

Decision No. R23-0687-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23F-0461G

WILLIAM KUHN

COMPLAINANT,

V.

BLACK HILLS ENERGY,

RESPONDENT.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
AVIV SEGEV
ESTABLISHING PROCEDURES AND SETTING A FULLY
REMOTE EVIDENTIARY HEARING**

Mailed Date: October 17, 2023

I. STATEMENT

A. Background

1. On September 15, 2023, Complainant William Kuhn (Complainant) filed the above-captioned Formal Complaint (Complaint) against Black Hills Energy (Respondent).

2. On September 19, 2023, the Commission issued an Order Setting Hearing and Notice of Hearing (Notice) and an Order to Satisfy or Answer. The Notice set a hearing in this matter for December 4, 2023, at 9:00 a.m., and advised the parties of the same.

3. On September 27, 2023, the Commission referred this Proceeding to an Administrative Law Judge (ALJ) by minute entry.

4. On October 9, 2023, the Answer of Black Hills Colorado Gas, Inc. was filed by Respondent.

5. All parties are advised that this proceeding is governed by the Rules of Practice and Procedure found at 4 CCR 723-1. The ALJ expects the parties to comply with these rules. The rules are available on the Commission's website (<https://puc.colorado.gov/pucrules>) and in hard copy from the Commission.

6. Each party is specifically reminded that all filings with the Commission must also be served upon all other parties in accordance with Rule 1205 of the Rules of Practice and Procedure, 4 CCR 723-1.

B. Procedures for a Remote Evidentiary Hearing.

7. A fully remote evidentiary hearing will be scheduled in this proceeding.

8. The procedures developed for the remote evidentiary hearing are intended to replicate, as practicable, evidence presentation as it occurs when parties and witnesses are present in the hearing room. For example, participating by videoconference allows parties and witnesses to view exhibits on the video-conference screen while the exhibits are being offered into evidence and witnesses testify about them.

9. The evidentiary hearing will be conducted via video conference using the Zoom platform if at least one party or a party's witness chooses to participate remotely. Attachment A to this Decision provides information about the Zoom platform and how to use Zoom to participate in the remote hearing. To minimize the potential that the remote hearing may be disrupted by non-participants, the link and meeting ID, or access code, to attend the hearing will be provided to the parties by email approximately one week before the hearing, and the parties and witnesses will be prohibited from distributing that information to anyone not participating in the hearing.

10. At the hearing, the parties may call witnesses, present evidence, and make arguments in support of their position. Evidence includes documentary exhibits, testimony, and other tangible items that a party wishes the ALJ to consider in reaching a decision as to the allegations in this case. Given that the hearing will accommodate remote participation by video-conference, exhibits must be presented electronically.

11. The Public Utilities Commission Administrative Hearings Section uses box.com to receive and manage exhibits that are first presented at remote hearings.¹ As such, it is essential that the parties ensure they can access and use box.com before the hearing. The ALJ is entering orders to facilitate using box.com to manage exhibits during the hearing. To this end, the parties will be provided box.com links and instructions to: (a) upload documents and exhibits for use during the hearing; and (b) download documents and exhibits once they are presented during the hearing.

12. Each party must: (a) pre-mark all hearing exhibits with a hearing exhibit number within their assigned number block before uploading the exhibits to the party's designated box.com folder; (b) sequentially page-number each page of exhibits longer than two pages, with the first page numbered as page 1, regardless of content before uploading the exhibits to the party's designated box.com folder; and (c) upload all pre-marked exhibits into each party's respective designated box.com folder prior to presenting them during the hearing.

¹ Box.com is a web-based document sharing service. When exhibits are first presented during the hearing, the Commission will receive them electronically from each party's box.com folder for display.

13. Attachment B outlines procedures and requirements for marking and formatting exhibits aimed at facilitating efficient and smooth electronic evidence presentations at the remote hearing. It is very important that the parties carefully review and follow all requirements in this Decision and Attachments A and B.

14. Additional procedural requirements may be issued in future Interim Decisions.

C. Informal Video-Conference Practice Session.

15. The ALJ will hold an informal practice video-conference session if requested by at least one party to give the parties an additional opportunity to practice using Zoom and box.com before the hearing.

16. The parties may contact a Commission Legal Assistant by email at stephanie.kunkel@state.co.us or casey.federico@state.co.us to schedule an informal practice video-conference session.

17. The parties will receive information and a link to participate in the informal practice session by email.

II. ORDER

A. It Is Ordered That:

1. The evidentiary hearing scheduled for December 4, 2023, at 9:00 a.m. shall be held in a fully remote format through the Zoom videoconferencing platform.²

2. Participants in the hearing may not distribute the Zoom link and access code to anyone not participating in the remote hearing.

² Instructions for using the Zoom videoconferencing platform are provided in Attachment A to this Decision.

3. All participants in the hearing must comply with the requirements in Attachments A and B to this Decision, which are incorporated herein.

4. **Video-Conference Participation.** Counsel for the parties, parties, and witnesses shall attend in person or participate in the evidentiary hearing by videoconference using the Zoom platform.

5. **Evidence Presentation at the Evidentiary Hearing.** Because the participation in the evidentiary hearing will be via videoconference, all evidence must be presented electronically. Each party is responsible for ensuring that they and their respective witnesses: (a) have access to all pre-filed exhibits; and (b) can download and view documents available from box.com during the hearing.

6. The Administrative Law Judge will hold an informal Zoom practice session upon request.

7. The parties shall comply with the requirements established in this Interim Decision and shall make the filings as required by the adopted procedural schedule.

8. This Decision shall be effective immediately.

(S E A L)



ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Rebecca E. White".

Rebecca E. White,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

AVIV SEGEV

Administrative Law Judge