

Decision No. C25-0295

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23A-0633G

IN THE MATTER OF THE VERIFIED APPLICATION OF BLACK HILLS COLORADO GAS, INC. FOR APPROVAL OF ITS 2024-2028 CLEAN HEAT PLAN.

**COMMISSION DECISION REQUIRING FILING OF
CONSENSUS PROCEDURAL SCHEDULE**

Issued Date: April 17, 2025

Adopted Date: April 10, 2025

I. BY THE COMMISSION

A. Statement

1. By this Decision, we order Black Hills Colorado Gas, Inc., doing business as Black Hills Energy, (“Black Hills” or the “Company”) to confer with the parties to this Proceeding and provide the Commission a consensus procedural schedule or notice of conferral no later than Monday April 21, 2025, by close of business.

B. Background

2. Black Hills filed its inaugural Clean Heat Plan application pursuant to § 40-3.2-108, C.R.S. (the “Clean Heat Statute”) and Rules 4725 to 4733 of the Commission’s Rules Regulating Gas Utilities, 4 *Colorado Code of Regulations* (“CCR”) 723-4 on December 29, 2023.

3. On March 7, 2024, the Commission referred the Proceeding to an Administrative Law Judge (“ALJ”) through Decision No. C24-0148-I, and the following entities

became parties: the Colorado Public Utilities Commission Trial Staff (“Staff”), the Colorado Energy Office (“CEO”), SWEEP, and the Colorado Utility Advocate (“UCA”).

4. On August 16, 2024, Black Hills filed a Motion to Approve the Settlement Agreement. Along with Black Hills, Staff, UCA, and CEO (collectively the “Settling Parties”) joined the Settlement Agreement. SWEEP did not join the Settlement.

5. The ALJ held an evidentiary hearing on August 29, 2024. On September 20, 2024, each UCA, Staff, SWEEP, CEO, and Black Hills filed Statements of Position (“SOP”).

6. On October 29, 2024, the ALJ issued Decision No. R24-0784 (the “Recommended Decision”). The Recommended Decision approves the Settlement Agreement in full.

7. On November 18, 2024, SWEEP filed exceptions to the Recommended Decision. On November 26, 2024, the Commission granted a motion filed by CEO to extend the response deadline to SWEEP’s exceptions in Decision No. C24-0873. On December 5, 2024, Black Hills and CEO each filed a response to SWEEP’s Exceptions. The Commission addressed SWEEP’s Exceptions through Decision No. C25-0091, issued on February 12, 2025 (“Exceptions Decision”).

8. Through Decision No. C25-0091, the Commission modified the Settlement Agreement approved in the Recommended Decision in two primary ways. First, the Commission limited the use of the demand-side management (“DSM”) budget only to weatherization and envelope measures. Second, the Commission ordered that any remaining DSM budget resulting from the measure limitations shall be utilized to expand the Company’s beneficial electrification (“BE”) offerings beyond the Rocky Fords pilot.

9. On March 4, 2025, Black Hills filed its application seeking rehearing, reargument, or reconsideration (“RRR Application”) of Decision No. C25-0091, which the Commission issued

on February 12, 2025. Black Hills requested that the Commission reconsider its modifications to the Settlement Agreement made in the Exceptions Decision and requests the Commission approve the Settlement without modification. Black Hills requested the Commission “should provide for additional process in this proceeding to evaluate other modifications to the Settlement to fairly rebalance the outcome given the changes to the CHP”¹ if the Commission did not revert to the unmodified Settlement Agreement.

10. On March 17, 2025, SWEEP filed its Motion for Leave to Respond. On March 25, 2025, Black Hills filed a response in opposition to SWEEP’s Motion for Leave to Respond.

11. By Decision No. C25-0248, issued on April 2, 2025, the Commission granted the RRR Application for the sole purpose of tolling the statutory deadline.

12. The Commission deliberated on the merits of the RRR applications at the March 26, 2025 and April 2, 2025 Commissioners' Weekly Meetings (CWM”) and issued Decision No. C25-0262 which denied SWEEP’s Motion for Leave to Respond, denied Black Hills’ request to reinstate the Settlement Agreement, found that additional process in the Proceeding was necessary, and scheduled a pre-hearing conference for April 10, 2025.

13. On April 10, 2025, the Commission held a pre-hearing conference in this Proceeding which was attended by the Company, UCA, SWEEP, Staff, and CEO.

C. Discussion, Findings, and Conclusions

1. RRR Application

14. In its RRR Application, Black Hills stated it no longer supports the overall elements of the Settlement and reverts its support back to the Company’s rebuttal position. The Commission

¹ Black Hills RRR, pp. 25-26.

therefore must deliberate each discrete issue presented by the CHP Application to resolve this Proceeding. In the Commission's RRR Decision, the Commission found that the unmodified Settlement Agreement is not in the public interest and thus additional process in this Proceeding was necessary to complete the adjudication of the Company's CHP Application.

15. To that end, the Commission held a pre-hearing conference on April 10, 2025, attended by all parties. At the pre-hearing conference, the Commission requested input from the parties regarding what additional process would be needed to complete this Proceeding. While parties offered differing approaches, the consensus was that additional filing of written testimony and additional discovery were unnecessary and that the best course of action would be for the Commission to resume the Proceeding with the evidentiary record as it stood after the filing of rebuttal testimony. The parties also highlighted that they saw a need for legal briefing regarding certain statutory and constitutional arguments presented by Black Hills throughout this Proceeding.

16. The Commission found that the best course of action was to set a two-day evidentiary hearing in this Proceeding to further examine the evidentiary record without the Settlement Agreement and corresponding settlement testimony. At the pre-hearing conference, the Commission offered several available dates but no resolution of a date for a hearing was reached. The Commission also acknowledged that the parties saw no need for additional written testimony and therefore ordered that the parties confer on a procedural schedule that included a deadline for pre-hearing matters, an evidentiary hearing, and a deadline for statements of positions and legal briefing.

17. The Commission therefore orders Black Hills to confer with the parties and provide a consensus procedural schedule that addresses deadlines for the following:

Deadline/Action	Date
Pre-Hearing Motions	<i>Minimum one week prior to hearing</i>
Corrections/Cross-Matrix/Witness List	<i>Minimum one week prior to hearing</i>
Remote <i>En Banc</i> Evidentiary Hearing	Available Commission dates: <ul style="list-style-type: none"> • May 2025 dates that may become available pending the April 16, 2025 CWM discussion of Proceeding No. 24A-0296E • May 21, 2025 to May 23, 2025 • August 4, 2025 to August 5, 2025 • September 15, 2025 to September 19, 2025
Statements of Position and Legal Briefing	

18. The Commission finds that the above is the necessary process to complete this Proceeding, however, will consider any motions made by parties pursuant to the Commission’s Practice and Procedure rules as appropriate. The Commission must resolve all issues presented in the Company’s CHP Application and thus the scope of the evidentiary hearing is the entirety of the evidentiary record here, excluding the settlement and associated testimony. However, the Commission will entertain any party proposals to streamline the hearing as appropriate. The evidentiary hearing is meant to ensure the Commission can deliberate on the merits of the CHP Application and further explore the evidentiary and policy issues in this Proceeding. Legal issues specific to the Company’s Application that the Commission may need to address to resolve this Proceeding can be addressed by parties through briefing and statements of position following the evidentiary hearing. The Commission does not see a need to set a date for oral arguments or similar legal process at this juncture.

19. Black Hills shall file the above information no later than close of business on April 21, 2025.

II. ORDER

A. The Commission Orders That:

1. Black Hills Colorado Gas, Inc., doing business as Black Hills Energy, shall confer with the parties to this Proceeding and provide the Commission a consensus procedural schedule consistent with the above discussion no later than Monday April 21, 2025, by close of business.

2. This Decision is effective upon its Issued Date.

**B. ADOPTED IN COMMISSIONERS' PREHEARING CONFERENCE
April 10, 2025.**

(S E A L)



ATTEST: A TRUE COPY

Rebecca E. White,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ERIC BLANK

MEGAN M. GILMAN

TOM PLANT

Commissioners