

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 20A-0379G

IN THE MATTER OF THE APPLICATION OF BLACK HILLS COLORADO GAS, INC. FOR AUTHORIZATION TO IMPLEMENT A SYSTEM SAFETY AND INTEGRITY RIDER AS PART OF ITS GAS TARIFF AND TO UNDERTAKE ITS PROPOSED AT-RISK METER RELOCATION AND CUSTOMER-OWNED YARD LINE REPLACEMENT PROGRAM.

**INTERIM DECISION DEEMING
APPLICATION COMPLETE AND REQUIRING
SUPPLEMENTAL DIRECT TESTIMONY**

Mailed Date: October 30, 2020

Adopted Date: October 21, 2020

I. BY THE COMMISSION

A. Statement

1. This Decision relates to the Verified Application (Application) for approval of a System Safety and Integrity Rider (SSIR), including authorization for a proposed At-Risk Meter Relocation (ARMR) and Customer-owned Yard Line (COYL) Replacement Program that Black Hills Colorado Gas, Inc., doing business as Black Hills Energy (Black Hills or Company) filed on September 11, 2020. As part of the Colorado Public Utilities Commission's (Commission) consideration of the Application, we deem the Application complete and direct Black Hills to file supplemental direct testimony consistent with the discussion below.

B. Background

2. In the Company's last rate case (Proceeding No. 19AL-0075G), Black Hills sought a Distribution Safety and Integrity Rider (DSIR). Like the SSIR that Black Hills seeks in the current proceeding, the DSIR would have recovered the costs of certain system safety and integrity projects. In Recommended Decision No. R19-1033 issued December 27, 2019, in

Proceeding No. 19AL-0075G, Administrative Law Judge (ALJ) Conor Farley found that the record was insufficient to conclude that the proposed DSIR was in the public interest.¹ The ALJ ordered Black Hills to file a new advice letter and related tariff sheets proposing a DSIR that addressed the concerns listed in Decision No. R19-1033.² In Decision No. C20-0372 issued in Proceeding No. 19AL-0075G on May 19, 2020, the Commission affirmed the ALJ's determinations that Black Hills had failed to develop the record necessary to support a DSIR, and the Commission directed Black Hills to address additional concerns in the future filing.³

3. In the current proceeding, Black Hills acknowledges that the Commission recently rejected its request for a similar rider in Proceeding No. 19AL-0075G. The Company argues, however, that its current Application and associated testimony resolve the concerns that the Commission expressed in Proceeding No. 19AL-0075G.⁴

4. Black Hills seeks Commission approval of an SSIR to recover the costs of certain system safety and integrity projects through rate riders on customer bills. The SSIR would allow the Company to recover on a current basis, outside of a rate review proceeding, the costs associated with eligible integrity investments.⁵ Black Hills also seeks authorization, including a Certificate of Public Convenience and Necessity (CPCN) if necessary, for the Company to undertake its proposed ARMR/COYL Programs as an SSIR program.⁶ The SSIR is proposed to become effective on January 1, 2021, to recover the annual revenue requirement associated with SSIR integrity investments made during calendar year 2021.⁷ In addition, although the

¹ Proceeding No. 19AL-0075G, Decision No. R19-1033, ¶ 331.

² *Id.*

³ Proceeding No. 19AL-0075G, Decision No. C20-0372 at pages 37-43.

⁴ Application at pages 2-3.

⁵ *Id.* at 2.

⁶ *Id.* at 1.

⁷ *Id.* at 8.

Company's service territory is divided into three base rate areas, Black Hills only seeks an SSIR for Rate Area 2 and Rate Area 3.⁸ Although Black Hills predicts that its SSIR program will need to continue through 2031, the Company currently seeks approval for an initial term of five years.⁹

5. Under its proposed SSIR, Black Hills commits to meeting with Commission Staff on or before October 1, April 30, and July 30 of each year to discuss program plans, provide any updates, and discuss safety initiatives intended to be completed in the next calendar year.¹⁰ On November 1 of each year, Black Hills will file SSIR tariffs to be effective the following January 1.¹¹ Also, the Company must submit a true-up report each year by April 1 explaining how the previous year's SSIR program costs were managed, any deviations between forecasted and actual costs, and any changes to scheduled SSIR programs after the November 1 filing covered by the report.¹²

6. Black Hills' proposed SSIR program is comprised of the following five categories of investments: (1) the Data Infrastructure Improvement Program, which aims to close known data gaps, develop and improve GIS tools, and verify current data; (2) the Problematic Pipe Replacement Program, which replaces vintage materials that are unsuitable for natural gas pipelines such as thin-walled tubing, thin-walled steel, bare steel with cathodic protection, poorly coated steel, and Polyvinyl Chloride; (3) the Miscellaneous Programs that address risks associated with vintage town border stations, district regulator stations, spans and exposed pipe, and insufficient cathodic protection; (4) the Transmission Integrity Program, which replaces at-

⁸ *Id.* at 6-7.

⁹ *Id.* at 8.

¹⁰ Black Hills also commits to inviting the OCC to these meetings with Staff. *Id.* at 11.

¹¹ *Id.*

¹² *Id.*

risk pipe and aging infrastructure and evaluates specific segments of the transmission pipeline to improve data and eliminate issues in high consequence areas where necessary; and (5) the ARMR/COYL Program that assesses and mitigates risks associated with customer service meters that are not located at the outside wall of the customer's structure and any associated COYLs.¹³

7. As for the authorization required for the ARMR/COYL Program, the Company notes that it is not seeking authorization to construct individual service lines at particular locations. Rather, Black Hills seeks approval of the overall ARMR/COYL Program to systematically relocate or otherwise remediate at-risk meters and COYLs and recover associated costs through the SSIR.¹⁴ Black Hills also states that although it seeks the necessary authorization to undertake the ARMR/COYL Program through 2031, “the Company does not believe that the facilities and construction activities at issue under the ARMR/COYL ... require a CPCN based on the plain language of C.R.S. § 40-5-101(1)(a).”¹⁵ Black Hills asserts that under § 40-5-101(1)(a), C.R.S., most of the COYLs the Company proposes to replace do not need a CPCN even if such replacements are not in the ordinary course of business.¹⁶ Moreover, Black Hills argues that the service area CPCNs and CPCNs to exercise franchise rights within the cities and towns it serves already provide Black Hills with “sufficient property rights and authority to relocate meters and to install new service lines to connect customers located within its service areas and within the cities and towns in which it provides service.”¹⁷

8. On September 11, 2020, the Commission issued a Notice and set a 30-day intervention period. On September 15, 2020, the Office of Consumer Counsel (OCC) filed its

¹³ *Id.* at 8-9.

¹⁴ *Id.* at 13.

¹⁵ *Id.* at 15.

¹⁶ *Id.*

¹⁷ *Id.* at 16.

Notice of Intervention of Right. On October 12, 2020, Bachelor Gulch Village Association (BGVA) filed a Motion to Intervene. Finally, on October 15, 2020, Trial Staff of the Commission (Staff) filed its Notice of Intervention as of Right.

9. In the OCC's Intervention, it requests an evidentiary hearing "to determine if the Company's SSIR is just, reasonable, in the public interest, and provides for the implementation of just and reasonable rates."¹⁸ The OCC lists numerous specific concerns, including whether the Company's customers who are assessed the SSIR but who do not have COYLs should subsidize the costs that will be incurred to replace COYLs; whether the cost contribution alternatives to the ARMR/COYL Program, and the costs and benefits of such program alternatives, contain sufficient information; and whether the Company has sufficiently addressed and corrected the deficiencies identified by the Commission in Proceeding No. 19AL-0075G.¹⁹

10. Similarly, Staff requests a hearing to investigate several aspects of Black Hills' proposed SSIR such as whether Black Hills has met the requirements set forth in Proceeding No. 19AL-0075G to fully consider alternatives to the proposed SSIR and whether the level of detail included about the ARMR/COYL Program satisfies the requirement of Proceeding No. 19AL-0075G.²⁰

11. As for BGVA's Motion to Intervene, BGVA is a homeowner community association in Avon, Colorado, and its 475 members receive gas service from Black Hills.²¹ In its

¹⁸ OCC Intervention at page 2.

¹⁹ *Id.* at 2-5.

²⁰ Staff's Intervention at page 1-2.

²¹ BGVA's Motion to Intervene at page 2.

Motion to Intervene, BGVA notes that it was an intervenor and active participant in Proceeding No. 19AL-0075G, at which the Commission rejected Black Hills' request for a DSIR.²² BGVA intends to investigate whether the proposed SSIR is just, reasonable, in the public interest, and provides for just and reasonable rates for its members in the Black Hills gas rate area.²³

C. Discussion and Findings

12. At the Commissioners' Weekly Meeting on October 21, 2020, we found that the Application was complete for purposes of § 40-6-109.5, C.R.S.

13. We agree with Staff and the OCC that this matter should be set for a hearing.²⁴ Given the important policy implications of this matter, we will hear this matter *en banc*.

14. Black Hills neither lists the requirements for a new SSIR filing as set forth in Proceeding No. 19AL-0075G nor states where each requirement is answered in its testimony and attachments. The Company does, however, summarize the numerous requirements set forth in Proceeding No. 19AL-0075G into three general areas.²⁵ First, a requirement to put forth adequate evidence to demonstrate that all SSIR projects warrant extraordinary treatment and that the Company has a plan to conclude the SSIR.²⁶ Second, adequate information to justify Black Hills' proposal to double the rate base in Rate Area 2.²⁷ And third, an analysis of alternatives to reduce or eliminate anticipated cost increases in Rate Area 2.²⁸

²² *Id.*

²³ *Id.*

²⁴ The Commission has not yet ruled on BGVA's Motion to Intervene.

²⁵ Direct Testimony of Christopher Otto at pages 19-20.

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

15. Black Hills argues that its Application and associated testimony address these requirements.²⁹ Specifically, Black Hills argues that its witnesses explain how the SSIR is necessary to allow the Company to proactively replace higher risk infrastructure at an accelerated pace without earnings attrition and why the SSIR is the appropriate funding mechanism for the next 11 years.³⁰ Black Hills also argues that—compared to its proposal in Proceeding No. 19AL-0075G—the Company has struck a better balance of affordability and safety in which the five-year SSIR percentage of revenue impact is now only 18.08 percent for Rate Area 2.³¹ Moreover, Black Hills argues that its witnesses discuss some of the alternatives that Black Hills considered to reduce or eliminate costs, including a cost analysis of converting certain gas customers to propane or electric service.³²

16. After a careful review of the requirements set forth in Proceeding No. 19AL-0075G and Black Hills' Application and associated testimony, it is clear that Black Hills attempted to satisfy many of the requirements. However, given the important policy implications of this matter, we find that additional supplemental testimony is necessary to ensure that the Commission and parties can fully analyze the various issues that Black Hills' proposed SSIR raises. Accordingly, we direct Black Hills to file supplemental testimony that addresses the following questions:

- a) What is the threshold level of risk that warrants including a project in the SSIR? The Company provides a detailed proposal to rank the *relative* risks of each project to prioritize the order of projects, but does not provide an *absolute* threshold level of risk that warrants replacement under the expedited SSIR program. Is it Black Hills' position that any infrastructure comprised of materials that do not meet current standards are therefore "known to no longer

²⁹ *Id.* at 20-21.

³⁰ *Id.*

³¹ *Id.*

³² *Id.* at 21.

- be suitable for natural gas pipelines³³ and so must be scheduled for accelerated replacement under the SSIR? Does the Company have a framework with more objective criteria to determine the threshold risk level that warrants SSIR replacement of such infrastructure?
- b) When does Black Hills anticipate that it will be able to manage all non-revenue producing investments within the cash flow provided through normal operations, as is currently the case for Rate Area 1?
- c) What is the assessment regarding the potential changes in future customer demand based on historic trends and possible customer attrition due to price signals and fuel switching?
- d) Provide a more granular description of the discrete areas within the individual rate areas in which particularly costly SSIR investments make targeted alternatives more economically feasible. For any such customers or groups of customers, how can the Company require or incent the customers to switch so that these highly expensive SSIR costs can be avoided?
- e) Provide detailed project metrics information associated with the ARMR/COYL Program including but not limited to the following:
- How many customers are in the various rate areas?
 - The vintage (known or estimated) of the COYLs – oldest, youngest, average;
 - The minimum, maximum, and average lengths of COYLs;
 - The number of COYLs served from mains that will be replaced under the SSIR program;
 - Whether every COYL needs to be replaced; and
 - The estimated cumulative feet of the COYLs.
- f) What is the expected useful life of the various SSIR assets and what is the risk that Black Hills will no longer need certain assets prior to the conclusion of their expected useful lives?

II. ORDER

A. **It Is Ordered That:**

1. The Verified Application for approval of a System Safety and Integrity Rider, including authorization for a proposed At-Risk Meter Relocation and Customer-owned Yard Line Replacement Program filed on September 11, 2020 by Black Hills Colorado Gas, Inc., doing

³³ Application at 9.

business as Black Hills Energy (Black Hills) is found to be complete for purposes of § 40-6-109.5(1), C.R.S.

2. Black Hills shall file supplemental testimony addressing the questions above no later than 21 days after this Decision is issued.

3. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
October 21, 2020.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JEFFREY P. ACKERMANN

JOHN GAVAN

MEGAN M. GILMAN

Commissioners