

Decision No. C19-0811

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO**

PROCEEDING NO. 19A-0467FG

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IN THE MATTER OF THE APPLICATION OF BLACK HILLS COLORADO GAS, INC.  
D/B/A BLACK HILLS ENERGY FOR AN ORDER GRANTING TO IT A CERTIFICATE OF  
PUBLIC CONVENIENCE AND NECESSITY TO EXERCISE NATURAL GAS FRANCHISE  
RIGHTS IN THE CITY OF DACONO, COLORADO.

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**DECISION DEEMING APPLICATION COMPLETE  
AND GRANTING THE APPLICATION**

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Mailed Date: October 2, 2019

Adopted Date: October 2, 2019

**I. BY THE COMMISSION**

**A. Statement**

1. This matter comes before the Commission for consideration of an application filed by Black Hills Colorado Gas, Inc. (BH Colorado Gas or Company) on August 27, 2019, for a Certificate of Public Convenience and Necessity (CPCN) to exercise franchise rights in the City of Dacono, Weld County, Colorado (Dacono or City).

2. The Commission provided notice of this application on August 30, 2019, to all interested persons, firms, and corporations. No petition to intervene or notice of intervention has been filed, and thus the application is uncontested. Accordingly, the application will be determined without a formal hearing in accordance with § 40-6-109(5), C.R.S., and Rule 1403, 4 *Code of Colorado Regulations* (CCR) 723-1 of the Commission's Rules of Practice and Procedure.

3. BH Colorado Gas is engaged in, *inter alia*, the transmission, purchase, distribution, and sale of natural gas service in its certificated areas in the State of Colorado. The City is located within such certificated areas.

4. BH Colorado Gas requests the Commission issue a Decision granting it a CPCN to exercise franchise rights in Dacono. Pursuant to Ordinance No. 872, adopted July 8, 2019, the City granted BH Colorado Gas a ten-year franchise to provide natural gas service within Dacono. The franchise will become effective the first day of the month following the mail date of this decision.

5. On July 7, 1959, Dacono passed and adopted Ordinance No. 56, granting BH Colorado Gas's predecessor, Rocky Mountain Natural Gas Company, Inc. a franchise to provide natural gas service within Dacono. On July 26, 1961, the Commission, in Decision No. 56884, Application No. 18584, granted Rocky Mountain Natural Gas Company, Inc. a CPCN to exercise franchise rights as described in Ordinance No. 56.

6. On April 4, 1984, Dacono passed and adopted Ordinance No. 282, granting BH Colorado Gas's predecessor, K N Energy, Inc. a franchise to provide natural gas service within Dacono. On April 15, 1987, the Commission, in Decision No. C87-503, Application No. 38343, granted K N Energy, Inc. a CPCN to exercise franchise rights as described in Ordinance No. 282.

7. On February 11, 2008, Dacono passed and adopted Ordinance No. 703, granting BH Colorado Gas's predecessor, SourceGas Distribution LLC, a franchise to provide natural gas service within Dacono. On June 24, 2008, the Commission, in Decision No. C08-0628, Proceeding No. 08A-161FG, granted SourceGas Distribution LLC a CPCN to exercise franchise rights as described in Ordinance No. 703. The City granted Ordinance Nos. 847, 850, 858, and

868 extending Ordinance No. 703 to the earlier date of July 31, 2019, or the first day of the month following the date on which a new franchise agreement between Black Hills and the City is approved by the Commission.

8. A utility wishing to exercise any franchise agreement or privileges entered into with a municipality must obtain a CPCN from the Commission pursuant to § 40-5-102, C.R.S. When the municipality and utility enter into a franchise agreement, that agreement must be submitted to the Commission for approval. *See* § 40-5-102, C.R.S. Such applications allow the Commission to review franchise agreements to ensure that the terms are reasonable and in the public interest.

9. The Commission understands the utility and the municipality may want to revise the terms established in a franchise agreement at some point in the future and that existing franchise agreements have scheduled expiration dates. Upon negotiation of a new or amended franchise agreement, the utility shall return to the Commission in a timely manner to obtain authorization to implement the provisions of the new franchise agreement. In the event that this franchise is not renewed at the expiration of its term or is terminated for any reason, the Company is directed to notify the Commission in a timely manner.

10. According to the franchise agreement, as consideration for the franchise rights granted and in recognition of BH Colorado Gas's right to use the City streets, the City requires BH Colorado Gas to collect and remit to the City a franchise fee equal to \$0.0259 per therm of gas delivered.

11. No other utility is authorized to provide natural gas utility service within the areas for which BH Colorado Gas seeks a certificate in this application.

12. We find the franchise is required by public convenience and necessity and the terms of the franchise agreement are just, reasonable, and in the public interest. However, in the event that issues of revenue requirement, cost allocation, and rate design are implicated by any provision of the franchise agreement, those issues will be analyzed in an appropriate Commission proceeding. Approval of the franchise agreement does not constitute approval of, or precedent regarding any principle or issue in revenue requirement, cost allocation, or rate design in any natural gas adjustment, refund, or rate case proceedings.

13. BH Colorado Gas or its predecessors have provided gas service in the City since 1959, subject to a relevant franchise agreement. Because the areas encompassed by the above-referenced franchises are currently served by BH Colorado Gas, the Company is not required to provide a feasibility study for each area as set forth in Rule 4100(b)(VI), 4 CCR 723-4 of the Commission's Rules Regulating Gas Utilities and Pipeline Operators.

14. We find that BH Colorado Gas has the financial ability and is qualified and competent to conduct the utility operations sought under its application.

15. BH Colorado Gas's natural gas service tariffs, currently on file with the Commission, will be used for service under this application.

16. Providing uninterrupted service to the residents of Dacono is in the public interest. Therefore, the Commission finds that the application is in the public interest and should be granted.

**II. ORDER**

**A. The Commission Orders That:**

1. The application filed by Black Hills Colorado Gas, Inc., for a Certificate of Public Convenience and Necessity (CPCN) to exercise franchise rights pursuant to Ordinance No. 872 in the City of Dacono is deemed complete and granted.

2. The grant of the CPCN to operate under the terms of this franchise agreement is in the public interest and in accordance with the terms of § 40-5-102, C.R.S.

3. The franchise shall remain in effect for a period of ten years and terminates on November 1, 2029.

4. The 20-day time period provided by § 40-6-114(1), C.R.S., to file an application for rehearing, reargument, or reconsideration shall begin on the first day after the Commission mails this Decision.

5. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING  
October 2, 2019.**

(S E A L)



ATTEST: A TRUE COPY



Doug Dean,  
Director

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

FRANCES A. KONCILJA

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JOHN GAVAN

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Commissioners

CHAIRMAN JEFFREY P. ACKERMANN  
ABSENT.