

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 24D-0074G

IN THE MATTER OF COLORADO NATURAL GAS, INC.'S PETITION FOR A DECLARATORY ORDER TO CLARIFY WHETHER A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY IS REQUIRED, FOR SHORTENED RESPONSE TIME AND FOR AN EXPEDITED DECISION.

RECOMMENDED DECISION CLOSING PROCEEDING

Issued Date: November 26, 2024

I. STATEMENT, FINDINGS, AND CONCLUSIONS

1. On February 9, 2024, Colorado Natural Gas, Inc. (“CNG” or the “Company”) filed its Petition seeking a declaratory order pursuant to Rule 1304(f) of the Commission’s Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (“CCR”) 723-1. The Petition requests the Commission enter an order to terminate a controversy regarding whether CNG is required to obtain a Certificate of Public Convenience and Necessity (“CPCN”) prior to beginning construction on a line to serve an existing customer (requiring increase throughput which will cost in excess of \$5 million) or, in the alternative, to waive Rule 4102(d) of the Commission’s Rules Regulating Gas Utilities, 4 CCR 723-4. Rule 4102(d) requires a utility to apply for a CPCN for any project greater than \$5 million.

2. Through this Proceeding, CNG seeks a declaratory order affirming its position that a CPCN is not required for construction of a line to serve one of its existing customers, Grupo Cementos de Chihuahua of America, Inc. (“GCC”) under §40-5-101(1)(a)(II) and (III)

because it falls within the ordinary course of business standard of Rule 4102. In the alternative, CNG seeks a permanent waiver of Rule 4102(d), 4 CCR 723-4 with respect to GCC's facilities.

3. The Commission accepted CNG's declaratory proceeding by Decision No. C24-0133-I, issued March 4, 2024. Decision No. C24-0133-I also established a timetable for interventions.

4. By Decision No. R24-0518-I, issued July 18, 2024, interventions as of right were acknowledged and a prehearing conference was scheduled to be held on August 2, 2024. The parties to this Proceeding are CNG, the Office of the Utility Consumer Advocate ("UCA"), and Trial Staff of the Public Utilities Commission ("Staff").

5. At the scheduled time and place, the prehearing conference was convened. The parties informed the ALJ that they had reached an agreement whereby the Company would file an Application for a CPCN in lieu of pursuing the declaratory order sought here.

6. On November 18, 2024, the Motion to Withdraw Petition and for Waiver of Response Times ("Motion") was filed by CNG. Pursuant to Rule 1309(d) of the Commission's Rules of Practice and Procedure, 4 CCR 723-1, CNG withdraws its petition. UCA and Staff support the withdrawal.

7. The request being unopposed, it is appropriate that response time be waived.

II. ORDER

A. The Commission Orders That:

1. Based upon good cause shown for the unopposed request, response time to the Motion will be waived and the Petition is withdrawn.

2. Proceeding No. 24D-0074G is closed.

3. 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.

4. As provided by § 40-6-109, C.R.S., copies of this Recommended Decision will 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 decision is stayed by the Commission upon its own motion, this Recommended Decision will 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 basic findings 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. If exceptions to this Recommended Decision are filed, they may not exceed 30 pages in length, unless the Commission finds good cause and permits this limit to be exceeded.

(S E A L)



ATTEST: A TRUE COPY

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

G. HARRIS ADAMS

Administrative Law Judge

Rebecca E. White,
Director