

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

PROCEEDING NO. 22A-0251G

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IN THE MATTER OF THE VERIFIED APPLICATION OF BLACK HILLS COLORADO GAS, INC. FOR APPROVAL TO IMPLEMENT A VOLUNTARY RENEWABLE NATURAL GAS AND CARBON OFFSET PROGRAM.

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**INTERIM DECISION OF  
ADMINISTRATIVE LAW JUDGE  
CONOR F. FARLEY  
GRANTING MOTION TO PERMISSIVELY  
INTERVENE, GRANTING MOTION TO PARTICIPATE AS  
AMICUS CURIAE, SCHEDULING REMOTE  
PREHEARING CONFERENCE, AND  
REQUIRING PARTIES TO CONFER AND BLACK HILLS  
TO FILE A REPORT REGARDING THE CONFERRAL  
BEFORE THE REMOTE PREHEARING CONFERENCE**

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Mailed Date: September 13, 2022

**I. STATEMENT**

**A. Background**

1. On June 6, 2022, Black Hills Colorado Gas, Inc. (Black Hills) filed a Verified Application (Application) seeking approval of the voluntary renewable natural gas and carbon offset program described therein.
2. On June 7, 2022, the Commission issued a notice of the Application.
3. On July 7, 2022, the Colorado Energy Office (CEO) filed a Motion to Participate as *Amicus Curiae*.
4. On July 7 and 8, 2022, the Office of the Utility Consumer Advocate and Trial Staff of the Commission filed Notices of Intervention by Right, respectively.

5. On July 8, 2022, Western Resource Advocates filed a Motion to Permissively Intervene in this proceeding.

6. On July 20, 2022, the Commission deemed the Application complete and referred the proceeding to an Administrative Law Judge (ALJ) by minute entry. The proceeding was subsequently assigned to the undersigned ALJ.

7. On July 22, 2022, the Commission issued Decision No. C22-0433-I that noted concerns with the Application.

**B. Motion to Permissively Intervene**

8. Black Hills has not opposed WRA's Motion to Permissively Intervene, which satisfies the requirements of Rule 1401 of the Commission's Rules of Practice and Procedure.<sup>1</sup> Accordingly, WRA's Motion to Permissively Intervene shall be granted.

**C. Motion to Participate as *Amicus Curiae***

9. In its Motion, CEO requests permission to participate as an *amicus curiae* for the purpose of providing legal argument on "whether [Black Hills'] Application should be filed as part of a Clean Heat Plan, pursuant to the rules the Commission is developing in proceeding 21R-0449G, as required by Senate Bill 21-264."<sup>2</sup> CEO also promises not to broaden the issues in this proceeding.

10. No party has opposed CEO's request. Accordingly, the ALJ shall grant CEO's Motion to Participate as *Amicus Curiae* for the stated purpose.

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<sup>1</sup> 4 CCR 723-1.

<sup>2</sup> Motion to Participate as *Amicus Curiae* at 3 (¶ 4).

**D. Remote Prehearing Conference**

11. It is appropriate to hold a remote prehearing conference in this proceeding. Accordingly, a remote prehearing conference shall be scheduled for September 22, 2022, at 1:00 p.m. The remote prehearing conference will be conducted over the Zoom videoconferencing platform. The ALJ or a member of Commission Staff will email the log-in information in advance of the hearing.

12. Black Hills shall confer with the other parties in advance of the remote prehearing conference regarding a schedule for this proceeding, any discovery procedures that are inconsistent with the Commission's rules governing discovery, and the method by which the hearing should be conducted. The Commission can conduct in-person, remote, or hybrid hearings. A remote hearing is one in which all of the participants appear and participate from remote locations over the Zoom web conferencing platform. A hybrid hearing involves the ALJ and at least one party and/or witness participating from one of the Commission's hearing rooms in Denver, and the remaining party(ies) and witness(es) participating from one or more remote locations using the Zoom web conferencing platform. An in-person hearing is one in which the ALJ and all parties and witnesses participate in the hearing at the same location.

13. Black Hills shall file a report of the results of the conferral. If there is agreement on a schedule, including dates for the hearing, discovery procedures that are inconsistent with the Commission's rules governing discovery, and/or the method for conducting the hearing (*i.e.*, remote, hybrid, or in-person), the report shall state as much and detail the stipulated procedural schedule, discovery procedures, and/or method for conducting the hearing. If no agreement is achieved, the report shall state as much and identify the competing schedules, discovery procedures, and/or methods for conducting the hearing proposed by the parties. The parties are

on notice that the ALJ will retain the discretion to change the method by which the hearing will be conducted.

14. The parties are urged to review the Commission's public calendar to identify suitable days for the hearing in this proceeding and propose more than one date or consecutive dates for the hearing. The latest date on which the hearing can conclude is December 1, 2022, which assumes that the deadline for a final Commission decision will be extended 130 days pursuant to § 40-6-109.5(1), C.R.S. The deadline for Black Hills to file the report is 12:00 p.m. on September 20, 2022.

15. All parties must appear at the remote prehearing conference. Failure to attend or to participate in the remote prehearing conference is a waiver of any objection to the rulings made, to the procedural schedule established, and to the hearing dates scheduled during the remote prehearing conference.

## **II. ORDER**

### **A. It Is Ordered That:**

1. The Motion to Participate as *Amicus Curiae* filed by the Colorado Energy Office on July 7, 2022 is granted.

2. The Motion to Permissively Intervene filed by Western Resource Advocates (WRA) on July 8, 2022 is granted.

3. The parties in this proceeding are Black Hills Colorado Gas, Inc. (Black Hills), Commission Trial Staff, the Office of the Utility Consumer Advocate, and WRA.

4. A remote prehearing conference in this proceeding is scheduled as follows:

DATE: September 22, 2022

TIME: 1:00 p.m.

WEBCAST: Hearing Room B

METHOD: Join by video conference using Zoom at the link to be provided in an email from the Administrative Law Judge<sup>3</sup>

5. Nobody should appear in-person for the remote prehearing conference.
6. Black Hills shall file the report of the conferral identified above on or before 12:00 p.m. on September 20, 2022.
7. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

CONOR F. FARLEY

Administrative Law Judge

ATTEST: A TRUE COPY

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

Doug Dean,  
Director

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<sup>3</sup> Additional information about the Zoom platform and how to use the platform are available at: <https://zoom.us/>. All are strongly encouraged to participate in a test meeting prior to the scheduled hearing. See <https://zoom.us/test>.