

Decision No. R22-0569-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 22A-0251G

IN THE MATTER OF THE VERIFIED APPLICATION OF BLACK HILLS COLORADO GAS, INC. FOR APPROVAL TO IMPLEMENT A VOLUNTARY RENEWABLE NATURAL GAS AND CARBON OFFSET PROGRAM.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
CONOR F. FARLEY
EXTENDING STATUTORY DEADLINE, ADOPTING
PROCEDURAL SCHEDULE, SCHEDULING REMOTE
HEARING, AND PROVIDING INSTRUCTIONS
CONCERNING EXHIBITS AND FOR PARTICIPATING IN
REMOTE HEARING**

Mailed Date: September 21, 2022

I. STATEMENT

A. Background

1. On June 6, 2022, Black Hills Colorado Gas, Inc. (Black Hills) filed a Verified Application (Application) seeking approval of the voluntary renewable natural gas and carbon offset program described therein. With the Application, Black Hills filed the testimony and attachments of Katie N. Fleming.

2. On June 7, 2022, the Commission issued a notice of the Application.

3. On July 7, 2022, the Colorado Energy Office (CEO) filed a Motion to Participate as *Amicus Curiae*.

4. On July 7 and 8, 2022, the Office of the Utility Consumer Advocate (UCA) and Trial Staff of the Commission (Staff) filed Notices of Intervention by Right, respectively.

5. On July 8, 2022, Western Resource Advocates (WRA) filed a Motion to Permissively Intervene in this proceeding.

6. On July 20, 2022, the Commission deemed the Application complete and referred the proceeding to an Administrative Law Judge (ALJ) by minute entry. The proceeding was subsequently assigned to the undersigned ALJ.

7. On July 22, 2022, the Commission issued Decision No. C22-0433-I that noted concerns with the Application.

8. On September 13, 2022, the ALJ issued Decision No. R22-0541-I that granted WRA’s Motion to Permissively Intervene and CEO’s Motion to Participate as *Amicus Curiae*, scheduled a remote prehearing conference for September 22, 2022, and required the parties to confer about a procedural schedule and Black Hills to file a report of the conferral by September 20, 2022.

9. On September 20, 2022, Black Hills filed the Conferral Report. In it, Black Hills reported that the parties had agreed to the following procedural schedule (Consensus Schedule):

<u>Event</u>	<u>Deadline</u>
Answer Testimony	October 7, 2022
Rebuttal/Cross-Answer Testimony	October 21, 2022
Settlement Agreements and Supporting Testimony Prehearing Motions Corrections to Pre-Filed Testimony	November 4, 2022
Hearing Witness Matrix	November 7, 2022
Hearing	November 9, 2022
Statements of Position	December 7, 2022

Black Hills also reported that the parties agree that: (a) Commission Rule 1405 will govern discovery except that calendar days will be used to calculate the deadline for discovery deadlines, rather than business days;¹ and (b) the hearing should be conducted remotely.

B. Extension of Deadline

10. As stated in the Notice, because Black Hills filed testimony with the Application, the Commission is required by § 40-6-109.5(1), C.R.S., to issue its decision within 120 days of the Application being deemed complete by the Commission. Thus, the Commission's decision in this proceeding must issue by November 17, 2022. However, § 40-6-109.5(1), C.R.S., also provides that the Commission may, in its discretion and by a separate decision, extend the time for a decision by an additional 130 days.

11. Here, considering the Consensus Schedule proposed by the parties, the time available, the time necessary to address other pending matters, and the need for the Commission to have adequate time to deliberate on the issues presented in this matter, it is not feasible for a final Commission decision to issue by November 17, 2022. Accordingly, pursuant to § 40-6-109.5(1), C.R.S., it is necessary to extend the deadline for an additional 130 days to March 27, 2023.

C. Pre- and Post-Hearing Schedule

12. The Consensus Schedule and the parties' proposal to shorten discovery response time as described above will be accepted.

13. In order to efficiently organize the numbering and preparation of exhibits for the hearing, all parties must use a unified numbering system for all hearing exhibits. Blocks of hearing exhibit numbers are assigned as follows:

¹ 4 *Code of Colorado Regulations* 723-1.

- Black Hills is assigned hearing exhibit numbers 100 to 199;
- Staff is assigned hearing exhibit numbers 200 to 299;
- UCA is assigned hearing exhibit numbers 300 to 399; and
- WRA is assigned hearing exhibit numbers 400 to 499.

D. Remote Evidentiary Hearing

14. As agreed to by the parties, the evidentiary hearing shall be scheduled for November 9, 2022. Based on the input of the parties, the hearing will be conducted as a remote hearing. This Decision and Attachments A and B provide critical information and instructions to facilitate holding the remote hearing, which all parties must follow.

15. To minimize the potential that the remote hearing may be disrupted by non-participants, the link, meeting ID code, and passcode to attend the hearing will be provided to the participants by email before the hearing, and the participants will be prohibited from distributing that information to anyone not participating in the hearing.

16. Attachment A to this Decision provides the information addressing how to use the Zoom platform for remotely participating in the hearing. Attachment B outlines procedures and requirements for marking and formatting exhibits to facilitate the efficient and smooth electronic evidence presentations at the hybrid hearing. It is extremely important that the parties carefully review and follow all requirements in this Decision and Attachments A and B.

E. Remote Prehearing Conference

17. The Conferral Report comprehensively addressed all of the issues the ALJ intended to address at the remote prehearing conference. Accordingly, the remote prehearing conference scheduled for September 22, 2022 will be vacated.

II. ORDER

A. It Is Ordered That:

1. For the reasons stated above, the deadline for a Commission decision on the Application filed in this proceeding is extended to March 27, 2023.

2. The pre-hearing and post-hearing schedule stated in paragraph 9 above is adopted.

3. A remote hearing in this proceeding is scheduled as follows:

DATE: November 9, 2022

TIME: 9:00 a.m. to 5:00 p.m.

WEBCAST: Hearing Room C

METHOD: Join by video conference using Zoom at the link to be provided in an email from the Administrative Law Judge²

4. Nobody should appear in-person for the remote hearing.

5. The remote prehearing conference scheduled for September 22, 2022 at 1:00 p.m. is vacated.

6. This Decision is effective immediately.

² Additional information about the Zoom platform and how to use the platform are available at: <https://zoom.us/>. All are strongly encouraged to participate in a test meeting prior to the scheduled hearing. See <https://zoom.us/test>.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

CONOR F. FARLEY

Administrative Law Judge

ATTEST: A TRUE COPY

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

Doug Dean,
Director