

**BEFORE THE WYOMING PUBLIC SERVICE COMMISSION**

IN THE MATTER OF THE AMENDED )  
GENERAL RATE APPLICATION OF )  
PINEDALE NATURAL GAS, INC., FOR ) Docket No. 30016-41-GR-06  
AUTHORITY TO ESTABLISH A ) Record No. 10400  
REVISED OVERALL RATE OF )  
RETURN OF 11.5% TO REFLECT )  
CHANGES IN THE COSTS OF )  
PROVIDING NATURAL GAS SERVICE )

**PRE-FILED DIRECT TESTIMONY OF**

**Amy J. Zamora**

**On Behalf of the Office of Consumer Advocate**

**Testimony Filed: January 8, 2008**

**Hearing Begins: January 15, 2008**

1 **Q. PLEASE STATE YOUR NAME, OCCUPATION AND BUSINESS**  
2 **ADDRESS.**

3 A. My name is Amy J. Zamora. I am a Rate Analyst with the Wyoming Office of  
4 Consumer Advocate (OCA), 2515 Warren Avenue, Suite 304, Cheyenne,  
5 Wyoming, 82002.

6  
7 **Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND**  
8 **PROFESSIONAL EXPERIENCE.**

9 A. I graduated from the University of Wyoming in 1995 with a Bachelor of Science  
10 in Accounting. After graduating, I was employed as an accountant with a service  
11 company that conducted financial transactions with credit card companies  
12 nationwide. My duties included financial analyses for those clients to ensure  
13 proper commission payments, internal auditing of costs, application of payments  
14 from clients for bills rendered, and payroll. In September 2000, I began working  
15 as a Rate Analyst with the Wyoming Public Service Commission where I  
16 analyzed numerous regulatory applications filed by electric, natural gas,  
17 telecommunications and water utilities. Those applications included wholesale  
18 commodity cost pass-on filings, general rate cases, tariff filings, and other routine  
19 matters. I transferred to the OCA as a Rate Analyst in July 2003, where I have  
20 continued in a similar capacity.

21  
22 **Q. HAVE YOU FILED TESTIMONY WITH, OR TESTIFIED BEFORE, THE**  
23 **PUBLIC SERVICE COMMISSION IN OTHER PROCEEDINGS?**

24 A. Yes, I have filed testimony and testified as an expert witness in fifteen previous  
25 proceedings regarding the revenue requirement, cost of service, and rate design in  
26 general rate cases, as well as other types of applications such as pass-on filings.

27  
28 **Q. WHO DO YOU REPRESENT IN THIS PROCEEDING?**

29 A. As a member of the OCA, I am obligated by statute to represent the interests of  
30 Wyoming citizens and all classes of utility customers in matters involving public  
31 utilities.

1 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS**  
2 **PROCEEDING?**

3 A. The purpose of my testimony is to present the OCA's position regarding a limited  
4 number of issues that Pinedale Natural Gas (PNG, Pinedale, the Company) has  
5 requested be presented at the rehearing for this docket. The issues that I will be  
6 discussing are related to the recalculation of rate case expenses, the recalculation  
7 of the interest attributable to the Shareholder Loans, the basis for the depreciation  
8 rates that were used by the Commission, and the issue of the rate design/rate  
9 spread. Mr. Bryce Freeman will discuss the reset of the interest rate associated  
10 with the Company's debt.

11  
12 **Q. ARE YOU SPONSORING ANY EXHIBITS WITH YOUR TESTIMONY?**

13 A. Yes. I am sponsoring only one exhibit which shows the recalculation of rate case  
14 expenses (OCA Exhibit AJZ – 1).

15  
16 **Q. PLEASE EXPLAIN THE GENERAL GUIDING PRINCIPLES YOU USED**  
17 **FOR THE LEGAL AND CONSULTING FEES IN THE RATE CASE.**

18 A. Outside consulting fees and legal expenses can be incurred throughout a normal  
19 year without the additional costs that accompany rate cases. Standard regulatory  
20 practice calls for annually incurred expenses to be recovered in revenue  
21 requirement. This means that any legal or consultant expenses that occur year  
22 after year be fully recovered through rates each year since this is a normal year's  
23 expense. However, rate case expenses are not incurred every year, unless a rate  
24 case is filed every year. As such, the expenses should be recovered over the time  
25 period for which the rates are expected to be in effect. Most utility companies  
26 throughout Wyoming estimate that they will file a rate case every three years, on  
27 average. The OCA determined, through various conversations with PNG  
28 representatives, that the Company would probably not file another rate case for at  
29 least three years as well. Therefore, the OCA amortized the expenses associated  
30 with the rate case over a three-year period.

1 Q. DID THE OCA TRY TO VERIFY THE COMPANY'S LEGAL AND  
2 CONSULTING BILLS?

3 A. Yes. The OCA requested copies of PNG's legal and consultant bills for the  
4 calendar year 2006, which was also the test year in this case, to more accurately  
5 ascertain annually incurred expenses and those that were associated with this  
6 filing. The bills that were provided showed what was accrued to PNG from  
7 January through December 2006.

8  
9 Q. DID THE COMPANY PROVIDE ANY DATA OR ESTIMATES FOR  
10 ADDITIONAL RATE CASE COSTS, SUCH AS COSTS THAT WOULD  
11 BE INCURRED DURING THE HEARING, AFTER DECEMBER 2006?

12 A. No, it did not, even though the OCA did ask for the information in a data request.

13  
14 Q. WHAT WAS THE SPECIFIC DATA REQUEST THAT WAS SENT TO  
15 PNG REGARDING OUTSIDE CONSULTING FEES?

16 A. During my review of PNG's revenue requirement, I sent the Company the  
17 following data request on November 9, 2006:

18 Please describe in detail PNG's legal, expert and accounting expenses  
19 incurred since January 2005, *and those you estimate you will incur*  
20 [emphasis added] in connection with this proceeding.

21  
22 The response, dated December 14, 2006, stated:

23 PNG initially filed to establish an appropriate ROR. It has been forced  
24 to incur a great amount of expense since the filing. PNG has accrued  
25 the following expenses since January 2005:

26	Legal	\$ 28,412
27	CH Guernsey	\$ 12,374
28	Accounting	\$ in house
29	Testimony, prep	\$ in house

30 Of those outside expenses, all \$40,786 are attributable to the rate action  
31 starting September 2005. PNG *cannot predict future expenses*  
32 [emphasis added] as the proceeding has not been accomplished. See  
33 attachment.

34  
35 The intent of this request was not only to secure documentation to verify the  
36 Company's legal and consulting expenses over the last two years (to check for

1 reasonably), it was also to ask the Company to provide reasonable costs that it  
2 would incur from the rate case hearings based on verifiable fees from its legal  
3 counsel. I also had a face-to-face conversation with Mr. Mickey in late 2006  
4 about including estimated costs for the hearing. Again nothing was provided.  
5

6 **Q. WHEN WAS THE FIRST TIME THAT PNG REQUESTED TO RECOVER**  
7 **MORE LEGAL AND CONSULTING FEES THAN WHAT WAS**  
8 **SUPPORTED IN THE APPLICATION OR IN RESPONSES TO DATA**  
9 **REQUESTS?**

10 A. PNG did not request increased amounts in costs until it filed its second amended  
11 application on February 2, 2007. The second amended application included rate  
12 case costs of \$25,000 (Exhibit No. 2, Page 2, between lines 42 and 43). The  
13 application itself did not provide for any explanation or support for the new rate  
14 case cost number, nor did the testimony that was filed subsequently on February  
15 23, 2007. One could only assume, at that point, that the \$25,000 represented  
16 expenses totaling \$75,000 which had been amortized over three years. On March  
17 31, 2007, during the first day of the hearing, PNG witness Mr. Gilmer Mickey  
18 testified that he *estimated* the total cost of the rate case was between \$75,000 to  
19 \$85,000 dollars (Tr. 104). However, he did not volunteer any additional support  
20 (such as a trial balance or bills) for this new number during the hearing.  
21

22 **Q. WHAT SUPPORT DID PNG PROVIDE WITH THE AMENDED**  
23 **PETITION FOR REHEARING?**

24 A. Pinedale provided a trial balance of the accounts for Legal Fees and Other  
25 Professional Expenses as support for its rate case expenses. The trial balance  
26 included entries for Legal Fees from January 2006 through August 2007. The  
27 trial balance for Other Professional Expenses included entries from July 2006  
28 through June 2007. The consultants included in this account were CH Guernsey  
29 (cost of service) and Warren Associates (tax accountant).  
30

1 **Q. DO YOU AGREE WITH THE AMOUNTS THAT WERE PROVIDED IN**  
2 **THE SUPPORT?**

3 A. I do not dispute the amounts that are shown in the trial balances. However, I do  
4 disagree with recovering all the costs in rates.  
5

6 **Q. PLEASE PROVIDE THE RATE CASE COSTS THAT YOU**  
7 **RECOMMEND BE INCLUDED IN THE REVENUE REQUIREMENT TO**  
8 **BE RECOVERED THROUGH RATES.**

9 A. The OCA recommends that a total of \$29,492 in legal and other consulting costs  
10 be recovered through rates. This amount includes \$2,860 in normalized annual  
11 expenses (\$550 in collection fees and \$2,310 in legal fees) and \$26,632 in total  
12 amortized rate case expenses. The calculation of those amounts is shown on OCA  
13 Exhibit AJZ – 1.  
14

15 **Q. PLEASE EXPLAIN WHY YOU RECOMMEND LESS RATE CASE**  
16 **COSTS THAN WHAT PNG IS REQUESTING.**

17 A. There are several adjustments that I made to the requested amount of rate case  
18 costs as shown on Attachment B to the Amended Petition for Rehearing. The first  
19 adjustment was to exclude all expenses that were charged by Warren Associates.  
20 Mr. Roy Warren of Warren Associates testified at the hearing on April 3 and  
21 April 30, 2007. It was apparent during his testimony (Tr. 886-938) that he was  
22 not at all familiar with the regulatory paradigm and how that relates to record  
23 keeping and reporting practices for regulatory purposes. He further admitted  
24 during cross examination that he was not a rate accountant and had scanned the  
25 USOA in a single evening just two days prior to testifying (Tr. 901-902). Mr.  
26 Warren may be a competent tax accountant, but I do not believe that Mr. Warren  
27 should be considered an expert witness for this rate case, and therefore, ratepayers  
28 should not have to foot the bill for his lack of expertise in this area. However, Mr.  
29 Warren's regular annual charges were included elsewhere in the revenue  
30 requirement (Second Amended Application, Exhibit 2, Line 32).  
31

1 The second adjustment was to calculate a reasonable level of legal costs to be  
2 amortized for rate case purposes. The first part of the adjustment was to decrease  
3 the legal expenses to be amortized by a reasonable amount of costs that is  
4 expected during a normal year. This same adjustment was done in my pre-filed  
5 testimony. Legal expenses were also reduced by the amount billed on January 24,  
6 2006, the first billing during this month, since these related to services that were  
7 rendered in 2005, prior to the test year. The second part of the adjustment applied  
8 what the OCA believes is an appropriate level of prudent costs to be recovered.  
9 That level was then amortized over three years.  
10

11 **Q. WHY DOESN'T THE OCA BELIEVE THAT ALL THE LEGAL**  
12 **EXPENSES FOR 2006 AND 2007 ARE PRUDENT?**

13 A. As the Commission is well aware, throughout the course of these last two years  
14 Pinedale has had to appear before the Commission over and over again for failing  
15 to observe Commission rules and regulatory statutes as well as not fully  
16 cooperating with Commission Staff or the OCA. During the hearing, Deputy  
17 Chairman Oxley also pointed out this behavior while he was questioning Mr.  
18 Shute (Tr. 451). In addition, the Company has had to respond to numerous data  
19 requests for Commission Staff and OCA Staff more than once because of  
20 insufficient responses the first time around (all of which have to be reviewed by  
21 counsel). Not only did this occur in this case, but others as well. Pinedale was  
22 involved in five other cases (four pass-on filings and one tariff filing) during the  
23 course of 2006.  
24

25 **Q. WHY DID YOU DECIDE TO USE A THREE-YEAR AVERAGE OF THE**  
26 **EXPENSES FROM 2002-2005 TO CALCULATE A NORMALIZED**  
27 **ANNUAL LEVEL OF LEGAL COSTS?**

28 A. The OCA does not believe that 2006 was a normal year for *any* aspect of the  
29 Company's legal costs. In addition, the bills for the Company's legal counsel did  
30 not delineate to an adequate degree those charges that were for the rate case and  
31 those charges that were not. Therefore, the OCA averaged the previous three

1 years' legal costs to arrive at a reasonable level of costs to include on an annual  
2 basis and applied a percentage to use for the amortized costs.

3  
4 **Q. WHAT IS THE BASIS FOR EXCLUDING 30% OF THE REMAINING**  
5 **LEGAL EXPENSES FROM BEING RECOVERED THROUGH THE**  
6 **AMORTIZED PORTION OF THE EXPENSES?**

7 A. There really is no scientific or mathematical basis for this number. In looking  
8 back at the multitude of times that PNG was before this Commission in one forum  
9 or another, the OCA does not believe that all the legal costs for 2006 and 2007  
10 were necessary or prudent. The 30% disallowance is a reasonable level when  
11 reviewing at the Company's activities over the last two years. The Commission  
12 certainly has the discretion of changing this number if it believes that the number  
13 is too conservative or too aggressive.

14  
15 **Q. WHAT IS YOUR FEELING WITH REGARD TO INCLUDING COSTS**  
16 **THAT INCURRED AFTER THE TEST YEAR?**

17 A. The OCA does not object to including rate case expenses that occur after the test  
18 year such as costs for hearings and post-hearing briefs. These expenses are valid  
19 rate case costs and should be recovered in rates. This same type of information  
20 was provided in the filed applications by Kinder Morgan and Cheyenne Light,  
21 Fuel and Power in their most recent rate cases as estimates of these costs.  
22 However, as explained above, the OCA does not believe that all the legal  
23 expenses shown on Attachment B should be recovered.

24  
25 **Q. WOULD YOU PLEASE REMIND THE COMMISSION WHY THE OCA**  
26 **INCLUDED A LEVEL OF INTEREST RELATED TO THE**  
27 **SHAREHOLDER LOANS AS A SOURCE OF INCOME?**

28 A. The Shareholder Loan account is an interest bearing asset that has developed from  
29 Pinedale's owners taking money from the Company to fund other activities.  
30 From 1996-2006, the balance of those loans increased to over \$1 million. Mr.  
31 Mickey and Mr. Shute were not paying back this money in a timely manner in

1 order for those funds to be used by the utility for expenses and investment.  
2 Interest on this money should be charged to the owners as an incentive to pay  
3 back the money to the Company as well as to entice the owners to keep the  
4 Company's funds ring-fenced, or kept separate and apart, from their other  
5 endeavors.

6  
7 **Q. WHAT LEVEL OF INTEREST DID YOU RECOMMEND IN YOUR PRE-**  
8 **FILED TESTIMONY TO INCLUDE AS INCOME?**

9 A. In reviewing the detail for this account that was included as a response to a data  
10 request, I found that Mr. Mickey and Mr. Shute had paid \$69,384.05 in interest at  
11 the end of 2006. There was no indication as to what the basis was for the amount  
12 of interest that was paid. I simply used that amount as the level of interest to  
13 include in the revenue requirement (which appeared to be somewhere around  
14 6%); I did not base the amount on any type of balance or interest rate.

15  
16 **Q. DO YOU AGREE WITH THE AMOUNT OF INTEREST THAT WAS**  
17 **CALCULATED BY THE COMMISSION TECHNICAL STAFF AND**  
18 **INCLUDED IN THE REVENUE REQUIREMENT IN THE FINAL**  
19 **ORDER?**

20 A. Based on the information that the OCA received from PNG, it appears that the  
21 amount of interest calculated by the Commission Technical Staff (CTS) may be  
22 incorrect, or it may not. I do not know from what data the CTS calculated its  
23 interest on. However, in a data request response that the OCA received, the  
24 balance of the Shareholder Loans at the end of 2006 was \$1,028,626.55, which is  
25 slightly different than the amount of \$1,027,977.53 that is shown on Attachment  
26 A to the Amended Petition for Rehearing. Applying the CTS recommended  
27 interest rate of 6% to that balance the OCA has would give an annual interest  
28 amount of \$61,717.59.

29  
30 **Q. DO YOU AGREE WITH THE METHODOLOGY THAT THE CTS HAS**  
31 **USED TO CALCULATE INTEREST?**

1 A. Yes, to the extent that it's a start. I think more needs to be done. In my pre-filed  
2 testimony (Page 10, Line 28), I stated that the owners did not have any set  
3 repayment structure in place regarding these loans. Since the hearing, the owners  
4 have repaid a large portion of the loans, but still have not stated how and when  
5 that money will be returned to the Company. The idea of a repayment plan was  
6 noted in the Commission's Memorandum Opinion, Findings and Order for this  
7 case (Paragraph 116b).

8  
9 But the OCA also believes that if an interest rate is to be assigned to PNG for  
10 these shareholder loans, then a more precise procedure should be in place.  
11 Currently, PNG is ordered to apply 6% on an annual basis. However, I do not  
12 think there is any basis for that particular rate. Currently, utility companies apply  
13 the deposit rate (which changes from year to year) to over-collected balances and  
14 compound the interest monthly. In the Vista West water case in 2003 (Docket  
15 No. 80007-18-WR-3), the owner was ordered to pay interest on an annual basis at  
16 the company's average cost of debt for the same type of loans. The details  
17 included in either of these methodologies should be considered in setting an  
18 interest rate for PNG's Shareholder Loans.

19  
20 **Q. WHAT DOES THE OCA RECOMMEND FOR THE LEVEL OF**  
21 **INTEREST TO BE APPLIED TO THE SHAREHOLDER LOAN**  
22 **BALANCE?**

23 A. The OCA recommends that a rate equal to the Company's current weighted  
24 average cost of debt from the most recent rate case be used as the interest rate to  
25 be applied to the loans. The OCA also recommends that the interest be  
26 compounded on an annual basis. This would correspond to the OCA's arguments  
27 that the money taken from the Company could have been used to finance the  
28 expenses and investments that were eventually financed through bank loans, for  
29 which customers are paying for in rates on an annual basis.

1 **Q. DOES THE OCA AGREE WITH PINEDALE THAT THE LEVEL OF**  
2 **INTEREST INCOME SHOULD NOW BE DECREASED BECAUSE MR.**  
3 **MICKY AND MR. SHUTE HAVE REPAID SOME OF THE BALANCE?**

4 A. No. The test year for this case was the 12 months ending December 31, 2006,  
5 with adjustments for known and measurable changes. The Commission must  
6 consider the regulatory principle of matching revenues to expenses during a given  
7 time period. Including any changes to any item in the revenue requirement  
8 simply because time has passed since the hearing would violate the matching  
9 principle since not all items were updated. These changes would require a new  
10 test year that would culminate in a new rate case (as it is, the test year for this  
11 case is on the verge of becoming stale). The Company may certainly file a new  
12 rate case that would include the lower balance on which to calculate interest  
13 income.

14  
15 The owners had not made an attempt to pay the loans until the last day of the  
16 hearing. After reviewing the history for 2007 of the account, I would like to note  
17 that in June, September and October, money continued to be siphoned out to the  
18 owners. Some payments had also been made, with the largest payment by far  
19 being made in October 2007, after the original Petition for Rehearing was filed.  
20 But, again, the payment was made well after the end of the test year and the  
21 conclusion of the hearing.

22  
23 **Q. HOW DOES THIS CHANGE COMPARE TO THE CHANGES IN RATE**  
24 **CASE EXPENSES THAT OCCURRED AFTER THE TEST YEAR?**

25 A. Rate case expenses that occur after the test year are normally included in the  
26 revenue requirement as estimates and are presented at or before the hearing. As  
27 discussed earlier, I did request this information prior to the hearing and would  
28 have included a prudent amount in my adjusted test year results. However, the  
29 information was not provided. We now know the actual amount of those costs.  
30 In essence, the proper starting point for calculating legal costs has finally been  
31 made whole.

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The payments to the shareholder loans was not even a ‘blip on the radar screen’ until Mr. Mickey presented the idea of payments to the loans on the last day of the hearing in order to try to settle with the Commission. This was not a known and measurable adjustment to the test year for the period in which rates were to be effective.

**Q. WHAT DOES THE OCA RECOMMEND WITH REGARD TO THE INITIAL BALANCE OF THE LOAN ACCOUNT TO WHICH INTEREST WILL BE CHARGED?**

A. The OCA recommends that the initial balance be \$1,027,977.53, as shown on Attachment A, if the CTS is able to identify and be satisfied with any discrepancies between its data and the Company’s data. The difference from PNG’s and the OCA’s data is immaterial.

**Q. DO YOU AGREE WITH THE BASIS OF THE DEPRECIATION RATES AS FOUND BY THE COMMISSION?**

A. Yes, I do. During my review of this case, I attempted to compute reasonable depreciation rates/expenses based on the data and information that I had received from Pinedale. I was able to break out some plant into difference categories, but left the remaining plant with the local distribution plant (LDC). Most of that plant could be considered as pipe, meters, and buildings. All of those items are commonly depreciated over an average life of 40 years. I then compared my results to those that were included in the most recent depreciation studies of Kinder Morgan Inc. and Cheyenne Light Fuel and Power to ensure that my rates were reasonable.

The Commission requested that those entire depreciation studies be filed as late filed exhibits. The exhibits were filed May 1, 2007, and were made part of the record. The CTS made a recommendation for depreciation rates that used these

1 studies as the basis for these rates, which were slightly lower than what was  
2 recommended by the OCA.

3  
4 **Q. WHAT ARE YOUR THOUGHTS WITH PINEDALE'S CURRENT RATE**  
5 **DESIGN AND RATE SPREAD?**

6 A. As the Commission is well aware, this rate case was preceded by a pass-on where  
7 the Company was found to be over-earning its allowed rate of return. The OCA  
8 firmly believes that the Company's rate design may provide for some customers  
9 to subsidize others and that its current rate spread inherently provides for a  
10 potential over-earnings situation.

11  
12 PNG's rate design includes only one distinct class (Schools) and a class for every  
13 other customer (residential, small commercial, large commercial, etc.). It also  
14 does not have a good cost of service study to calculate what it costs to serve each  
15 type of customer. Based on meter size alone, it may cost the Company less to  
16 serve a residential-type customer than it would to serve a large commercial  
17 customer such as the car dealerships/garages. However, since these two  
18 customers are in the same class, they are charged the same amount; the residential  
19 customer is paying some of the large commercial customer's cost.

20  
21 Pinedale's current rate spread is not conducive to a utility that is experiencing the  
22 phenomenal growth that PNG is experiencing. The high non-gas volumetric rates  
23 will produce more revenues from the additional dekatherms sold to new  
24 customers than may have been included in rates. Using a cost of service study to  
25 compute a more appropriate monthly charge and non-gas volumetric rate would  
26 be ideal. However, a useful study was not done in this case.

27  
28 **Q. DO YOU AGREE WITH THE RATE DESIGN/RATE SPREAD THAT**  
29 **WAS APPROVED BY THE COMMISSION?**

30 A. During the course of this entire, long proceeding, the CTS was also very aware  
31 that PNG's current rate design and rate spread were inadequate. Using a

1 surrogate study, Mr. Biedermann computed a different rate design than was  
2 recommended by the Company as well as the OCA. The OCA believes that the  
3 Commission adopted rate design and rate spread are appropriate. The rate design  
4 proceeds in the direction of eliminating subsidies. The rate spread, increasing the  
5 customer charge and decreasing the volumetric charge, will provide some  
6 stability in revenues in that they will not increase as quickly in comparison to the  
7 growth in PNG's system which would help keep PNG's return below the  
8 authorized rate of return. The OCA is concerned, however, that the  
9 Commissions' rate design, as proposed by Mr. Biedermann during the  
10 Commission's deliberations may lack full support in the evidence of record in this  
11 matter.  
12

13 **Q. DOES THIS COMPLETE YOUR PRE-FILED TESTIMONY?**

14 **A.** Yes, it does.