

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: (1) DENYING ORAL ARGUMENT; (2) ACCEPTING OFFER TO FILE AMENDED ADVICE LETTER; AND (3) REQUIRING FILING OF UPDATED CALCULATIONS

Mailed Date: February 21, 2020
Adopted Date: February 19, 2020

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I. BY THE COMMISSION**A. Statement**

1. By this Decision, the Commission addresses three preliminary matters requiring resolution prior to the Commission considering the exceptions filed to Recommended Decision No. R19-1033. Through this Decision, the Commission: (1) denies the request of Black Hills Colorado Gas, Inc. (Black Hills or the Company) for oral argument; (2) accepts the Company's offer to file an amended advice letter to extend the statutory suspension period; and (3) directs the Company to file, in not less than seven calendar days from the effective date of this Decision, the information sought by Ordering Paragraph 9 of the Recommended Decision.

B. Background

2. On February 1, 2019, Black Hills filed Advice Letter No. 1, commencing this combined Phase I and II rate case proceeding. The primary purpose of this rate case is to consolidate the rates, tariffs, and service offerings of Black Hills' two predecessor utilities: (1) Black Hills/Colorado Gas Utility Company, Inc., the legacy gas utility acquired from Aquila, Inc. in 2008; and (2) Black Hills Gas Distribution, LLC, the SourceGas companies acquired in 2016. Black Hills also proposes to consolidate the gas cost adjustments (GCAs), construction allowances, extension policies, and existing rate riders of the two former utility companies into a single statewide tariff. The Commission set the tariffs pages for hearing and referred the matter to an Administrative Law Judge (ALJ) for disposition.

3. On December 27, 2019, the ALJ issued Recommended Decision No. R19-1033. The Recommended Decision denies Black Hills' request to implement base rates for two newly defined base rate areas. The Recommended Decision instead adjusts the base rates for the three

separate base rate areas currently in place based on revenue requirement studies and class cost of service studies filed during the proceeding. By approving, in part, a Motion to Approve a Partial Stipulation and Settlement, the Recommended Decision grants the formation of three newly defined GCA areas. The Recommended Decision denies Black Hills' request to implement a new Distribution System Integrity Rider (DSIR) that would allow Black Hills current recovery of safety and integrity investments.

4. On January 16, 2020, the following parties filed exceptions to the Recommended Decision: Black Hills; Trial Staff of the Commission (Staff); the Office of Consumer Counsel (OCC); Energy Outreach Colorado (EOC); and Bachelor Gulch Village Association (Bachelor Gulch).

5. The filed exceptions essentially place the entire case before the Commission for resolution. In its exceptions, Black Hills objects to most of the Recommended Decision, labeling it a partial decision that fails to reach a just and reasonable result. Black Hills further objects to several findings and directives related to the determination of the Company's revenue requirement. Staff and the OCC raise their own objections to the Recommended Decision as well as oppose Black Hills' exceptions. Among other requests, Staff seeks a lower return on equity, sharing of tax savings, and denial of cost recovery of certain pension expenses. The OCC seeks a lower return on equity, a lower cost of debt, sharing of certain cost savings from the consolidation of the GCAs, and clarifications with the treatment of rate case expenses. EOC seeks reversal of the ALJ's partial denial of the settlement concerning a proposed statewide residential charge and the ALJ's rejection of the Company's proposed base rate consolidation and new construction allowances. Bachelor Gulch seeks further reduction of rate case expenses and opposes any rate increase via rider in a rate area that was initially given notice of a decrease.

C. Conclusions and Findings

6. Through this Decision, the Commission addresses three preliminary matters that require resolution prior to the Commission taking up the merits of the parties' exceptions.

1. Request for Oral Argument

7. In its exceptions, Black Hills requests that the Commission hold oral argument prior to considering the Company's requests to set aside the Recommended Decision, to grant base rate consolidation, and to approve the DSIR for implementation on a statewide basis. Black Hills requests that, due to the number and breadth of legal, policy, and factual issues that must be considered by the Commission based on a written record through exceptions, and to assist the Commission in its deliberative processes, the Commission order oral argument to allow for summary presentation by the parties of their arguments and direct Commissioner questioning.

8. Staff opposes this request. Staff responds that Black Hills was given sufficient opportunity during the proceeding to provide thousands of pages of testimony, to participate in seven days of hearing, to file a 45-page post-hearing statement of position, 60 pages of exceptions, and a more than 30-page response to exceptions. Staff concludes that the Company had adequate opportunity to be heard and urges the Commission to deny the request.

9. The OCC likewise responds that oral argument is unnecessary. The OCC contends that Black Hills has been fully afforded opportunity to make its case. The OCC states that the evidentiary record has been closed and Black Hills' request for oral argument is now an attempt to reargue, re-litigate, and to supplement the evidentiary record.

10. We will deny the request for oral argument. Although we agree that Black Hills raises numerous legal and policy objections in its exceptions, we find we have sufficient

information in the lengthy exceptions and responses to render our decision on the exceptions without additional argument by Black Hills and the other parties.

2. Extension of Effective Date

11. Black Hills states in its exceptions that: “The Company recognizes the timing issues the Commission faces with resolving the remaining unresolved issues in this proceeding and curing the legal infirmities of the [Recommended Decision] in this manner.”¹ Black Hills adds that it is willing to file an amended advice letter to extend the suspension period in this proceeding “for an additional reasonable period of time to resolve the remaining issues necessary for the Commission to establish permanent just and reasonable rates.”²

12. We recognize that Black Hills’ offer to file an amended advice letter may be contingent on granting its request for oral argument. For instance, Staff ties the Company’s offer to file an amended advice letter to Black Hills’ motion for additional proceedings. Staff therefore opposes extension of the statutory suspension period, at least under Black Hills’ terms.

13. We will accept Black Hills’ offer to file an amended advice letter to extend the statutory suspension period. We agree with Black Hills that the exceptions present a long list of issues for the Commission to resolve. Hence, the Commission will require additional time beyond the end of the current suspension period to consider the exceptions, to prepare for deliberations, and to issue a final written decision. We conclude that an extension of 60 days should suffice.

¹ Black Hills Exceptions at p. 8 (January 16, 2020).

² *Id.*

3. Updated Calculations

14. Ordering Paragraph 9 of the Recommended Decision states that if Black Hills files exceptions, “it shall file with its exceptions an updated revenue requirement, updated class cost of service studies, updated GRSA calculations, and corresponding bill impacts for each of its three existing base rate areas. The updates must reflect the decisions made in this Decision.”

15. In its exceptions, Black Hills argues that its right to file exceptions to a recommended decision “is provided without condition pursuant to C.R.S. § 40-6-109(2).”³ The Company objects to the ALJ imposing this filing requirement because it attaches “additional significant burdens on the Company for exercising its statutory right.”⁴ Black Hills nevertheless states that it will provide the Commission with whatever additional information it determines is necessary in order to address the exceptions.

16. We do not address or resolve in this Decision whether the ALJ was authorized to impose a filing requirement on exceptions filed by Black Hills. That question may be addressed later, if necessary, when the Commission takes up the merits of the exceptions.

17. We do, however, agree with the ALJ that these updated calculations should be filed in the proceeding. We therefore direct Black Hills to file, in not less than seven calendar days from the effective date of this Decision, the information sought by Ordering Paragraph 9 of the Recommended Decision. We do not think this presents a significant burden because the updates to the various models and presentations can be achieved by using the same underlying worksheets and documents presented by Black Hills at the Technical Conference before the ALJ on December 18, 2019.

³ *Id.* at p. 59.

⁴ *Id.*

18. This required filing will provide more refined information about revenue requirements, rates, and bill impacts than has been previously provided by Black Hills. This information will primarily benefit the public as it will show which customers would experience a bill increase or a bill decrease if the Commission adopted the conclusions and directives in the Recommended Decision. The filing will also serve to fine-tune calculations that the Commission can already approximate with sufficient accuracy based on the information filed by the parties. Black Hills and other parties should not construe a decision by the Commission to require this information as having any bearing on whether the record includes sufficient evidence to establish just and reasonable rates in this rate case proceeding.

II. ORDER

A. It Is Ordered That:

1. The request of Black Hills Colorado Gas, Inc. (Black Hills or the Company) for the Commission to order oral argument, is denied.
2. The Commission accepts the Company's offer to file an amended advice letter to extend the statutory suspension period in this rate case proceeding.
3. Black Hills is directed to file, in not less than seven calendar days from the effective date of this Decision, the information sought by Ordering Paragraph 9 of Recommended Decision No. R19-1033, issued in this Proceeding No. 19AL-0075G on December 27, 2019.
4. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
February 19, 2020.**

(S E A L)



ATTEST: A TRUE COPY



Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JEFFREY P. ACKERMANN

FRANCES A. KONCILJA

JOHN GAVAN

Commissioners