

Decision No. C21-0380

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 21AL-0236G

IN THE MATTER OF ADVICE LETTER NO. 9 FILED BY BLACK HILLS COLORADO GAS, INC. DOING BUSINESS AS BLACK HILLS ENERGY TO INCREASE THE BASE RATES CHARGED FOR ALL NATURAL GAS SALES AND TRANSPORTATION SERVICES TO BECOME EFFECTIVE JULY 2, 2021.

**COMMISSION DECISION SUSPENDING EFFECTIVE
DATE OF TARIFFS SHEETS AND REFERRING THE
MATTER TO AN ADMINISTRATIVE LAW JUDGE**

Mailed Date: June 28, 2021
Adopted Date: June 23, 2021

IMPORTANT NOTICE: ANY PERSON DESIRING TO PARTICIPATE ONLY BY MAKING A STATEMENT MAY DO SO BY APPEARING AT THE HEARING. IF YOU DESIRE TO ASK PARTY IN THIS MATTER, YOU MUST REQUEST PERMISSION FROM THE COMMISSION TO BE AN INTERVENOR (EVEN IF YOU HAVE ALREADY FILED AN OBJECTION). ANYONE DESIRING TO INTERVENE MUST CAREFULLY FOLLOW THE LAW AND COMMISSION RULES FOR BECOMING AN INTERVENOR. FOR FURTHER INFORMATION ON HOW TO INTERVENE, CALL (303) 894-2070 (PUC EXTERNAL AFFAIRS OFFICE).

I. BY THE COMMISSION

A. Statement

1. This Decision sets for hearing the tariffs filed by Black Hills Colorado Gas, Inc. (BHCG or the Company) with Advice Letter No. 9 – Gas (AL 9) and suspends their effective date to October 30, 2021.

2. We refer the matter to an Administrative Law Judge (ALJ) for hearing.

3. A pleading to intervene in this matter may be filed by any person, firm, or corporation desiring to be a party and fully participate in this proceeding no later than 30 days from the mailed date of this Decision.

B. Discussion

4. On June 1, 2021, BHCG filed AL 9 with tariff sheets to implement an increase in base rate revenues of 20.3 percent, or \$14,578,803, over currently approved rates of \$71,942,254, using a test year ending December 31, 2020. The proposed effective date of the tariff sheets filed with AL 9 (Attachment A to this Decision) is July 2, 2021.

5. BHCG presents a combined Phase I (revenue requirement) and Phase II (cost allocation and rate design) rate review. It proposes a return on equity of 9.95 percent and a long-term cost of debt of 3.91 percent, with a capital structure of 50.26 percent equity and 49.74 percent debt, resulting in a weighted average cost of capital of 6.94 percent. Among other requests, it proposes to apply a year-end methodology to calculate rate base, sets forth an approach for allocating long-term debt, and seeks continuation of various trackers related to property tax, pension, and retiree medical expenses.

6. BHCG states that a major driver of this rate case is \$143.6 million in capital additions placed in service from June 30, 2018 through December 31, 2020, which have not yet been included in base rate recovery. BHCG represents that these capital additions have been made to improve the safety and integrity of its natural gas system and are distinct from those requested for recovery through a System Safety and Integrity Rider in Proceeding No. 20A-0379G.

7. As a legacy of prior acquisitions, BHCG currently has three base rate areas with different rates. While it does not present a specific proposal seeking consolidation of the three

base rate areas, it sets forth revenue requirement studies, cost of service studies, and base rate revisions both for each base rate area and for consolidated statewide rates.

8. The Company also sets forth revisions to its tariffs which include reclassifying Small Volume and Large Volume rate schedules into Large Commercial, discontinuing interruptible sales, and making various other changes for clarity and conformity. For residential customers, the proposed monthly bill impact ranges from 6.3 to 25.1 percent depending on the base rate area and Gas Cost Adjustment region. For small commercial customers, the proposed monthly bill impact similarly ranges from 2.4 to 20.2 percent.

9. BHCG further filed an Unopposed Motion for Protective Order Affording Extraordinary Protection for Highly Confidential Information on June 7, 2021.

10. On June 10, 2021, Trial Staff of the Commission (Staff) filed a protest letter. Staff states that it has identified the following issues that are or may become disputed: the reasonableness of BHCG's selected test year; the reasonableness of the return on equity and capital structure; the prudence of the capital additions that the Company placed in service between July 1, 2018 and December 31, 2020; the reasonableness of discontinuing interruptible sales services; and the appropriateness of BHCG's proposed cost allocation and rate design for all customer classes, among other issues. Staff requests that the Commission suspend the tariff sheets and set the matter for hearing.

11. On June 15, 2021, the Colorado Office of Consumer Counsel (OCC) filed a protest letter, which was subsequently amended on June 17, 2021. In its amended protest letter, OCC states that it is concerned as to whether the Company's proposal to revise its base rates and tariffs is in the public interest, and will result in just and reasonable rates. OCC specifically raises concerns about the reasonableness of overall proposed rate increases and the potential for rate

shock for residential and small commercial customers; the reasonableness of BHCG's proposed return on equity, debt allocation methodology, and capital structure; issues of incentive pay and equity compensation; the reasonableness of the test year and rate base valuation methodology used by BHCG; its proposals to recover regulatory expenses; and its treatment of customer classes, cost allocation, and rate design, among other issues. OCC requests that the Commission suspend the tariff sheets and set the matter for hearing.

C. Conclusions and Findings

12. Pursuant to § 40-6-111(1), C.R.S., the Commission may, in its discretion, set the tariff pages filed with AL 9 for hearing, which will suspend the effective date of the tariff pages for 120 days from the proposed effective date. If the Commission does not establish new tariffs before the expiration of the suspension period of 120 days, or does not issue a separate decision further suspending the effective date of the tariff pages pursuant to § 40-6-111(1), C.R.S., the tariff pages filed by BHCG may become effective.

13. Section 40-6-111(1), C.R.S., also provides that the Commission may, by a separate decision, suspend the effective date of the tariff page(s) for an additional 130 days. Thus, the Commission has the power and authority to suspend the effective date of the tariff pages for a maximum of 250 days. If the Commission further suspends the effective date of the tariff pages for an additional 130 days, and if no new tariffs are established by the Commission before the end of the suspension period, the tariff pages filed by BHCG may become effective.

14. The protests filed by Staff and OCC raise significant substantive issues, including the construction of the capital structure and return on equity, the prudence of capital additions, and the reasonableness of cost allocation and rate design methodologies. The Commission finds good cause to set for hearing the tariffs submitted with AL 9. Pursuant to § 40-6-111(1), C.R.S.,

the initial 120-day suspension period for the tariff pages submitted with AL 9 shall extend through October 30, 2021.

15. We refer this matter to an ALJ.

16. A pleading to intervene may be filed by any person, firm, or corporation desiring to be a party and fully participate in this consolidated proceeding as ordered below. The filing of any other document protesting the tariff pages shall not allow participation as an intervenor in this matter.

II. ORDER

A. The Commission Orders That:

1. The proposed effective date, July 2, 2021, of the tariff pages filed by Black Hills Colorado Gas, Inc. (BHCG) on June 1, 2021, with Advice Letter No. 9 – Gas is suspended until October 30, 2021, or until further order of the Commission.

2. This matter is referred to an Administrative Law Judge (ALJ). The ALJ shall set a hearing date, rule on interventions, and establish other procedures by separate decision(s), consistent with the discussion above.

3. Any person, firm, or corporation, including any who have previously filed a document protesting the proposed tariff pages, who desire to intervene and participate as a party in this Proceeding shall file a motion to intervene with the Commission within 30 days after the mailing date of this Decision, and shall serve a copy of the notice or motion on BHCG's attorney of record.

4. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
June 23, 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

ERIC BLANK

JOHN GAVAN

MEGAN M. GILMAN

Commissioners