

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 19AL-0075G

IN THE MATTER OF ADVICE LETTER NO. 1 FILED BY BLACK HILLS COLORADO GAS, INC. TO PLACE IN EFFECT ITS NEW P.U.C. VOLUME NO. 1 TARIFF ESTABLISHING NEW RATE SCHEDULES AND BASE RATES FOR ALL NATURAL GAS SALES AND TRANSPORTATION SERVICES, INCREASING JURISDICTIONAL BASE RATE REVENUES, COMBINING EXISTING GAS COST ADJUSTMENT (“GCA”) AREAS INTO NEW GCA REGIONS, IMPLEMENTING A DISTRIBUTION SYSTEM INTEGRITY RIDER, REVISING THE CONSTRUCTION ALLOWANCE CALCULATION METHOD, AND OTHER PROPOSED TARIFF CHANGES TO REPLACE AND SUPERSEDE ITS P.U.C. VOLUME NO. 3 TARIFF (FORMERLY BLACK HILLS/COLORADO GAS UTILITY COMPANY, INC.) AND P.U.C. VOLUME NO. 7 TARIFF (FORMERLY BLACK HILLS GAS DISTRIBUTION, LLC) IN THEIR ENTIRETY, TO BECOME EFFECTIVE ON MARCH 4, 2019.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
CONOR F. FARLEY
ESTABLISHING SUPPLEMENTAL
PROCEDURAL SCHEDULE, SCHEDULING HEARING,
AND REQUIRING FILING OF FOURTH AMENDED
ADVICE LETTER AND TARIFF SHEETS**

Mailed Date: August 28, 2019

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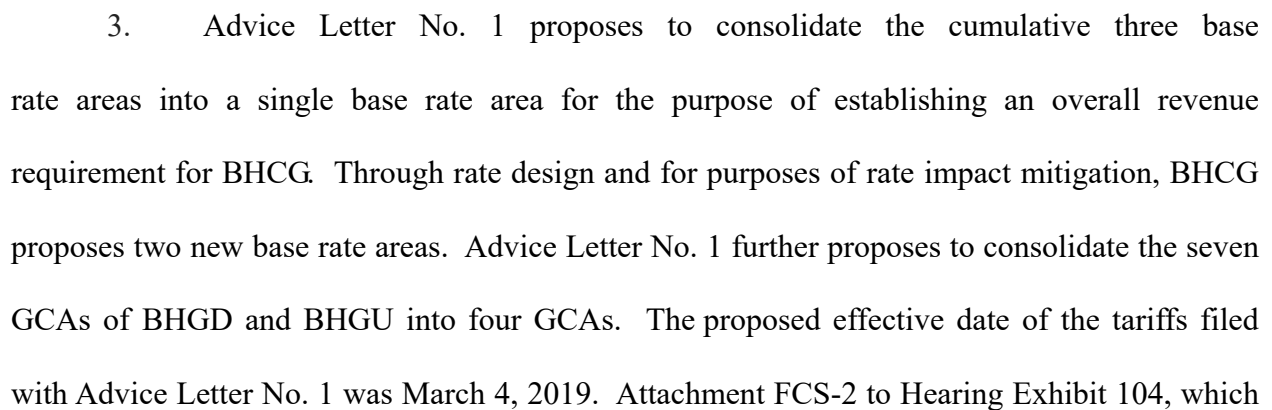
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I. BY THE COMMISSION**A. Background**

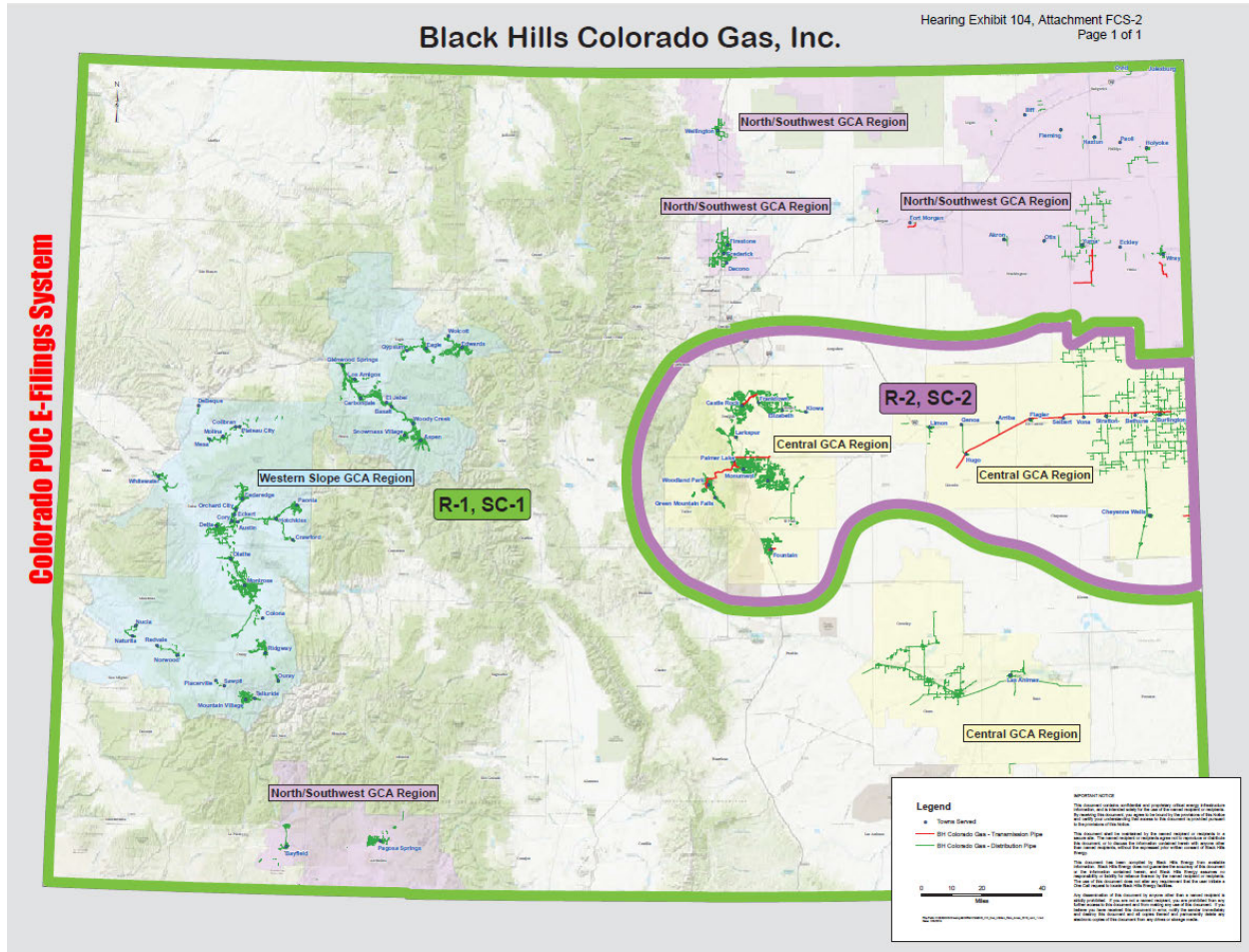
1. A more comprehensive summary of the background of this proceeding is included in Decision No. R19-0351-I. The facts relevant to this Decision are stated below.

2. On February 1, 2019, Black Hills Colorado Gas, Inc. (BHCG) filed Advice Letter No. 1 with supporting attachments and pre-filed direct testimony. Advice Letter No. 1 proposes to effectuate the consolidation of Black Hills/Colorado Gas Utility Company, Inc. (BHGU) and Black Hills Gas Distribution, LLC (BHGD) into BHCG. BHGU held the legacy assets from Aquila, Inc., which BHCG acquired in 2008. BHGD held the legacy assets of SourceGas Distribution, LLC, Rocky Mountain Natural Gas, LLC, SourceGas, LLC, and SourceGas Holdings, LLC, which BHCG acquired in 2016. BHGD has two base rate areas and six gas cost adjustment areas (GCAs). BHGU has one rate area and one GCA. Attachment FCS-1 to Hearing Exhibit 104, which shows the existing base rate areas and GCA areas of BHGD and BHGU (referred to as BHCOG), is shown on the next page.¹

¹ BHGD's base rate areas are depicted as "BHGD Rate Area 1" and "BHGD Rate Area 2" on Hearing Exhibit 104, Attachment FCS-1. BHGD's GCA areas are depicted on Exhibit 104, Attach. FCS-1 as the "North Central GCA Area," North Eastern GCA Area," "Arkansas Valley GCA Area," Southwestern GCA Area," "Western Slope GCA Area," and Western Slope GCA Area (with Storage)." BHGU's base rate area and GCA area are depicted as "BHCOG Rate Area" on Exhibit 104, Attachment FCS-1.



shows the proposed consolidation down to two base rate areas and four GCA areas, is shown below.



Among the supporting attachments filed by BHCG was the single statewide Revenue Requirement Study and the single statewide Class Cost of Service Study (CCOSS).

4. By Decision No. C19-0194 issued February 22, 2019, the Commission, among other things, set the tariff pages for hearing, which suspended the effective date of the tariff pages filed by BHCG (and thus the proposed increases in rates) until July 2, 2019 pursuant to § 40-6-111(1), C.R.S., and referred this proceeding to an Administrative Law Judge (ALJ) for disposition. The proceeding was subsequently assigned to the undersigned ALJ.

5. On March 21, 2019, the ALJ issued Decision No. R19-0265-I that, among other things, scheduled a prehearing conference in this proceeding for April 5, 2019 and further suspended the tariff pages for an additional 90 days – to and including September 30, 2019.

6. On April 5, 2019, the prehearing conference took place. BHCG and all of the entities that filed Motions or Petitions to Intervene appeared at the prehearing conference. Among the topics discussed at the prehearing conference was a procedural schedule, the scheduling of the hearing in this proceeding, and the scheduling of public comment hearings.

7. On April 19, 2019, the ALJ issued Decision No. R19-0351-I that, among other things, established a prehearing schedule that includes a deadline of May 8, 2019 for answer testimony, scheduled public comment hearings for April 30, 2019 and May 1, 2019, and scheduled the hearing for June 10 through 13, and 17, 2019.

8. On April 24, 2019, BHCG filed a Notice of Filing of Updated and Corrected Revenue Requirement Study (Notice), an Amended Advice Letter No. 1, and Amended Tariff Sheets. In the Notice, BHCG states that it has made “updates” and “corrections” to the Revenue Requirement Study originally filed as Attachment MCC-1 to the Direct Testimony of Mr. Michael C. Clevinger. The end result is that BHCG’s revenue requirement has increased by \$996,324, thus supporting a further increase in base rate revenues of the same amount. However, BHCG states that it “is not proposing to revise its February 1, 2019 advice letter filing in order to reflect these changes”² and it “is not seeking to increase its requested revenue increase from the [amount] originally proposed in the February 1, 2019 advice letter filing.”³

9. In addition, on the same day BHCG also filed the Amended Advice Letter No. 1 to change the proposed effective date of the tariff sheets filed on February 1, 2019 from March 4,

² Notice at 2.

³ *Id.* at 2.

2019 to April 5, 2019. This results in “an additional 32 days in the current procedural schedule and allow[s] the maximum 210-day suspension period to expire on October 31, 2019.”⁴ BHCG requested that a prehearing conference be convened “as quickly as possible in order to amend the existing procedural schedule in order to extend the dates for Answer testimony, Rebuttal/Cross Answer Testimony and to reset the hearing dates. [BHCG] believes it is not necessary to reschedule the public hearing dates that are currently scheduled for April 30 and May 1, 2019.”⁵

10. On April 26, 2019, the ALJ issued Decision No. R19-0374-I that established a deadline of April 30, 2019 to respond to the Notice and scheduled a status conference for May 3, 2019 at 10:00 a.m.

11. On April 30, 2019, Staff of the Commission (Staff) and the Office of Consumer Counsel (OCC) filed responses to the Notice.

12. On May 3, 2019, the ALJ convened the status conference scheduled in Decision No. R19-0374-I. The parties presented oral argument concerning the issues raised by BHCG’s filing of the Updated and Corrected Revenue Requirement Study, the Amended Advice Letter No. 1, and Amended Tariff Sheets. At the conclusion of the status conference, the ALJ took the issues discussed under advisement and established the deadline of May 13, 2019 for the parties to file briefs addressing the issues raised at the status conference. The deadline and the content of the briefs was memorialized in Decision No. R19-0395-I that issued on May 6, 2019.

13. On May 13, 2019, BHCG, Staff, the OCC, the Bachelor Gulch Village Association, the Vail Corporation, and Energy Outreach Colorado filed briefs addressing the issues noted above.

⁴ *Id.* at 3

⁵ *Id.*

14. Also on May 13, 2019, BHCG filed a Second Amended Advice Letter and Second Amended Tariff Sheets with a new effective date of May 5, 2019. Applying the 120-day and 90-additional-day suspensions entered in Decision Nos. C19-0194 and R19-0265-I, respectively, to the new effective date established November 30, 2019 as the end of the suspension period.

15. On May 20, 2019, BHCG filed Revised, Corrected, and Supplemental Direct Testimony to address “[c]oncerns [] raised by Staff and the other intervenors regarding the impact of the two revenue requirement studies and the single class cost of service study filed with the Commission.”⁶ Specifically, BHCG filed the following testimony:

- Revised Direct Testimony of Fredric C. Stoffel;
- Revised Direct Testimony of Michael C. Clevinger and Attachment MCC-6;
- Revised Direct Testimony of Eric J. Gillen and Attachment EJG-7;
- Corrected Direct Testimony of Douglas N. Hyatt and Corrected Attachment DNH-13;
- Supplemental Direct Testimony of Douglas N. Hyatt and Attachments DNH-14 through DNH-19; and
- Supplemental Direct Testimony of Thomas J. Sullivan and Attachment TJS-6.

The revised, corrected, and supplemental testimony reiterated Black Hills’ commitment to cap the revenue it is seeking in this proceeding at the amount included in the original advice letter and notice (\$73,181,063). It also revealed the impact of the \$996,324 in additional revenue requirement identified in the Notice for “illustrative purposes.” Specifically, notwithstanding an overall alleged increase of \$996,324 in Black Hills’ proposed total revenue requirement, only the rates for the residential class of customers would increase if the “illustrative” case were put into

⁶ Black Hills Notice of Filing Revised, Corrected, and Supplemental Direct Testimony and Attachments at 2.

effect. And, all other components of Black Hills' proposed rates would remain the same due to the mitigation strategy employed by Black Hills.⁷

16. On June 4, 2019, the ALJ issued Decision No. R19-0469-I that, among other things, concluded that BHCG's Revised, Corrected, and Supplemental Direct Testimony did not trigger a requirement to provide additional public notice, vacated the procedural schedule, approved a new procedural schedule, and vacated and reset the hearing to August 5 through 9, and 12, 2019.

17. On June 14, 2019, BHCG filed a Third Amended Advice Letter and Third Amended Tariff Sheets with a new effective date of May 25, 2019. Applying the 120-day and 90-additional-day suspensions entered in Decision Nos. C19-0194 and R19-0265-I, respectively, to the new effective date that established December 21, 2019 as the end of the suspension period.⁸

18. During discovery, BHCG produced a Revenue Requirement Study for each of the three existing base rate areas. Staff then made modifications to the Revenue Requirement Studies and included them with Bridget McGee's answer testimony filed with the Commission.⁹ No party filed CCOSS's for the three existing base rate areas in advance of the hearing.

19. On August 5 through 9, and 12, 2019, the hearing took place as scheduled. The original and updated Revenue Requirement Study filed with the direct testimony of Michael Clevinger, the Revenue Requirement Studies for the three existing base rate areas filed with the answer testimony of Bridget McGee, and the single, statewide CCOSS filed with the direct testimony of Douglas Hyatt, were entered into the evidentiary record. CCOSS's for the

⁷ Compare Direct Testimony of Thomas J. Sullivan, Attachment TJS-5 with Supplemental Direct Testimony of Thomas J. Sullivan, Attachment TJS-6.

⁸ Decision Nos. C19-0194 and R19-0265-I issued on February 22, 2019 and March 21, 2019, respectively.

⁹ Hearing Exhibit 405, Answer Testimony of Bridget McGee, Attachments. BAM-1, BAM-2, and BAM-3.

three existing base rate areas were not introduced into the record and Staff and OCC witnesses testified that without them the Commission could not determine whether the rates proposed by BHCG are just and reasonable.

20. At the end of the hearing on August 12, 2019, the ALJ asked BHCG whether it wanted the evidentiary record to be closed in light of the testimony from Staff and OCC witnesses referenced above. After conferring during a recess, BHCG and the parties agreed to keep the evidentiary record open to allow BHCG to file four additional CCOSs (one for each of the existing base rate areas, and one for the combination of the BHGU Rate Area and the BHGD Rate Area 2).¹⁰ BHCG also agreed to file a Fourth Amended Advice Letter and Tariff Sheets with a new effective date that would allow sufficient additional time for the development and filing of the new CCOSs, review and response by the intervening parties, and an additional hearing day addressing the new CCOSs and the positions of the parties in light thereof. The parties had not worked out the details of the foregoing agreement on August 12, 2019. As a result, they requested that the ALJ schedule a status conference for August 19, 2019, which would give the parties the time necessary to further discuss the agreement and establish a procedural schedule consistent therewith. Based on the foregoing, the ALJ scheduled a status conference for August 19, 2019 at 11:00 a.m.

21. On August 16, 2019, Staff filed a Notice of Staff and OCC's Proposed Schedule and Procedures for Discussion at August 19, 2019 Status Conference.

22. On August 19, 2019, the ALJ held the status conference. The ALJ discussed with the parties the schedule proposed in Staff and OCC's notice filed on August 16, 2019. At

¹⁰ See *supra* at 2 (map).

the end of the status conference, the parties agreed to a procedural schedule and the content of certain filings, which are summarized below. BHCG also agreed to file a fourth amended advice letter and tariff sheets that result in an effective date of March 1, 2020.

B. Analysis

23. The parties have established good cause to adopt the supplemental schedule to which they agreed at the August 19, 2019 status conference. The supplemental procedural schedule is as follows:

<u>Event</u>	<u>Date</u>
BHCG Completes Work on Four New CCOSS's for Three Existing Base Rate Areas and the combination of the BHGU Rate Area and BHGD Rate Area 2	September 20, 2019
BHCG Files Four New CCOSSs and Testimony Explaining Development of New CCOSS's and Advocating for One or More Specific Outcomes	September 27, 2019
Intervenors File Revised CCOSS's and Testimony Explaining Revisions and Advocating for One or More Specific Outcomes	October 15, 2019
Parties File Witness Order and Cross-Examination Matrix	October 22, 2019
Evidentiary Hearing on New CCOSS's and Proposed Outcome(s)	October 24, 2019
Statements of Position	November 1, 2019
Revised Tariff Sheets Become Effective	March 1, 2020

24. BHCG has offered to hold several "update" meetings with the Intervenors to address the new CCOSS's. While the ALJ will not require the Intervenors to participate in any

set number of such meetings, the ALJ urges the parties to attend as many as necessary to gain a sufficient understanding of the CCOS's in this proceeding.

25. Finally, consistent with its agreement, BHCG shall file a fourth amended advice letter and tariff sheets with an effective date of August 3, 2019 that will extend the end of the suspension period (after the 120-day and 90-additional-day suspensions entered in Decision Nos. C19-0194 and R19-0265-I that issued on February 22, 2019 and March 21, 2019, respectively) to February 29, 2020. If the Commission does not establish new tariffs before the expiration of the suspension period, the tariff pages filed by BHCG may become effective on March 1, 2020.

II. ORDER

A. It Is Ordered That:

1. The Supplemental Procedural Schedule in paragraph 23 above is adopted.
2. The continued hearing shall take place as follows:

DATE: October 24, 2019

TIME: 8:15 a.m. to 6:00 p.m.

PLACE: Commission Hearing Room A
1560 Broadway, 2nd Floor
Denver, Colorado

3. Black Hills Colorado Gas, Inc. shall file a Fourth Amended Advice Letter and Tariff Sheets consistent with the discussion in paragraph 25 above.

4. This Decision is effective immediately.

(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