in the SSIR Rider. Staff also recommended that its weighted average cost of capital (WACC) be applied to the final SSIR Rider. However, since RMNG may want to use its projected WACC given the procedural timelines, Staff deferred to the Commission, which calculation would be used for the SSIR.

34. Staff was also concerned with RMNG establishing a base rate level of SSIR cost recovery. If the costs being requested by RMNG were unknown, volatile, and of significant magnitude, Staff did not find it administratively effective to include those SSIR costs in a rider and then also include similar costs in base rates.

35. In addition, Staff was concerned with some of the proposed tariff language in Tariff Sheets No. 8 and No. 22. Staff recommended that the SSIR charge be a fixed demand rate comparable to the charges being established in this proceeding; however, customers charged on a thermal basis only should pay the charge as a 100 percent load factor rate of this charge, which would result in all customers bearing the charge.

## **2. RMNG General Rate Case – Advice Letter No. 77**

36. In Proceeding No. 13AL-0067G, RMNG filed Advice Letter No. 77 in which it filed its Colorado PUC No. 4 tariff which is intended to replace and supersede RMNG's Colorado PUC No. 3 tariff in its entirety. This Advice Letter filing is intended to serve as RMNG's general rate case which stems from earlier discussions between Staff and RMNG. In those discussions, Staff expressed concern with RMNG's level of reported ROE as reported in

RMNG's annual reports filed with the Commission. As a result of the discussions, RMNG agreed to file a general rate case by the end of January 2013.

37. In its Advice Letter filing, RMNG stated that it not only proposed to update its rate design in a general rate proceeding for the first time since the 1980s; it also proposed a business model different from its current business model under the Stipulation and Agreement in the Resolution of Proceeding which was approved by the Commission in Proceeding No. 09A-574G. RMNG proposed eliminating its bundled service, exit the merchant function and modernize its existing transportation, storage, and market center services. RMNG represented that the new business model also provides it the opportunity to fully describe the challenges of operating under current market conditions.

38. RMNG proposed to restructure its services including: a) the elimination of RMNG's General Resale Service (Rate Schedule GRS-1); b) the elimination of RMNG's Gas Cost Adjustment (GCA) mechanism; c) the implementation of revised services under the Firm Transportation Service (FTS) Rate Schedules and Interruptible Transportation Service (ITS), and new services under the No-Notice Storage (NNS) Rate Schedules, Interruptible Automatic Park and Loan (APAL), and Interruptible Market Center Services (MCS); d) the modification of RMNG's rate structure to a Straight Fixed-Variable (SFV) rate design; e) the implementation of the Revenue Adjustment Mechanism (RAM) addressing off-system transportation revenue, revenue from processing facility sales, MCS revenue and operational sales and purchases of natural gas by RMNG; f) a change to RMNG's standard for billing for its services from a volumetric basis (Mcf) to a thermal basis (Dth); g) raise the annual revenue to be collected under the Litigated Settlement Special Rate Surcharge (LSSRS) to align the recovery of the LSSRS with the proposed rate design; and, h) update other aspects of RMNG's services through specific

language included in a new tariff that replaces and supersedes RMNG's current Colorado No. 3 tariff in its entirety.

39. RMNG proposed to update its rate structure because under its current rate structure, RMNG collects the bulk of its revenue requirement through the commodity rate component rather than through the fixed demand component. RMNG proposed to update its rate structure to a Straight Fixed-Variable (SFV) cost of service methodology and rate design which it represents is the prevalent approach for pipeline transportation services. Under the proposed approach, all fixed costs are classified to a demand component and all variable costs are classified to a commodity rate component. RMNG proposed an SFV rate structure as it increases fairness since it links revenue recovery with the primary cost driver on the system – design peak consumption. According to RMNG, SFV rates send a clearer price signal to customers for the cost implications of their requirements for service and best addresses the issues of competition and comparability to interstate pipelines with which RMNG competes for service.

40. RMNG proposed to restructure and unbundle its services in order to meet existing and future market needs with an appropriate and responsive set of services. RMNG proposed to eliminate its Rate Schedule GRS-1 in order to establish open access transportation services. RMNG proposed assigning specific gas supply contract rights and upstream transportation contracts for all of its bundled sales service.

41. RMNG also proposed implementing new and revised unbundled services as follows: On-system and off-system FTS pursuant to revisions to Rate Schedule FTS; Off-system ITS pursuant to revisions to Rate Schedule ITS; Interruptible APAL service through new Rate Schedule APAL which will be required for any shipper that holds an on-system Rate Schedule FTS service agreement; Firm NNS service through new Rate Schedule NNS required

for any shipper holding an on-system Rate Schedule FTS service agreement with specified delivery points; and, Interruptible MCS through new Rate Schedule MCS which is to include Interruptible Gas Parking, Gas Lending, Gas Wheeling, and Title Tracking Transfer Services at and/or between a Park Point and a Loan Point.

42. In addition, RMNG proposed the RAM which it maintains incentivizes it to develop and aggressively pursue opportunities which optimize its assets. The RAM is composed of four components: 1) off-system transportation revenue; 2) revenue from processing facility sales; 3) MCS revenue; and, 4) off-system sales and purchases of gas by RMNG. According to RMNG, the RAM provides it incentives and allows RMNG and its customers to share in a portion of actual revenues realized after the implantation of its rate case for specified services.

43. RMNG asserted that its proposed and unbundling of service has created an opportunity for it to offer a new beneficial market service to customers for which it has no historical level of activity to use to predict future revenues. However, RMNG argued that targeted incentives are appropriate where the revenues achieved from services will be less predictable and more difficult to accommodate within a traditional ratemaking framework. Under RMNG's RAM proposal, "the core customers behind SourceGas Distribution facilities benefit from a reflection in rates of a certain base revenue amount regardless of the future market and RMNG is given the proper incentives to devote resources and expend capital required to compete in the off-system transportation and processing markets."<sup>6</sup> RMNG is of the opinion that the proposed revenue sharing percentages under the RAM are tailored so that risks, rewards, and incentives are fairly balanced between RMNG and its customers.

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<sup>6</sup> Direct testimony, Richard A. Maceyka on behalf of RMNG, p. 43, line 22 – p. 44, line 1.

44. RMNG stated that the proposed restructured and unbundled services will also require modifications to the SourceGas Colorado PUC No. 7 tariff because RMNG will no longer assign capacity to marketers providing gas supply service to SourceGas retail customers. Rather, that function is to be carried out by SourceGas in conjunction with the elimination of RMNG's bundled sales service and SourceGas' role to plan for the supply and capacity needs of the retail customers that it serves. SourceGas intends to change the manner in which capacity requirements for each marketer are determined in order to align the capacity assignments with the design capacity requirements of its firm retail customers.

45. Because RMNG will continue to have ultimate responsibility to ensure that it provides upstream pipeline service that permits the annual, monthly, daily, and hourly requirements of those end-use customers to be met, RMNG asserts that although it is transferring the actual gas supply function to shippers transporting gas through on-system delivery points on behalf of end-use customers downstream to those points, its proposal to unbundle its current sales service will not have any impact on the reliability of service it provides to its on-system customers.

46. RMNG proposed to convert its standard for billing for its services from a volumetric basis Mcf to a thermal basis measured in Dth.

47. RMNG proposed two changes to the LSSRS.<sup>7</sup> First, RMNG proposed raising the annual revenue to be collected under the surcharge in order to ensure that cost recovery is met by the end of the established recovery period. Second, RMNG proposed aligning the recovery of the LSSRS with the rate design proposed in its rate case. The LSSRS for FTS customers would be charged based on contract demand, rather than flowed volumes. According to RMNG, aligning the rate with the proposed rate design would appropriately assign the recovery of the fixed costs. The proposed LSSRS rate would be \$3.2193 per Dth of contract demand of customers on the FTS rate and \$0.5056 per Dth of throughput for non-discounted customers on the ITS rate, which when combined, would recover \$4,514,875 per year in order to provide a \$0 balance on or before October 31, 2017.

48. RMNG's direct case requested a net annual revenue increase of approximately \$1.377 million based on a capital structure of 50.77 percent common equity and 49.23 percent long-term debt. RMNG also requested an ROE of 11.50 percent. The earnings required for this increase, according to RMNG were \$7,589,913 based upon a rate base of \$90,489,391, and an overall ROR on rate base of 8.39 percent. Adjusted Test Year net operating earnings were calculated to be \$5,211,966, with a pre-tax adjusted earnings deficiency of \$2,377,947. Including income taxes, the total required revenue increase was proposed at \$3,835,986.

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<sup>7</sup> The LSSRS was approved in Proceeding No. 02A-522G as a mechanism to recover a portion of the amount paid by RMNG's predecessor in settlement of *Jack A. Grynberg, individually, and as general partner for the Greater Green River Basin Drilling Program: 72-73 v. Rocky Mountain Natural Gas Company and K N Energy, Inc.*, Case No. 90-CV-3686. The settlement amount which included \$30.2 million plus interest over a 14-year recovery period was \$44,625,000. The LSSRS will continue through October 31, 2017. Any unrecovered balance at the end of the recovery period is to be flowed through the deferred gas cost account balance and recovered from customers incurring the GCA. The remaining balance as of December 31, 2012 is \$20,979,356. Given RMNG's current rate of \$0.2699 per Mcf and current volumes from RMNG's applicable customers, the remaining balance at the end of the recovery period is anticipated to be \$8,988,769.

In addition, RMNG included \$2,460,988 of revenue credited from a RAM which resulted in a net annual revenue increase of \$1,374,998 for the Adjusted Test Year.

49. The Test Year used was the 12 months beginning October 1, 2011 and ending September 30, 2012. RMNG then adjusted the Test Year for changes to revenues, expenses, and capital expenditures through December 31, 2013. The Test Year, including the adjustments resulted in RMNG's Adjusted Test Year.

50. In support of its revenue increase request, RMNG cited several factors contributing to the proposed increase. For instance, RMNG asserted that competing processing facilities are impacting its revenue streams that typically provided RMNG with revenue over those generated by its rates for regulated transportation service. RMNG provided that currently thin margins in the Western Slope natural gas markets place competitive pressure on RMNG with respect to vying for off-system transportation contracts, as well as competing in the Federal Energy Regulatory Commission (FERC) market where a significant portion of its business is dependent on competitive offerings there.

51. RMNG also pointed to increased operating expenses due to integrity management activities which RMNG estimates will be approximately \$1.4 million additional operating expenses which is equivalent to 34 percent of RMNG's other operations and maintenance (O&M) expense and over 14 percent of its total operating expenses. Additionally, RMNG mentions it has several projects underway for pipeline integrity and system support. RMNG projects that its rate base is increasing over \$6.5 million or nearly 8 percent from the rate base reported in the last annual report filed for 2011 to the rate base for the Adjusted Test Year.

**a. Staff's Response**

52. Staff recommended that RMNG's revenue requirement request of \$3,835,986 be reduced in a two-step process. First, Staff proposed that the base rate increase be reduced to reflect the adjustments as described in Staff witness Mr. Reis's answer testimony at Table RTR-2 to \$591,656. Staff further proposed a RAM credit of \$3,784,591 which is a \$1,323,603 larger credit than RMNG's proposed \$2,460,988 which resulted in further reducing RMNG's overall revenue request to a negative \$3,192,935, or a decrease in overall revenues as compared to existing revenues, as well as to RMNG's proposal.<sup>8</sup> As a result, Staff recommended a total base revenue of \$22,682,028, which was \$3,244,330 less than that proposed by RMNG. According to Staff, its recommendation would provide RMNG the opportunity to earn a 7.49 percent return on rate base which is comparable to other utilities and should enable RMNG to maintain its financial condition.

53. Staff also took exception with RMNG's proposed "hybrid" test year in which RMNG began with a test year for the 12 months ending September 30, 2012, but then made *pro forma* adjustments to those test year numbers to reflect the revenues required by RMNG for the 12 months ending December 31, 2013. Staff disagreed with the *pro forma* cost projections since it argued that such projections are in opposition to fundamental ratemaking principles.

54. Specifically, Staff did not agree with RMNG's projection of capital investment to set the level of rate base. According to Staff, the use of a projected level or plant, without reasonable assurances that such plant would be used and useful for utility service was

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<sup>8</sup> However, Staff recommended that RMNG be allowed to recover its SSIR costs in the SSIR rider, but since those costs are not known at this point, they were not reflected in Staff's recommendations. Nonetheless the removal of the SSIR capital and O&M values resulted in the decrease to RMNG's request of \$1,592,378 as described above. Exhibit MKS-3 of Staff witness Ms. Steuart's answer testimony shows the impact on RMNG's revenue requirement of Staff's proposed capital reduction of \$1,440,000 and O&M reduction of \$1,440,920.

unreasonable. As a result, Staff recommended that RMNG be allowed to put into rate base, the actual level of capital addition to be “in progress” towards completions as of the date of Staff’s answer testimony. Staff stated that it accepted RMNG’s capital addition estimate of including construction work in progress, but not the *pro forma* project costs.

55. Using similar models as RMNG, Staff recommended a capital structure of 49.23 percent debt and 50.77 percent equity; a cost of debt of 5.178 percent; an ROE of 9.73 percent; and, a WACC of 7.49 percent. Staff also recommended utilizing a five-year average to develop the baselines for adjustments stemming from Sales of Products extracted from Gas.

56. Regarding RMNG’s proposed RAM,<sup>9</sup> which Staff characterized as a revenue tracker for various additional services RMNG wishes to engage in beyond what is necessary to provide gas to ratepayers, Staff proposed several modifications to RMNG’s proposal. Staff proposed that RMNG receive no incentives for off-system firm contracts since it already has an obligation to serve those contracts. Regarding the MCS and the processing plants located at Rifle and Piceance, Staff proposed a sharing percentage of 75 percent to customers and 25 percent to RMNG. Staff also recommended requiring itemized reporting of all accounts regarding RMNG’s annual report to be placed with the RAM.

57. Staff did express reservations regarding RMNG’s use of the after tax weighted average cost of capital (ATWACC) in order to “control for differences in financial risk” in calculating its proposed ROE. RMNG claimed that this adjustment was necessary to make the

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<sup>9</sup> RMNG describes the RAM as “tracking and sharing a portion of off-system transportation service revenues, the interruptible Rate Schedule MCS revenues, the revenues associated with the Piceance and Rifle processing plants, and a tracking without sharing of the net costs or net revenues associated with [RMNGs’] Operations Purchases and Sales.”

proxy companies utilized in its modeling more comparable to RMNG in terms of its capital structure. As Staff noted, the ROE methodology employed by RMNG simply does not have a strong record of support in regulatory proceedings. Staff also noted that had RMNG utilized a more appropriate proxy group with similar tax risks as RMNG, the ATWACC would not have been required in order to attempt to increase the ROE. Staff also pointed out that RMNG, over the last five years (2008 – 2012), with an authorized ROE of 13.6 percent has over-earned above the ROE each year.<sup>10</sup>

58. Staff utilized the Discounted Cash Flow (DCF) method, as well as the Capital Asset Pricing Model (CAPM) to derive its ROE.<sup>11</sup> Based on the criteria Staff employed in its analysis, it recommended an ROE of 9.73 percent.

59. Staff accepted RMNG's cost of debt of 5.178 percent and its capital structure of 49.23 percent debt and 50.77 percent equity. While RMNG requested a WACC of 8.39 percent, Staff's recommendation was 7.49 percent based on this capital structure.

#### **b. OCC's Response**

60. The OCC opposed RMNG's proposed rate increases, including the operating revenue adjustments of \$5,102,152 for off-system revenues and other gas revenues, as well as RMNG's *pro forma* adjustments of \$6,080,945. The OCC also took the position that regarding the RAM, RMNG failed to provide sufficient factual material to support implementing the adjustment mechanism. The OCC opposed RMNG's application for the SSIR because it was the

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<sup>10</sup> In 2008 RMNG's actual ROE was 14.33 percent; 2009 – 14.42 percent; 2010 – 15.57 percent; 2011 – 16-15 percent; and, 2012 – 14.94 percent.

<sup>11</sup> Actually, Staff utilized four methodologies to reach its ROE conclusion including: DCF, Multi-Stage DCF, CAPM, and Empirical CAPM methodologies. Staff's recommended ROE was derived from the average of the four means from the four models. The DCF mean was calculated at 9.23 percent; the Multi-Stage DCF mean was 9.62 percent; the CAPM mean was 9.64 percent; and the Empirical CAPM mean was 10.45 percent, which resulted in a 9.73 percent recommendation.

OCC's position that it was unnecessary and failed to demonstrate that the specific proposed SSIR projects met the requirements of relevant federal statutes and regulations, as well as Commission rules. The OCC found the SSIR too broad in that it failed to define high-risk gas infrastructure projects. The OCC was concerned that the proposed five-year term was excessive. In addition, it was the OCC's position that the proposed SSIR for 2014 and 2015 would result in piecemeal ratemaking, and the recovery of any future costs associated with pipeline safety and integrity projects should be rate case issues addressed in a general rate case filing.

61. The OCC recommended several cost of capital and capital structure recommendations for RMNG. Utilizing an historical test year ending September 30, 2012, the OCC adopted RMNG's capital structure of 49.23 percent debt and 50.77 percent equity; a cost of debt of 5.18 percent similar to RMNG's; and, an ROE of 9.9 percent; and a WACC of 7.58 percent.

62. Similar to Staff, the OCC opposed RMNG's ATWACC "risk positioning" methodology based on capital structures. The OCC took the position that adding 100 basis points to the market risk premium as RMNG proposed overstated the risk premium and overstated RMNG's proposed ROE because analyzing short-term market variations when setting long term-rates, as RMNG had done, would most likely lead to worn conclusions since markets are constantly shifting. The OCC could not find any correlation between RMNG's ROE calculation with actual risks. The OCC (as did Staff) noted that the Commission has not previously adopted an ROE adjustment similar to that proposed by RMNG.

**c. Seminole's Response**

63. Seminole's answer testimony addressed the issues it had regarding RMNG's proposals affecting transportation end users on the SourceGas distribution system.

Seminole made several recommendations regarding the proposals by RMNG and SourceGas. Seminole recommended that RMNG and SourceGas be required to retain the existing capacity release provisions in the RMNG and SourceGas tariffs in effect at least until the conclusion of the SourceGas customer choice proceeding which SourceGas was required to initiate by the end of 2013. Seminole also recommended that RMNG be required to make its No-Notice Service optional consistent with the Commission's Rules Regulating Gas Utilities and Pipeline Operators 4 *Code of Colorado Regulations* (CCR) 723-4-4001(ee), (ff) and 4207, since the No-Notice Service is equivalent to standby service under those rules.

64. Seminole also requested that RMNG be required to continue to allow imbalance trading among shippers, in addition to allowing a shipper to net imbalances among its transportation contracts consistent with FERC Order No. 67, and to require RMNG to make its Automatic Park and Loan Service an optional service.

65. Additionally, Seminole requested that the Commission reject RMNG's proposed straight fixed variable method of rate design in favor of a methodology which allocates a portion of fixed costs to the commodity component. Seminole recommended that all of the revenues from off-system transportation and processing be required to be shared with RMNG's core customers who pay the entire revenue requirement associated with those additional services.

66. Seminole further recommended that SourceGas retain its current methodology for calculating contract demand, and RMNG should be required to post discounts given to firm on-system transportation customers between the maximum and minimum rate.

**d. A M Gas Response**

67. A M Gas, in its answer testimony made detailed arguments regarding the issues it found with the proposed tariff and non-tariff changes proposed by RMNG. Generally, A M Gas

requested that the Commission reject all the non-tariff changes proposed until SourceGas and RMNG file tariff changes related to ChoiceGas. A M Gas found the proposed changes unfair and discriminatory to non SourceGas shippers. A M Gas also recommended that the Commission consider requiring RMNG and SourceGas to merge their respective tariffs and possibly merge the two companies.

68. A M Gas proposed changes to RMNG's and SourceGas's proposals regarding limited-term partial assignments; credit applications; documentation requirements for shippers employing agent/designees; fixed and variable rates for upstream pipeline charges from RMNG to its end-use sales large commercial and industrial customers; the APAL charges; the NNS storage proposal; ownership of gas in storage; Colorado Interstate Gas Company, L.L.C. (CIG) capacity; assignment of required capacity to shippers; and, treatment of monthly administrative charges.

### **3. SourceGas Advice Letter No. 261 Filing**

69. SourceGas filed Advice Letter No. 261 on February 22, 2013 seeking to make revisions to its Colorado PUC No. 7 tariff in order to make revisions to its Schedule of Rates for Natural Gas Service Available in the Entire Territory Service by SourceGas. According to Advice Letter No. 261, SourceGas proposed to address the changes to its tariff resulting from the proposals included in RMNG's general rate case as described *supra*, since RMNG provides service to SourceGas's Western Slope rate area.

70. The tariff revisions proposed by SourceGas are as follows:
- 1.) Revision of the Sales Rate Schedule, Distribution Transportation Rate Schedule, General Terms and Conditions and related forms of agreement to comport with RMNG's proposed restructuring and unbundling of services;
  - 2.) Addition of agency forms related to the Limited Term Partial Assignment of capacity held by SourceGas on RMNG's system;
  - 3.) Modification of the LSSRS provisions of the SourceGas tariff;
  - 4.) Addition of a Working Gas Storage Cost component to the SourceGas GCA mechanism applicable to the Western Slope Rate Area;
  - 5.) Revision of gas quality standards for consistency with upstream gas quality standards; and,
  - 6.) Minor corrections for misspellings and clarifications to existing provisions.

71. SourceGas represents that the proposed tariff revisions to the Rate Schedules, General Terms and Conditions, and related forms of agreement are intended to address upstream requirements on RMNG's system and are not intended to change the rates charged to, or the revenues received from, customers on the SourceGas system in the Western Slope Area.

**B. Settlement Agreement**

72. On November 1, 2013, the Settling Parties identified as RMNG, SourceGas, Staff, OCC, A M Gas, and Seminole filed an Agreement in Principle. On November 13, 2013, the settling Parties filed the Stipulation and Agreement in Resolution of Proceedings. A hearing was held on the Settlement Agreement on December 2, 2013. At that hearing, the Settling Parties were ordered to file an Amended Stipulation which incorporated all the settled issues into a single document. The Amended Stipulation was filed on December 13, 2013.

73. Under the terms of the agreement, the Settling Parties agreed on an overall non-gas base rate revenue decrease of \$415,873. The net base rate revenue decrease reflects a

total revenue requirement of \$23,112,862, and represents a total required revenue increase of \$2,037,448, less \$2,453,321 of revenue credited from the RAM. Exhibit 1 to the Amended Stipulation depicts the revenue deficiency calculations agreed to by the Settling Parties and compares the direct case adjusted test year figures with the settlement adjusted test year figures.

74. The Settling Parties, except the OCC, agree to an overall ROR of 7.93 percent, based on a 10.60 authorized ROE, a debt cost of 5.178 percent and a capital structure of 50.77 percent equity and 49.23 percent debt.

75. The Settling Parties agree that the total revenue requirement stated above reflects a rate base that includes actual expenditures for capital additions to Test Year plant in service as of September 30, 2013 for the projects identified in RMNG's direct case. Further, RMNG agreed to remove \$58,797 of "new projects" which were included in its rebuttal case.

76. The Settling Parties also agree that RMNG's Class Cost of Service Study (CCOSS) will be implemented. Exhibit 2 attached to the Amended Stipulation depicts the calculation of the base rates supported by the total revenue requirement and the related results of the CCOSS agreed to by the Settling Parties.

77. The General Rate Schedule Adjustment (GRSA) percentage for RMNG's PUC No. 3 tariff on the implementation of rates in this proceeding through May 31, 2014 (*see*, Exhibit No. 3 attached to the Amended Stipulation) as set out in Exhibit No. 4, calculates the GRSA percentage that will be effective under RMNG's proposed PUC No. 4 tariff on and after June 1, 2014 (0.79 percent).

78. The Settling Parties agree that RMNG's rate case expense of \$545,000 incurred through October 31, 2013 is to be recovered through a GRSA mechanism based on a 36-month

amortization period at \$181,667 per year effective with the implementation of rates in this proceeding.

79. The Settling Parties agree to a two-step implementation process whereby the GRSA percentage resulting from the combination impact of the revenue requirement change and the RAM will be applied to existing rates through May 31, 2014 (Exhibits 3 and 4). On June 1, 2014, RMNG's PUC No. 4 tariff will be implemented which will implement RMNG's new rate design and resulting rates. Associated changes to the SourceGas tariff will also become effective on June 1, 2014. Effective on that date, the GRSA will be used only to recover RMNG's rate case expense.<sup>12</sup>

80. Regarding the SSIR, the Settling Parties agree to the SSIR as filed by RMNG, except that the SSIR: (i) specifically excludes facility relocation projects from the definition of System Safety and Integrity Projects; (ii) adds a provision to the tariff that analyzes projects based on objective criteria (*e.g.*, specific regulatory requirements, threat assessment, corrosion control analysis, piggability, pipeline design, class location, inspection history, existence of record, leak history, pipeline segmentation, etc.); and (iii) establishes the term of the SSIR rider to be four years from the first effective date of SSIR rates, after which period of time RMNG's SSIR rider will expire unless the SSIR rider is reinstated upon Commission approval of an application filed by RMNG no later than six months prior to the expiration date. The first SSIR filing will be for 2014 and will be made as soon as practicable after Commission approval of the SSIR rider. No SSIR expenses are included in the base revenue requirement requested in this consolidated proceeding, so the total proposed revenue requirement appropriately reflects the

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<sup>12</sup> The Settling Parties state that one of the purposes of the two-step implementation process is to allow the Settling Parties time to work in an amicable manner to implement the new and revised services which will become effective on June 1, 2014.

removal of SSIR expenses of \$1,447,124 as shown in Exhibit 1. The revisions agreed to by the Settling Parties are reflected in Exhibits 4 and 5.

81. Regarding the Working Gas Storage Adjustment (WGSA) mechanism filed by SourceGas, the Settling Parties agree to the mechanism as filed by SourceGas, except that SourceGas will recover the carrying cost of working gas storage inventory at its short-term cost of debt rate, which is to be based on SourceGas borrowing cost rate under the revolving credit facility held by SourceGas, LLC.

82. The revision to SourceGas's WGSA mechanism agreed to by the Settling Parties is reflected in Exhibit 6 to the Amended Stipulation. The WGSA mechanism is to be implemented by SourceGas filing an application or advice letter upon approval of the Amended Stipulation, and SourceGas providing proper notice with the Commission and approval by the Commission.

83. Regarding the RAM, Exhibit 7 to the Amended Stipulation calculates the RAM credit of \$2,453,321, as shown on Exhibit 1 to the Amended Stipulation. The RAM credit is to be reflected in the GRSA in RMNG's current Colorado PUC No. 3 Tariff that will become effective through a compliance filing made after a final Commission decision approving the Amended Stipulation and will continue in effect through May 31, 2014 (*see* Exhibit 4). Again, after another compliance filing to be effective on and after June 1, 2014, the RAM will be a credit to the Reservation Charge of Rate Schedule FTS (Firm Transportation Service) as set forth on the Statement of Rates in Rocky Mountain's proposed P.U.C. No. 4 Tariff (*see* Exhibit 5).

84. The Settling Parties agree that the RAM will require an annual filing that uses Exhibit JME-13 (*see* Exhibit 7), as modified by the Amended Stipulation, as the method of reporting. The annual revenues derived from RAM activities are to be shared as follows:

- a. RMNG will credit to the RAM 100 percent of existing off-system transportation contract revenues, except for the \$514,236 of revenues from contracts that were included in the determination of RMNG's base rates.
- b. RMNG will credit to the RAM 25 percent of all off-system transportation revenues from new transportation contracts exceeding any additional facilities costs incurred with respect to those contracts, and RMNG will assume the risk of under-recovery if the transportation contract revenues associated with these new transportation contracts fall below the facilities cost.
- c. RMNG will credit to the RAM 75 percent of net Liquids revenue exceeding current revenue requirement of \$266,000 for the Rifle Processing Plant and \$20,000 for the Piceance Processing Plant.
- d. RMNG will credit to the RAM 70 percent of net Market Center Services revenue.
- e. RMNG will credit to the RAM 100 percent of the net results of all operational purchases and sales.
- f. RMNG will credit to the RAM 100 percent of all APAL revenues.
- g. RMNG will credit to the RAM 100 percent of additional Reservation Charge revenues if the RMNG-SourceGas contract MDTQ ("Contract MDTQ") is increased after the three-year period as set forth in Section II.I of the Amended Stipulation, and no additional costs are incurred or facilities are required by RMNG to provide for the increased capacity made available to SourceGas. RMNG will notify Staff in writing at least ten calendar days prior to any increase of the Contract MDTQ by making an informational filing in this consolidated proceeding, followed by an advice letter filing to implement the increase of the Contract MDTQ.

85. The additional RAM provisions agreed to by the Settling Parties are reflected in Exhibit 5 to the Amended Stipulation.

86. The Settling Parties also agree that RMNG and SourceGas will execute a Firm Transportation Service Agreement with a Contract MDTQ that will be set at 113,179 Dth/d, which will not change for a minimum of three years from the effective date of the

Firm Transportation Service Agreement. The execution of the agreement is to take place at a time and place so that the GRSA, GCA, and other tariff changes as set forth in this Amended Stipulation can be implemented pursuant to the agreed upon deadlines as set forth in the Amended Stipulation.

87. The Settling Parties agree to seek to extinguish the regulatory requirement resulting from Decision No. R10-1268 in Proceeding No. 10AL-455G that SourceGas must file a voluntary Choice Gas Program Plan by the end of calendar year 2013. SourceGas agrees not to file a voluntary Choice Gas Program Plan before June 1, 2014. Prior to filing a voluntary Choice Gas Program Plan, SourceGas will meet with and seek the input of interested parties, such as Staff, the OCC, Seminole Energy, and A M Gas, and will discuss with those interested parties, among other related topics, the timing of the filing of a voluntary Choice Gas Program Plan and which aspects, if any, of RMNG's new P.U.C. No. 4 Tariff are more appropriate for a Choice Gas Program than for a transportation program. SourceGas will schedule the first meeting with interested parties prior to June 1, 2014. SourceGas will file a voluntary Choice Gas Program Plan based upon the meetings with and input of interested parties.

88. Regarding RMNG's and SourceGas's tariffs, Exhibit 4 to the Amended Stipulation contains the recommended sheets of RMNG's current Colorado PUC No. 3 Tariff that will become effective through a compliance filing made upon order of the Commission approving the Amended Stipulation and will continue in effect through May 31, 2014.

89. Exhibit 5 to the Amended Stipulation is a copy of RMNG's proposed PUC No. 4 Tariff that, through a compliance filing made upon order of the Commission approving this Amended Stipulation, will become effective on and after June 1, 2014.

90. Exhibit 6 to the Amended Stipulation is a copy of the specific tariff sheets of SourceGas's current Colorado PUC No. 7 Tariff that, through a compliance filing made upon order of the Commission approving the Amended Stipulation, will become effective on June 1, 2014.

91. The Settling Parties agree to the implementation of RMNG's rate design and RMNG's PUC No. 4 Tariff, including Rate Schedules FTS (Firm Transportation Service), ITS (Interruptible Transportation Service), NNS (No-Notice Storage), APAL (Interruptible Automatic Park and Loan), and MCS (Interruptible Market Center Services), and to SourceGas's revisions to its PUC No. 7 Tariff as set forth in RMNG's and SourceGas's direct case and rebuttal case, as modified by this Amended Stipulation, and in accordance with the two-step implementation process referenced in Section II.B.3 of the Amended Stipulation.

92. The Settling Parties that RMNG is to make an annual compliance report filing with the Commission in the Consolidated Proceedings no later than July 30, 2015, 2016 and 2017, that addresses RMNG's operations under its new P.U.C. No. 4 Tariff and provides RMNG's management assessment of its performance under its new Tariff. The annual compliance report filing will include a listing of transportation quantities by type of service by receipt and delivery point, as well as rate and contract terms shown on a monthly basis for each month ending on May 31st of the annual period

93. The compliance report filing also will include information on revenues from the sale of natural gas liquids and off-system transportation revenue. All annual compliance reports are intended to assist RMNG, Staff, the OCC and other interested parties in determining whether potential improvements or modifications can and should be made to RMNG's tariffs to more appropriately implement the intent of the Amended Stipulation. Should a Party request a hearing

within 60 days of the filing of the annual compliance report, no Party will object to such a request for hearing. The Settling Parties agree that the purpose of the compliance report filing is to provide transparency into the implementation of the tariffs due to the nature of the revisions to the services, terms, and conditions found in RMNG's proposed Colorado PUC No. 4 Tariff.

94. The Parties agree that Section II.L of the Amended Stipulation is intended to provide specific delineation of non-contested matters raised by RMNG and SourceGas in their testimony.

95. Exhibit 8 to the Amended Stipulation calculates the LSSRS as set forth in Exhibit 4 and Exhibit 5.

96. The Settling Parties agree that the Commission should approve the Cost Assignment and Allocation Manual filed by RMNG in this consolidated proceeding in compliance with Rule 4 CCR 723-4-4503 of the Commission's Rules Regulating Gas Utilities and Pipeline Operators. The Settling Parties agree that RMNG filed a Fully Distributed Cost Study in this consolidated proceeding in compliance with Rules 4503 and 4504.

### **1. Resolution of A M Gas and Seminole Issues**

97. A M Gas requested that SourceGas's methodology for determining contract quantities for transportation service customers other than SourceGas use SourceGas's regression analysis, presented during the discovery process, based on data from the prior three years plus a 5 percent contingency planning standard. SourceGas agrees to A M Gas's request with the addition of a rate element that reflects the effective Fuel, Lost, and Unaccounted-For Gas rate on SourceGas's system, as that rate is adjusted from time to time. In addition to SourceGas, the remaining Settling Parties agree to this resolution. The Settling Parties' resolution of A M Gas's request is reflected in Exhibit 6.

98. A M Gas and Seminole requested that natural gas marketers such as A M Gas and Seminole not be required to take applicable upstream pipeline capacity on CIG by means of a capacity release. Provisions on the tariff sheets of SourceGas in Exhibit 6 have been amended to remove the original proposed language that would have required Distribution Transportation Service Customers or their designated agents to take applicable upstream CIG pipeline capacity by means of a capacity release. CIG pipeline capacity may be made available by SourceGas through the pipeline's capacity release process and, thus, CIG pipeline capacity will not be a mandatory service to marketers such as A M Gas and Seminole.

99. SourceGas agrees to file an advice letter or application within 30 days after the Commission has approved the Amended Stipulation by which SourceGas will propose that the cost of the CIG pipeline capacity be reflected in SourceGas's GCA mechanism and that any credits from any release of CIG pipeline capacity flow 100 percent through SourceGas's GCA mechanism. In addition to SourceGas, the remaining Settling Parties agree to this resolution and to support such advice letter or application in concept. No Settling Party shall be prejudiced by signing this Amended Stipulation as to any position taken on the specific proposals in such an advice letter or application, as the total effects of the change concerning upstream pipeline capacity are unknown at the time of the filing of this Amended Stipulation.

100. A M Gas requested that Rocky Mountain's storage costs incurred by SourceGas be allocated to sales customers through SourceGas's GCA mechanism on a zoned basis such that only those customers who benefit from storage will pay rates that include the cost of storage. SourceGas agrees to file an advice letter or application within 30 days after the Commission has approved the Amended Stipulation by which SourceGas would propose that its GCA mechanism

allocate such storage costs on a zoned basis. In addition to SourceGas, the remaining Settling Parties agree to this resolution and to support an advice letter or application in concept.

101. A M Gas requested that RMNG implement a seasonal rate design. RMNG agrees to file an advice letter or application within 30 days after the Commission has approved the Amended Stipulation by which RMNG will propose a revision to the rate design applicable to Rate Schedules NNS (No-Notice Storage) and FTS (Firm Transportation Service) such that, effective June 1, 2014, shippers on RMNG will be able to choose between an annual rate design and a seasonal rate design. Under the seasonal rate design, the reservation charge applicable to October through March will recover monthly Rate Schedule NNS and FTS charges at 150 percent of the average monthly reservation charge for each annual period (June through May) and the reservation charge applicable to April through September will recover 50 percent of the average monthly reservation charge. In addition to RMNG, the remaining Settling Parties agree to this resolution and to support an advice letter or application in concept.

102. A M Gas requested modifications to RMNG's Rate Schedule APAL (Interruptible Automatic Park and Loan). RMNG's resolutions of A M Gas's requested modifications are set out below. In addition to RMNG, the remaining Settling Parties agree to these resolutions. The resolutions are reflected in Exhibit 5.

- a. Rate Schedule APAL will include a two-tier daily charge, with the first 10 percent charged at 10 percent of the maximum rate and everything above the first 10 percent charged at the maximum rate.
- b. Rate Schedule APAL will provide for a waiver of charges on any change in allocated balances due to a prior period adjustment through the implementation of a zero rate account on Rate Schedule MCS (Interruptible Market Center Services).
- c. Upon receipt of adequate documentation by the shipper, RMNG will consider on a case-by-case, not unduly discriminatory basis, a waiver of

material Rate Schedule APAL charges caused by production month allocation adjustments.

- d. Month-end imbalances under Rate Schedule APAL will be addressed as set forth in RMNG's rebuttal case.
- e. Rate Schedule APAL will provide for a waiver of APAL charges in a critical event if the imbalance is an opposite position of the event unless RMNG posts prior notice on its Electronic Bulletin Board that APAL charges will not be waived.

103. A M Gas requested that RMNG and SourceGas make various contracting and transition changes to the RMNG and SourceGas tariff. RMNG's and SourceGas's resolutions of A M Gas's requested changes are set out below. In addition to RMNG and SourceGas, the remaining Settling Parties agree to these resolutions. The resolutions are reflected in Exhibit 6.

- a. If an End-User chooses to use a marketer, the marketer will be the shipper on RMNG's system and the marketer will hold title to the natural gas it transports and stores. In order to effectuate such transactions, RMNG will agree to assign capacity on RMNG's system to SourceGas. SourceGas, with RMNG's consent, will sign an agreement with the marketer, which includes a credit form, by which SourceGas will assign the appropriate level of RMNG capacity to the marketer. The agreement may be extended for the next 12-month transportation program period without further signature if the Maximum Daily Transportation Quantity ("MDTQ") does not change.
- b. For the purposes of determining responsibilities in all future transactions and to resolve prior issues regarding the scope of responsibilities on the SourceGas system, the End-User will be the "shipper" on SourceGas's system. Marketers such as A M Gas and Seminole will not be shippers on SourceGas's system. The End-User will be responsible for distribution charges and will pay SourceGas invoices. All End-Users will sign a distribution transportation service agreement, including a credit form, with SourceGas. If the End-User chooses to employ a marketer, the End-User will sign an agency agreement with the marketer. The agreements may be extended for the next 12-month transportation program period without further signature.
- c. Customers on SourceGas may only switch between Transportation Service and Sales Service once per year effective on June 1st.
- d. RMNG will allow a 60-day transition period to rectify Rate Schedule NNS (No-Notice Storage) requirements if an End-User changes a marketer during the contract year.

104. A M Gas requested that marketers be granted a “grandfathered” credit line for existing service currently provided under RMNG’s Rate Schedule FTS-1 (Firm Transportation Service). RMNG agrees to A M Gas’s request, but will require a credit review and may ask for assurances that may include a secured interest in natural gas in storage for any other services or increase in customer base. In addition to RMNG, the remaining Settling Parties agree to this resolution. The resolution is reflected in Exhibit 5.

105. A M Gas requested that SourceGas notify a marketer’s End-User customers of tariff and rate changes approved in these Consolidated Proceedings and instruct such customers to contact their marketer on any follow-up matters. SourceGas agrees to A M Gas’s request. In addition to SourceGas, the remaining Settling Parties agree to this resolution.

106. Seminole requested that RMNG post to their Electronic Bulletin Board discounts provided to all affiliated and non-affiliated firm on-system transportation customers between the maximum and minimum rates during the term these rates are in effect. RMNG agrees to Seminole’s request. In addition to RMNG, the remaining Settling Parties agree to this resolution. The resolution is reflected in Exhibit 5.

107. Seminole requested clarification regarding Rate Schedule MCS (Interruptible Market Center Services). RMNG hereby clarifies that Rate Schedule MCS is a voluntary service and imbalances can be traded outside of Rate Schedule MCS. In addition to RMNG, the remaining Settling Parties agree to this resolution. The resolution is reflected in Exhibit 5.

108. Each of the Settling Parties, with the exception of the OCC on the sole matter of the ROE, believes that the Amended Stipulation is a just and reasonable result from the consolidated proceeding and is in the public interest for reasons determined by each of the Settling Parties, including, but not limited to, the testimonies and exhibits of the Settling Parties.

The Settling Parties have agreed to stipulate to all the testimony and exhibits filed and admitted in the consolidated proceeding, except in relation to footnote 2 of the Amended Stipulation.

109. The Companies, Staff, and the OCC presented testimony at the hearing on the Amended Stipulation held on December 2, 2013, as to their reasons for supporting the settlement as being just and reasonable and in the public interest, including testimony addressing the substantive provisions of the Amended Stipulation. The Settling Parties agree that although their individual reasons for determining the justness, the reasonableness, and the public interest determination may be the same, similar, and/or different from other Settling Parties, both the Amended Stipulation and the stipulated testimony at hearing support such a determination.

### **III. REGULATORY PRINCIPLES**

110. SourceGas is a public utility that provides regulated natural gas retail sales and distribution transportation services to its ratepayers in Colorado. As a public utility, SourceGas provides regulated natural gas service pursuant to tariffs on file with the Commission.

111. RMNG is a wholly owned subsidiary of SourceGas, LLC and is a public utility and an intrastate natural gas pipeline that provides transportation and sales for resale services along the Western Slope of Colorado. As a public utility, RMNG provides regulated natural gas service pursuant to tariffs on file with the Commission.

112. The general principles of ratemaking and determining the revenue requirement were recently set out by ALJ Jennings-Fader in Recommended Decision No. R13-1307 in Proceeding No. 12AL-1268G issued October 22, 2013. The ALJ provided a comprehensive analysis detailing the principles and methodology employed by the Commission in setting rates. That analysis is provided here, in part, in order to illustrate the proper ratemaking standards and

burden of proof typically required for approval of the terms of the Amended Stipulation in this consolidated proceeding.

113. Section 40-3-101(1), C.R.S., requires rates and charges for utility service to be just and reasonable. Section 40-3-101(2), C.R.S., requires a utility to furnish, to provide, and to maintain “such service, instrumentalities, equipment, and facilities as shall promote the safety, health, comfort, and convenience of its patrons, employees, and the public, and as shall in all respects be adequate, efficient, just, and reasonable.”

114. Just and reasonable rates have two principal traits: (a) the rates reflect the costs of an efficient and prudent utility; and (b) the rates allow a prudent utility a reasonable opportunity to earn its authorized ROR. To establish the just and reasonable rates that will permit a utility both to meet the requirements of § 40-3-101(2), C.R.S., and to maintain its financial integrity, and as pertinent in this Proceeding, the Commission engages in ratemaking.

115. The Commission must exercise reasoned judgment in setting rates. Ratemaking is a legislative function (*City and County of Denver v Public Utilities Commission*, 129 Colo. 41, 226 P.2d 1105 (1954)) and not an exact science (*Public Utilities Commission v. Northwest Water Corporation*, 168 Colo. 154, 551 P.2d 266 (1963)). As a consequence, the Commission “may set rates based on the evidence as a whole” and “need not base its decision on specific empirical support in the form of a study or data.” *Colorado Office of Consumer Counsel v. Colorado Public Utilities Commission*, 275 P.3d 656, 660 (Colo. 2012).

116. Under the just and reasonable standard, the Commission has the primary responsibility for balancing “the investor’s interest in avoiding confiscation and the consumer’s interest in prevention of exorbitant rates” (*Colorado Municipal League v. Public Utilities Commission*, 687 P.2d 416, 418 (Colo. 1984)) and for setting rates that “protect both:

(1) the right of the public utility company and its investors to earn a return reasonably sufficient to maintain the utility's financial integrity; and (2) the right of consumers to pay a rate which accurately reflects the cost of service rendered." *Public Service Company of Colorado v. Public Utilities Commission*, 644 P.2d 933, 939 (Colo. 1982). The utility's right to earn a reasonable return incorporates the principle that the Commission-authorized ROR is a return that the utility has a reasonable opportunity to realize and is not an ROR that the utility is guaranteed to realize.

117. In the context of ratemaking, the Colorado Supreme Court recently "reiterated that 'it is the result reached, not the method employed, which determines whether a rate is just and reasonable.'" *Glustrom v. Colorado Public Utilities Commission*, 280 P.3d 662, 669 (Colo.2012), quoting *Colorado Ute Electric Association, Inc., v. Public Utilities Commission*, 198 Colo. 534, 602 P.2d 861, 864 (Colo. 1979) (citing *Federal Power Commission v. Hope Natural Gas Co.*, 320 U.S. 591, 602 (1944)).

118. The Commission establishes rates to recover the utility's revenue requirements as determined by using the Commission-selected test year. The revenue requirement is the total revenues required by the utility to cover both its expenses and to have a fair or reasonable opportunity to earn a fair ROR. Thought of another way, the revenue requirement is the total costs (including the utility's opportunity to earn a fair ROR) to provide safe and reliable service to the utility's customers.

119. The revenue requirement formula is as follows:

$$\text{Revenue requirement} = E + r(\text{RB})$$

- WHERE:
- E = Expenses = O + D + T
  - O = Operating expenses, including wages and salaries, administrative expenses, taxes other than income taxes, fuel costs, and various maintenance expenses
  - D = Annual depreciation expenses
  - T = Income taxes (state and federal)
  - r = Rate of return (return on bonds, preferred stock, and common stock (equity))
  - RB = Rate base = v - d
  - v = (1) Plant in service plus:  
(2) Working capital (cash working capital + materials and supplies)
  - d = Accumulated depreciation and accumulated deferred income taxes

120. The following describes the steps (or determinations) involved in determining a utility's revenue requirement: (a) an appropriate time period to analyze the utility's costs and revenues must be chosen (that is, choose the appropriate test year); (b) because a revenue requirement is being determined that will reflect the utility's financial operations during the period in which the rates will be in effect, the utility's expenses and revenues for all factors must be adjusted (by annualization, amortization, or normalization) that might distort them going forward; (c) it must be determined whether any of the cost or revenue numbers is excessive or deficient and make appropriate adjustments (examine the reasonableness of each number);

(d) the rate base must be determined using an appropriate method (for example, end of period or average); and the ROR must be determined.

121. In past rate cases the Commission has established regulatory principles and methods to use to determine a utility's revenue requirement. The Colorado Supreme Court has

noted that “[s]ince rate setting is a legislative function which involves many questions of judgment and discretion, courts will not set aside the rate methodologies chosen by the PUC unless they are inherently unsound.” *CF&I Steel, L.P. v. Pub. Utils. Comm’n.*, 949 P.2d 577, 584 (Colo. 1997)[.] ... Indeed, “the [PUC] is not bound by a previously utilized methodology when it has a reasonable basis, in the exercise of its legislative function, to adopt a different one.” *CF&I Steel*, 949 P.2d at 584.

*Glustrom*, 280 P.3d at 669.

#### **IV. BURDEN OF PROOF**

122. Typically, as the party that seeks Commission approval or authorization, the applicant bears the burden of proof with respect to the relief sought; and the burden of proof is by a preponderance of the evidence. Section 24-4-105(7), C.R.S.; § 13-25-127(1), C.R.S.; Rule 4 CCR 723-1-1500 of the Commission's Rules of Practice and Procedure. However, as in this case, since the determination is whether the terms of the Amended Stipulation detailing the rate case principles is in the public interest, the burden of proof lies with the Settling Parties. The evidence must be “substantial evidence,” which the Colorado Supreme Court has defined as “such relevant evidence as a reasonable person's mind might accept as adequate to support a conclusion ... it must be enough to justify, if the trial were to a jury, a refusal to direct a verdict when the conclusion sought to be drawn from it is one of fact for the jury.” *City of Boulder v. Colorado Public Utilities Commission*, 996 P.2d 1270, 1278 (Colo. 2000) (quoting *CF&I Steel, L.P. v. Public Utilities Commission*, 949 P.2d 577, 585 (Colo. 1997)). The preponderance standard requires the finder of fact to determine whether the existence of a *contested fact* is

more probable than its non-existence. *Swain v. Colorado Department of Revenue*, 717 P.2d 507 (Colo. App. 1985). A party has met this burden of proof when the evidence, on the whole and however slightly, tips in favor of that party.

123. The preponderance of the evidence standard is understood and applied most easily in cases in which: (a) there are disputed facts; and (b) the resolution of the dispositive issue, or of an important issue, depends on the facts as determined by the decision-maker.

124. The standard is more difficult to apply in the context of a rate case since many of the most controversial issues require policy-based decisions and facts are presented to convince the decision-maker to adopt a particular policy, approach or regulatory principle without necessarily disputing the facts. Additionally, the Commission “may set rates based on the evidence as a whole” and “need not base its decision on specific empirical support in the form of a study or data.” *Colorado Office of Consumer Counsel*, 275 P.3d at 660.

## V. FINDINGS AND CONCLUSIONS

### A. **Revenue Requirement, Rates, and Rate Design**

125. The Settling Parties agreed to a non-gas base rate revenue decrease of \$415,873 in contrast to RMNG’s original request of increased net revenues in the amount of \$1,374,998. The net base rate revenue decrease reflects a total revenue requirement of \$23,112,862, and represents a total required revenue increase of \$2,037,448 less \$2,453,321 of revenue credited from the RAM.

126. The Settling Parties also agree to an overall ROR of 7.93 percent based on a 10.60 percent ROE, a debt cost of 5.178 percent, and a capital structure of 50.77 percent equity and 49.23 percent debt. However, the OCC does not agree with the settled ROE.

127. The agreed to test year is the test year used by RMNG which is the 12 months beginning October 1, 2011 and ending September 30, 2012 adjusted for changes to revenues, expenses, and capital expenditures through December 31, 2013. An Adjusted Test was agreed to and used by the Settling Parties to calculate the settled total revenue requirement in which RMNG agreed to remove \$58,797 of “new projects” which were included in RMNG’s rebuttal case.

128. In a rate case proceeding, the test year is the time period used to evaluate and to adjust as necessary, the interrelationships of revenue, expense, and capital investment to determine whether the utility has a revenue excess or deficiency. An Historic Test Year uses revenues, expenses, and rate base from an identified historical period, as adjusted, to determine the utility’s revenue requirement.

129. Section 40-6-111(2)(a)(I), C.R.S., provides the direction for the Commission in approving the test year utilized. Under that statutory language, the Commission may consider current, future, or past test periods or any reasonable combination, and any other factors that may affect the sufficiency or insufficiency of proposed rates and charges and may consider any factors that influence an adequate supply of energy. The Commission is to consider the reasonableness of the test period revenue requirements presented by the utility.

130. There is nothing unreasonable regarding the adjusted test year proposed by RMNG and agreed to by the Settling Parties. The adjusted test year comports with Commission standards and will therefore be approved.

131. Rate base represents the investor-supplied plant facilities and other investments required in providing utility service to customers. The utility is allowed a reasonable opportunity to earn a fair ROR on rate base and includes plant in service less accumulated depreciation,

plus or less working capital, plus utility materials and supplies, less income taxes, and plus or less other deferred items.

132. Because the total revenue requirement reflects a rate base that includes actual expenditures for capital additions to test year plant in service as of September 30, 2013 as identified in RMNG's direct case, less \$58,797 of new projects, the total Adjusted Test Year rate base is proposed to be \$90,526,478. Given the fact that RMNG has agreed to remove expenditures of \$58,797 of new projects, the proposed rate base is found to be reasonable and is approved.

133. All the Settling Parties agree that RMNG's class cost of service study will be implemented. The calculation of the base rates supported by the total revenue requirement and the related results of the class cost of service study agreed to by the Settling Parties is shown in Exhibit 2 to the Amended Stipulation which calculates the Net Cost of Service as \$23,112,862. Good cause is found to adopt the class cost of service study as well.

#### **B. Rate of Return**

134. As established through the rate-making process, the ROR is intended to support the utility's financial integrity, allowing the utility to maintain its credit standing and to attract necessary capital. In addition, the ROR ensures the utility receives earnings within the range enjoyed by other companies that face similar risks. The regulatory goal is to identify an ROR that is fair and reasonable to both the company and consumers.

135. The ROR consists of several elements including the ROE, the capital structure, and the cost of debt from which the WACC is calculated. The Commission evaluates an ROE to determine whether the ROR is: (a) similar to that of other financially sound businesses having similar or comparable risks; (b) sufficient to ensure confidence in the utility's financial integrity;

and (c) adequate to maintain and to support the utility's credit, which enables it to attract, on a reasonable cost basis, the funds necessary to satisfy its capital requirements so that it can meet its obligation to provide adequate and reliable service to the public. The ROR should be fair and reasonable to the utility and to the ratepayers.

136. The Settling Parties agree to an overall ROR of 7.93 percent, based on an ROE of 10.60 percent, a debt cost of 5.178 percent, and a capital structure of 50.77 percent equity and 49.23 percent debt. The OCC, which finds more reasonable, an ROE of 9.9 percent, contends that capital costs have been lowered significantly since 1990 and 30-year Treasury bond yields have decreased over 560 basis points from 8.73 percent in May 1990 to 3.11 percent in May 2013 which should equate to a lower authorized ROE for RMNG.

137. The OCC utilized similar methodologies as RMNG and Staff to estimate the cost of equity for RMNG, including the use of DCF, CAPM, and authorized ROE comparisons of like utilities to arrive at its proposed 9.9 percent ROE. Based on OCC's analysis, it estimated the ROE at approximately 8.5 percent utilizing the CAPM calculations and 11.8 percent utilizing the DCF calculations. RMNG also arrived at the same discrepancy in its modeling for ROE.

138. However, the OCC notes that RMNG's average ROE percentage was much higher than the OCC's due to the "risk positioning" calculation employed by RMNG's analyst, which resulted in an approximately 25 percent higher estimate of ROE than the OCC.<sup>13</sup>

139. The OCC urges the Commission to take other previously authorized ROEs into account when setting RMNG's ROE. The OCC notes that the ROE for Black Hills/Colorado Gas Utility, LP was authorized at 9.6 percent, while Public Service's most recent gas rate case

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<sup>13</sup> The "risk positioning" formula utilized by RMNG to adjust the DCF and CAPM results higher was as follows:  $\text{debt \%} \times \text{cost of debt} \times (1 - \text{tax rate}) / \text{equity \%}$

ROE authorized a 10.1 percent ROE. The OCC recommends that the Commission use RMNG's last authorized ROE as a starting point, and adjust for changes in capital markets since it was last authorized. Those adjustments should take into consideration that the cost of capital for gas utilities has significantly decreased since RMNG implemented its current rates in 1990, according to the OCC. In addition, interest rates have declined and as a result, so have authorized ROEs throughout the country.

140. While the arguments raised by the OCC concerning the settled ROE of 10.6 percent are compelling, as is the case with most elements of rate making, the methodology utilized to calculate ROR, including the models utilized and the determination of a proper proxy group is an inexact science at best. As set out above, it is imperative that the final authorized ROE be found to be similar to that of other similarly situated businesses with similar risks as RMNG. The authorized ROE must also be sufficient to ensure confidence in RMNG's financial integrity, and be adequate to maintain and support its credit in order to attract funds to satisfy its capital requirements in order to provide adequate and reliable service to its ratepayers.

141. The undersigned ALJ is satisfied that the settled 10.6 percent authorized ROE accomplishes the purposes set out above. While the proposed ROE is higher than that recommended by the OCC, it is found that it is not unreasonable given the underlying analyses of the parties, and given the fact that the RMNG's previous authorized ROE was 13.6 percent.

142. The pre-filed testimony reveals that RMNG, Staff, and the OCC initially used similar and approved models to calculate the ROR. In addition, although there were some differences in the proxy groups of each party, the differences were subtle at best. The principle difference in the three parties' calculations lies with the "risk positioning" methodology employed by RMNG.

143. As a result, it is found that the proxy group utilized by RMNG generally resembles the operations of RMNG and as a result, the market capitalizations of those companies generally reflect that of RMNG as well. As stated above, despite the arguments put forth by the OCC, the 10.60 percent ROE will be adopted as a reasonable authorized ROE for RMNG. However, it is agreed with OCC (and Staff in its answer testimony) that the unorthodox “risk positioning” ATWACC methodology employed by RMNG to arrive at its initially proposed ROE is a methodology that has not been previously approved by this Commission, nor a methodology that enjoys any general level of acceptance. While it has been acknowledged that ratemaking is an inexact science, the “risk positioning” adjustments employed by RMNG to its ROE are simply so unorthodox that that they will not be accepted here.<sup>14</sup>

144. The settled capital structure of 50.77 percent equity and 49.23 percent debt closely resembles RMNG’s actual level of long-term debt and common equity to finance utility operations. Therefore, good cause is found to adopt this capital structure.

145. The Settling Parties also propose a cost of debt of 5.178 percent which resembles RMNG’s actual cost of debt. This cost of debt is reasonable and will produce a just and reasonable result, and will therefore be adopted. Consequently, the proposed overall ROR of 7.93 percent will be adopted as well.

146. As a result, the terms of the settlement addressing the revenue requirement, rates and rate design as found in Section II.A.1-4 of the Amended Stipulation and Agreement will be approved and adopted.

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<sup>14</sup> To the extent that Settling Parties utilized a DCF or CAPM analysis to arrive at the settled ROE percentage, those methodologies will be approved and adopted here.

**C. General Rate Schedule Adjustment**

147. The GRSA percentage is to be effective under RMNG's Colorado PUC No. 3 tariff through May 31, 2014, and then, the remaining GRSA percentage will be effective under RMNG's proposed PUC No. 4 tariff on or after June 1, 2014. To be recovered through the GRSA are the rate case expenses which the Settling Parties agree amount to \$545,000 through October 31, 2013, based on a 36-month amortization period at \$181,667 per year, effective with the implementation of rates in this proceeding. In turn, RMNG agrees to reduce expenses by approximately \$5,000, and to not seek recovery of an additional \$51,000 in rate case expenses.

148. The two-step process agreed to by the Settling Parties and detailed previously generally provides that the GRSA percentage resulting from the combination impact of the revenue requirement change and the RAM will be applied to existing rates through May 31, 2014. On June 1, 2014, RMNG's PUC Tariff No. 4 will be implemented, which will include RMNG's new rate design and resulting new rates. Associated changes to SourceGas's tariff will also become effective June 1, 2014. Also effective on June 1, 2014, the GRSA will be used only to recover RMNG's rate case expense.

149. All the Settling Parties agree to the GRSA process. The proposed GRSA and the implementation process are both reasonable and in the public interest. It is agreed that the two-step implementation process will allow the parties sufficient time to work together to implement the new and revised services, as well as allow ratepayers ample opportunity to understand the new rates and rate design and their impact on ratepayers. Therefore, the proposed GRSA and the implementation process will be adopted and approved.

**D. SSIR**

150. Despite some of the parties having initial reservations regarding RMNG's proposed SSIR in answer testimony, the Settling Parties agree to the SSIR as originally filed by RMNG with several exceptions. Those include: excluding facility relocation projects; including a tariff provision which analyzes projects on objective criteria; and, establishing an initial four-year period for the SSIR, after which RMNG must apply to have the SSIR reinstated. In addition, SSIR expenses were excluded from the base revenue requirement which produced the removal of \$1,447,124 in SSIR expenses.

151. The concessions made by RMNG and the other Settling Parties regarding the SSIR are reasonable. It appeared that the SSIR would be a contentious issue in this consolidated proceeding; however, the settled results provide a just and reasonable outcome. Therefore, the proposed SSIR as detailed in the Amended Stipulation will be adopted and approved.

**E. Working Gas Storage Adjustment**

152. The Settling Parties agree to the WGSA mechanism as filed by SourceGas, except that SourceGas is to recover the carrying costs of working gas storage inventory at its short-term cost of debt rate, based on the SourceGas borrowing cost rate under the credit facility held by SourceGas, LLC.

153. The WGSA is found to be reasonable and will be adopted and approved.

**F. Elimination of RMNG's Rate Schedule GRS-1 and GCA Mechanism**

154. Given that RMNG intends to implement a transition to a natural gas transportation and storage provider from its existing business form as a gas supply provider, the Settling Parties propose eliminating RMNG's Rate Schedule GRS-1 (General Resale Service) and its GCA mechanism according to the two-step process for the GRSA as indicated *supra* in Section C.

In their answer testimony, some of the Settling Parties expressed reservations regarding RMNG's conversion into a natural gas transportation and storage provider. The Settling Parties represent that the elimination of RMNG's Rate Schedule GRS-1 and the GCA alleviate many of those concerns.

155. The mechanism proposed by the Settling Parties to eliminate Rate Schedule GRS-1 and the GCA is reasonable. The settled process provides for any GCA balances to be transferred to the proper deferred SourceGas accounts, and to account for any future operational purchases and sales in the RAM. Given RMNG's business model conversion, it is found that the proposed mechanism is in the public interest, is reasonable, and will be adopted and approved.

**G. Tariff Issues Raised by A M Gas and Seminole**

156. A M Gas and Seminole raised quite a few issues regarding the applicability of SourceGas tariff issues as they related to the two companies. Those issues are set out *supra* in Section II.B.1. It is found that the settlements reached between SourceGas are reasonable and in the public interest. Therefore, the settled issues as set out in Section II.B.1 of this Decision will be adopted and will be approved.

**H. Firm Transportation and Service Agreement**

157. The Settling Parties agree that RMNG and SourceGas are to execute a Firm Transportation Service Agreement with a Contract MDTQ to be set at 113,179 Dth/d, which will not be amended for a minimum of three years from the effective date of the Firm Transportation Service Agreement. The execution of the agreement is to be synchronized so that the GRSA, GCA, and other tariff changes as set out in the Amended Stipulation can be implemented pursuant to the deadlines set forth in the Amended Stipulation.

158. This proposal is found to be reasonable and in the public interest and will therefore be adopted and approved.

**I. Extinguishment of Requirement to File Voluntary Choice Gas Program**

159. The Settling Parties agree to seek to extinguish the regulatory requirement as provided in Decision No. R10-1268 in Proceeding No. 10AL-455G that SourceGas file a voluntary Choice Gas Program Plan by the end of 2013. SourceGas agrees not to file a voluntary Choice Gas Program Plan before June 1, 2014. Prior to filing, SourceGas agrees to meet with and seek input of interested parties and will discuss with them, such topics as the timing of the filing of a Choice Gas Program Plan, and which aspects, if any, of RMNG's new PUC No. 4 Tariff are more appropriate for a Choice Gas Program than for a transportation program. SourceGas agrees to file such a plan based on the meeting with and input of interested parties.

160. This compromise is found to be reasonable. The agreement of SourceGas to meet with interested parties prior to filing a Choice Gas Program Plan should assuage any concerns raised as to the effects of such a filing. Therefore, this agreement will be adopted and will be approved.

**J. RMNG and SourceGas Tariffs**

161. Exhibit 4 to the Amended Stipulation contains the recommended tariff sheets of RMNG's current Colorado PUC No. 3 Tariff to become effective through a compliance filing upon approval of the Amended Stipulation to continue in effect through May 31, 2014.

162. Exhibit 5 to the Amended Stipulation is a copy of RMNG's proposed PUC No. 4 Tariff which will become effective through a compliance filing upon approval of the Amended Stipulation and will be effective on June 1, 2014.

163. Exhibit 6 to the Amended Stipulation is a copy of the specific tariff sheets of SourceGas's current Colorado PUC No. 7 Tariff, which will become effective through a compliance filing upon approval of the Amended Stipulation, and will be effective on June 1, 2014.

164. The Settling Parties agree to the implementation of RMNG's rate design and RMNG's PUC No. 4 Tariff, including Rate Schedules FTS (Firm Transportation Service), ITS (Interruptible Transportation Service), NNS (No-Notice Storage), APAL (Interruptible Automatic Park and Loan), and MCS (Interruptible Market Center Services), and to SourceGas's revisions to its PUC No. 7 Tariff as set forth in RMNG's and SourceGas's direct case and rebuttal case, as modified by the Amended Stipulation, including the tariff changes as agreed to between the companies and A M Gas and Seminole, and in accordance with the two-step process.

**K. Annual Compliance Report**

165. As addressed in detail *supra*, RMNG agrees to make annual compliance report filings with the Commission in this consolidated proceeding no later than July 30, 2015, 2016, and 2017, to address RMNG's operations under its new PUC No. 4 tariff, as well as provide RMNG's management assessment of its performance under the new tariff. The annual compliance reports are intended to be comprehensive and provide parties with information as to whether potential improvements or modifications can and should be made to RMNG's tariffs to more appropriately apply the intent of the Amended Stipulation.

166. RMNG and the Settling Parties are applauded for their efforts and agreement to implement a reporting requirement into the Amended Stipulation. Given the nature of RMNG's business model conversion and the accompanying tariff revisions, the compliance reports will

serve as an excellent barometer as to how such changes are implemented and to their relative effectiveness. Therefore, the reporting requirements will be adopted and approved.

167. As a result, it is found that the terms, conditions, and rates contained in the Amended Stipulation are just and reasonable and in the public interest. The compromises agreed to by each of the Settling Parties, as well as the testimony in support of the terms of the Amended Stipulation provide a strong basis to find that the terms of the Amended Stipulation are in the public interest. Therefore, the terms and conditions of the Amended Stipulation will be approved without modification consistent with the discussion in this Decision.

## **VI. ORDER**

### **A. The Commission Orders That:**

1. The Joint Motion for Approval of Stipulation and Agreement in Resolution of Proceedings filed by Rocky Mountain Natural Gas, LLC; SourceGas Distribution, LLC; Staff of the Colorado Public Utilities Commission; the Colorado Office of Consumer Counsel; A M Gas Transfer Corp.; and Seminole Energy Services, LLC filed on November 13, 2013, is construed as applicable to the Amended Stipulation and Agreement filed on December 13, 2013 and is granted consistent with the discussion above.

2. The Amended Stipulation and Agreement filed by Rocky Mountain Natural Gas, LLC; SourceGas Distribution, LLC; Staff of the Colorado Public Utilities Commission; the Colorado Office of Consumer Counsel; A M Gas Transfer Corp.; and Seminole Energy Services, LLC, attached to this Decision as Attachment A is granted without modification consistent with the discussion above.

3. The effective date of the tariff sheets filed with Fourth Amended Advice Letter No. 77 on August 29, 2013 by Rocky Mountain Natural Gas, LLC in Proceeding No. 13AL-0067G is permanently suspended and may not be further amended.

4. The effective date of the amended tariff sheets filed with Third Amended Advice Letter No. 261 on August 29, 2013 by SourceGas Distribution, LLC in Proceeding No. 13AL-0143G is permanently suspended and may not be further amended.

5. No more than 30 days after this Recommended Decision becomes the Decision of the Commission, if that is the case, Rocky Mountain Natural Gas, LLC shall file a new advice letter and tariff (as set out in Exhibit 4 to the Amended Stipulation and Agreement attached to this Decision as Attachment A) on not less than 5 business days' notice pursuant to Step 1 of the implementation process as approved, to implement the General Rate Schedule Adjustment (GRSA) percentage to become effective under Rocky Mountain Natural Gas, LLC's current Colorado PUC No. 3 Tariff; to change the rates as a result of the approved revenue requirement changes; and to implement the Revenue Adjustment Mechanism (RAM) all to be effective until May 31, 2014 pursuant to the terms of the Amended Stipulation and Agreement. The advice letter and tariff shall be filed as a new advice letter proceeding and shall comply with all applicable rules. In calculating the proposed effective date, the date the filing is received at the Commission is not included in the notice period and the entire notice period must expire prior to the effective date. The advice letter and tariff must comply in all substantive respects to this Decision in order to be filed as a compliance filing on shortened notice.

6. No more than 30 days after this Recommended Decision becomes the Decision of the Commission, if that is the case, Rocky Mountain Natural Gas, LLC shall file a new advice letter and tariff to replace its Colorado PUC No. 3 Tariff in its entirety with its new Colorado

PUC No. 4 Tariff (as set out in Exhibit 5 to the Amended Stipulation and Agreement attached to this Decision as Attachment A) on not less than 5 business days' notice pursuant to Step 2 of the implementation process as approved, to become effective under Rocky Mountain Natural Gas, LLC's new Colorado PUC No. 4 Tariff; to change the rates as a result of the approved revenue requirement changes; and to implement the RAM all to be effective on June 1, 2014 pursuant to the terms of the Amended Stipulation and Agreement. The advice letter and tariff shall be filed as a new advice letter proceeding and shall comply with all applicable rules. In calculating the proposed effective date, the date the filing is received at the Commission is not included in the notice period and the entire notice period must expire prior to the effective date. The advice letter and tariff must comply in all substantive respects to this Decision in order to be filed as a compliance filing on shortened notice.

7. As of June 1, 2014, Rocky Mountain Natural Gas, LLC's GRSA shall be utilized for the sole purpose of recovering rate case expenses as approved in this Decision.

8. No more than 30 days after this Recommended Decision becomes the Decision of the Commission, if that is the case, SourceGas Distribution, LLC shall file a new advice letter and tariff to reflect changes to its Colorado PUC No. 7 Tariff (as set out in Exhibit 6 to the Amended Stipulation and Agreement attached to this Decision as Attachment A) on not less than 5 business days' notice pursuant to Step 2 of the implementation process, pursuant to the terms of the Amended Stipulation and Agreement. The advice letter and tariff shall be filed as a new advice letter proceeding and shall comply with all applicable rules. In calculating the proposed effective date, the date the filing is received at the Commission is not included in the notice period and the entire notice period must expire prior to the effective date. The advice letter and

tariff must comply in all substantive respects to this Decision in order to be filed as a compliance filing on shortened notice.

9. Rocky Mountain Natural Gas, LLC and SourceGas Distribution, LLC shall execute a Firm Transportation Service Agreement with a Contract MDTQ for a minimum of three years from the effective date of the Firm Transportation Service Agreement pursuant to the terms of the Amended Stipulation and Agreement.

10. Pursuant to § 40-6-112(1), C.R.S., Decision No. R10-1268 in Proceeding No. 10AL-455G shall be amended so that SourceGas Distribution, LLC shall not be required to file a voluntary Choice Gas Program Plan prior to June 1, 2014.

11. Rocky Mountain Natural Gas, LLC shall make an annual compliance filing no later than July 30, 2015, 2016, and 2017 addressing its operations under the new Colorado PUC No. 4 Tariff pursuant to the terms of the Amended Stipulation and Agreement.

12. If exceptions are filed to this Recommended Decision, response time to any exceptions filed shall be shortened to 5 days.

13. This Recommended Decision shall be effective on the day it becomes the Decision of the Commission, if that is the case, and is entered as of the date above.

14. As provided by § 40-6-106, C.R.S., copies of this Recommended Decision shall be served upon the parties, who may file exceptions to it.

a.) If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the recommended decision is stayed by the Commission upon its own motion, the recommended decision shall become the decision of the Commission and subject to the provisions of § 40-6-114, C.R.S.

b.) If a party seeks to amend, modify, annul, or reverse a basic finding of fact in its exceptions, that party must request and pay for a transcript to be filed, or the parties may stipulate to portions of the transcript according to the procedure stated in § 40-6-113, C.R.S. If no transcript or stipulation is filed, the Commission is bound by the facts set out by the administrative law judge; and the parties cannot challenge these facts. This will limit what the Commission can review if exceptions are filed.

15. If exceptions to this Recommended Decision are filed, they shall not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be exceeded.

(S E A L)



THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

PAUL C. GOMEZ

\_\_\_\_\_  
Administrative Law Judge

ATTEST: A TRUE COPY

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

Doug Dean,  
Director