

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23A-0361G

IN THE MATTER OF THE VERIFIED APPLICATION OF BLACK HILLS COLORADO GAS, INC. FOR APPROVAL OF A NATURAL GAS DEMAND SIDE MANAGEMENT PLAN AND STRATEGIC ISSUES FOR CALENDAR YEARS 2024 AND 2025.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
ALENKA HAN
GRANTING MOTION TO MODIFY
PROCEDURAL SCHEDULE AND
WAIVING RESPONSE TIME**

Mailed Date: January 19, 2024

I. STATEMENT AND PROCEDURAL BACKGROUND

1. On July 5, 2023, Black Hills Colorado Gas, Inc., doing business as Black Hills Energy (Black Hills or the Company), commenced this Proceeding by filing a Verified Application to open a demand-side management (DSM) strategic issues proceeding with the Public Utilities Commission of the State of Colorado (Commission or PUC).¹ The Company's current DSM Plan, approved by Decision No. R20-0810, issued November 16, 2020, covers 2021-2023 and is in its final year.²

2. On July 7, 2023, the Commission's Notice of Application Filed was sent to all interested persons and entities. The Notice stated that Black Hills had filed direct testimony with its Application and was seeking a Commission decision within 120 days of the Application being

¹ Black Hills Colorado Gas, Inc.'s Verified Application, July 5, 2023.

² *Id.* at ¶ 4, pp. 2-3.

deemed complete.³ In addition, the Notice set a 30-day window within which interested persons could intervene, and a 37-day window within which Commission Staff was to file its Intervention.

3. Subsequently, several entities filed interventions as of right:

- The Office of the Utility Consumer Advocate (UCA) filed its Notice of Intervention as a Matter of Right, Request for Hearing, and Entry of Appearances on July 17, 2023;
- The Colorado Energy Office (CEO) filed its Intervention by Right on August 7, 2023; and
- Commission Trial Staff filed a Notice of Intervention as of Right on August 9, 2023.

4. In addition, on August 7, 2023, Energy Outreach Colorado (EOC) filed an Unopposed Motion to Intervene and Entry of Appearance.

5. The Commission automatically deemed the application complete as of August 16, 2023. The Commission referred the matter to an administrative law judge (ALJ) for disposition by minute entry. The Proceeding was subsequently assigned to the undersigned ALJ.

6. Decision No. R23-0648-I, issued September 28, 2023, acknowledged the interventions as of right filed by Commission Trial Staff, UCA, and CEO. The Decision also granted EOC's motion to intervene. The parties to this Proceeding thus are the Company, Trial Staff, UCA, CEO and EOC.

7. Decision No. R23-0648-I also extended the time period within which a final Commission decision must be issued by an additional 130 days, or up to and including April 22, 2024.

³ Notice of Application Filed, filed July 7, 2023.

8. Last, Decision No. R23-0648-I set a procedural schedule to govern this Proceeding and scheduled an evidentiary hearing to be held January 25, 26, and 29, 2024.

9. On January 17, 2024, Black Hills filed an unopposed Joint Motion to Approve the Unanimous Settlement Agreement, to Modify Procedural Schedule and for Waiver of Response Time. The Motion was accompanied by the parties' fully executed Unanimous Settlement Agreement. The parties advised that they had reached a global settlement of all disputed issues and requested that the evidentiary hearing scheduled for January 25, 26, and 29 be vacated and the procedural schedule be modified in light of the settlement.

II. MOTION TO MODIFY PROCEDURAL SCHEDULE

10. As pertinent here, several dates on the current procedural schedule are approaching quickly. Notably, the parties' Witness Order and Cross Examination Matrix is due Friday, January 19, 2024. The parties have jointly requested that this deadline be vacated.

11. In light of the parties' settlement, the ALJ finds and concludes that it is appropriate to vacate the deadline for the parties to file their Witness Order and Cross-Examination Matrix.

12. Likewise, Black Hills represents that the parties jointly request vacation of the evidentiary hearing dates because they have resolved all disputed issues.

13. Given the parties' global settlement, the ALJ further finds that it is appropriate to vacate all three scheduled dates for the evidentiary hearing and will so order.

14. The parties have also requested that a deadline of Monday, January 22, 2024, be set for filing testimony in support of the settlement. The ALJ finds and concludes that this, too,

is appropriate and will order any party wishing to file settlement testimony to do so by January 22, 2024.

15. Finally, the ALJ finds it appropriate to also vacate the remainder of the procedural schedule, including the existing deadline for filing Statements of Position, and will so order.

III. MOTION TO APPROVE SETTLEMENT

16. Although the parties' joint motion also expressly seeks Commission approval of the parties' Unanimous Settlement Agreement, the ALJ will address the merits of the Settlement Agreement after reviewing any settlement testimony the parties submit.

17. The ALJ reminds the parties that if she has questions about the terms of the Unanimous Settlement Agreement or the settlement testimony, the parties may be asked to answer written questions about the settlement or appear for a hearing to answer questions about the settlement.

IV. WAIVER OF RESPONSE TIME

18. Pursuant to Rule 1400(b) of the Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1, a responding party "shall have 14 days after service of the motion . . . in which to file a response." Thus, under Rule 1400(b), any response to the parties' Joint Motion is currently due on or before January 31, 2024.

19. However, Rule 1308(b), 4 CCR 723-1, permits the Commission to "shorten or waive response time to a motion upon motion of a party or on its own motion upon a finding that time is of the essence. . . . The Commission can act immediately where response time is waived and after expiration of the shortened response time."

20. An unopposed motion such as this Joint Motion may be granted before expiration of the time within which to respond to the motion. See Rule 1400(a)(II), 4 CCR 723-1. As the Joint Motion to modify the procedural schedule is unopposed, the ALJ finds that waiving the response time to the Joint Motion will not prejudice any party. The ALJ will therefore waive response time to the Joint Motion to Approve the Unanimous Settlement Agreement, to Modify Procedural Schedule and for Waiver of Response Time.

V. ORDER

A. It Is Ordered That:

1. The Joint Motion to Modify Procedural Schedule and for Waiver of Response Time, filed by Black Hills Colorado Gas, Inc., on January 17, 2024, is granted.
2. The evidentiary hearing scheduled for January 25, 26, and 29, 2024, is vacated.
3. The procedural schedule is modified to vacate the pending deadlines for filing of Witness Order and Examination Matrix, which would have been due January 19, 2024, and for filing of Statements of Position, which would have been due February 12, 2024.
4. Any party wishing to file settlement testimony in support of the parties' Unanimous Settlement Agreement must do so by Monday, January 22, 2024.
5. Response time to the Joint Motion to Approve the Unanimous Settlement Agreement, to Modify Procedural Schedule and for Waiver of Response Time filed by the parties on January 17, 2024, is waived.

6. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ALENKA HAN

Administrative Law Judge

ATTEST: A TRUE COPY

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

Rebecca E. White,
Director