

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

PROCEEDING NO. 20AL-0220G

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

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**COMPREHENSIVE SETTLEMENT AGREEMENT BETWEEN  
COLORADO NATURAL GAS INC. AND TRIAL STAFF OF THE  
COLORADO PUBLIC UTILITIES COMMISSION**

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This is a Settlement Agreement intended to resolve on a comprehensive basis all issues raised in Proceeding No. 20A-0220G by the parties Colorado Natural Gas, Inc. (“CNG” or the “Company”) and Trial Staff of the Colorado Public Utilities Commission (“Staff”) (collectively, the “Settling Parties”). As there are no other parties to this proceeding, this Settlement Agreement is unopposed.

This Settlement Agreement is a comprehensive uncontested settlement, which proposes a resolution for all issues that have been raised or could have been raised in this proceeding.

**I. BACKGROUND**

1. In Proceeding No. 18M-0074EG, the Commission required Colorado’s investor-owned electric and natural gas utilities to lower rates to account for the impacts of the Tax Cuts and Jobs Act (“TCJA”) to their income tax liabilities.

2. CNG filed a standalone application in June 2018 initiating Proceeding No. 18L-0379G and asking for Commission authorization to institute a negative GRSA titled “TCJA Refund”. The Commission granted CNG’s application on less than statutory notice and approved a total refund of \$1,378,841 which would go to CNG’s customers to represent TCJA savings retroactive to January 1, 2018.

3. On December 28, 2018, CNG filed Advice Letter No. 96 and initiated Proceeding No. 18AL-0910G to ask for the Commission's permission to discontinue the TCJA Refund. Advice Letter No. 96 went into effect by operation of law on February 1, 2019.

4. On March 29, 2019 CNG filed Advice Letter No. 99, initiating Proceeding No. 19AL-0161G and seeking to collect an inadvertent over-refund of \$744,838 through rates "over a period of six months, from May to October 2019."

5. To avoid accidental over-collection of the over-refund, CNG ended the true-up a month early by filing Advice Letter No. 101 on August 30, 2019, initiating Proceeding No. 19AL-0477G. However, CNG only collected \$588,847 of the \$744,838 total over-refund.

6. On May 27, 2020, CNG filed Advice Letter No. 107 with supporting testimony and attachments to implement a second true-up the TCJA Refund and collect the \$155,991 remaining of the over-refund.

7. By Decision No. C20-0498, mailed July 9, 2020, the Commission suspended the effective date of CNG's proposed tariff and referred this matter to Chief Administrative Law Judge ("ALJ") Harris Adams. Commission Trial Staff timely intervened in this proceeding and subsequently filed Answer Testimony in support of its position. CNG filed Rebuttal Testimony in accordance with the procedural schedule established by the ALJ.

8. Following the filing of CNG's Rebuttal Testimony, the Settling Parties engaged in settlement negotiations and have arrived at this Settlement Agreement, which resolves all issues in this proceeding.

## **II. THE SETTLEMENT AGREEMENT**

9. The following section sets forth the negotiated resolution of the disputed issues among the Settling Parties. These agreements are all compromises of the Settling Parties' filed

positions and are specifically based on the record in this case, including, but not limited to, CNG's Direct Testimony and Attachments, Staff's Answer Testimony and Attachments, and CNG's Rebuttal Testimony. The Settling Parties stipulate to the admissibility of the pre-filed testimonies and attachments filed by them in support of their respective positions. The Settling Parties submit this Settlement Agreement to the ALJ for his approval and resolution of the issues in this proceeding. The Settling Parties affirm that acceptance of this Settlement Agreement is in the public interest and they will fully support the terms of this Settlement Agreement at any hearing scheduled in this proceeding.

### **III. SETTLEMENT TERMS**

#### **A. CNG'S REQUEST FOR RECOVERY OF OVER-REFUND**

10. CNG filed Direct Testimony and Attachments in support of recovery of \$155,991. CNG also proposed an offset against this amount to reflect the reduction in the Colorado state income tax rate from 4.63% to 4.50% effective on January 1, 2020. This offset amounts to a reduction of \$8,804 in the amount that CNG seeks to recover by this proceeding. Thus, the actual amount in dispute in this proceeding is \$147,187, which CNG proposed to recover the over-refunded amount through a one-time increase to its rates for each customer assessed on a per-customer basis.

#### **B. STAFF'S POSITION**

11. Staff opposed CNG's request to recover the remaining over-refund amount, arguing that CNG was not entitled to a second true-up, particularly in the context of the ongoing COVID-19 pandemic.

**C. RESOLUTION OF THE DISPUTE**

12. The Settling Parties agree that the Commission should allow CNG to recover the over-refunded amount, less the Colorado state tax offset.

13. As part of this agreement, CNG agrees to defer the recovery of the over-refunded amount to the August 2021 billing cycle in order to make a one-time true up tariff filing for recovery of the final amount during the period of lowest consumption on the CNG system.

14. The Settling Parties reach this agreement in light of the relatively small amount of money at issue, the transaction costs of continued litigation, and the Company's agreement to defer the recovery of the over-refunded amount until August 2021, rather than during the current heating season and rising rate of COVID-19 infection across Colorado. The Settling Parties anticipate that deferring recovery of the stated amount for approximately nine months will put the recovery period beyond current growth of the COVID-19 pandemic and thereby avoid a coincident financial burden on the Company's customers.

15. Also, as part of this Settlement Agreement, CNG agrees to provide Staff with a final accounting of the recovery to be accompanied by a witness affidavit attesting to the accuracy of the final accounting.

**D. GENERAL TERMS AND CONDITIONS**

16. The Settling Parties have negotiated the agreements set forth in this Settlement Agreement resolving enumerated, contested and disputed issues in this proceeding in a manner the Settling Parties agree is just and reasonable and in the public interest. This Settlement Agreement reflects a compromise in settlement of those issues among the Settling Parties in this proceeding. The Settling Parties further agree that reaching an agreement by means of negotiations, stipulations and/or settlement rather than through litigation is in the public interest and supported by the

Commission, pursuant to Rules 1407 and 1408 of the Commission's Rules of Practice and Procedure. This Settlement Agreement is intended to comply with the provisions of Rule 1408.

17. The Settling Parties agree to present, to support and to defend this Settlement Agreement before the Commission and in the courts. They further agree to present testimony and exhibits in the evidentiary hearing in this proceeding for the purposes of obtaining the Commission's approval of this Settlement Agreement. At any such hearing, the Settling Parties agree that all pre-filed testimony and exhibits filed by the Settling Parties in this docket shall be admitted into evidence without cross-examination by the Settling Parties of each other's witnesses on the issues resolved by this Settlement Agreement. This Settlement Agreement shall not become effective until the Commission issues a final order addressing the Settlement Agreement. In the event the Commission modifies this Agreement in a manner unacceptable to any Settling Party, that Settling Party may withdraw from the Settlement Agreement and shall so notify the Commission and the other Settling Parties in writing within ten (10) business days of the date of the Commission order. If a Settling Party timely exercises its right to withdraw from this Settlement Agreement, this Settlement Agreement shall be null and void and of no effect in this or any other proceeding.

18. The Settling Parties agree the Commission's approval of this Settlement Agreement shall constitute a determination that the Settlement Agreement represents a just, equitable and reasonable resolution of the disputed issues resolved herein.

19. The Settling Parties agree that this Settlement Agreement represents a negotiated settlement that they believe is in the public interest with respect to the various matters and issues enumerated herein, for the sole purposes for the settlement of the matters agreed to in this Settlement Agreement. The Settling Parties shall not be deemed to have approved, accepted,

agreed to, or consented to any concept, theory or principle underlying or supposed to underlie any of the matters provided for in this Settlement Agreement, other than as specifically provided for herein. Notwithstanding the resolution of the issues set forth in this Settlement Agreement, none of the methods or principles herein contained shall be deemed by the Settling Parties to constitute a settled practice or precedent in any future proceeding.

20. The Parties do not believe any waiver or variance of Commission rules is required to effectuate this Settlement Agreement, but agree jointly to apply to the Commission for a waiver of compliance with any requirements of the Commission's Rules and Regulations if necessary to permit all provisions of this Settlement Agreement to be approved, carried out, and effectuated.

21. This Settlement Agreement is an integrated agreement that may not be altered by the unilateral determination of any Party. There are no terms, representations or agreements among the Parties which are not set forth in this Settlement Agreement.

22. This Settlement Agreement may be executed by counterparts and by facsimile or electronic copies of signatures all of which when taken together shall constitute the entire Settlement Agreement with respect to the matters herein.

DATED this 3rd day of December 2020.

Approved on behalf of:

**Colorado Natural Gas, Inc.**

By: /s/ Mathew Kaply  
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**Colorado Natural Gas, Inc.**

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Approved on behalf of:

**Trial Staff of the Public Utilities Commission**

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Approved as to form:

**Philip J. Weiser, Attorney General**

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