

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 20A-0477G

IN THE MATTER OF THE VERIFIED APPLICATION OF BLACK HILLS COLORADO GAS, INC. D/B/A BLACK HILLS ENERGY FOR APPROVAL OF A NEW GAS METER SAMPLING PROGRAM AND RELATED TARIFF CHANGES.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
STEVEN H. DENMAN
GRANTING UNOPPOSED MOTION AND
VACATING PROCEDURAL SCHEDULE IN PART**

Mailed Date: March 2, 2021

I. STATEMENT

A. Procedural History.

1. On November 5, 2020, Black Hills Colorado Gas, Inc., doing business as Black Hills Energy (Black Hills), filed with the Colorado Public Utilities Commission (Commission), a Verified Application (Application) for approval of a new Gas Meter Sampling Program (Sampling Program) and related revisions to its Colo. PUC No. 1 Tariff (Tariff). Black Hills also filed the Direct Testimony and Attachments of one witness, Svetlana V. Atoyan. Through this Application and supporting testimony and attachments, Black Hills requests that the Commission approve consolidation of previously approved gas meter sampling programs for its two legacy local distribution companies.¹

¹ Application, at pages 1-2. *See* Proceeding No. 15A-0900G, Decision No. C15-1362 approving gas meter sampling program for Black Hills/Colorado Gas Utility Company, Inc. (BHCOG) and Proceeding No. 17A-0379G, Decision No. C17-0716 approving gas meter sampling program for Black Hills Gas Distribution, LLC (BHGD).

2. The procedural history of this proceeding is included fully in previously issued decisions and is included here only to put this decision into context.

3. On November 6, 2020, the Commission issued a Notice of Application Filed (Notice) establishing deadlines for the filing of intervention pleadings.

4. During the Commission's weekly meeting held on December 16, 2020, the Application was deemed complete for purposes of § 40-6-109.5, C.R.S. (2019), and was referred to an Administrative Law Judge (ALJ) for disposition. Subsequently, the undersigned ALJ was assigned to preside over this proceeding.

5. Decision No. R21-0031-I (issued on January 14, 2021) acknowledged the interventions of right of the Colorado Office of Consumer Counsel (OCC), filed on December 4, 2020, and of Trial Staff of the Colorado Public Utilities Commission (Staff), filed on December 8, 2020.

6. The Parties to this proceeding are Black Hills, OCC, and Staff.

7. Pursuant to § 40-6-109.5(1), C.R.S. (2019), Decision No. R21-0031-I extended the deadline for the Commission's decision on the Application for an additional 130 days, for a maximum period of 250 days or until August 23, 2021.

8. As directed by Decision No. R21-0031-I, on January 22, 2021 Black Hills filed a Joint Status Report of Proposed Procedural Schedule, Discovery Procedures, [and] Confidentiality Procedures, proposing a Procedural Schedule and hearing date to which the Parties had agreed, as well as procedures related to discovery and confidentiality.²

² Joint Status Report, at pages 2-4.

9. In Decision No. R21-0040-I (issued on January 25, 2021), the ALJ adopted the following Procedural Schedule:³

Procedural Activity	Due Date(s)
Answer Testimony & Attachments	March 2, 2021
Rebuttal & Cross-answer Testimony & Attachments	March 30, 2021
Prehearing & Dispositive Motions	April 5, 2021
Corrected Testimony & Attachments	April 5, 2021
Stipulations & Settlement Agreement	April 16, 2021
Matrix of Order of Witnesses, Order of Cross-Examination, & Cross- Examination Times	April 20, 2021
Evidentiary Hearing	April 27, 2021
Statements of Position (Filed Simultaneously)	May 11, 2021

B. Notice of Settlement and Unopposed Motion.

10. On March 1, 2021, Black Hills filed a Notice of Settlement, Unopposed Joint Motion to Modify Procedural Schedule, and Request for Waiver of Response Time (Unopposed Motion). Staff and OCC joined the Unopposed Motion; together, Black Hills, Staff, and OCC are “Joint Movants.”

11. The Unopposed Motion advises the ALJ that the Joint Movants have reached a settlement in principle (Settlement) in this proceeding. The Joint Movants request that the ALJ modify the procedural schedule initially established in Decision No. R21-0040-I as follows: (1) set a deadline of March 15, 2021 to file a Settlement Agreement; (2) set a deadline of March 22,

³ Decision No. R21-0040-I also adopted procedures related to discovery and confidentiality and procedures for conducting a remote evidentiary hearing on April 27, 2021.

2021 to file testimony supporting the Settlement Agreement; and (3) vacate the remainder of the procedural schedule, except for the April 27, 2021 hearing date. Because the Unopposed Motion is not contested, the Joint Movants request waiver of response time. The details of the Settlement will be delineated in a subsequently filed settlement agreement and motion to approve the Settlement.⁴

12. The Commission encourages the settlement of contested proceedings, as provided in Rule 1408 of the Rules of Practice and Procedure, 4 *Code of Colorado Regulations* 723-1 (2020).

13. The Unopposed Motion states good cause and will be granted. The procedural schedule will be vacated in part, as set forth in this Decision.

14. Response time to the Unopposed Motion will be waived.

15. The procedural schedule adopted in Decision No. R21-0040-I will be modified as follows: (1) the Joint Movants will be ordered to file a written Settlement Agreement no later than March 15, 2021; (2) the Joint Movants will be ordered to file testimony supporting the Settlement Agreement no later than March 22, 2021; and (3) the remainder of the procedural schedule will be vacated, except for the April 27, 2021 hearing date. The remote hearing set for April 27, 2021 at 9:00 a.m. will be reserved for a hearing on the Settlement Agreement, if the ALJ deems a hearing necessary.

16. If the ALJ determines that a hearing on the Settlement Agreement is not necessary, the April 27, 2021 hearing date will be vacated.

⁴ Unopposed Motion, at pages 1, 3, and 4.

II. ORDER

A. It Is Ordered That:

1. The evidentiary hearing in this proceeding remains scheduled for a remote hearing on the Settlement Agreement, as follows:

DATE: April 27, 2021

TIME: 9:00 a.m.

WEBCAST: Commission Hearing Room A

METHOD: By video conference using GoToMeetings at the link to be provided to counsel and the parties by email prior to the hearing

2. The parties, counsel, witnesses, and members of the public shall not attend the hearing in-person at the Commission's hearing room, unless directed to do so by a future decision.

3. The Notice of Settlement, Unopposed Joint Motion to Modify Procedural Schedule, and Request for Waiver of Response Time (Unopposed Motion), filed by Black Hills Colorado Gas, Inc., doing business as Black Hills Energy (Black Hills) on March 1, 2021, is granted. Trial Staff of the Colorado Public Utilities Commission (Staff) and the Colorado Office of Consumer Counsel (OCC) joined the Unopposed Motion. (Together, Black Hills, Staff, and OCC are Joint Movants.)

4. Response time to the Unopposed Motion is waived.

5. The procedural schedule adopted in Decision No. R21-0040-I (issued on January 25, 2021) is modified as follows: (1) the Joint Movants shall file a written Settlement Agreement no later than March 15, 2021; (2) the Joint Movants shall file testimony supporting the Settlement Agreement no later than March 22, 2021; and (3) the remainder of the procedural schedule shall be vacated, except for the April 27, 2021 hearing date, which shall be reserved for a hearing on the Settlement Agreement, if the Administrative Law Judge determines that a hearing is necessary.

6. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

STEVEN H. DENMAN

Administrative Law Judge

ATTEST: A TRUE COPY

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

Doug Dean,
Director