

Decision No. C24-0260

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 24M-0062G

IN THE MATTER OF THE GAS INFRASTRUCTURE PLAN OF BLACK HILLS COLORADO GAS, INC. FILED PURSUANT TO 4 CODE OF COLORADO REGULATIONS 723-4-4552 OF THE COMMISSION'S RULES REGULATING GAS UTILITIES.

**COMMISSION DECISION OPENING PROCEEDING,
ESTABLISHING NOTICE AND INTERVENTION PERIOD,
SETTING COMMENT DEADLINES, REQUIRING
CONFERRAL ON DISCOVERY PROCEDURES,
SCHEDULING WORKSHOP, REFERRING PUBLIC
COMMENT HEARING TO AN ADMINISTRATIVE LAW
JUDGE, AND DIRECTING FILING OF STAFF REPORT**

Mailed Date: April 22, 2024

Adopted Date: April 10, 2024

TO THE PARTIES IN THIS MATTER AND ALL INTERESTED PERSONS, FIRMS, OR CORPORATIONS:

I. BY THE COMMISSION

A. Statement

1. On March 1, 2024, Black Hills Natural Gas, Inc. (Black Hills or the Company) filed its initial Gas Infrastructure Plan (GIP). Black Hills made the filing consistent with provisions in the Commission's Rules Regulating Gas Utilities, 4 *Code of Colorado Regulations* (CCR) 723-4-4550 to 4555 (Gas Infrastructure Planning Rules), that require the filing of gas infrastructure plans (GIPs) as part of the Commission's updated regulatory framework for gas utilities, adopted through Proceeding No. 21R-0449G (the Gas Rulemaking).

2. By this Decision, we open this Proceeding to examine the GIP filed by Black Hills and to provide guidance for the filing of future GIPs required by Rule 4552.

3. Through this Decision, we also establish a notice and intervention period ending May 10, 2024, require the filing of proposed discovery parameters 10 days after the Commission's decision establishing parties, require that initial comments be filed no later than September 3, 2024, and responsive comments be filed no later than October 1, 2024, refer the scheduling and convening of a public comment hearing to an Administrative Law Judge (ALJ), direct Commission staff to conduct a workshop on Black Hills's GIP on September 17, 2024, direct staff to file into this Proceeding a report with recommendations on Black Hills's GIP following all comment deadlines and workshops, and require any comments on staff's report to be submitted no later than 30 days after the report is filed.

B. Discussion

4. The Commission opened the Gas Rulemaking proceeding on October 1, 2021, explaining that significant changes to the Commission's Rules Regulating Gas Utilities were necessary to implement numerous statutory changes and additions adopted in the 2021 Colorado legislative session, establish new regulatory requirements for gas utility planning, and fulfill the express rulemaking requirements placed on the Commission. Included in the final rules adopted through Decision Nos. C22-0760 and C23-0117 are the Gas Infrastructure Planning Rules, which set forth the requirements relating to GIPs. As explained in our Decisions in the Gas Rulemaking, the Gas Infrastructure Rules are intended to work in conjunction with Rules 4725-4734 (the Clean Heat Plan Rules) in the coming years when gas utilities will transition their businesses to achieve the substantial reductions in statewide greenhouse gas emissions required by § 25-7-102(2)(g), C.R.S. Through the filing and consideration of GIPs, the Commission expects to better understand the current gas system and gain additional insights into system planning, forecasting, possible project alternatives, and investments.

5. Rule 4552(c) allows utilities to file initial GIPs in miscellaneous proceedings that will not be fully adjudicatory, in accordance with the procedures set forth in Rule 4552(b). This Proceeding is intended to provide opportunities for the refinement of future GIP filings from Black Hills, and we anticipate issuing guidance for such filings, including future adjudicated filings, in our final decision in this Proceeding, as necessary. Notably, the Gas Infrastructure Rules allow Black Hills to file its next GIP in a miscellaneous proceeding that, like this Proceeding, will also not be fully adjudicatory but will instead be governed by the specific procedures set forth in Rule 4552(b).

6. Black Hills' GIP has an "action period" from 2024-2026 and an "informational period" from 2027-2029. Planned projects are categorized as system safety and integrity, new business, capacity expansion, mandatory relocation, and defined programmatic expenses. Pursuant to Rule 4551, reported projects also have a cost estimate that exceeds \$3 million.

7. The GIP includes four projects in the 2024-2026 action period totaling \$22.4 million. These include three capacity expansion projects and one mandatory relocation project. The GIP also contains one system safety and integrity project in the 2027-2029 informational period totaling \$5.8 million.

8. Black Hills states that it undertook a new but limited non-pipeline alternatives (NPA) analysis, but did not select any alternatives.

9. Black Hills explains that its planning is dynamic and that the identification and execution of actual projects may not be the same as what is identified in its GIP. Rather, the planned projects identified in the GIP were anticipated at the time of compilation, but actual project implementation may be altered by facts and circumstances that cannot be anticipated. Black Hills states that projects completed by the Company frequently require coordination with other

stakeholders such as private landowners, cities and municipalities, or other governmental agencies as part of a permitting process, and that directives from or coordination with these entities can alter the timeline of completion and costs of planned projects.

C. Findings and Conclusions

10. We find good cause to open this Proceeding for the purpose of examining the GIP filed by Black Hills on March 1, 2024.

11. Consistent with Rule 4552(b), we establish by this Decision a notice and intervention period. Black Hills's initial GIP is available for public inspection by accessing the Commission's E-Filing system at:

https://www.dora.state.co.us/pls/efi/EFI.Show_Docket?p_session_id=&p_docket_id=24M-

0062G. This Decision is the notice that Black Hills has filed its initial Gas Infrastructure Plan.

12. The Commission notice period for Black Hills's GIP shall extend through May 10, 2024. The intervention period will run concurrent with the notice period. Intervention pleadings, including any notice of intervention of right filed by Trial Staff of the Colorado Public Utilities Commission (PUC), shall be filed no later than May 10, 2024.

13. Rule 4552(b) further states that the parties may conduct discovery on Black Hills's GIP filing and any prefiled testimony submitted with the filing. Black Hills shall confer with the parties on proposed discovery parameters in this Proceeding and file a consensus proposal (or conferral report) no later than ten business days following the Commission's decision establishing the parties. Unless Black Hills and the parties otherwise agree to a different time period for discovery, the discovery period shall be limited to no more than six weeks and shall be timed to facilitate the filing of initial written comments on the GIP.

14. Consistent with Rule 4552(b), we set deadlines for written comments from the parties to this Proceeding. Initial written comments shall be filed no later than September 3, 2024, and reply or additional written comments shall be filed no later than October 1, 2024.

15. Rule 4552(b) states that the Commission may request additional supporting information from the utility or the parties to the proceeding. Accordingly, we schedule a workshop where Black Hills will present the GIP to the Commission staff charged with developing and filing the report required by this Decision and where the Company will answer questions from Commission staff. The workshop is scheduled on September 17, 2024. The workshop will be conducted with representatives from Black Hills using the web platform Zoom. Consistent with Commission practice, the workshop will be webcast on the Commission's website that links to the webcast on the PUC YouTube Channel at: puc.colorado.gov/webcasts. Staff may schedule additional workshops, as necessary.

16. Rule 4552(b) contemplates the procedures for this GIP proceeding to include one or more public comment hearings. Because this is the utility's first GIP, the Commission finds it prudent to schedule at least one public comment hearing to understand impacted stakeholders' perspectives on the Company's GIP. We refer the scheduling and convening of a public comment hearing in this matter to an ALJ, to be scheduled by the ALJ's separate decision. In scheduling the public comment hearing, we intend that the ALJ, assisted by staff as necessary, will: (1) give the public at least one month's notice of this hearing; (2) post a plain language notice of the hearing to the Commission's website – including a description of the application and the proceeding's timeline; and (3) describe in the Notice and the Public Comment Registration form the scope of the proceeding, for the public to consider in preparing oral and written comments. The transcript of the public comment hearing will be filed into this Proceeding's administrative record.

17. Rule 4552(b)(V) states that the Commission will issue a written decision regarding the adequacy of the utility's filed GIP and the methods and processes the utility used in formulating the gas infrastructure plan and providing guidance to be used in the preparation of the biennial filings required in the future. For regulatory efficiency and considering that Black Hills's next biennial GIP filing may also be addressed in a non-adjudicated proceeding, we direct Commission staff to complete and file a report in this Proceeding to facilitate the issuance of such a decision. Staff's report should consider all written and oral comments and should address: (1) the adequacy of the GIP; (2) the methods and processes the Company used in formulating the GIP; and (3) any guidance the Commission should provide to Black Hills for its preparation of future biennial GIP filings.

18. Written comments on staff's report may be filed no later than 30 days following its posting in the administrative record of this Proceeding in the Commission's E-Filing system. No decision on the GIP addressing the adequacy of Black Hills's GIP and the methods and processes the Company used in formulating the GIP and any suggested guidance for the Company's future GIP filings will be rendered until after that 30-day period following the posting of Commission staff's report. Based on these procedures, we anticipate our decision on the adequacy and methods and processes of the GIP, which Rule 4552(b)(V) states shall be issued within 150 days if practicable, will not issue within 150 days of the filing of the GIP.

19. The procedures we therefore adopt by this Decision are summarized as follows:

Procedural Activity	Date
Black Hills GIP Filing	March 1, 2024
End of Notice and Intervention Period	Friday, May 10, 2024
Discovery Parameters Filing	Due ten business days after mailed date of decision establishing the parties to proceeding
Initial Written Comments	September 3, 2024
Workshop with Commission Staff	September 17, 2024
Responsive or Additional Written Comments	October 1, 2024
Public Comment Hearing	To be scheduled by ALJ by separate decision
Commission Staff Report	After public comment hearing and deadline for responsive and additional written comments
Comments on Staff's Report	Due 30 business days after report uploaded into this Proceeding's administrative record in the Commission's E-Filing system
Commission Decision	After the close of the comment period on Staff's report

II. ORDER

A. The Commission Orders That:

1. This Proceeding is opened to commence the Commission's examination of the Gas Infrastructure Plan filed by Black Hills Natural Gas, Inc. (Black Hills) on March 1, 2024.

2. This Decision serves as notice of the Gas Infrastructure Plan filed by Black Hills on March 1, 2024, which notice period shall extend through May 10, 2024.

3. Any person desiring to intervene or participate as a party in this Proceeding shall file a petition for leave to intervene, or under the Commission's Rules of Practice and Procedure, file other appropriate pleadings to become a party no later than May 10, 2024.

4. Alternatively, persons who do not wish to intervene or become a party, but desire to file comments, may submit written comments through the Commission's website at colorado.gov/dora/puc. All persons who file an objection, notice of intervention as of right, motion to permissively intervene, or any other appropriate pleading shall do so in accordance with the instructions set forth in the Commission's Rules of Practice and Procedure and this Decision.

5. Consistent with the discussion above, Black Hills shall confer with the parties on proposed discovery parameters in this Proceeding and file a consensus proposal (or conferral report) no later than ten business days following the Commission's decision establishing the parties.

6. Consistent with the discussion above, Commission staff will conduct a workshop with Black Hills on August 6, 2024.

7. Initial written comments on Black Hills's Gas Infrastructure Plan shall be filed no later than July 23, 2024. Reply comments shall be filed no later than August 20, 2024.

8. Consistent with the discussion above, we refer the convening of a public comment hearing in this matter to an Administrative Law Judge (ALJ). The ALJ shall schedule the public comment hearing by separate decision.

9. Consistent with the discussion above, Commission staff shall complete and file a report in this Proceeding. The report will address: (1) the adequacy of Black Hills's Gas Infrastructure Plan; (2) the methods and processes the Company used in formulating the Gas Infrastructure Plan; and (3) any guidance the Commission should provide to Black Hills for its preparation of future biennial Gas Infrastructure Plan filings.

10. Written comments on Staff's report may be filed no later than 30 days following its posting in the administrative record of this Proceeding in the Commission's E-Filing system.

11. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
April 10, 2024.**

(S E A L)



ATTEST: A TRUE COPY

Rebecca E. White,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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Commissioners