

DEVIN D. PARRAM
614.334.6117
dparram@taftlaw.com

September 19, 2016

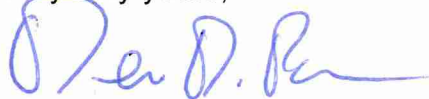
Barcy McNeal
Public Utilities Commission of Ohio
180 East Broad Street, 11th Floor
Columbus, OH 43215

**Re: Case Nos. 16-354-GA-AIS and 16-355-GA-UNC – filing in
compliance with the Stipulation and Recommendation**

Dear Ms. McNeal:

On August 22, 2016, Brainard Gas Corp, Northeast Ohio Natural Gas Corp., Orwell Natural Gas Company, Spelman Pipeline Holdings, LLC ("Spelman") (collectively referred to as the "Companies"), and Commission Staff filed a Stipulation and Recommendation ("Stipulation") in the above-referred cases. Pursuant to paragraph III.A.13 of the Stipulation, the Companies agreed to file orders from other jurisdictions regarding subsidiaries of Gas Natural Inc. ("GNI") that are seeking financing approval. Enclosed is a final order issued by the Montana Public Service Commission ("MPSC").

Very truly yours,



Devin D. Parram

DDP/ljw

Service Date: September 13, 2016

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

IN THE MATTER of the Application of Energy)	REGULATORY DIVISION
West Incorporated, Energy West Montana, Inc.,)	
and Cut Bank Gas Company for Approval of)	DOCKET NO. D2016.2.17
Corporate Reorganization and Debt Replacement)	
Financing)	ORDER NO. 7478a

FINAL ORDER

PROCEDURAL HISTORY

1. On February 17, 2016, Energy West Incorporated (EWI), Energy West Montana, Inc. (EWM), and Cut Bank Gas Company (CBGC) (collectively, Energy West), filed an Application with the Montana Public Service Commission (Commission) requesting approval of Corporate Reorganization and Debt Replacement Financing. Energy West requested an expedited review of its Application. *See* Application 22 (Feb. 17, 2016).

2. The Commission issued a *Notice of Application and Intervention Deadline* on February 19, 2016. On March 14, 2016, the Commission issued a *Notice of Staff Action Granting Intervention* to the Montana Consumer Counsel (MCC).

3. On March 25, 2016, the Commission issued *Procedural Order 7478*, outlining procedural rules and a schedule for the proceeding.

4. On June 24, 2016, the Commission issued a *Notice of Staff Action* amending *Procedural Order 7478*, allowing parties to file rebuttal testimony and cross intervenor testimony by June 30, 2016.

5. On July 6, 2016, the Commission issued a *Notice of Staff Action* amending *Procedural Order 7478*, allowing parties to file rebuttal testimony and cross intervenor response testimony by July 8, 2016.

6. On July 12, 2016 the Commission issued a *Notice of Public Hearing*. The Commission held the public hearing on August 8, 2016, at the City Commission Chambers, 2 Park Drive South, Great Falls, MT.

7. EWI submitted post-hearing, late filed exhibits EWI-5, EWI-6 and Supplemental Response to Data Request MCC-017c.

8. Both of the parties waived their opportunity for post hearing briefing. Hr'g Tr. 149:12–13 (Aug. 8, 2016).

FINDINGS OF FACT

9. Energy West requests authority to reorganize the corporate structure of Gas Natural Inc. (GNI) and replace its current debt financing. Application at 1. GNI is the ultimate parent company of EWM and CBGC. *Id.* Under the proposed reorganization, GNI will assume direct ownership of all unregulated companies, dissolve all intermediary holding companies, including EWI, and replace them with a newly formed intermediary holding company (NIC). NIC will be the intermediary holding company for all of GNI's regulated utilities. Ex. EWI-1 5:10-23. Under this organizational structure, Energy West asserts the Commission would continue to regulate EWM and CBGC but would not regulate NIC. Data Response (DR) MCC-11b (April 6, 2016); Hr'g Tr. 9:3-18.

10. Energy West testified that NIC would be a true intermediary holding company that would not provide any public utility service in any of the states in which its utility subsidiaries operate. Ex. EWI-1 14:8-9. Therefore, Energy West asserted, NIC would not be a “public utility” under Montana law, or the law of any of the other jurisdictions in which its utilities operate. *Id.* 10-11.

11. Energy West testified that the current corporate structure evolved over time as the result of acquisitions, mergers, and divestitures, and not as the result of a comprehensive or planned overall corporate organization. It stated that GNI has encountered multijurisdictional regulatory issues because EWI, which is regulated by this Commission, is the direct and indirect parent of each of the regulated utilities operating in other states. It contended that the current corporate structure is difficult for both regulators and lenders to understand. Ex. EWI-1 6:3-10.

12. Energy West asserted that its proposed corporate structure would eliminate these issues and better separate GNI's regulated utilities from its nonregulated business enterprises. Energy West testified that the proposed structure would place EWM and CBGC under separate “silos” for corporate formation, operational, and financing purposes. Ex. EWI-1 6:11-14. Energy West stated that this would ensure consistent governance of all regulated utilities; each state

commission would regulate only the public utilities operating in its state, which would eliminate unintended regulatory conflicts between jurisdictions. *Id.* 11-21.

13. Energy West witness Jed Henthorne testified that the proposal accomplishes the spinout of the Maine and North Carolina properties (Bangor Gas and Frontier Natural Gas) as directed in prior Commission orders. Ex. EWI-2 11:16-12:10; *See* Order 6960a, Dkt. 2008.5.57, ¶¶ 9(d), 33 (June 25, 2009) and Order 7209c, Dkt. 2012.3.20, ¶ 97(a) (August 15, 2012).

14. Energy West stated that NIC and its Board would oversee “Commission compliance, ring fencing adherence, operations and safety compliance, engineered strategic growth planning...” Ex. EWI-1 15:2-12. Each utility would “be solely responsible for the operation of its own utility and making its own decisions related to the operations of the utility.” *Id.*

15. Energy West stated that NIC would not control what dividends are paid from the utilities. Dividend decisions would be made by each utility’s management team. Any utility dividend payments would be paid to NIC, which would then make dividend payments to GNI. Energy West asserted this procedure conforms with standard accounting practice. Ex. EWI-4 3:1-12.

16. Energy West has not prepared corporate governance documents that define NIC’s role in the GNI corporate family. It stated that if its reorganization proposal is approved, Energy West will draft appropriate documents and present them to the Commission upon request. Ex. EWI-4 4:3-12. It contended that the Commission’s lack of regulatory authority over NIC would not impair its ability to set rates for EWM and CBGC. *Id.* 13-17.

17. The MCC testified that the Commission approved the existing holding company relationship between GNI and the EWI subsidiaries in Docket D2008.5.57, Order 6960a. Ex. MCC-1, 7:6-8:2. The Commission has since retained authority over EWI, EWM, and CBGC. *Id.* 9:1-6.

18. The MCC asserted that the only effective difference between the present GNI/EWI holding company structure and the proposed structure is that currently GNI and its subsidiary each own a mix of regulated and unregulated subsidiaries. The proposed structure would place all regulated subsidiaries under NIC, with all unregulated subsidiaries held separate from NIC. Ex. MCC-1, 10:6-13. With respect to ownership and control, the MCC stated there is no real difference between the present GNI ownership of EWI, EWM, and CBGC, and the

proposed GNI ownership of NIC, EWM, and CBGC. They are both holding company corporate structures under the ownership and control of GNI. *Id.* 11:7-12.

19. The MCC asserted that the Commission expressed concern with holding company structures in Order 6960a, and that this concern remains valid with respect to the current and proposed corporate structures. Ex. MCC-1, 12:1-4. It said this concern may encourage the Commission to exercise regulatory authority over NIC. *Id.* 4-7.

20. EWM is currently committed to a limited recourse guarantee for access to an \$11.2 million allocation of a \$30 million line of credit (LOC) provided by Bank of America (BOA). The LOC expires in April 2017. EWM is also allocated \$7.58 million in senior unsecured notes with Allstate/CUNA that are due in June 2017. Ex. EWI-3 2:19-3:3:16. CBGC is not required to guarantee the LOC and is not allocated any part of the LOC or Allstate/CUNA debt. *Id.*

21. Energy West requested authority for GNI to obtain a \$42 million revolving LOC from BOA. The LOC would issue to GNI and replace EWI's current BOA financing. The revolver would include a \$15 million sublimit for stand-by letters of credit, and would be available for five years from its closing in late September, 2016. GNI would be the sole borrower and guarantees to BOA would be required only from GNI, NIC, and the unregulated subsidiaries of GNI. No direct recourse from BOA would extend to any regulated subsidiaries downstream of NIC, including EWM and CBGC. Ex. EWI-1 9:7-20.

22. The \$42 million line of credit from BOA would be split by GNI into borrowing limits for each of GNI's utility subsidiaries and also for GNI and its nonregulated subsidiaries. The sum total of these borrowing limits would be \$42 million. Energy West stated that there would be no sharing of any of the portions of the line of credit allocated to a utility. Each utility subsidiary would have its own line of credit with its own borrowing limit, defined by a separate loan agreement between the subsidiary and GNI. Ex. EWI-2 12:1-7.

23. Energy West requested authority for GNI to obtain up to \$50 million in long-term debt to be issued as senior, unsecured notes. This debt would fully replace the Allstate/CUNA facility. Ex. EWI-1 9:21-10:3. The loan would have a term of twelve years, with a locked-in rate of 4.23 percent if closed by October 27, 2016. Hr'g Tr. 92:13-17; See DR MCC-017c, Ex. A FOF ¶ 21(b) (Aug. 3, 2016).

24. Energy West requested authority for GNI to obtain a \$7 million loan to consolidate debt incurred to purchase an SAP Operating System specifically developed for GNI and its subsidiaries, which has been deployed company-wide. Ex. EWI-1 10:10-20. The SAP financing would be a four-year debt facility requiring the software license as collateral. *Id.*

25. These instruments would not be secured by any public utility assets nor guaranteed by EWM or CBGC. Ex. EWI-3 6:6-20. GNI would allocate to EWM \$10 million from the LOC revolver, \$7.58 million in long-term debt, and \$1.82 million in SAP financing. GNI would allocate CBGC \$0.45 million from the LOC, \$0.55 million in term debt, and \$0.15 million in SAP financing. *Id.* 7:10-21. The proposed allocations of debt to EWM and CBGC require Commission approval pursuant to Mont. Code Ann. § 69-3-501 (2015).

26. GNI would execute separate intercompany notes memorializing the obligations from EWM and CBGC to GNI for each facility to complete the new debt structure. These notes would be independent of the obligations of GNI and all other utilities, eliminating the potential for cross-collateralization and cross-default. Ex. EWI-1 12:3-9. Each utility could use funds available from the BOA refinancing package for the following purposes: refinancing of the current outstanding debt; short term funding of capital additions and system expansions; funding of system betterment and replacements; payment for working capital needs; payment for support services benefitting the utility; and payment for nonregulated activities that benefit the specific utility if approved by the Commission. Ex. EWI-3 2:11-16.

27. Energy West asserted that EWM, CBGC, the executive team of EWI, and the new executive team of GNI carefully reviewed the operating needs for EWM and CBGC and concluded that the amounts provided by these facilities should be sufficient to give EWM and CBGC adequate headroom to meet their operational needs and anticipated expenses including the cost of gas, storage gas, and system maintenance. Ex. EWI-1 12:12-20.

28. On August 17, 2016, Energy West filed Exhibit EWI-6, showing calculations of headroom above maximum draw on the lines of credit for EWM and CBGC. Energy West calculated headroom for EWM to be 26 percent of its \$10 million LOC, and headroom for CBGC to be 63 percent of its \$0.45 million LOC. The CBGC maximum draw of \$1.4 million was reduced by cash on hand, long-term debt transfer, and capital infusion from EWI before its application to the calculation of headroom. The \$1.4 million draw was due to capital expenditures to replace and repair the CBGC system. Ex. EWI-6.

29. The MCC stated the Commission last approved rates in Docket D2010.9.90, Order 7132c, using test year cost of service 2009. Ex. MCC-1 16:3-6. In that docket the Commission approved an overall rate of return of 8.7 percent based upon a 55 percent equity and 45 percent debt structure, 10.5 percent return on equity, and debt cost of 6.5 percent. *Id.* 9-11. The MCC asserted that both debt costs and equity costs for regulated gas utilities like EWM are lower today than the 6.5 percent cost of debt and the 10.5 percent cost of equity approved in Order 7132c. *Id.* 16:12-17:16.

30. The MCC asserted that EWM and CBGC should file general rate cases in 2017, based upon a 2016 test year and then current costs of equity and debt, to reflect current equity rates and GNI's cost of debt under the BOA refinancing package. Ex. MCC-1 19:14-20:12. EWM and CBGC agreed to file a new rate case by September 30, 2017, based upon a calendar year 2016 cost of service test year and then current costs of equity and debt. Ex. EWI-4 5:1-8.

31. Energy West did not provide articles of incorporation for NIC describing powers and limitations accorded to the holding company. Energy West agreed to provide articles of incorporation upon conditional approval of the application. Hr'g Tr. 48:22-49:22.

32. Energy West provided current Commission-imposed ring fencing provisions, a red-lined version of those ring fencing provisions showing its proposed changes, and a clean version of its proposed ring fencing provisions in response to data request PSC-011.

33. On August 17, 2016, Energy West filed Exhibit EWI-5 to demonstrate GNI's recognition of the Commission's authority under Mont. Code Ann. § 69-3-106 to inspect the books, accounts, papers, records and memoranda of any public utility operating in the State of Montana. In Exhibit EWM-5 GNI recognizes that pursuant to Mont. Code Ann. § 69-3-1502, a regulated energy utility may not enter into a material affiliate transaction without the Commission's review and approval. The Exhibit provides a commitment by EWM and CBGC to obtain and provide to the Commission, upon request or as otherwise required, the information required under these statutory provisions. As the ultimate upstream parent of EWM and CBGC, GNI also commits to providing information to these utilities to meet reporting obligations and other regulatory responsibilities. Ex. EWI-5.

34. The Commission finds that with the specific conditions included in this order, approving the application is reasonable and in the public interest. The authority granted in this

order applies only to EWM and CBGC. The conditions to this grant of authority are fully described below.

35. The Commission declines to rule on its jurisdiction over NIC in this order. The Commission will reexamine this issue at a later date when more information, such as the articles of incorporation or governance affecting NIC, are made available. *See also infra* ¶¶ 57-61.

36. At hearing, when Energy West witness Kevin Degenstein was asked if he would seek Commission approval for any sale and transfer of shares of NIC, he appeared to commit to doing so, as long as he led the company: “Yeah, I'm not here to make legal interpretations. But if you're asking me would I file an application for approval, based on how I operate, yes, I would.” Hr’g Tr. 40:17-20; *see, e.g., In re Liberty Utility Co.*, Docket D2014.12.99, Order 7392r (Jul. 28, 2016) (describing the complications of an unauthorized sale and transfer of a Montana public utilities and the need to prevent such behavior). The Commission appreciates Mr. Degenstein’s pledge, but is not satisfied that such a sale and transfer should be subject only to the judgment of the corporation’s managers. Instead, the Commission finds that Energy West’s application is found reasonable and in the public interest only if EWM, CBGC, NIC, and GNI expressly consent to Commission approval of the sale or transfer of CBGC, EWM, or the stock of upstream companies. That consent must be filed as part of a compliance filing before the transaction may close. *See also infra* ¶¶ 57-61.

37. These conditions examining the upstream ownership of EMW and CBGC are necessary due to GNI’s past relationship with its subsidiaries. The Commission has previously found “GNI’s influence over EWI troubling based on the stipulated ring-fencing requirements established in previous Commission orders.” *In re Energy West Inc.*, Docket D2014.9.87, Order 7376a ¶ 30 (Nov. 25, 2014) (citing Order 7209e (Sept. 18, 2014); Order 7209d (Sept. 16, 2012); Order 7209c (Aug. 14, 2012)). Even if GNI has made changes in its management apparently improving the relationship between it and its subsidiaries, the Commission still has doubts about the meaningfulness of the separations between the corporations in the current GNI family. Hr’g Tr. 21:10-26:4.

38. Typically, an application such as Energy West’s would include details of the cost of debt and the effect on the regulated company’s overall capital structure. However, in this case Energy West’s application did not contain information on its capital structure, and it only provided information regarding the likely cost of debt shortly before the hearing. *See* DR MCC-

017c, Ex. A FOF ¶ 21(b) (stating a locked in interest rate of 4.23 percent in the Order of the North Carolina Commission approving Frontier Natural Gas Company LLC's application).

39. **The Commission's approval in this case does not express or imply cost of capital approval.** The Commission finds the transaction reasonable, in part, because the Commission can make adjustments to the cost of capital in the forthcoming rate case based on an inquiry into whether the cost of debt reasonably reflects the cost of debt that EWM/CBGC should attract and whether the capital structure has too much equity thickness. In its rebuttal testimony Energy West agreed to file a rate case for EWM and CBGC by September 30, 2017 based on a calendar 2016 test year. EWI-4 5:1-6. *Supra* ¶ 30.

40. Messrs. Henthorne and Degenstein stated Energy West would aim for a 50 percent equity to 50 percent debt capital structure, with an assumption that its LOC revolver would be fully committed for the purpose of calculating the debt component of the capital structure. Hr'g Tr. 89:3-90:15; 104:17-105:1. However, Henthorne also testified that Energy West would likely not fully commit its LOC revolver, meaning that the actual capital structure is likely to have greater equity thickness. In other words, the percentage of equity in the capital structure that EWM would propose for ratemaking purposes would almost certainly exceed 50 percent. *Id.* at 116:12-117:19. This docket contains no evidence that this is a reasonable capital structure given current market conditions and the profile of EWM and its parents. The Commission will rule on this issue only in the context of the next ratemaking docket, and this Order should not be taken as evidence of the reasonableness of the likely capital structure of EWM.

41. The Commission finds that in order to reasonably protect utility customers, it must also **modify Energy West's proposed changes to the ring fencing provisions approved in Order 7209c** as a condition of its approval in this case. The Commission approves selected changes proposed by Energy West in DR PSC-011(b) and PSC-011(c) and finds additional provisions are also required. The approved ring fencing provisions are identified in Attachment A to this Order.

42. **The Commission approves Energy West's reiteration of current ring fencing provisions in Section b regarding Commission access to all books of account, documents, data, and records of their affiliated interests pursuant to Mont. Code. Ann. § 69-3-106.** *Supra* ¶ 33.

43. The Commission finds that to protect the interests of EWM, CBGC, and their ratepayers certain additional ring fencing measures must be adopted. These additional measures have been approved by other state regulatory commissions. This approach will also standardize the regulatory conditions to which NIC-held utilities are subject.

44. Energy West agreed to limitations on dividend payouts similar to limitations ordered in other jurisdictions. Energy West agreed that such limitations could be tied to net income levels, restricted access to revolving credit, and material default, or insolvency of a parent or affiliate. Hr'g Tr. 94:19-95:12.

45. On August 2, 2016, the North Carolina Utilities Commission (NCUC) approved the request of Frontier Natural Gas Company to engage in a corporate reorganization and debt financing. As a condition of its regulatory approval, NCUC prohibited Frontier Gas from making distributions to any affiliates other than NIC and GNI, and prohibited any distribution to GNI (directly or through NIC) exceeding 100 percent of Frontier's net income calculated on a two-year rolling average basis. DR MCC-017c, Ex. A, Appendix A, ¶ 6. NCUC also prohibited Frontier from making cumulative distributions exceeding the amount of retained earnings on the day prior to the closure of its 2016 financing plus any future earnings recorded by Frontier subsequent to the closure. NCUC reserves the right to impose future limitations on the distributions of Frontier. *Id.*

46. On August 19, 2016, the Maine Public Utilities Commission (MPUC) approved a Stipulation allowing Bangor Gas Company to engage in a corporate reorganization and debt financing. The Stipulation restricts distributions of Bangor Gas to NIC to no more than 100 percent of net income calculated on a two-year rolling average basis, and requires Bangor Gas to suspend distributions if its access to the LOC revolver is impaired. DR MCC-017c, Ex. B, *Stipulation*, pp. 14-15, Conditions 7, 8. Bangor Gas must also suspend distributions in the event that Bangor Gas, NIC, GNI, or any affiliate experiences material default with respect to obligations under the intercompany agreements, or files for bankruptcy. Distributions shall not resume until receiving MPUC approval. *Id.* pp. 16-17, Conditions 17-20.

47. This Order incorporates limitations on dividend distributions of EWM and CBGC, as described in Attachment A, ¶¶ 12-16, which resemble those approved in the other jurisdictions. Distributions may be made to NIC. Annual distributions shall not exceed 100 percent of two-year rolling average net income. Distributions must be suspended if access of

EWM or CBGC to the BOA LOC revolver is impaired; or if EWM, CBGC, NIC, GNI, or any other subsidiary of NIC or GNI experiences material default with respect to obligations under the intercompany agreements, or files for bankruptcy. Distributions shall not resume without Commission approval. The Commission reserves the right to impose future limitations on the distributions of EWM and CBGC, which must provide a complete record of distributions in their rate case filing in 2017.

48. The Commission finds the proposed refinancing and reorganization, with the attached ring fencing provisions and conditions to which consents are required prior to closing, are in the public interest. *See* Mont. Code Ann. § 69-3-504(1).

CONCLUSIONS OF LAW

49. All findings of fact that are properly conclusions of law are incorporated herein and adopted as such.

50. The Commission has provided adequate public notice of all proceedings, and an opportunity to be heard to all interested parties in this docket. Mont. Code Ann. § 69-3-104.

51. The Commission supervises, regulates, and controls public utilities pursuant to Title 69, Chapter 3 of the Montana Code Annotated. *Id.* § 69-3-102.

52. Energy West Incorporated, Cut Bank Gas Company, and Energy West Montana are public utilities subject to the jurisdiction of the Commission.

53. “**The commission, any commissioner, or any person or persons employed by the commission for [the purpose of inquiring into the management of the business of all public utilities], upon demand, has the right to inspect the books, accounts, papers, records, and memoranda of any public utility and to examine, under oath, any officer, agent, or employee of the public utility in relation to its business and affairs.**” *Id.* § 69-3-106.

54. The Commission has the authority to regulate material affiliate transactions. *Id.* § 69-3-1501 to -1503.

55. The Intercompany Financing Package terms for EWM and CBGC require Commission approval pursuant to Mont. Code Ann. § 69-3-501 to -507.

56. The Commission shall not enter its written order approving the proposed **financing unless the Commission finds: “(1) such transactions are inconsistent with the public interest; (2) the purpose or purposes thereof are not permitted by this part; or (3) the aggregate**

amount of the securities outstanding and proposed to be outstanding would exceed the fair value of the properties and business of the public utility.” *Id.* § 69-3-504.

57. The Commission has authority to do all things necessary and convenient in the exercise of the powers granted to it and to regulate the mode and manner of all investigations and hearings before it. *Id.* § 69-3-103.

58. Public utilities are required to provide reasonably adequate service and facilities at just and reasonable rates. *Id.* § 69-3-201.

59. The Commission may examine and scrutinize upstream ownership of Montana public utilities. *See Mountain States Tel. & Tel. Co. v. Dep’t of Pub. Serv. Regulation*, 191 Mont. 331, 624 P.2d 481 (1981) (allowing the Commission to use the concept of double leverage to incorporate parent’s cost of capital into the utility’s weighted average cost of capital); *Gallatin Nat. Gas Co. v. Pub. Serv. Comm’n*, 79 Mont. 269, 256 P. 373 (1927) (allowing the Commission to collect annual reports from the upstream parent, which exercised complete control over its regulated utility subsidiary).

60. The Commission has the authority to regulate utility practices even when those practices are undertaken by parent companies. *See* Mont. Code Ann. §§ 69-3-321(1)(b), -330(3) (placing utility “practices” within the regulatory purview of the Commission); *In re Havre Pipeline Co., LLC*, Dkt. D2013.7.57, Order 7307a, ¶¶ 20–22 (Mont. Pub. Serv. Comm’n Nov. 14, 2013) (finding for Commission jurisdiction over sales and transfers).

61. Pursuant to its authority, the Commission has jurisdiction over and must approve any corporate reorganization of a public utility to assure generally that utility customers will receive adequate service and facilities at just and reasonable rates and that the Commission’s ability to perform its statutory functions will not be impaired. *See, e.g., In re Babcock & Brown Infrastructure Ltd.*, Dkt. D2006.6.82, Order 6754e, ¶¶ 24–25 (Mont. Pub. Serv. Comm’n Aug. 1, 2007) (citing Mont. Code Ann. §§ 69-3-321, -324, -330, -501, -504).

ORDER

62. The Application for authorization to engage in financing transactions and corporate reorganization is approved subject to the conditions stated in this Order.

63. The Commission will continue to maintain jurisdiction over EWM and CBGC and reserves the right to rule on the Commission's jurisdiction of the new to be formed holding company, NIC.

64. Energy West must provide consent that sale and transfer of EWM, CBGC, and the stock of upstream companies requires Commission approval as part of a compliance filing before the transaction may close.

65. EWM and CBGC will file with the Commission any subsequent orders from the Ohio, Maine and North Carolina commissions not already provided in DR MCC-017(c) within 60 days of the loan closing.

66. EWM and CBGC will file fully executed copies of all intercompany loan agreements and all fully executed GNI loan agreements within 30 days of loan closing.

67. Within 10 days of its formation, EWM and CBGC will provide NIC's written articles of incorporation, and EWM and CBGC will provide written statements confirming that NIC will act in relation to GNI and EWM and CBGC consistent with the terms of this order and as represented by Energy West throughout this proceeding.

68. EWM and CBGC will file proof of dissolution of all companies represented to be disbanded in this proceeding.

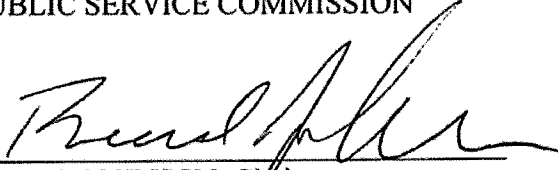
69. EWM will have access to the full amount of \$10,000,000 for a revolving LOC, its total term debt will not exceed \$7,759,000 and its portion of the SAP financing will not exceed \$1,820,000.


70. CBGC will have access to the full amount of \$450,000 for revolving LOC, its total term debt will not exceed \$550,000 and its portion of the SAP financing will not exceed \$150,000.


71. The new ring fencing provisions stated in Attachment A are incorporated by order herein.

DONE AND DATED this 13th day of September, 2016, by a vote of 5 to 0.


BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION


BRAD JOHNSON, Chairman



TRAVIS KAVULLA, Vice Chairman


KIRK BUSHMAN, Commissioner


ROGER KOOPMAN, Commissioner


BOB LAKE, Commissioner

ATTEST:


Aleisha Solem
Commission Secretary

(SEAL)

Exhibit A
MODIFIED RING-FENCING PROVISIONS
(As Approved by MPSC in Order D2016.2.17, Order 7478a)

1. These provisions refer to the new corporate structure as proposed by the Applicant in Ex. EWI-1, p. 7, Figure B. The New Holding Company that contains the regulated subsidiaries of Gas Natural Inc. (GNI) shall be referred to as NIC in these provisions. EWM refers to Energy West Montana, Inc., and CBGC refers to Cut Bank Gas Company.

2. The Commission or its agents may inspect and examine the accounts of EWM and CBGC which are the basis for charges to, or transfers from EWM or CBGC. Inspection and examination shall be conducted consistent with and pursuant to Mont. Code Ann. 69-3-106. CBGC and EWM shall cooperate fully with such Commission inspections and examinations.

3. Consistent with Mont. Code Ann. 69-3-106 and late filed exhibit EWI-5, EWM and CBGC shall provide the Commission access to all books of account as well as all documents, data and records of their affiliated interests, which pertain to transactions between 1) EWM and NIC, GNI, or any of their subsidiaries; or 2) CBGC and NIC, GNI, or any of their subsidiaries. EWM, CBGC, NIC, and GNI shall provide the Commission unrestricted access to all written information provided to common stock, bond, or bond rating analysts, which directly or indirectly pertains to EWM or CBGC or any affiliate that exercises influence or control over EWM or CBGC. Such information consists of but is not limited to reports provided to, and presentations made to, common stock analysts and bond rating analysts. For purposes of this condition, **“written” information includes but is not limited to any written and printed material,** audio and video tapes, computer disks and electronically-stored information. Nothing in this condition shall be deemed to be a waiver of the right of EWM, CBGC, NIC, or GNI to seek protection of the information.

4. EWM and CBGC shall each maintain their own accounting systems, separate from the accounting systems of NIC, GNI, and their subsidiaries. All EWM and CBGC financial books and records and those of NIC, GNI, and their subsidiaries shall be completely and

immediately accessible in each company's local Montana headquarters in Cut Bank, Montana, and in Great Falls, Montana, respectively.

5. EWM and CBGC will file separate reports within 15 days at the end of each quarter that identify their LOC draws during the quarter, the principal amount outstanding of the LOC at the end of each quarter, the principal amount repaid to the LOC each quarter, and the loan balances and payments made to both the term loan and SAP loan during the quarter.

6. EWM and CBGC will notify the Commission within 10 days of any default or violation of the terms of the BOA financing or intercompany loan agreements.

7. EWM and CBGC will notify the Commission within 10 days of default or violation of the BOA financing package by GNI, NIC, or any of their subsidiaries.

8. CBGC and EWM will maintain their own debt. This debt will be maintained separate from the debt of NIC, GNI, and all of their subsidiaries.

9. Funds under EWM and CBGC intercompany revolver loans may only be used for general business needs and other lawful purposes, and cannot be used for acquisition or expansion of utilities located outside of Montana without Commission approval.

10. EWM or CBGC will seek through an application or general rate case the approval of the Commission before engaging in any new financing or debt restructuring of any kind.

11. Any future application filed by EWM or CBGC for the purpose of replacing the financing package approved in this order shall also include the efforts of EWM and CBGC to procure standalone financing.

12. EWM and CBGC shall be permitted to make regular dividend payments only to NIC, consistent with the requirements of other ring fencing provisions as outlined in this order.

Neither EWM nor CBGC shall make any other distribution, loans, or transfers of retained earnings to NIC without prior Commission approval.

13. Neither EWM nor CBGC shall make any distribution to NIC that would cause its equity capital to fall below 48 percent of its total capital without Commission approval. The Commission may re-examine this minimum common equity percentage as financial conditions change, and may determine that it should be adjusted. Short term debt used by EWM or CBGC to fund gas storage on a seasonal basis shall be excluded from the determination of EWM or CBGC equity percentage. At the end of any given month, the amount of short term debt used to fund gas in storage will be calculated as the balance of short term debt at the end of the month (account 231) times 80 percent. In addition, the amount so calculated cannot exceed the month end balance in account 164.1, Gas Stored Underground – Current.

14. Neither EWM nor CBGC may declare a special cash dividend to NIC without first informing the Commission 30 days prior to doing so.

15. Distributions from EWM and CBGC to NIC shall not exceed 100% of net income calculated on a two-year rolling average basis. Distributions shall be suspended if they impair access of EWM or CBGC to the BOA LOC revolver, or if EWM, CBGC, NIC, GNI, or any other subsidiary of NIC or GNI experiences material default of intercompany obligations or files for bankruptcy. Suspended distributions shall not resume without Commission approval.

16. EWM and CBGC shall notify the Commission of any departures from the schedule of regular dividends within 10 days after EWM or CBGC declare any such dividend departure.

17. **EWM and CBGC shall be authorized to continue to apply the “4-factor formula”** between and among NIC and all of its subsidiaries, and between and among GNI and all of its subsidiaries currently employed and previously approved by the Commission to allocate or charge reasonable and appropriate common or shared utility operating expenses that cannot be

charged directly. When EWM and CBGC submit their next general rate case, the “4-factor formula” should be re-examined.

18. Without the prior and specific authorization of the Commission, EWM, CBGC, NIC, and GNI shall not transfer, merge, sell, lease, encumber or otherwise dispose of EWM or CBGC utility property which (a) has a net book value in excess of \$1,000,000 which is included in Montana rate base, and (b) has costs recovered through rates regulated by the Commission.

19. EWM and CBGC will file annually financing forecasts in the format of pro forma financial statements with supporting assumptions that cover the prospective five year repayment of the long term debt and projected use of the revolving debt.

20. EWM and CBGC shall notify the Commission within 10 days of any changes to the board of directors of EWM, CBGC, NIC, and GNI.

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

9/19/2016 3:41:28 PM

in

Case No(s). 16-0354-GA-AIS, 16-0355-GA-UNC

Summary: Finding & Order Final Order issued by MPSC electronically filed by Mr. Devin D. Parram on behalf of Brainard Gas