

Decision No. C20-0808-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 19AL-0075G

IN THE MATTER OF ADVICE LETTER NO 1 FILED BY BLACK HILLS COLORADO GAS, INC. TO PLACE IN EFFECT ITS NEW P.U.C. VOLUME NO. 1 TARIFF ESTABLISHING NEW RATE SCHEDULES AND BASE RATES FOR ALL NATURAL GAS SALES AND TRANSPORTATION SERVICES, INCREASING JURISDICTIONAL BASE RATE REVENUES, COMBINING EXISTING GAS COST ADJUSTMENT (“GCA”) AREAS INTO NEW GCA REGIONS, IMPLEMENTING A DISTRIBUTION SYSTEM INTEGRITY RIDER, REVISING THE CONSTRUCTION ALLOWANCE CALCULATION METHOD, AND OTHER PROPOSED TARIFF CHANGES TO REPLACE AND SUPERSEDE ITS P.U.C. VOLUME NO. 3 TARIFF (FORMERLY BLACK HILLS/COLORADO GAS UTILITY COMPANY, INC.) AND P.U.C. VOLUME NO. 7 TARIFF (FORMERLY BLACK HILLS GAS DISTRIBUTION, LLC) IN THEIR ENTIRETY, TO BE EFFECTIVE ON MARCH 4, 2019.

**INTERIM DECISION DENYING
REQUEST FOR SHORTENED RESPONSE TIME**

Mailed Date: November 13, 2020

Adopted Date: November 12, 2020

I. BY THE COMMISSION

A. Statement

1. On November 6, 2020, Black Hills Colorado Gas, Inc., doing business as Black Hills Energy (Black Hills or Company) filed a Motion for a Variance to Extend Filing Date of Gas Phase II Rate Review and Request for Shortened Response Time (Motion). According to Black Hills, it seeks a partial, one-time variance from the Commission’s directive in Decision No. C20-0372¹ that Black Hills file an advice letter and accompanying tariff sheets to initiate a Phase II rate proceeding within six months of the date of that decision or by November 19, 2020, and grant Black Hills an extension to make such filing to no later than six months from the date

¹ Decision No. C20-0372 was issued in this proceeding on May 19, 2020.

new rates go into effect in its recently filed Phase I rate review in Proceeding No., 20AL-0380G. Black Hills also requests shortened response time to its Motion of seven days requiring any response to be due no later than November 13, 2020.

B. Background

2. Black Hills notes that the previous Phase I Rate Case was completed on May 19, 2020 when the Commission issued its decision on exceptions to Recommended Decision No. R19-1033.² In Decision No. C20-0372 the Commission, in part, ordered Black Hills to file an advice letter and proposed tariff sheet initiating a Phase II rate review within six months of the date of Decision No. C20-0372 or by November 19, 2020. The Commission also ordered Black Hills to file a revised Distribution and Safety Integrity Rider (DSIR) within six months of the decision, as well as file new construction allowances within nine months of the decision.

3. On September 11, 2020, Black Hills filed Advice Letter No. 3 and accompanying direct testimony proposing to implement General Rate Schedule Adjustment (GRSA) riders that would increase base rates for all Black Hills natural gas customers in Colorado – a new Phase I Rate Case.³

4. According to the Company, this 2020 Phase I Rate Case is intended to recover “substantial increase in costs associated with rate base investments made by the Company since July 1, 2018 that have not yet been included in the development of rates.”⁴ Additionally, Black Hills filed an application in Proceeding No. 20A-0379G requesting authorization to implement a new System Safety and Integrity Rider (SSIR) as part of its Colorado PUC gas tariff and to

² Decision No. R19-1033 was issued in this proceeding on December 27, 2019.

³ See Proceeding No. 20AL-0380G.

⁴ Black Hills’ Motion at pp. 3-4.

implement under the SSIR, an “At-Risk Meter Relocation and Customer-Owned Yard Line Replacement Program.”

5. Black Hills maintains that the result of the last Phase I rate case caused it to file the new 2020 Phase I rate review and SSIR application. Black Hills claims it made these filings to limit the complexity of the filings to address the concerns raised in the previous Phase I proceeding. Black Hills goes on to argue that the revenue deficiency in the present Phase I is driven in large part by the Company’s inability to recover in its rates \$35.3 million in capital additions placed in service from July 1, 2018 through December 31, 2018 and to implement its proposed DSIR.

6. Black Hills argues the Commission disallowed its proposed inclusion of those capital additions in the 19AL-0075G proceeding because Black Hills’ *pro forma* capital additions adjustment violated the matching principle, and the Commission ordered the Company to address the deficiencies in its DSIR proposal and refile for approval within six months of Decision No. C20-0372. According to Black Hills, approval of the DSIR in the previous Phase I rate case would have permitted the Company to begin recovering costs associated with approximately \$36 million of system safety and integrity investments placed in service in 2019 and 2020.

7. Black Hills requests that response time to the Motion be shortened to seven days so that responses would be due no later than November 13, 2020. Black Hills argues that in light of the upcoming November 19, 2020 filing deadline to file a Phase II proceeding, it is appropriate to shorten the response time as requested.

8. Energy Outreach Colorado (EOC) filed its opposition to Black Hills’ request for shortened response time on November 10, 2020. EOC expresses its concern over Black Hills’

proposal to file GRSAs on top of existing GRSAs with no intervening Phase II rate allocation analysis. According to EOC, the layering of GRSAs without proper cost allocation is unfair and unreasonable rate making.

9. EOC argues the Phase I rate proceeding will most likely be heavily litigated and no decision will be forthcoming for months. A Phase II proceeding commenced six months after that will not result in fairly allocated rates for Black Hills customers for well over a year from now. As a result, EOC believes the Commission would benefit from a complete and well-reasoned response to the Motion for variance.

10. EOC represents it is scheduled to participate in the Public Service Company of Colorado TEP hearing scheduled to begin on November 12, 2020 which is scheduled for five days of hearing. EOC notes that Black Hills has known of the Phase II filing deadline for months and Black Hills' claim that time is of the essence is a result of the Company's decision to delay. EOC opposes the shortened response time as no good cause exists to limit the ability to respond in full to Black Hills' request.

11. We agree with EOC that the tight timeframe is of Black Hills' own doing. It could have easily filed its Motion for Variance well in advance of the deadline to file its Phase II rate case but chose to wait until the last minute to do so. Therefore, we find good cause to deny Black Hills' request to shorten response time to its Motion for Variance. Rather, we allow the full 14-day response time to run up to and including November 20, 2020.

II. ORDER

A. It Is Ordered That:

1. The request by Black Hills Colorado Gas, Inc., doing business as Black Hills Energy (Black Hills) filed November 6, 2020, to shorten response time to its Motion for a Variance to Extend Filing Date of Gas Phase II Rate Review (Motion) is denied.

2. Response time to Black Hills’ Motion shall expire on the close of business on November 20, 2020.

3. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS’ WEEKLY MEETING
November 12, 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