

Decision No. C22-0684

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

PROCEEDING NO. 22AL-0426G

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IN THE MATTER OF ADVICE LETTER NO. 126 FILED BY ROCKY MOUNTAIN NATURAL GAS LLC DOING BUSINESS AS BLACK HILLS ENERGY TO REVISE ITS COLORADO PUC NO. 4 TARIFF FOR AN INCREASE IN RATES AND TO IMPLEMENT OTHER PROPOSED CHANGES, TO BECOME EFFECTIVE NOVEMBER 7, 2022.

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**DECISION SUSPENDING EFFECTIVE  
DATE OF TARIFF SHEETS, REFERRING THE MATTER  
TO AN ADMINISTRATIVE LAW JUDGE, AND  
ESTABLISHING NOTICE AND INTERVENTION PERIOD**

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Mailed Date: November 3, 2022  
Adopted Date: November 2, 2022

IMPORTANT NOTICE: ANY PERSON DESIRING TO PARTICIPATE ONLY BY MAKING A STATEMENT MAY DO SO SUBMITTING A WRITTEN COMMENT THROUGH <https://puc.colorado.gov/> INDICATING PROCEEDING NO. 22AL-0426G. IF YOU DESIRE TO ASK QUESTIONS OF A WITNESS OR OTHERWISE PARTICIPATE AS A PARTY IN THIS MATTER, YOU MUST REQUEST PERMISSION FROM THE COMMISSION TO BE AN INTERVENOR (EVEN IF YOU HAVE ALREADY FILED AN OBJECTION). ANYONE DESIRING TO INTERVENE MUST CAREFULLY FOLLOW THE LAW AND COMMISSION RULES FOR BECOMING AN INTERVENOR. FOR FURTHER INFORMATION ON HOW TO INTERVENE, CALL (303) 894-2070 (PUC EXTERNAL AFFAIRS OFFICE).

**I. BY THE COMMISSION**

**A. Statement**

1. On October 7, 2022, Rocky Mountain Natural Gas LLC d/b/a/ Black Hills Energy (RMNG or Company) filed Advice Letter No. 126 with tariff sheets.
2. This Decision sets for hearing the tariffs filed under Advice Letter No. 126 and suspends their effective date to March 7, 2023.
3. We refer the matter to an Administrative Law Judge (ALJ).

4. A pleading to intervene in this matter may be filed by any person, firm, or corporation desiring to be a party and fully participate in this Proceeding no later than 30 days after the mailing date of this Decision.

**B. Discussion**

**1. RMNG Rate Case**

5. On October 7, 2022, RMNG filed Advice Letter No. 126 with tariff sheets increasing rates for all rate schedules under the Company's Colorado P.U.C. No. 4 Tariff for all gas transportation and storage services offered by the Company. The tariff sheets also revise and update the Revenue Adjustment Mechanism (RAM), a crediting mechanism that flows funds back to firm customers related to revenues RMNG receives from certain off-system and interruptible services, market center services, sales of natural gas liquids, and an automatic park and loan service.

6. Through Advice Letter No. 126, RMNG seeks a total revenue requirement of \$43.7 million, a net increase of \$12.3 million above that approved by the Commission in the Company's last rate case, Proceeding No. 17AL-0654G (2017 Rate Case). The Company also requests to roll into base rates \$7.7 million currently recovered through its System Safety and Integrity Rider (SSIR).

7. Advice Letter No. 126 is accompanied by the Direct Testimony of seven RMNG witnesses.

8. The Company explains in Advice Letter No. 126 and Direct Testimony that there are three drivers of the proposed rate increase: 1) significant capital investments since the 2017 Rate Case and the exclusion of SSIR recovery of projects placed into service after December 31, 2021; 2) increased operating expenses since 2017; and 3) increased financing costs associated with the cost of long-term debt and a "deleveraged" capital structure.

9. RMNG supports its proposed rate increases with a cost of service study (COSS) using a future test year (FTY) of July 1, 2023 through June 30, 2022 and a weighted average cost of capital (WACC) of 8.30 percent. The WACC is calculated using a capital structure with 52 percent equity and an authorized return on equity (ROE) of 12.25 percent.

10. The rates proposed by RMNG are based on a Straight Fixed-Variable (SFV) rate design, consistent with its last two rate cases.<sup>1</sup> Under SFV, all fixed costs are classified to a demand rate component, which is applied to a contract demand or maximum daily quantity, and all variable costs are classified to a commodity rate component, which is applied to throughput quantities actually transported on behalf of the shipper.

11. RMNG seeks to roll into base rates the revenue it currently recovers through its SSIR, noting that the SSIR will terminate when new base rates go into effect. RMNG's SSIR allowed recovery of costs of safety and integrity projects placed in service on or before December 31, 2021. Company Witness Michael J. Harrington, Director of Regulatory & Finance for Black Hills Service Company, LLC, explains that RMNG does not request an extension of the SSIR in this Proceeding, acknowledging that recent Commission policy direction has been away from safety and integrity programs, favoring more frequent rate cases. Mr. Harrington states that the proposed rates are based on a future test year revenue requirement study, similar to the SSIR.

12. RMNG seeks recovery of \$450,000 of rate case expenses associated with this Proceeding.

13. RMNG requests a November 7, 2022, effective date for the tariff sheets filed with Advice Letter No. 126 (Attachment A to this Decision).

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<sup>1</sup> Proceeding Nos. 13AL-0067G and 17AL-0654G

## 2. UCA Protest

14. On October 17, 2022, the Colorado Office of Utility Consumer Advocates (UCA) filed a protest, characterizing RMNG's proposals as "aggressive" and questioning whether they are in the public interest. UCA's concerns include:

- The alignment of RMNG's request with the regulatory principles established in the Settlement Agreement in the 2017 Rate Case and the decision approving that Settlement Agreement
- Customer rate shock resulting from a 39 percent rate increase
- Potentially increased costs incurred by Black Hills Colorado Gas (BHCG), which could be passed onto BHCG's customers
- Pancaking of rates from different sources borne by RMNG's and BHCG's customers
- The proposed ROE of 12.25 percent and long-term debt of 4.03 percent, capital structure with 52 percent equity and 48 percent debt, and WACC of 8.30 percent
- Use of an FTY, with projected financial data 21 months beyond the date of the advice letter filing
- Sufficiency of an informational "current test year," given that the Commission has required an informational historic test year (HTY) in other proceedings
- Whether a 13-month average rate base methodology should be used with an HTY
- Whether the SFV is in customers' interests and the interests of conservation
- Whether the increase is counter to the State's Climate Change and Clean Heat Plan goals
- Rate case expenses of \$450,000
- Possible over-recovery of rate case expenses from the 2017 rate case
- Recovery of SSIR revenue requirement since January 1, 2022

## C. Conclusions and Findings

15. Pursuant to § 40-6-111(1), C.R.S., the Commission may, in its discretion, set the tariff pages for hearing which will suspend the effective date for 120 days from the proposed effective date. If no new tariffs are established by the Commission before the end of the 120-day suspension period, in this instance March 7, 2022, and if the Commission does not further suspend

the effective date of the tariffs pursuant to § 40-6-111(1), C.R.S., the tariff pages filed by RMNG may become effective.

16. Section 40-6-111(1), C.R.S., also provides that the Commission may, in its discretion, by a separate decision, suspend the effective date of the tariff page(s) for an additional 130 days. Thus, the Commission has the power and authority to suspend the effective date of the tariff pages for a maximum of 250 days. If the Commission further suspends the effective date of the tariff pages for an additional 130 days, and if no new tariffs are established by the Commission before the end of the suspension period, the tariff pages filed by RMNG may become effective.

17. The Commission finds good cause to set for hearing the tariffs submitted with Advice Letter No. 126.

18. The initial suspension period for the tariff pages submitted with the tariff pages submitted with Advice Letter No. 126 shall extend through March 7, 2022.

19. We refer this matter to an ALJ.

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

## **II. ORDER**

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

1. The proposed effective date, November 7, 2022, of the tariff pages filed by Rocky Mountain Natural Gas LLC d/b/a/ Black Hills Energy (RMNG) with Advice Letter No. 126 in Proceeding No. 22AL-0426G is suspended until March 7, 2022, or until further order of the Commission.

2. This matter is referred to an Administrative Law Judge. The Administrative Law Judge shall set a hearing date, rule on interventions, and establish other procedures by separate decision(s), consistent with the discussion above.

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

4. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING  
November 2, 2022.**

(S E A L)



ATTEST: A TRUE COPY

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

Doug Dean,  
Director

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

ERIC BLANK

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JOHN GAVAN

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Commissioners