

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14AL-0285G

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

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
ROBERT I. GARVEY
SETTING PROCEDURAL SCHEDULE**

Mailed Date: July 11, 2014

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I. STATEMENT

1. On March 31, 2014, Rocky Mountain Natural Gas, LLC (Rocky Mountain or Company) filed Advice Letter No. 84. Rocky Mountain stated that the purpose of the filing was to comply with the terms of a Stipulation and Agreement (Stipulation) approved in consolidated Proceeding Nos. 13A-0046G, 13AL-0067G, and 13AL-0143G. Rocky Mountain agreed in that

Stipulation that it would file an Advice Letter to implement a cost recovery mechanism for pipeline system safety and integrity projects through a System Safety and Integrity Rider.

2. By Decision No. C14-0580, issued May 30, 2014, the effective date of the Advice letter was suspended until September 29, 2014. The matter was also referred to an administrative law judge (ALJ) for disposition

3. On June 24, 2014, Staff of the Colorado Public Utilities Commission (Staff) filed its Notice of Intervention as of Right, Entry of Appearance, Notice Pursuant to Rule 1007(a) and Rule 1403(b), and Request for Hearing. As required by Rule 4 *Code of Colorado Regulations* (CCR) 723-1-1007(a) of the Commission's Rules of Practice and Procedure, in that filing Staff identified the Trial Advocacy (litigation) Staff and the Advisory Staff. Staff is an intervenor as of right and a party in this proceeding.

4. On June 25, 2014, Colorado Office of Consumer Counsel (OCC) filed its Notice of Intervention of Right, Entry of Appearance, and Request for Hearing. OCC is an intervenor as of right and a party in this proceeding.

5. By Interim Decision No. R14-0687-I, issued June 24, 2014, a prehearing conference was scheduled for July 8, 2014.

A. Further Suspension of Effective Date of Tariff Sheets.

6. The Commission has suspended the effective date of the tariffs that accompanied Advice Letter No. 84 until September 29, 2014. By further order, the Commission may suspend for additional time the effective date of the tariff sheets that accompanied the Advice Letter.

7. By this Decision and pursuant to § 40-6-111(1), C.R.S., and Rules 4 CCR 723-1-1305(c) and 723-1-1305(e), the ALJ will suspend for an additional 90 days (that is until, **December 28, 2014**), the effective date of the tariff sheets that accompanied the Advice Letter.

If the Commission does not establish new rates by that date, the tariff sheets filed with the Advice Letter may become effective

B. Procedural Schedule, Evidentiary Hearing Dates, and Related Matters.

8. At the prehearing conference, the ALJ made oral rulings on the procedural schedule and discovery. This Decision memorializes those rulings.

9. The Parties agreed to the following procedural schedule, which the ALJ finds acceptable and which the ALJ will adopt: (a) no later than July 22, 2014, Rocky Mountain will file direct testimony and exhibits; (b) no later than August 12, 2014, each intervenor will file its answer testimony and exhibits; (c) no later than September 3, 2014 Rocky Mountain will file its rebuttal testimony and exhibits; (d) no later than September 9, 2014, each party will file its prehearing motions;¹ (e) no later than September 10, 2014 the Parties will file any stipulation (e.g., a stipulation as to facts or admissibility of prefiled testimony) and any settlement reached; (f) the evidentiary hearing will be held on September 16 and 17, 2014; and (g) no later than October 3, 2014, each party will file its post-hearing statement of position, to which (absent a further Order) no response will be permitted.

10. *With respect to witness testimony and exhibits that contain highly confidential information² or confidential information,³ or both:* (a) if an entire document is not confidential, each portion that contains confidential information will be clearly marked (e.g., shaded), and

¹ Prehearing motions include dispositive motions and motions to strike testimony and exhibits.

² As used in this Decision, highly confidential information is information that, in this proceeding, the ALJ has determined is highly confidential and that is subject to an order for extraordinary protection.

³ As used in this Proceeding, confidential information is information that a party claims is confidential and that is filed under seal with the Commission.

each page will state in the heading: “This page contains confidential information as shown”; (b) any portion of a witness’s testimony and exhibits that contains highly confidential information will be clearly marked (*e.g.*, shaded), and each page will state in the heading: “This page contains highly confidential information as shown”; (c) if the same page contains both confidential information *and* highly confidential information, the highly confidential information will be differentiated from the confidential information (*e.g.*, by use of different shading), and each page will state in the heading: “This page contains highly confidential information and confidential information as shown”; and (d) the public version of a document that contains confidential information or highly confidential information, or both, will identify in the heading each page on which that information appears.

11. Rule 4 CCR 723-1-1100(c) requires the cover page of a document to state that the document (in this case, testimony, and exhibits) contains confidential information and to identify where in the document the confidential information is found. The same notice requirement applies to a document that contains highly confidential information.

12. For clarity of the evidentiary record and to assist the ALJ and the Parties during the hearing, a sponsoring party will assure, where possible, that the page numbers and the line numbers are the same on the public version of a document, the confidential version of the document, and the highly confidential version of the document.

C. Discovery-related Matters.

13. At the prehearing conference, the Parties proposed discovery-related procedures, which the ALJ will adopt.

14. Unless modified by this Decision, Rule 4 CCR 723-1-1405 will govern discovery in this matter.

15. Subject to Rule 4 CCR 723-1-1100, discovery requests and discovery responses will be served on all Parties.

16. Discovery requests that do not include confidential information or highly confidential information may be served by electronic mail. Discovery responses that do not include confidential information or highly confidential information may be served by electronic mail.

17. Confidential discovery responses are to be served pursuant to the Commission's confidentiality rules.

18. Parties may serve discovery no later than 5:00 p.m. Mountain Time (MT) on Monday through Thursday and may serve discovery no later than 3:00 p.m. MT on Friday. Discovery served later than these stated times will be deemed to be served on the next business day.

19. The ALJ will order the following response times to discovery: (a) for *discovery addressed to direct testimony and exhibits prior to the filing of direct testimony and exhibits*: response time is ten calendar days; (b) for *discovery addressed to direct testimony and exhibits after the filing of direct testimony and exhibits*: response time is seven calendar days; (c) for *discovery addressed to rebuttal testimony and exhibits*: response time is six calendar days.

20. Except as a proposed exhibit or as necessary to support or to respond to a motion, the Parties will not file discovery requests or discovery responses with the Commission.

21. Except as a proposed exhibit or as necessary to support or to respond to a motion, the Parties will not serve discovery requests or discovery responses on the ALJ, on Commission Advisory Staff, or on Commission Advisory Counsel.

22. Motions pertaining to discovery disputes may be filed at any time. The response time to a motion pertaining to a discovery dispute shall be five business days. Any discovery motion or response shall be served electronically by e-mail. If necessary, the ALJ will hold a telephone hearing on a discovery-related motion as soon as practicable after the motion and response are filed.

D. Confidential Information and Highly Confidential Information.

23. In this proceeding, Rules 4 CCR 723-1-1100-1102 will govern the treatment of information claimed to be confidential.

24. **The Parties are advised, and are on notice, that** information in this proceeding will not be highly confidential information *unless* a party has filed in this proceeding, and the ALJ has granted, a motion seeking extraordinary protection for the information that is claimed to be highly confidential.

E. Matters Pertaining to Hearing Exhibits.

25. Each type of a witness's testimony and exhibits (*e.g.*, direct, answer, rebuttal, cross-answer) will be one hearing exhibit.

26. Hearing exhibits will be marked numerically and sequentially, beginning with the number 1, irrespective of the sponsoring party.

27. Prefiled testimonies and exhibits will be the first hearing exhibits and will be given hearing exhibit numbers such that all the testimonies and exhibits sponsored by one witness are together. As an example, assume that Company witness Smith prefiles direct testimony and rebuttal testimony; the testimonies would be marked as Hearing Exhibits No. 2 (direct) and No. 3 (rebuttal).

28. *With respect to marking hearing exhibits that contain highly confidential information or confidential information, or both:* (a) any portion of a witness's testimony and exhibits that contains *confidential information* will be marked as Confidential Hearing Exhibit No. XXA and, at the hearing, will be in a separate and sealed envelope marked in accordance with Rule 4 CCR 723-1-1100(c)(III); (b) any portion of a witness's testimony and exhibits that contains *highly confidential information* will be Highly Confidential Hearing Exhibit No. XXB and, at the hearing, will be a separate and sealed envelope marked in accordance with Rule 4 CCR 723-1-1100(c)(III); (c) if a page contains both confidential information and highly confidential information, the highly confidential information will be redacted from the page in the Confidential Hearing Exhibit; and (d) if a page contains both confidential information and highly confidential information, the highly confidential information will be differentiated (*e.g.*, by different shading) from the confidential information in the Highly Confidential Exhibit.

29. As an example of hearing exhibit marking, assume that Company witness Smith files direct testimony and exhibits that contain highly confidential information and files rebuttal testimony and exhibits that contain both confidential information and highly confidential information. His direct testimony and exhibits are given one hearing exhibit number (in the example, Hearing Exhibit No. 2); and the highly confidential information is Hearing Exhibit No. 2B. His rebuttal testimony and exhibits are given one hearing exhibit number (in the example, Hearing Exhibit No. 3); the confidential information is Hearing Exhibit No. 3A; and the highly confidential information is Hearing Exhibit No. 3B.

30. **The Parties are advised, and are on notice, that** it is the responsibility of each party to be sure that it has a sufficient number of copies of each document that it wishes to offer as an exhibit at the evidentiary hearing. *With respect to prefiled testimony and exhibits,*

this means that, at the hearing, a party must provide a copy to be marked as an exhibit and retained by the Commission. This is a requirement even though the testimony and exhibit are prefiled. *With respect to documents other than prefiled testimony and exhibits*, this means that, at the hearing, a party must have at least the number of copies sufficient: (a) to have one to be marked and retained by the Commission as the hearing exhibit; (b) to provide a copy to each of the other parties; (c) to provide one to the ALJ; and (d) to retain a copy. **The Commission will not make copies of documents that are offered as an exhibit.**

II. ORDER

A. It Is Ordered That:

1. The evidentiary hearing in this matter is rescheduled as follows:

DATES: September 16 and 17, 2014

TIME: 9:00 a.m.

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

2. The procedural schedule contained in ¶ 9 above is adopted.
3. Consistent with the discussion above, Parties shall identify, as described above, confidential information and highly confidential information contained in testimony and exhibits and other documents filed in this proceeding.
4. Except as modified by this Decision, Rule 4 *Code of Colorado Regulations* 723-1-1405 shall govern discovery in this proceeding.

5. The provisions of ¶¶ 13 through 22, above, shall govern discovery in this proceeding.

6. Rules 4 *Code of Colorado Regulations* 723-1-1100-1102 shall govern treatment of information claimed to be confidential in this proceeding.

7. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ROBERT I. GARVEY

Administrative Law Judge

ATTEST: A TRUE COPY

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

Doug Dean,
Director