

Decision No. C23-0517-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23V-0381G

IN THE MATTER OF THE JOINT PETITION OF ATMOS ENERGY CORPORATION AND BLACK HILLS COLORADO GAS, INC. FOR APPROVAL OF A VARIANCE FROM RULE 4602(H).

**INTERIM DECISION ESTABLISHING
SHORTENED NOTICE AND INTERVENTION PERIOD**

Mailed Date: August 4, 2023

Adopted Date: August 2, 2023

TO THE PARTIES IN THIS MATTER AND ALL INTERESTED PERSONS, FIRMS,
OR CORPORATIONS:

I. BY THE COMMISSION

A. Statement

1. This Decision establishes a shortened notice and intervention period for the joint petition for a partial variance or a full variance from subparagraph 4602(h) of the Commission's Rules Regulating Gas Utilities, 4 *Code of Colorado Regulations* (CCR) 723-4-4000, *et seq.*, filed by Atmos Energy Corporation and Black Hills Colorado Gas, Inc. (Joint Petitioners) on July 21, 2023.

2. Requests for intervention, including a notice of intervention by right of Staff of the Colorado Public Utilities Commission (Staff), shall be filed no later than **August 9, 2023**.

B. Discussion

3. Joint Petitioners request either a partial variance delaying the filing of their initial Gas Purchase Incentive Mechanism (GPIM) applications until 90 days after Public Service Company files its initial GPIM, consistent with the filing cadence pursuant to Rule 4602, or a full variance if the Commission ultimately grants Public Service's request for a full variance in Proceeding No. 23V-0241G.

4. Similar to Public Service's petition in Proceeding No. 23V-0241G, Joint Petitioners note that the recently modified Gas Cost Adjustment (GCA) rules include a new requirement for natural gas utilities to file a GPIM to establish a gas cost benchmark using market indices and apply a risk sharing mechanism under Rule 4601(q). The GCA rules also introduce several new terms and definitions related to the GPIM. Those rules became effective April 14, 2023. The modified GCA rules adopted a staggered approach for the jurisdictional gas utilities to file GPIM applications. Public Service was to file its GPIM two months after the new GCA rules take effect, with the Joint Petitioners filing their GPIM applications on September 1, 2023.

5. In addition, SB23-291, which was introduced in this most recent legislative session, impacts gas utilities by requiring that utilities file Gas Price Risk Management Plans (GPRMP) by November 1, 2023, to level or reduce the volatility of fuel costs that are recovered pursuant to utilities' gas cost adjustment filings pursuant to § 40-3-120(1)(a), C.R.S. In addition, that legislation required the Commission to initiate a rulemaking in order to align the financial incentives of an investor-owned electric or gas utility with the interests of the utility's customers regarding incurred fuel costs (*see*, § 40-3-120(2)(a), C.R.S.). Joint Petitioners are of the opinion that in future proceedings and the future rulemaking, those statutory directives may conflict or overlap with the Commission's existing rules regarding GPIMs.

6. Public Service was granted a temporary waiver of the GPIM filing requirements in Decision No. C23-0456 in Proceeding No. 23V-0241G on July 18, 2023. The waiver is in place pending a determination of the Commission as to the best course of action to proceed with the Company's GPIM filing. Pending the outcome of that determination, Joint Petitioners request a variance of the requirement of Rule 4602(h) requiring initial GPIM applications to be filed no later than September 1, 2023.

7. Joint Petitioners request either (1) a partial variance delaying the filing of their initial GPIM applications until 90-days after Public Service files its initial GPIM, consistent with the staggered filings in Rule 4602; or (2) a full variance if the Commission ultimately determines that Public Service need not file a GPIM. In addition, Joint Petitioners request a shortened notice and intervention period of five days and an expedited decision within 40 days of the filing date of the petition or August 30, 2023.

C. Findings and Conclusions

8. Rule 4 CCR 723-1-1206(d) of the Commission's Rules of Practice and Procedure, states that unless shortened by Commission decision or rule, the intervention period for notice mailed by the Commission shall expire 30 days after the mailing date. Further, Rule 1206(3) requires the Commission's notice to state the date by which any objection, notice of intervention of right, or motion to permissively intervene must be filed.

9. We find good cause to grant Joint Petitioners' request for a shortened notice and intervention period. We establish a 5-day notice and intervention period from the effective date of this Decision.

10. Requests for intervention, including a notice of intervention by right of Staff, shall be filed no later than **August 9, 2023**.

11. Joint Petitioners' petition for a partial or full variance from Rule 4602(h) is available for public inspection by accessing the Commission's E-Filings System at: <https://www.dora.state.co.us/pls/efi/EFI.homepage>. **This Decision is the Commission's notice that Atmos Energy Corporation and Black Hills Colorado Gas, Inc.'s petition has been filed.**

II. ORDER

A. It Is Ordered That:

1. The request of Atmos Energy Corporation and Black Hills Colorado Gas, Inc. (Joint Petitioners) for a shortened notice and intervention period for joint petition, filed on July 21, 2023, for a partial or permanent waiver from subparagraph 4602(h) of the Commission's Rules Regulating Gas Utilities 4 *Code of Colorado Regulations* (CCR) 723-4-4000, *et seq.*, is granted consistent with the discussion above.

2. Service of this Decision will provide notice of Joint Petitioners' petition to all interested persons, firms, and corporations.

3. The notice and intervention period shall expire at **5:00 p.m. on August 9, 2023**.

4. Any person desiring to intervene or participate as a party in this proceeding, including Staff of the Colorado Public Utilities Commission, shall file a petition for leave to intervene, or under the Commission's Rules of Practice and Procedure, 4 CCR 723-1, file other appropriate pleadings to become a party, no later than **August 9, 2023**.

5. All persons who file an objection, notice of intervention as of right, motion to permissively intervene, or any other appropriate pleading shall do so in accordance with the instructions set forth in the Commission's Rules of Practice and Procedure and this Decision.

6. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
August 2, 2023.**

(S E A L)



ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Rebecca E. White".

Rebecca E. White,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ERIC BLANK

MEGAN M. GILMAN

TOM PLANT

Commissioners