

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 22A-0580G

IN THE MATTER OF THE VERIFIED APPLICATION OF BLACK HILLS COLORADO GAS, INC. FOR APPROVAL OF A NATURAL GAS DEMAND SIDE MANAGEMENT STRATEGIC ISSUES PLAN FOR CALENDAR YEAR 2023.

**COMMISSION DECISION DEEMING APPLICATION
COMPLETE, AND REFERRING MATTER TO AN
ADMINISTRATIVE LAW JUDGE**

Mailed Date: March 1, 2023
Adopted Date: February 15, 2023

I. BY THE COMMISSION

A. Statement, Findings, and Conclusions

1. On December 30, 2022, Black Hills Colorado Gas, Inc. (Black Hills or the Company) filed an application to open a demand-side management (DSM) strategic issues (SI) plan for calendar year 2023 (Application).

2. Black Hills states in its Application that it is required by § 40-3.2-103(1), C.R.S., to file an application to open a DSM SI proceeding, which must commence in 2022. The Company notes that the Commission's rulemaking in Proceeding No. 21R-0449G includes rules governing the substance of DSM SI applications, and that these rules are not yet effective. However, Black Hills asserts that its Application and the attached DSM SI Plan contain all of the elements required for the Commission's approval pursuant to the pending Commission rules.

3. Black Hills states that its filing is similar in form and content to the 2023 DSM Plan Year approved in Proceeding No. 20A-0190G, with certain changes intended to fulfill

requirements in pending rules. The Company states the filing is intended to establish the already-approved budgets, corresponding energy savings, and peak capacity reduction goals for DSM Plan Year 2023, and that it intends to establish the energy savings targets, budgets, funding and cost recovery mechanisms, and financial budget structure for DSM Plan Years 2024 and 2025 in a future application.

4. On January 9, 2023, pursuant to Rule 1303 of the Commission's Rules of Practice and Procedure, 4 *Colorado Code of Regulations* 723-1, Trial Staff of the Commission (Staff) sent the Company a deficiency letter and filed the letter in the proceeding. In the deficiency letter, Staff asserts that the Application, the Company's inaugural SI application, is not supported by pre-filed testimony. Staff argues that pre-filed testimony supporting the Application would benefit Staff and stakeholders and would allow the Commission to fully understand the implications of the application and requested relief. Staff also argues that the Company may need to request waivers from Commission rules depending on the timing of its next DSM plan filing.

5. In a response filed on January 19, 2023, the Company asserts that it is not required to file written testimony that supports the Application, and that applications are often filed without supporting testimony. Black Hills also asserts that any waiver of rules associated with timing of a future DSM plan filing or the contents of a such a filing should be addressed in that future DSM plan filing.

6. Staff, the Colorado Energy Office, and the Office of the Utility Consumer Advocate filed timely notices of intervention of right.

7. Section 40-3.2-103(1), C.R.S., states:

Commencing in 2022 and no less frequently than every four years thereafter, each investor-owned gas distribution utility...shall file an application to open a DSM strategic issues proceeding to develop energy

savings targets to be achieved by the gas utility, taking into account its potential for cost-effective demand-side management as well as Colorado's greenhouse gas reduction goals. The Commission shall, as part of approving a gas utility's gas DSM strategic issues application, also develop an estimated DSM budget commensurate with natural gas savings targets, funding and cost-recovery mechanisms, and a financial bonus structure for DSM programs implemented by a gas utility.

8. We recognize that Black Hills was required to file an application to open a DSM SI proceeding in accordance with § 40-3.2-103(1), C.R.S., and we further recognize Black Hills' statement that its Application is intended to establish the already-approved budgets, corresponding energy savings, and peak capacity reduction goals for DSM Plan Year 2023. We agree with Black Hills that applications may be submitted without supporting testimony, and that the timing of the Company's next DSM Plan filing may be addressed through a waiver another proceeding, if a waiver is necessary. Therefore, we find the Application complete.¹

9. However, we are concerned that the filing may lead to an inefficient process that does not meaningfully address the policy issues we expect to consider in a strategic issues proceeding. Given the narrow scope of the Application, we encourage Black Hills and the parties to this proceeding to avail themselves of any available procedural efficiencies. We also expect that the Company's forthcoming application to establish the energy savings targets, budgets, funding and cost recovery mechanisms, and financial budget structure for future years will allow for a robust consideration of fundamental DSM policy and framework matters.

10. We refer this matter to an Administrative Law Judge.

¹ Under Rule 1303(c)(IV), 4 CCR 723-1, the Application was automatically deemed complete on February 17, 2023.

II. ORDER**A. The Commission Orders That:**

1. The application to open a demand-side management (DSM) strategic issues (SI) plan for calendar year 2023, filed by Black Hills Colorado Gas, Inc., on December 30, 2022, is referred to an Administrative Law Judge for the issuance of a recommended decision.

2. The 20-day period provided for in § 40-6-114, C.R.S., within which to file applications for rehearing, reargument, or reconsideration begins on the first day following the effective date of this Decision.

3. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
February 15, 2023.**

(S E A L)



ATTEST: A TRUE COPY

G. Harris Adams,
Interim Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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MEGAN M. GILMAN

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Commissioners