

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 DENYING MOTION FOR A
PREHEARING CONFERENCE**

Issued Date: October 20, 2025

Adopted Date: October 8, 2025

I. BY THE COMMISSION

A. Statement

1. This Proceeding addresses the Application of Black Hills Colorado Gas, Inc. (“Black Hills” or the “Company”) for Approval of its 2024-2028 Clean Heat Plan.

2. By this Decision, we deny the motion filed by the Colorado Energy Office (“CEO”) on September 30, 2025, to hold a prehearing conference in this Proceeding (“Motion”).

B. Background

3. 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* 723-4 on December 29, 2023.

4. On March 7, 2024, the Commission referred the Proceeding to the above-mentioned ALJ through Decision No. C24-0148-I, and the following entities became parties: the Colorado Public Utilities Commission Trial Staff (“Staff”), CEO, SWEEP, and the Colorado Utility Advocate (“UCA”).

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

6. On November 18, 2024, SWEEP filed exceptions to the Recommended Decision. The Commission addressed SWEEP’s Exceptions through Decision No. C25-0091, issued on February 12, 2025. 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.

7. 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. In its RRR Application, Black Hills stated it no longer supports

¹ Black Hills RRR, pp. 25-26.

the overall elements of the Settlement and reverts its support back to the Company's rebuttal position.

8. 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 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. 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.

9. By Decision No. C25-0387, the Commission established a procedural schedule for the remainder of this Proceeding, including a three-day fully remote *en banc* evidentiary hearing for the days of October 27-29, 2025.

10. On September 30, 2025, CEO filed its Motion requesting that the Commission schedule a prehearing conference for this Proceeding.

C. Discussion, Findings, and Conclusions

11. In its Motion, CEO states that a prehearing conference would be beneficial to discuss the Commission's intentions at hearing, including whether and how the Commission envisions soliciting new fact testimony at hearing, and whether and how the Commission envisions eliciting party input concerning legal issues at hearing. Specifically, CEO seeks Commission guidance on the following non-exhaustive question list: (1) Does the Commission intend to solicit factual evidence from witnesses that is not already included in pre-existing testimony and the first evidentiary hearing in this proceeding? And (2) Does the Commission intend on asking witnesses

to provide legal opinions regarding beneficial electrification for Black Hills? CEO requests that the prehearing conference be scheduled for October 13 or 17, 2025.

12. We deny CEO's Motion due to Commissioner availability and because CEO's highlighted questions can be addressed through this decision:

13. *Does the Commission intend to solicit factual evidence from witnesses that is not already included in pre-existing testimony and the first evidentiary hearing in this proceeding?* The Commissioners often use their time to question witnesses on modifications of proposals already in the record, and to address potential ideas that parties may have relevant opinions on. The Commission must ultimately decide the case on the record, but commissioners often use the hearing to gather information and party positions relevant to a proceeding.

14. *Does the Commission intend on asking witnesses to provide legal opinions regarding beneficial electrification for Black Hills?* No, the Commission will not solicit legal opinions from expert witnesses. Parties have an opportunity to address legal issues through statements of positions. However, many witnesses provide testimony that discusses the relevant legal framework in this Proceeding, so questions addressing the statutory framework that do not require a legal conclusion may be asked.

II. ORDER

A. It Is Ordered That:

1. The Motion filed by the Colorado Energy Office on September 30, 2025, is denied, consistent with the discussion above.

2. This Decision is effective upon its Issued Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
October 8, 2025.**

(S E A L)



ATTEST: A TRUE COPY

Rebecca E. White,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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Commissioners