

Decision No. C21-0148

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 18M-0074EG

IN THE MATTER OF THE COMMISSION'S CONSIDERATION OF THE IMPACT OF THE
FEDERAL TAX CUTS AND JOBS ACT OF 2017 ON THE RATES OF COLORADO
INVESTOR-OWNED ELECTRIC AND NATURAL GAS UTILITIES.

**COMMISSION DECISION GRANTING THE MOTION OF
BLACK HILLS COLORADO GAS TO BE EXCUSED FROM
PROCEEDING**

Mailed Date: March 12, 2021

Adopted Date: March 10, 2021

I. BY THE COMMISSION

A. Statement

1. On February 1, 2018, in response to the federal Tax Cut and Jobs Act (TCJA) enacted on December 22, 2017, the Commission issued Decision No. C18-0075 opening this proceeding. The TCJA reduced the corporate income tax rate from 35 percent to 21 percent and required the re-evaluation of federal deferred tax assets and liabilities. Accordingly, Decision No. C18-0075 directed all Colorado investor-owned electric and natural gas utilities to submit a filing that detailed how the utility would track the TCJA-related deferred regulatory liability, refund to customers any over collection resulting from the deferred regulatory liability, and update the utility's revenue requirements and resulting rates reflecting the prospective impacts of the TCJA.

2. On May 11, 2018, the Commission issued Decision No. C18-0326-I, adopting a uniform process for determining whether each utility has properly addressed the TCJA impacts on rates. That Decision directed each utility to implement necessary rate changes through advice

letter filings pursuant to Rule 4 *Code of Colorado Regulations* (CCR) 723-1-1210 of the Commission's Rules of Practice and Procedure and §§ 40-3-104(1)(a) and 40-6-111(2)(a)(III), C.R.S. Each utility was also required to file quarterly status reports until the utility is excused from further participation in this proceeding. After the necessary advice letter tariff filings are made to account for TCJA impacts on rates, each utility is allowed to file a motion to be excused from this proceeding. Any such motion is subject to a response period during which any party to this proceeding may challenge the utility's request for relief.

3. On February 12, 2021, Black Hills Colorado Gas¹ (Black Hills) filed a Motion to be Excused from Proceeding No. 18M-0074EG (Motion to be Excused). Black Hills states that it has completed all required steps and implemented the necessary processes to ensure that the full benefits of the TCJA have been returned to its customers. Black Hills further states that it filed quarterly status reports required in this proceeding, beginning with a status report filed on June 29, 2018.

4. Black Hills states that in compliance with Decision No. C18-0075, it determined that the TCJA impact for Black Hills Colorado Gas (BHCOG) required a reduction to BHCOG's overall revenue requirement by \$799,612 annually. For Black Hills Gas Distribution, (BHGD) the revenue requirement reduction would be \$1,838,510 annually.

5. Black Hills implemented a negative General Rate Schedule Adjustment (GRSA) for both BHCOG and BHGD on July 1, 2018. The BHCOG GRSA was decreased by 3.421 percent, resulting in a GRSA rate of negative 2.594 percent. The negative GRSA refunded \$340,394 to BHCOG customers for the July 1 to December 31, 2018 period. BHGD decreased its GRSA by 4.15

¹ Black Hills Colorado Gas (BHCOG) and Black Hills Gas Distribution (BHGD) were consolidated into one entity, Black Hills Colorado Gas on December 31, 2018 through Decision No. C18-0394 in Proceeding No. 18A-0583G.

percent in both of its rate areas, resulting in a GRSA of 4.41 percent in Rate Area 1 and negative 3.24 percent in Rate Area 2. The negative GRSA refunded \$720,268 to BHGD customers for the July 1 to December 31, 2018 period.

6. To account for tax savings of \$459,218 for the first six months of 2018 that had not been captured by the decreased GRSA, BHCOG provided customers a one-time bill credit in May 2019. BHGD likewise accounted for tax savings during this period through one-time bill credit of \$1,118,243 in May 2019.

7. On June 11, 2020, Black Hills filed Advice Letter No. 2 in Proceeding No. 20AL-0252G in compliance with the requirements in the Commission Decisions issued in Proceeding No. 19AL-0075G. The new rates reflect the updated tax rates resulting from the TCJA.

8. The TCJA also affected depreciation rates, requiring utilities to determine excess deferred federal income tax (EDFIT). Following U.S. Tax Code, EDFIT is amortized in two ways: protected EDFIT applies to certain accounts, generally property accounts, that must be amortized over the remaining life of the asset; unprotected EDFIT applies to accounts that can be amortized according a schedule approved by the Commission. Black Hills netted protected EDFIT amounts of \$4,269,266 for Rate Area 1 and \$1,305,857 of Rate Area 2 against the Company's Deficient Deferred Federal Income Tax regulatory accounts for a zero balance in 2020. The amortized protected EDFIT of \$6,385,823 for Rate Area 3 resulted in an annual credit of \$148,714, which was rolled into base rates in Proceeding No. 19AL-0075G.

9. Non-protected EDFIT has been amortized and the annual refunds of \$244,301 for Rate Area 1, \$74,725 for Rate Area 2, and \$451,677 for Rate Area 3 were included in base rates.

10. Black Hills states that pursuant to 4 CCR 723-1-1400, it conferred with the parties to this Proceeding. Atmos Energy Corporation; Black Hills Colorado Electric, LLC; Colorado

Natural Gas, Inc.; International Brotherhood of Electrical Workers, Local No. 111; and Wal-Mart Stores, Inc. and Sam's West, Inc. do not object to or oppose the Motion. The Board of Water Works of Pueblo; the City of Pueblo, Colorado; Climax Molybdenum Company; Colorado Office of Consumer Counsel; Colorado Springs Utilities; Commission Trial Staff; Cripple Creek & Victor Gold Mining Company LLC; Energy Outreach Colorado; Public Service Company of Colorado; and Western Resource Advocates take no position on the Motion. Fountain Valley Authority did not respond to the conferral.

B. Findings, Conclusions, and Directives

11. Black Hills Colorado Gas has filed appropriate advice letters to effectuate the refund of funds due its customers as a result of the 2017 TCJA in accordance with the Plans filed by BHCOG and BHGD and accepted by the Commission in Decision No. C18-0326-I.

12. In Compliance with Decision No. C18-0326-I, Black Hills Colorado Gas has consistently filed quarterly status reports, beginning with its first status report filed on June 29, 2018.

13. The request of Black Hills Colorado Gas to be excused from further participation in this proceeding is granted.

II. ORDER

A. It is Ordered That:

1. The Motion to be Excused from Proceeding No. 18M-0074EG filed by Black Hills Colorado Gas on February 12, 2021 is granted.

2. The 20-day time period provided by § 40-6-114(1), C.R.S., to file an application for rehearing, reargument, or reconsideration shall begin on the first day after the Commission mails this Decision.

3. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
March 10, 2021.**

(S E A L)



ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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JOHN GAVAN

MEGAN M. GILMAN

Commissioners