

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO**

PROCEEDING NO. 17A-0272G

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IN THE MATTER OF THE VERIFIED JOINT APPLICATION OF BLACK HILLS/COLORADO GAS UTILITY COMPANY, LP D/B/A BLACK HILLS ENERGY AND BLACK HILLS GAS DISTRIBUTION, LLC D/B/A BLACK HILLS ENERGY FOR APPROVAL OF A COMBINED NATURAL GAS DEMAND SIDE MANAGEMENT (DSM) PLAN FOR CALENDAR YEARS 2018, 2019, AND 2020 AND FOR APPROVAL OF REVISIONS TO THEIR GAS DSM COST ADJUSTMENT TARIFFS.

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**DECISION APPROVING MODIFIED  
SETTLEMENT AGREEMENT AND  
AMENDED DEMAND SIDE MANAGEMENT PLAN**

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Mailed Date: June 5, 2019  
Adopted Date: May 29, 2019

**I. BY THE COMMISSION**

**A. Statement**

1. On May 21, 2019, Black Hills Colorado Gas, Inc. (Black Hills) requested leave to amend the Demand Side Management Plan (Amended DSM Plan) for calendar years 2019 and 2020 previously approved by Decision No. R17-0832 for calendar years 2018, 2019, and 2020. To that end, Black Hills filed an Unopposed Joint Motion for Approval of a Modified Settlement Agreement (Motion) and a Modified Settlement Agreement.

2. The Modified Settlement Agreement memorializes the negotiated settlement among and between the Settling Parties in this Proceeding, *i.e.*, Black Hills, Staff of the Colorado Public Utilities Commission, the Colorado Office of Consumer Counsel, and Energy Outreach Colorado, on all issues that could have arisen related to the Amended DSM Plan. As a result of negotiations and the Modified Settlement Agreement, the Settling Parties agree that the issues in

dispute between them in this Proceeding have been resolved to the satisfaction of the Settling Parties. The Settling Parties also agree that the Modified Settlement Agreement is a fair, just, and reasonable resolution of these issues.

3. As described below, this Decision grants the Motion and approves the Modified Settlement Agreement without modification.

**B. Discussion**

4. On May 1, 2017, Black Hills/Colorado Gas Utility Company, LP (BHCOG) and Black Hills Gas Distribution, LLC (BHGD) filed a joint application for approval of a Combined DSM Plan for calendar years 2018, 2019, and 2020 and for approval of revisions to their DSM Cost Adjustment tariffs.

5. On October 16, 2017, Decision No. R17-0832 approved a Stipulation and Settlement Agreement reached by the Settling Parties and approved the Combined DSM Plan as modified by the agreement.

6. On October 23, 2018, Decision No. C18-0934 issued in Proceeding No. 18A-0583G approved the corporate consolidation of BHCOG and BHGD into Black Hills. The consolidation became effective on December 31, 2018.

7. On May 21, 2019, the Settling Parties filed the Motion and Modified Settlement Agreement for approval of the Amended Demand DSM Plan. The Settling Parties agree that the Commission should approve the Modified Settlement Agreement without modification.

8. The Motion explains that, as a result of the consolidation and Black Hills' desire to amend the Combined DSM Plan, Black Hills commenced additional settlement negotiations with the Settling Parties in January 2019.

9. The Amended DSM Plan reflects a singular DSM program administered through Black Hills for calendar years 2019 to 2020. The DSM programs, budgets, energy savings goals, and projected participation in Colorado remain the same. For example, as part of the Amended DSM Plan, the budgets, energy savings, goals, and projected participation for BHCOG and BHGD were summed to create a total budget, energy savings goal target, and projected participation. The Amended Plan also has the same six DSM programs that were offered under the Combined DSM Plan.

10. Black Hills further developed a common avoided cost and average retail rate based on the more conservative technical assumptions, specifically avoided costs, gas energy costs, discount and inflation rates and lost revenue calculations, for the two former utilities. As a result, the Modified Total Resource Cost (mTRC) and other cost-effectiveness measures for Black Hills were developed using the more conservative of the former utilities' technical assumptions, thereby improving the cost effectiveness. Under the Amended Plan, the common portfolio has an mTRC of 1.37, which indicates a more cost effective DSM portfolio than the previously separate mTRC measures for BHCOG (1.19) and BHGD (1.17).

11. In addition, Black Hills requests a partial waiver, for purposes of this Proceeding only, of the requirements in 4 *Code of Colorado Regulations* (CCR) 723-4-4753 of the Commission's Rules Regulating Gas Utilities and Pipeline Operators that a DSM plan cover a DSM period of three years. As described previously, the Amended DSM Plan is intended to cover calendar years 2019 to 2020. Black Hills intends to file an application seeking approval of a DSM plan that covers a DSM period of three years by May 1, 2020 pursuant to Rule 4752(e).

12. Black Hills also requests a partial waiver, for purposes of this Proceeding only, of Rule 4753(f)(VI) that requires "[e]ach proposed DSM program . . . to have a projected value

greater than or equal to 1.0 using a modified TRC test,” as that rule applies to the Amended DSM Plan’s proposed Residential New Construction Program and the Nonresidential New Construction Program. A similar partial waiver was sought for the Combined DSM Plan and granted by Commission Decision No. R17-0832.

13. Pursuant to Rule 1308(c) of the Commission’s Rules of Practice and Procedure, 4 CCR 723-1, the Settling Parties request a waiver of response time to the Motion. According to Black Hills, good cause exists for such a waiver because the Motion is supported by all parties to this Proceeding.

**C. Findings and Conclusions**

14. Based upon the representations made in the Motion and the Modified Settlement Agreement, we find that approval of the Modified Settlement Agreement is in the public interest. The Amended Plan’s programs, budgets, and goals remain the same as the Combined Plan.

15. We are also persuaded that approval of the Modified Settlement Agreement is in the public interest due to the statement that the Amended DSM Plan is intended to cover years 2019 to 2020 and Black Hills expects a to file new DSM application within the next year.

16. We further find good cause to grant both partial waivers requested in the Motion. Under the circumstances, we find it appropriate to waive Rule 4753 as discussed previously. We are aware that the Commission expects a new DSM application from BH Colorado Gas within the next year. BH Colorado Gas notes that a similar partial waiver of Rule 4753(f)(VI) was sought for the Combined DSM Plan and granted by Decision No. R17-0832. The portfolio’s mTRC of 1.37 justifies this partial waiver for new DSM programs such as the Residential New Construction Program and the Nonresidential New Construction Program.

**II. ORDER**

**A. The Commission Orders That:**

1. The Unopposed Joint Motion for Leave to Amend Demand Side Management Plan, to Approve the Modified Settlement Agreement and Amended Demand Side Management Plan, and to Waive Certain Commission Rules filed by Black Hills Colorado Gas, Inc. (Black Hills) on May 21, 2019 is granted, consistent with the discussion above.

2. Response time to the motion is waived.

3. The Modified Settlement Agreement (which is attached to this Decision as Appendix A) filed by Black Hills on May 21, 2019 is approved without modification.

4. The 20-day period provided for in § 40-6-114, C.R.S., within which to file applications for rehearing, reargument, or reconsideration begins on the first day following the effective date of this Decision.

5. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING  
May 29, 2019.**

(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

JEFFREY P. ACKERMANN

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FRANCES A. KONCILJA

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JOHN GAVAN

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Commissioners