

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 21A-0196G

IN THE MATTER OF THE VERIFIED APPLICATION OF BLACK HILLS COLORADO GAS, INC. FOR APPROVAL TO RECOVER GAS COSTS ASSOCIATED WITH THE FEBRUARY EXTREME COLD WEATHER EVENT

COMPREHENSIVE AND AMENDED SETTLEMENT AGREEMENT

This Comprehensive and Amended Settlement Agreement (“Amended Settlement Agreement” or “Agreement”) is entered into by Black Hills Colorado Gas, Inc. d/b/a Black Hills Energy (“Black Hills” or the “Company”), the Colorado Energy Office (“CEO”), Trial Staff of the Commission (“Trial Staff”), the Colorado Office of the Utility Consumer Advocate (“UCA”), and A M Gas Transfer Corp (collectively, the “Settling Parties”) pursuant to Rule 1408 of the Commission’s Rules of Practice and Procedure, 4 CCR 723-1. This Amended Settlement Agreement is intended to resolve all issues which were or could have been raised in this proceeding with respect to the Company’s Verified Application (“Application”) for recovery of extraordinary gas costs (“EGC”) incurred during the February 2021 extreme weather event known as Winter Storm Uri (the “Extreme Weather Event”).¹

PROCEDURAL BACKGROUND

1. On May 18, 2021, Black Hills initiated this proceeding by filing its Application to recover the EGC incurred to meet customer demands during the Extreme Weather Event. CEO,

¹ In its testimonies in this proceeding, the Company has commonly defined the Extreme Weather Event as the “February Event,” occurring during the days of February 13-17, 2021. For purposes of this Settlement Agreement, the term of the “Extreme Weather Event” is used in place of the “February Event.”

A M Gas Transfer Corp, the UCA, and Staff subsequently intervened and are the only other parties to this proceeding.

2. On September 1, 2021, the Presiding Administrative Law Judge (“ALJ”) issued Decision No. R21-0529-I, extending the time for a Commission decision regarding the Company’s Application by 130 days. In this decision, the ALJ also adopted the procedural schedule proposed by the parties and scheduled a public comment hearing regarding the Company’s Application.

3. Pursuant to the procedural schedule, answer testimonies were filed on September 27, 2021.

4. On October 25, 2021, the Company filed rebuttal testimony and A M Gas Transfer Corp filed cross-answer testimony.

5. On November 22, 2021, Black Hills filed a formal written settlement agreement with CEO and A M Gas Transfer Corp (Hearing Exhibit 106), a motion to approve the settlement agreement, and settlement testimony by the Company (Hearing Exhibit 107).

6. On November 24, 2021, the ALJ issued Decision No. R21-0752-I that, among other things, converted the December 1, 2021 evidentiary hearing into a prehearing conference, vacated the remaining hearing dates, and stated that the question of whether extraordinary conditions exist to warrant extending the statutory deadline for a final Commission decision by 130 days pursuant to § 40-6-109.5(4), C.R.S., would be addressed at the remote prehearing conference.

7. On December 14, 2021, the ALJ issued Decision No. R21-0791-I that memorialized the ALJ’s findings concerning extraordinary conditions rendered at the December 1, 2021 remote prehearing conference, scheduled a remote prehearing conference for December 22, 2021, and ordered the parties to confer regarding a supplemental schedule for the remainder of the proceeding and for Black Hills to file a report of the conferral by December 20, 2021.

8. On December 20, 2021, Black Hills filed the report of the conferral of the parties, which resulted in a proposed supplemental schedule agreed to by the parties (“Consensus Supplemental Schedule”).

9. On December 22, 2021, the ALJ issued Decision No. R21-0816-I, approving the Consensus Supplemental Schedule.

10. On January 10, 2022, Black Hills filed an unopposed motion to modify and amend the Consensus Supplemental Schedule to facilitate the submittal of the Amended Settlement Agreement and related settlement testimony.

11. The Amended Settlement Agreement filed here represents the comprehensive agreements of the Settling Parties to resolve the issues in this proceeding that were raised or could have been raised by the Settling Parties. The Amended Settlement Agreement revises terms of the non-unanimous settlement agreement filed as Hearing Exhibit 106. This Amended Settlement Agreement, i.e., Hearing Exhibit 108, amends and replaces Hearing Exhibit 106.

SETTLEMENT TERMS

The Settling Parties agree that the Commission should approve the Company’s Application for recovery of the Extraordinary Gas Costs (“EGC”), subject to the following modifications and conditions:

I. Definition of Extraordinary Gas Costs (“EGC”)

12. The EGC associated with the Extreme Weather Event will include the Company’s incremental fuel costs incurred for the five-day period from February 13-17, 2021. This cost is \$72,666,626. The Settling Parties agree that the EGC are recoverable consistent with the terms set forth in this Settlement Agreement.

II. EGC Disallowances

13. The Settling Parties will no longer pursue cost disallowances regarding the EGC pursuant to the provisions agreed to in this Agreement.

III. Carrying Cost

14. The Settling Parties agree that no carrying cost or interest will be applied to the EGC.

IV. Regulatory Liabilities

15. The Settling Parties agree not to offset the EGC with any of the Company's regulatory liabilities. The Company's regulatory liabilities are pending resolution through a settlement agreement in Proceeding No. 21AL-0236G, which involves the Company's June 1, 2021 advice letter filing of a combined Phase I and Phase II rate review. The settlement agreement filed in that proceeding addresses regulatory liabilities including the Synergy Regulatory Asset, the Property Tax Tracker, the Periodic Pension Expense Tracker, and the Legacy Pension and Retiree Medical Regulatory Asset Tracker.

V. Offsets

A. Black Hills' Donations

16. Black Hills agrees to provide and donate a \$300,000 customer impact mitigation offset. Of the \$300,000 offset, \$200,000 will provide a direct offset to the EGC. The Company will donate the remaining \$100,000 of the offset as a credit to the Black Hills Energy Assistance Program, providing additional funds to assist low-income eligible customers.

B. Waiver of Late Payment Charges

17. The Settling Parties agree to Black Hills' waiver of its collection of late payment charges addressed on the Company's Tariff Sheet No. R25. The waiver shall remain in place while

Black Hills is collecting from customers the net EGC. Black Hills estimates this waiver of late payment charges to approximate a total foregone amount of \$160,000 in charges.

C. Total of Non-Recoverable Expenses

18. In totality, Black Hills estimates that this Settlement Agreement requires it to incur expenses that are not recoverable from customers in an amount of approximately \$2.9 million. This estimate was conservatively developed based on the following expenses: (1) non-recovery of the Company's carrying cost of the EGC (approximately \$2.1 million) addressed in Paragraph 15; (2) the Company's donation of \$300,000 to offset the EGC addressed in Paragraph 17; (3) the Company's waiver of late payment charges while collecting the net EGC (\$160,000) addressed in Paragraph 18; (4) the Company's expenses related to the consultant investigation (\$200,000) addressed in Paragraphs 28-30; and (5) the Company's expenses related to outside legal services to support this proceeding (\$135,000) addressed in Paragraph 38.

VI. Low-Income Customers

19. The Company agrees to make all of its residential customers aware through email and bill messaging that they may qualify for Percentage of Income Payment Programs ("PIPP"), also known as Black Hills Energy Assistance Program ("BHEAP"), before commencement of cost recovery relating to the Extreme Weather Event.

20. In addition, the Settling Parties agree that the Company will proactively increase BHEAP credits in order to offset the impact of the Extraordinary Gas Cost Recovery Rider ("EGCRR") for income-qualified customers. In calculating the PIPP credits, the standard credit amount will be increased to reflect the prevailing EGCRR. This adjustment will be performed for the first 12 months that the EGCRR is in place. After the first 12 months, the adjustment would be discontinued because the impact of the EGCRR would be embedded in the customer's previous

bills and the standard PIPP credit calculation would take into account those higher charges that included the EGCR.

21. The Company will provide resources, such as payment plans, for customers who express hardship due to the EGCR.

22. Further, prior to the Commission's issuance of new low-income reporting requirements through rulemaking, including the ongoing Proceeding No. 21R-0326EG, Black Hills will provide biannual low-income reports in November and May regarding the Company's outreach and communications to income-qualified customers to address the opt-out rate for the BHEAP program, as well as provide a specific breakdown of the number of customers who requested de-enrollment. The reports will be filed in Proceeding No. 21A-0196G.

VII. Extraordinary Gas Cost Recovery Rider

23. The Settling Parties agree that the EGC will be recovered through a separate charge (the EGCR) on utility bills to provide transparency to customers. The Settling Parties agree that the EGCR will recover from customers a net amount of \$72,466,626. The EGCR will be charged on a volumetric basis just as the Company's Gas Cost Adjustment ("GCA") is charged on a volumetric basis, which is the same as the EGC associated with the Extreme Weather Event would have been cost-recovered but for the Commission's previous direction to set aside the EGC for scrutiny in a separate application, i.e., the instant proceeding. In the calculation of customer bills, the EGCR will be applied last, including after application of the Demand Side Management Cost Adjustment ("DSMCA").

VIII. Amortization Period

24. The Settling Parties agree to a three-year amortization period applied to the EGCR for all GCA Regions, except the Western Slope GCA Region, which shall have a one-year

amortization period applied to the EGCR. The EGCR will not be effective until April 2022. Any under or over recovery of the EGC through the EGCR at the end of the applicable amortization period will be credited or debited in the Company’s GCA. The Settling Parties agree that there may be annual adjustments to the EGCR if the Company’s over or under recovery balance is significant. At the end of the applicable amortization period, the EGCR will terminate and will be removed from customers’ monthly bills. The resulting customer bill impact for the terms and conditions of this Settlement are shown below.

	Central GCA Region	North/Southwest GCA Region	Western Slope (with Storage)	Western Slope (without Storage)
Amortization	3 yr amortization	3 yr amortization	1 yr amortization	1 yr amortization
Pre-recovery carrying cost	No	No	No	No
Short-term debt	No	No	No	No
Residential				
Base Rate Area 1- Amount		\$14.45	\$12.35	\$12.35
Base Rate Area 1- Percentage		19.05%	14.39%	15.15%
Base Rate Area 2- Amount	\$7.51	\$9.91		
Base Rate Area 2- Percentage	15.26%	16.88%		
Base Rate Area 3- Amount	\$10.95			
Base Rate Area 3- Percentage	20.19%			
Small Commercial				
Base Rate Area 1- Amount		\$29.74	\$25.42	\$25.42
Base Rate Area 1- Percentage		20.27%	15.19%	16.05%
Base Rate Area 2- Amount	\$18.21	\$24.03		
Base Rate Area 2- Percentage	17.95%	19.31%		
Base Rate Area 3- Amount	\$16.81			
Base Rate Area 3- Percentage	20.53%			

IX. Interim Gas Cost Adjustment

25. Black Hills shall monitor the balance of its deferred balance associated with its GCA. Black Hills will provide monthly updates of the GCA deferred balance to Staff, the UCA, and the CEO. Black Hills commits to file an interim adjustment to its GCA recovery if the GCA

deferred balance reaches an over-collection and projected costs for the upcoming three-month period are five percent lower than the current GCA. These Settlement Agreement provisions are applicable to the ~~2021-2022~~~~2020-2021~~ winter heating season.

X. Additional Natural Gas Storage

26. In recognition that the amount of natural gas storage that the Company currently has is a concern to certain parties in this proceeding, the Company agrees it will investigate options aimed at increasing storage capacity, where needed. The Company will provide a written report to the Commission summarizing its findings of options and potential actionable items in its next Gas Purchase Plan, which is to be filed in June 2022. Black Hills will not seek cost recovery from customers for costs associated with this investigation and report.

XI. Consultant Investigation

27. Working in conjunction with Staff, Black Hills will hire an outside consultant, funded by the Company's shareholders, to investigate and provide recommendations by no later than the Company's next Gas Purchase Plan ("GPP") filing.² The consultant's investigation will address hedging programs, including: (1) options for catastrophic insurance or other hedging options to mitigate risk of extreme market events, such as extreme weather, to customers; (2) general hedging levels, timing, and strategies; and (3) the cost of these options and parameters. In addition, the consultant's investigation will address the Company's current gas purchasing procedures and its GPP, including: (1) options for additional storage, including non-physical storage options; (2) overall GPP components; (3) other possible modifications to minimize the potential impact of extreme weather and other market events; and (4) the cost of these options.

² The consultant's investigation required by this settlement provision may form the basis of the report required by Paragraph 27 of this Settlement.

28. To facilitate the consultant's investigation, Black Hills commits to undertake the following actions:

- meeting with the Settling Parties within 30 days of executing the Settlement Agreement to define the consultant scope of work and consult with Staff to select an appropriate consultant;³
- providing periodic updates as agreed to by Staff;
- meeting with the Settling Parties at least 30 days prior to the filing of the next GPP to discuss the preliminary results of the consultant's investigation and the actions the Company is taking or will take to implement any recommendations; and
- providing on-going review of the implementation of any recommendations in future GPPs or hedging plans for the next five years.

29. The Settling Parties acknowledge that the consultant's investigation may lead to recommendations concerning the current winter heating season of 2021-2022. Accordingly, the consultant will present any modifications that may be expedited for implementation for the current heating winter season, to the extent possible, to reduce risk of a major weather or market event in the short-term. In addition, the Company will also immediately begin investigation of options and possible actions to be taken in the current winter heating season.

³ In the event there is a dispute between the Company and Staff on the scope of work or consultant selection, the Company and Staff agree to work in good faith to resolve the dispute based on: (1) a guiding principle of the public interest; and (2) a cost cap of the resulting consultant engagement of \$250,000. Should the Company and Staff not be able to resolve the dispute, either party may file a motion to the Commission in this proceeding requesting the Commission to resolve the dispute on an expedited basis based on the guiding principle of the public interest and a cost cap of the resulting consultant engagement of \$250,000.

XII. Customer Communications and Interruptible Measures

30. Black Hills will schedule an initial meeting with Settling Parties to discuss near-term and long-term conservation messaging (“Conservation Messaging Meeting”) within 30 days of the Settlement Agreement being executed by all Settling Parties.

31. On an interim basis, Black Hills will implement conservation messaging to customers where the forecasted usage exceeds 75% of the Design Day Heating Degree Days (“HDD”), subject to the following conditions:

- The contents of the conservation messaging will be discussed during the Conservation Messaging Meeting;
- The conservation messaging will be delivered to customers via multiple sources, including email, social media posts, the Black Hills Energy website, and media outlets, consistent with input received during the Conservation Messaging Meeting;
- The messaging will be delivered to customers as soon as reasonably practicable but no later than 12 hours after the Company becomes aware of the trigger addressed above;
- Messaging will continue no less than daily until the trigger is no longer met; and
- Black Hills will track the difference between forecasted and actual demand on a daily basis during the 2021-2022 heating season. It will also track the days when conservation messaging is delivered during the 2021-2022 heating season.

32. Following the end of the 2021-2022 heating season, the Company will file a publicly available report to the Commission no later than May 2, 2022, in which it will present the specific details and results of its conservation messaging, including estimated impacts and efficacy, as well as potential methods to improve results.

33. The Company's interim conservation messaging will continue through the 2023-2024 winter heating season, or until one of the two below-described processes concludes, whichever occurs earlier.

34. First, the Settling Parties agree to participate in biannual stakeholder meetings to address options for actionable conservation messaging. The Settling Parties may evaluate development of or changes to interruptible and Demand Side Management ("DSM") tariffs, including gas demand response programs. The Settling Parties will work together to develop potential programs and economic-based tariff options, and to analyze potential tariff changes to be included in Black Hills' next DSM proceeding.

35. Second, the Company will monitor the results of Public Service Company of Colorado's ("PSCo") consultant-driven process to identify tools and tariff options to drive economic-based conservation messaging, resulting from PSCo's February 2021 Extreme Weather Event case in Proceeding No. 21A-0192EG. Following PSCo's implementation of these tools and tariff options, the Company will work with interested stakeholders to discuss the applicability of the options to Black Hills. The discussion with interested stakeholders shall address the appropriate venue for the Company's filing of proposal(s) to the Commission to implement the tools and tariff options.

XIII. Interruptible Tariff Rates

36. Black Hills agrees to reassess its gas interruptible tariff offerings and associated customer outreach and propose any appropriate changes to such tariffs either in its next Demand Side Management filing or in a separate filing prior to January 2023. If modifications to the interruptible tariffs are proposed in a separate filing, Black Hills agrees to reach out to the Settling Parties and other stakeholders to discuss modification to its interruptible tariffs prior to filing.

XIV. Case Expenses

37. Company agrees not to include any “case expenses” for this proceeding, such as for outside attorney or consultant expenses, in a future Phase I rate case for cost recovery. Black Hills will provide the final amount of such case expenses to the Settling Parties within 60 days after a final Commission decision is issued in this Proceeding.

GENERAL PROVISIONS

38. Except as expressly set forth herein, nothing in this Settlement Agreement is intended to have precedential effect or bind the Settling Parties with respect to positions they may take in any other proceeding regarding any of the issues addressed in this Settlement Agreement. No Settling Party concedes the validity or correctness of any regulatory principle or methodology directly or indirectly incorporated in this Settlement Agreement. Furthermore, this Settlement Agreement does not constitute agreement, by any Settling Party, that any principle or methodology contained within or used to reach this Settlement Agreement may be applied to any situation other than the above-captioned Proceeding, except as expressly set forth herein.

39. The Settling Parties agree the provisions of this Settlement Agreement, as well as the negotiation process undertaken to reach this Settlement Agreement, are just, reasonable, and consistent with and not contrary to the public interest, and should be approved and authorized by the Commission.

40. The discussions among the Settling Parties that produced this Settlement Agreement have been conducted in accordance with Rule 408 of the Colorado Rules of Evidence.

41. Nothing in this Settlement Agreement shall constitute a waiver by any Settling Party with respect to any matter not specifically addressed in this Settlement Agreement.

42. The Settling Parties agree to use good faith efforts to support all aspects of the Settlement Agreement embodied in this document in any hearing conducted to determine whether the Commission should approve this Settlement Agreement, and/or in any other hearing, proceeding, or judicial review relating to this Settlement Agreement or the implementation or enforcement of its terms and conditions. Each Settling Party also agrees that, except as expressly provided in this Settlement Agreement, it will take no formal action in any administrative or judicial proceeding that would have the effect, directly or indirectly, of contravening the provisions or purposes of this Settlement Agreement. However, except as expressly provided herein, each Settling Party expressly reserves the right to advocate positions different from those stated in this Settlement Agreement in any proceeding other than one necessary to obtain approval of, or to implement or enforce, this Settlement Agreement or its terms and conditions.

43. Unless otherwise stated, the Settling Parties do not believe any waiver or variance of Commission rules is required to effectuate this Settlement Agreement but agree jointly to apply to the Commission for a waiver of compliance with any requirements of the Commission's Rules and Regulations if necessary to permit all provisions of this Settlement Agreement to be approved, carried out, and effectuated.

44. This Settlement Agreement is an integrated agreement that may not be altered by the unilateral determination of any Settling Party. There are no terms, representations or agreements among the parties which are not set forth in this Settlement Agreement.

45. This Settlement Agreement shall not become effective until the Commission issues a final decision addressing the Settlement Agreement. In the event the Commission modifies this Settlement Agreement in a manner unacceptable to any Settling Party, that Settling Party may withdraw from the Settlement Agreement and shall so notify the Commission and the other

Settling Parties in writing within ten (10) days of the date of the Commission order. In the event a Settling Party exercises its right to withdraw from the Settlement Agreement, this Settlement Agreement shall be null and void and of no effect in this or any other proceeding.

46. There shall be no legal presumption that any specific Settling Party was the drafter of this Settlement Agreement.

47. This Settlement Agreement may be executed in counterparts, all of which when taken together shall constitute the entire Agreement with respect to the issues addressed by this Settlement Agreement. This Settlement Agreement may be executed and delivered electronically and the Settling Parties agree that such electronic execution and delivery, whether executed in counterparts or collectively, shall have the same force and effect as delivery of an original document with original signatures, and that each Settling Party may use such facsimile signatures as evidence of the execution and delivery of this Settlement Agreement by the Settling Parties to the same extent that an original signature could be used.

48. This Settlement Agreement may be executed in one or more counterparts and each counterpart will have the same force and effect as an original document and as if all the Settling Parties had signed the same document. Any signature page of this Settlement Agreement may be detached from any counterpart of this Settlement Agreement without impairing the legal effect of any signatures thereon and may be attached to another counterpart of the Settlement Agreement identical in form hereto but having attached to it one or more signature page(s). The Settling Parties agree that “pdf” signature pages exchanged by e-mail and electronic signatures will satisfy the requirements for execution.

Dated this 31st day of January, 2022.

Agreed on behalf of:

Black Hills Colorado Gas, Inc.

By: /s/Michael J. Harrington
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Black Hills Colorado Gas, Inc.

Approved as to form:

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Dated January 31, 2022

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