

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 20L-0428G

IN THE MATTER OF THE VERIFIED APPLICATION OF BLACK HILLS COLORADO GAS, INC. D/B/A BLACK HILLS ENERGY FOR AUTHORITY TO REFLECT A CHANGE IN THE GAS COST ADJUSTMENT TARIFF ON LESS THAN 30 DAYS' NOTICE AND WITHOUT FORMAL HEARING AND MOTION FOR PARTIAL VARIANCE FROM RULE 4604(d).

**COMMISSION DECISION GRANTING APPLICATION
AND AUTHORIZING REVISION OF GAS RATES**

Mailed Date: October 28, 2020
Adopted Date: October 28, 2020

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I. BY THE COMMISSION**A. Statement**

1. By this Decision, the Commission grants the Application filed on October 15, 2020, by Black Hills Colorado Gas, Inc., doing business as Black Hills Energy (Black Hills or Company) requesting the Commission authorize Black Hills, on less-than-statutory notice, to make certain revisions to the Company's Gas Cost Adjustment (GCA) rate. The Application is made pursuant to § 40-3-104(2), C.R.S., and Rules 4 *Code of Colorado Regulations* (CCR) 723-4-4602 and 4603 of the Commission's Rules Regulating Gas Utilities and Pipeline Operators.

2. The Commission authorizes Black Hills to file, on not less than two days' notice, the tariffs attached as Appendix A and made part of this Decision. These tariffs shall be effective for actual gas sales on or after their effective date of November 1, 2020.

B. Application

3. Through its Application, Black Hills seeks a Commission order authorizing it, without a formal hearing and on less-than-statutory notice, to place into effect on November 1, 2020, revised rates to supersede the Company's currently effective GCA, implemented in Proceeding No. 20AL-0252G.

4. The result of the proposed GCA is an annual revenue increase of \$9,935,830, as compared to forecasted revenues under the current rate. The net result is an increase to the overall gas costs to be collected in the GCA period beginning November 1, 2020. The Company states, of the \$9.94 million estimated annual increase, \$0.3 million is related to a reduction in deferred gas costs compared to those used in its July 2020 filing, and \$10.3 million is related to an increase in current gas cost forecasts compared to those used for the currently effective GCA.

5. The Company explains the change in gas prices reflects the current projected price of gas in the market. The Company states the prices reflected on Confidential GCA Attachment No. 2 to the Application are based on the current future New York Mercantile Exchange (NYMEX) gas prices as of October 2, 2020 and a basis differential. The Company states Confidential GCA Attachment No. 2 also reflects financial hedges.

6. The GCA rates are projected to increase in the four GCA regions as follows: Central GCA Region from the current price of \$3.1048/Dth to a forecasted price of \$3.5642/Dth; North/Southwest GCA Region from the current price of \$4.6715/Dth to a forecasted price of \$5.1754/Dth; Western Slope GCA Region (without storage) from the current price of \$5.4868/Dth to a forecasted price of \$5.8355/Dth; and the Western Slope GCA Region (with storage) from the current price of \$6.0120/Dth to a forecasted price of \$6.3391/Dth.

7. The Company proposes to pass on the proposed GCA rate changes effective with volumes taken on and after November 1, 2020, and to prorate the change as of the November 1, 2020 effective date, as stated on Sheet No. 65 of the BHCG GCA Tariffs.

8. The Company states good cause exists to grant its request to authorize the tariff changes on less-than-statutory notice based upon the data and explanations in the Application.

9. Black Hills acknowledges its obligation under Rule 4 CCR 723-4-4604(h) of the Commission's Rules Regulating Gas Utilities and Pipeline Operators to provide notice to customers and the public concerning the proposed tariff changes. Black Hills states it will make the required publication in *The Denver Post* within three days of the filing of the Application.

C. Subsequent Filings

1. OCC Notice of Intervention

10. On October 22, 2020, the Colorado Office of Consumer Counsel (OCC) filed a notice of intervention. The OCC requests the Commission either deny the Application, require Black Hills to make a supplemental filing explaining the basis for requesting the tariff become effective on less than 30 days' notice, or require the Company to re-notice the Application on 30 days' notice. The OCC does not request a hearing in its notice of intervention.

11. The OCC's primary objection is that Black Hills failed to show "good cause" why the Application should be approved on less-than-statutory notice, as required by the terms of § 40-3-104(2), C.R.S. The OCC contends Black Hills provides only the statement in ¶ 20 of its Application that "[g]ood cause exists ... based upon the supporting data and explanations contained herein."¹ The OCC also objects that Black Hills failed to comply with Rule 4 CCR 723-4-4109(b)(II) because it does not state facts supporting its request that the tariff changes become effective on shortened notice. The OCC further notes that attachments to the Application are not publicly available on the Commission's E-Filings System. The OCC objects that this has prevented it and the public from reviewing to determine if the attachments support the claim of "good cause."

12. The OCC also raises concern that the change in revenue resulting from the proposed GCA is an estimated annual increase of \$9.94 million. The OCC states this results in significant increases in the Central GCA region (14.80 percent), and the North/Southwest GCA region (10.79 percent). The OCC adds this rate increase will be in addition to any increases

¹ OCC Intervention at ¶ 10.

authorized in Black Hills' recently-filed Phase I rate case and system safety integrity rider adjustment application.²

2. *Black Hills Withdrawal of Highly Confidential Status*

13. On October 22, 2020, Black Hills filed a notice explaining it had inadvertently filed its public attachments in this Proceeding as highly confidential. Black Hills provided notice to the Commission that it had re-filed these attachments as public.

3. *Black Hills GCA Intervention Affidavit*

14. On October 23, 2020, Black Hills filed an affidavit supplementing the information in its initial Application.

15. In the affidavit, Black Hills explains the Company's GCA is the fuel adjustment clause mechanism by which the Company reflects increases or decreases in gas costs and refunds or collects the difference between what customers were billed for the natural gas and what was actually paid for the gas. Black Hills states the Company passes the cost of gas to its customers without any markup. Black Hills states the GCA will therefore increase or decrease, depending on actual gas costs incurred by the Company and the amount billed to customers.

16. Black Hills notes that, prior to the OCC's intervention, the Company worked with and provided additional confidential pricing information to Staff of the Public Utilities Commission (Staff) for a thorough analysis and vetting of the GCA.

17. Black Hills addressed the OCC's concern that it had not shown "good cause" to implement the tariff changes on less than 30 days' notice. The Company first points out that Rule 4 CCR 723-4-4603(a) requires it to file its GCA application not less than two weeks in advance of the effective date; Black Hills raises that it filed the Application on 16 days' notice,

² The OCC cites ongoing Commission Proceeding Nos. 20AL-0380G and 20A-0379G.

meeting this timeline. Black Hills further explains, because the GCA is a forward-looking adjustment clause, obtaining pricing as close to the effective date is most beneficial to the customer. Black Hills states it based the proposed GCA on the current future NYMEX gas prices as of October 2, 2020. Black Hills states, due to the current volatile gas prices, filing an application on 30 days' notice could result in a significant impact to customers (positive or negative) due to constant changes of the future NYMEX gas pricing. Black Hills adds it will continue to monitor and, if necessary, file interim GCA applications if the pricing and deferred balances warrant a change.

18. Finally, Black Hills responds the GCA is unaffiliated with the recently-filed Phase I rate case and system safety integrity rider adjustment application.

D. Findings and Conclusions

19. The Commission finds the Application contains all the materials required by the applicable Commission Rules and therefore is deemed complete.

20. We conclude that gas commodity cost projections have risen since the Company's last GCA filing. The Commission therefore finds good cause to allow the proposed increases on less-than-statutory notice and will grant the Application.

21. We disagree with the OCC that the Application should be denied or re-noticed on 30 days' notice. We note that Black Hills has made a supplemental filing explaining the basis for its request that the tariff changes become effective on less than 30 days' notice. We find the Company's affidavit of October 23, 2020, addresses the concerns raised by the OCC that the Company had not shown "good cause" to authorize the tariff changes on shortened notice. As the Company outlines in its affidavit, filing the instant Application on 16 days' notice is consistent with both the two-week timeframe in Rule 4 CCR 723-4-4603(a) and the

time-sensitive nature of the calculations in the Application. As the Company explains, because the GCA is a forward-looking adjustment clause, obtaining pricing data as close to the effective date is most beneficial to the Company's customers. The Company further explains, due to constant changes of the future NYMEX gas pricing, filing an application on 30 days' notice could result in a significant impact, positive or negative, to its customers.

22. The Commission finds, without a specific charge by the OCC that the Company's calculations or inputs are erroneous, the OCC's concerns with the size alone of the rate change do not provide sufficient grounds to deny the Application in this case. In its notice of intervention, the OCC raises concern with the size of the resulting rate increase from the GCA rate change but does not dispute the accuracy of any of the calculations or the validity of any inputs underlying the Company's Application. We note Staff has not made an intervention or other filing disputing the accuracy of the cost inputs and calculations in the Company's Application. And further, that Black Hills represents in its affidavit it worked with and provided additional confidential pricing information to Staff for a thorough analysis and vetting of the GCA. We find no reason on the record of this Proceeding to deny or delay the Application for further review where there has been no dispute over the underlying calculations and inputs.

II. ORDER

A. The Commission Orders That:

1. The Application filed on October 15, 2020, by Black Hills Colorado Gas, Inc., doing business as Black Hills Energy (Black Hills) requesting the Commission authorize, on less-than-statutory notice, revisions to Black Hills' Gas Cost Adjustment rate, is deemed complete.

2. The Application filed by Black Hills for authority to change tariffs on less-than-statutory notice, is granted.

3. Black Hills is authorized to file, on not less than two days' notice, the tariffs attached as Appendix A and made part of this Decision. These tariffs shall be effective for actual gas sales on or after their effective date of November 1, 2020.

4. The 20-day time period provided by § 40-6-114, C.R.S., to file an application for rehearing, reargument, or reconsideration shall begin on the first day after the effective date of this Decision.

5. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
October 28, 2020.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JEFFREY P. ACKERMANN

JOHN GAVAN

MEGAN M. GILMAN

Commissioners