

**BEFORE THE OIL AND GAS CONSERVATION COMMISSION
STATE OF COLORADO**

**IN THE MATTER OF CHANGES TO THE) CAUSE NO. 1R
RULES AND REGULATIONS OF THE OIL)
AND GAS CONSERVATION COMMISSION) DOCKET NO. 0803-RM-02
OF THE STATE OF COLORADO)**

**GAS STORAGE PARTIES'
RESPONSE TO COMMISSION REQUEST FOR
FINAL ALTERNATE PROPOSALS**

Colorado Interstate Gas Company (“CIG”), NGS Investments LLC (“NGS”), and Blue Sky Gas Storage, LLC (“Blue Sky”) (collectively the “Gas Storage Parties”), by and through their undersigned counsel, and pursuant to the Commission’s First, Second and Third Prehearing Orders, and the Commission’s Order Regarding Additional Submittals and Schedule for Remainder of Hearing dated July 7, 2008,¹ respectfully submit the following Consensus Alternate Proposal in connection with the above-captioned proceeding. This Alternate Proposal is intended to memorialize the agreement reached between the Gas Storage Parties and the Commission during the hearings held in the above-captioned proceedings on July 15, 2008. Consistent with this agreement, the Gas Storage Parties will continue to work with Commission staff to develop final Consensus Alternate Language in advance of the Commission’s October 2008 hearing, at which time the Commission will re-visit the nature and scope of the applicability of the March 31, 2008 Draft Rules for Oil and Gas Development in Colorado, as clarified, to new or existing gas storage projects or other oil and gas operations subject to the jurisdiction of the FERC.

FINAL CONSENSUS ALTERNATE PROPOSAL. For their consensus alternate proposal, the Gas Storage Parties propose that the following provision be added to the end of Rule 201:

The March 31, 2008 Draft Rules for Oil and Gas Development in Colorado, as clarified and promulgated, shall not apply to new or existing gas storage projects or other oil and gas operations subject to the jurisdiction of the FERC, unless and until the Commission

¹ In its July 7, 2008 Order, the Commission provided that “each group -- oil and gas interests; government organizations; environment, health and wildlife interests; and property and royalty interests -- is allotted 25 pages in which to respond to Staff’s June 18th clarifications and amendments to the Draft Rules” The Gas Storage Parties submit this separate response, which is limited only to very brief Consensus Alternate Language that does not count toward allocated response page limits, to memorialize their agreement with Commission staff on important preemption issues relating to the Draft Rules which are not shared by, or relevant to, the “oil and gas interests” group generally.

modifies, amends or supplements these rules to clarify expressly the manner in which these rules shall apply to such projects.

PROPOSED STATEMENT OF BASIS, SPECIFIC STATUTORY AUTHORITY, AND PURPOSE


Statutory Authority: The authority of the COGCC to make additions and amendments to its rules is granted by House Bill 07-1298, House Bill 07-1341, and Title 34, Article 60 of the Colorado Revised Statutes. However, such authority is limited by the doctrine of federal preemption rooted in the Supremacy Clause of the U.S. Constitution. U.S. CONST. art. VI, cl. 2. The authority of the COGCC to promulgate additions and amendments to its rules does not extend to matters regulated exclusively by federal law under the Natural Gas Act, 15 U.S.C. § 717 *et seq.*, and the Pipeline Safety Act, 49 U.S.C. § 60101 *et seq.* The Director has the authority, and has historically exercised the authority pursuant to 18 C.F.R. Parts 157.10(a) and 385.214, to seek incorporation into the certificate of public convenience and necessity issued by the Federal Energy Regulatory Commission for projects which are subject to its jurisdiction terms and conditions necessary or appropriate to address potential impacts to public health, safety and welfare, including the environment and wildlife resources.

Basis: The statutory bases for the proposed amendment are the Natural Gas Act, 15 U.S.C. § 717 *et seq.*, and the Pipeline Safety Act, 49 U.S.C. § 60101 *et seq.*

Purpose: Rule 201 is amended to ensure that the Commission's rules do not intrude upon matters regulated exclusively by federal law and do not extend beyond the Commission's statutory authority. The amendment is consistent with a statement read into the Hearing record by Acting Director Neslin on July 15, 2008, as follows, "The Commission will deliberate in August and try to reach final decisions concerning its proposed rules at that time. Any regulatory change adopted by the Commission in August will not apply to midstream operations or gas storage facilities. The Commission will hear from midstream operations and gas storage operations in October, and then the Commission will deliberate and take final action solely with regard to the application of its rules to midstream operations and gas storage operations."

Respectfully Submitted this 30th day of July 2008

By:

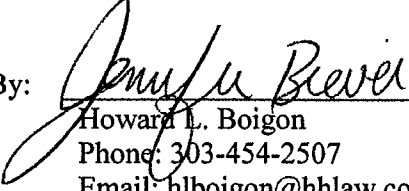


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CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of July 2008, the original and fifteen (15) true and correct copies of the foregoing **COLORADO INTERSTATE GAS COMPANY'S RESPONSE TO COMMISSION'S REQUEST REGARDING ALLOCATION OF HEARING TIME** were delivered via courier to:

Patricia Beaver, Hearing Manager
Docket No. 0803-RM-02
Oil and Gas Conservation Commission
1120 Lincoln Street, Suite 801
Denver, Colorado 80203

and two (2) true and correct copies were delivered via courier to:

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and a copy was sent by electronic mail to:


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and

All Parties on the COGCC Service List
for Docket No. 0803-RM-02



Joni Smith