

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO  
PROCEEDING NO. 20V-0159EG

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IN THE MATTER OF THE JOINT PETITION OF ATMOS ENERGY CORPORATION,  
COLORADO NATURAL GAS, INC., PUBLIC SERVICE COMPANY OF COLORADO,  
BLACK HILLS COLORADO GAS, INC., BLACK HILLS COLORADO ELECTRIC, INC.,  
AND ROCKY MOUNTAIN NATURAL GAS LLC FOR AUTHORIZATION TO TRACK  
EXPENSES RESULTING FROM THE EFFECTS OF COVID-19 AND RECORD AND  
DEFER SUCH EXPENSES INTO A REGULATORY ASSET

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NOTICE OF INTERVENTION OF RIGHT AND ENTRY OF APPEARANCE OF  
THE COLORADO OFFICE OF CONSUMER COUNSEL

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In accordance with Rules 4 CCR 723-1-1200(a)(V), 1201(c), 1204, 1401(a), and 1401(b), of the Commission’s Rules of Practice and Procedure, § 40-6.5-104, C.R.S., the Colorado Office of Consumer Counsel (“OCC”), by and through its undersigned counsel, files its Notice of Intervention of Right and Entry of Appearances in the above-captioned Proceeding.

As grounds for this pleading, the OCC states as follows:

1. On April 7, 2020, Atmos Energy Corporation (“Atmos”), Colorado Natural Gas (“CNG”), Public Service Company of Colorado (on behalf of its regulated electric and natural gas utilities) (“Public Service”), Black Hills Colorado Gas, Inc. (“BHCG”), Black Hills Colorado Electric, Inc. (“BHCE”), and Rocky Mountain Natural Gas LLC (“RMNG”) (collectively, “Joint Petitioners”), filed a Joint Petition requesting Commission authorization to track, record as a regulatory asset, and defer expenses resulting from each utility’s response to the COVID-19 outbreak through December 31, 2020. Further, the Joint Petitioners state that they are only asking for authority to track, *nunc pro tunc* from March 1, 2020, incremental expenses incurred as a result of COVID-19, allowing the Commission and interested parties to evaluate the

recoverability of those costs and other associated issues in future proceedings separately brought by each utility.

The Joint Petitioners also request a shortened notice and intervention period of seven calendar days so that an expedited order may issue granting this Petition on or before April 22, 2020 without a hearing.

2. The Joint Petitioners, at page 3, acknowledge: **“The full extent of the public health crisis and its economic impacts (both generally and on the Joint Petitioners) remains to be seen, and the Joint Petitioners understand the Commission will be interested in understanding the magnitude of increased expenditures the utilities are facing during this time.”** [Emphasis added]. “Accordingly, the Joint Petitioners request deferred accounting treatment for expenses incurred through the end of 2020 and propose to report COVID-19 related expenses recorded into the regulatory asset on a quarterly basis.” Additionally, and **“on a utility-by-utility basis, the Joint Petitioners recommend that the Commission evaluate in future proceedings the reasonableness of COVID-19 related expenses incurred, the appropriate period of recovery for the approved amount recorded in the regulatory assets, any amount of carrying costs thereon, and other related matters.”** [Emphasis added]. The Joint Petition, at pages 4-8, also discusses many Federal, State and Local government directives concerning the COVID-19 pandemic and associated health, safety and economic concerns amongst other issues. Further, the Joint Petitioners assert, at page 4, that: “The Joint Petitioners believe good cause exists to authorize each utility the ability to track, record, and defer COVID-19 related expenses in a regulatory asset.”

3. During the Commissioners Weekly Meeting on April 15, 2020, the Commission set the intervention period filing deadline on April 27, 2020 for all interested parties.

Additionally, the Commission issued a Notice of Petition filed on April 15, 2020 and set April 27, 2020 as the intervention filing deadline for all parties. Accordingly, this Intervention of Right by the OCC is timely.

4. Although the OCC is not taking a position in this Intervention and at this juncture, regarding whether it supports or opposes this Joint Petition, we request that the Commission convene a hearing on this Joint Petition. At this time, we note some issues with the Joint Petition.

As a preliminary matter, the Joint Petition requests authorization to track, record and defer expenses but then uses the term “costs.” “Expenses” and “costs” have different accounting meanings and the OCC wants to ensure that this Joint Petition is limited to income statement expenses and that capital costs are excluded. The Joint Petitioners state that they are presenting a “narrow issue” (Joint Petition, at page 2), and the OCC seeks to ensure that it remains so.

5. The OCC believes that if the Commission grants the Joint Petition and the utilities’ requests for authority to track expenses, to record such expenses in regulatory assets, and for deferred accounting treatment of COVID-19 expenses incurred by each of the Joint Petitioners, then the Commission’s approval of said requests should be subject to certain limits and the following conditions as to each of the Joint Petitioners:

- a. That the expenses placed into the regulatory asset should not include an earnings component, which includes, but is not limited to, carrying costs, interest, or a return on such expenses.
- b. The Commission’s decision regarding the Joint Petition should acknowledge that the Joint Petitioners are not seeking a presumption of prudence in the Joint Petition.
- c. That the expenses placed into a regulatory asset should be limited to expenses directly attributable to the COVID-19 pandemic.

- d. That indirect expenses, i.e., expenses that are only tangentially related to the COVID-19 pandemic, and expenses that are not incremental should not be allowed to be included in the regulatory asset.
  - e. That each of the Joint Petitioner utilities should also be required to track and identify any cost reductions or cost savings resulting from the COVID-19 pandemic. Any cost reductions or cost savings should either be netted against the regulatory asset or be included in a regulatory liability.
  - f. The Commission should specify the minimum information required in the quarterly reports needed by the Commission to ascertain the prudence of these expenses at a future date.
  - g. That quarterly reports should be filed with the Commission and provided to all intervening parties by each of the Joint Petitioner utilities and such reports should include any steps and actions that each of the Joint Petitioner utilities have taken to mitigate expenses attributable to the COVID-19 pandemic.
  - h. The Commission should allow for discovery by all intervening parties with respect to the quarterly reports filed by each of the Joint Petitioner utilities.
6. Pursuant to § 40-6.5-104, C.R.S., the OCC:
- ... shall represent the public interest and, to the extent consistent therewith, the specific interests of residential consumers, agricultural consumers, and small business consumers by appearing in proceedings before the commission and appeals therefrom in matters which involve proposed changes in a public utility's rates and charges, in matters involving rule-making which have an impact on the charges, the provision of services, or the rates to consumers, and in matters which involve certificates of public convenience and necessity for facilities employed in the provision of utility service, the construction of which would have a material effect on the utility's rates and charges.
7. The OCC requests a hearing on this Joint Petition.
8. For all the above stated issues and reasons, the OCC hereby intervenes as a matter of right in this Proceeding to represent the public interest and the interests of its constituency.
9. Pursuant to Rule 4 CCR 723-1-1201(c), of the Commission's Rules of Practice and Procedure, the OCC hereby enters the appearance of Gregory E. Bunker and Thomas F.

Dixon as counsel of record on behalf of the OCC in this matter.

10. The OCC requests that copies of all pleadings, correspondence, notices, rulings, orders, decisions, testimony, attachments, exhibits, discovery, and/or notices of any open meetings relating to this proceeding be forwarded to:

Gregory E. Bunker  
Senior Assistant Attorney General  
Office of Consumer Counsel Unit  
1300 Broadway, 7<sup>th</sup> Floor  
Denver, CO 80203  
[gregory.bunker@coag.gov](mailto:gregory.bunker@coag.gov)

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Thomas F. Dixon  
First Assistant Attorney General  
Office of Consumer Counsel Unit  
1300 Broadway, 7<sup>th</sup> Floor  
Denver, CO 80203  
[thomas.dixon@coag.gov](mailto:thomas.dixon@coag.gov)

In addition, please send any electronic documents to Ingrid Watford,  
[ingrid.watford@coag.gov](mailto:ingrid.watford@coag.gov).

WHEREFORE, the OCC intervenes as a matter of right and the OCC's counsel of record enter their respective appearances herein.

Respectfully submitted this 27<sup>th</sup> day of April 2020.

PHILIP J. WEISER  
Attorney General

BY: s/ Gregory E. Bunker  
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CERTIFICATE OF SERVICE

On this 27th day of April 2020, I filed a copy of the NOTICE OF INTERVENTION OF RIGHT AND ENTRY OF APPEARANCE OF THE COLORADO OFFICE OF CONSUMER COUNSEL upon persons through the Commission's E-filing system in accordance with applicable law.

*s/ Inga Watford*  
Inga Watford