

Decision No. C20-0534

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

PROCEEDING NO. 20V-0299EG

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IN THE MATTER OF THE JOINT PETITION OF BLACK HILLS COLORADO ELECTRIC, LLC AND BLACK HILLS COLORADO GAS, INC, EACH D/B/A BLACK HILLS ENERGY, FOR PARTIAL VARIANCE FROM DECISION NO. C20-0246 PURSUANT TO RULE 1003 CONCERNING TARIFF WAIVERS IN PROCEEDING NO. 20V-0150EG.

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**COMMISSION DECISION GRANTING  
PETITION FOR A WAIVER OF RULES AND TARIFF**

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Mailed Date: July 22, 2020

Adopted Date: July 22, 2020

**I. BY THE COMMISSION**

**Statement, Findings, Conclusion**

1. On April 3, 2020, Black Hills Colorado Electric, LLC, and Black Hills Colorado Gas, Inc., doing business as Black Hills Energy (collectively “Black Hills”), filed a Joint Petition requesting waiver of a number of tariff provisions of Black Hills’s Tariff Sheets (Black Hills Electric Tariff PUC No. 11, and Black Hills Gas Tariffs PUC No. 3 and No. 7), in Proceeding No. 20V-0150EG. That Joint Petition was granted by Commission Decision No. C20-0246, mailed April 14, 2020 (Initial Waiver Decision).

2. Subsequently, on June 11, 2020, Black Hills Colorado Gas, Inc. filed Advice Letter No. 2, in Proceeding No. 20AL-0252G, in compliance with Decision No. R19-1033, as adopted or modified by Decision No. C20-0372. Advice Letter No. 2 accompanied the new combined tariff—PUC Tariff Volume No. 1—for the consolidated company of Black Hills Colorado Gas, Inc. The new combined tariff became effective on July 3, 2020, as the tariff

superseded and replaced in their entirety, Gas Tariff PUC Volume No. 3 and Gas Tariff PUC Volume No. 7.

3. Through its Petition filed July 16, 2020, which initiated this proceeding, Black Hills seeks to extend the previously approved tariff waivers granted in the Initial Waiver Decision through September 7, 2020, as well as extending the tariff waivers to the new Gas Tariff PUC Volume No. 1 for Black Hills Colorado Gas, Inc.

4. The waivers for Black Hills Colorado Gas, Inc. are requested to be effective *nunc pro tunc* July 3, 2020, consistent with the effective date of the new combined tariff.

5. Additionally, in Black Hills requests that the Commission waive its intervention and notice period set forth in 4 *Code of Colorado Regulations* (CCR) 723-1-1206(d) (Rule 1206(d)) and, if the Petition is uncontested or unopposed, that the Commission approve the Petition without a hearing pursuant to 4 CCR 723-1-1403

6. As we recognized in the Initial Waiver Decision, on March 10, 2020, Colorado Governor Jared Polis declared a state of emergency over COVID-19. Subsequently, on March 20, 2020, the Governor's Executive Order D 2020 012 (Executive Order), directs the PUC as follows, in pertinent part through Subsection III<sup>1</sup>:

A. I direct the [PUC], within [the Department of Regulatory Agencies], to work with all public utilities in the State to suspend service disconnections for delayed or missed payments from residential and small business consumers related to the impacts of COVID-19.

B. I further direct the PUC to work with all public utilities to waive reconnection fees and suspend accrual of late payment fees for all residential customers and small business consumers most significantly burdened by the impacts of COVID-

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<sup>1</sup> Governor's Executive Order D 2020 031, dated April 6, 2020, extended the applicable provisions of Executive Order D 2020 12 through April 30, 2020. Most recently Governor's Executive Order D 2020 132 extended the applicable provisions through August 10, 2020.

19 as well as to make reasonable efforts to reinstate service for those customers currently disconnected for nonpayment or arrearage related to the impacts of COVID-19.

C. I further direct the PUC to work with all public utilities to develop and provide payment assistance programs to aid customers, particularly customers qualified for the Low Income Energy Assistance Program, in the payment of their utility bills, related to the impacts of COVID-19.

7. The specific tariff pages for which Black Hills seeks an extended waiver are as follows, along with their relevant provisions.

8. For Black Hills Electric, Tariff Volume No. 11, Black Hills includes the following requested waivers:

a. Tariff Sheet 106, seeking a temporary waiver of reconnection fees for residential and small commercial customers to comply with Executive Order No. D 2020 012;

b. Tariff Sheet 106B, seeking temporary waiver of late payment fee for residential and small commercial customers to comply with Executive Order No. D 2020 012;

c. Tariff Sheet R8- Deposits, seeking temporary waiver of deposit requirements for customers with recent delinquencies or requesting reconnection to address needs of certain customers negatively impacted by the repercussions of COVID-19;

d. Tariff Sheet R15 and R16, Section 7.9, seeking temporary waiver of late payment charge for residential and small commercial customers to comply with Executive Order No. D2020 012;

e. Tariff Sheet R17, Section 8.6, seeking temporary waiver of conditions required to restore service for residential and small business customers to comply with Executive Order No. D 2020 012; and

f. Tariff Sheet R69- Black Hills Energy Assistance Program (Low Income Program), seeking waiver for removal of non-payment provisions to address needs of certain customers negatively impacted by the repercussions of COVID-19.

9. For Black Hills Colorado Gas Tariff Volume No. 1, Black Hills includes the following requested waivers:

- a. Tariff Sheet No. 32- Restoration of Service Fee- Waiver of reconnection fees and late payment fees for residential and small business customers;
- b. Tariff Sheet No. 48 – Waiver of payment default provisions for Black Hills Energy Assistance Program participants;
- c. Tariff Sheet No. R25- Waiver of late payment charges for residential and small commercial customers, and Waiver to suspend the requirement for personnel to visit each customer property to read each meter at least once every six months and waiver of the six-month limitation for under billing;
- d. Tariff Sheet Nos. 35-38, R70- Waiver of conditions required to restore service for residential and small commercial customers; and
- e. Tariff Sheet No. R58- Waiver of deposit requirement for disconnection purposes.

10. The impacts of COVID-19 create a unique and urgent set of circumstances affecting the public interest. Therefore, we find good cause to consider the Petition expeditiously. In these rare and specific circumstances, waiver of the Commission's notice and intervention period provided in Rule 1206(d) is appropriate.

11. The portions of its Tariff that Black Hills has identified require the Company to assess certain fees and contain other provisions relating to disconnection and reconnection of service and otherwise contain conditions which are contrary to the public interest given the repercussions of COVID-19, and directives in the Governor's Executive Orders.

12. We find good cause to grant the Petition *nunc pro tunc* from July 3, 2020 through September 7, 2020 for Black Hills Colorado Gas. We grant the Petition from August 1, 2020 through September 7, 2020 for Black Hills Colorado Electric, LLC. Extension of the waiver may be requested as appropriate given the unprecedented developments surrounding COVID-19. If developments dictate otherwise, Black Hills may seek to shorten or otherwise modify this waiver.

**II. ORDER**

**A. The Commission Orders That:**

1. The Petition filed by Black Hills Colorado Electric, LLC, and Black Hills Colorado Gas, Inc., doing business as Black Hills Energy (Black Hills) for a Waiver of selected provisions of its tariff sheets, is granted, consistent with the discussion above, *nunc pro tunc*, from July 3, 2020 through September 7, 2020 for Black Hills Colorado Gas, Inc. and from August 1, 2020 through September 7, 2020 for Black Hills Colorado Electric, LLC.

2. Black Hills's request filed within the Petition that the Commission waive its intervention and notice period set forth in Commission Rule 4 CCR 723-1-1206(d) is granted.

3. The 20-day time period provided by § 40-6-114(1), C.R.S., to file an application for rehearing, reargument, or reconsideration shall begin on the first day after the Commission mails this Decision.

4. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING  
July 22, 2020**

(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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JOHN GAVAN

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MEGAN M. GILMAN

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Commissioners