

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 20V-0150EG

IN THE MATTER OF THE JOINT PETITION OF BLACK HILLS COLORADO ELECTRIC, LLC AND BLACK HILLS COLORADO GAS, INC., EACH D/B/A BLACK HILLS ENERGY, FOR APPROVAL OF TEMPORARY TARIFF WAIVERS IN RESPONSE TO COVID-19, PURSUANT TO RULES 1003 AND 1304(H) OF THE COMMISSION'S RULES OF PRACTICE AND PROCEDURE.

**COMMISSION DECISION GRANTING
PETITION FOR A WAIVER OF RULES AND TARIFF**

Mailed Date: April 14, 2020

Adopted Date: April 8, 2020

I. BY THE COMMISSION

A. Statement, Findings, Conclusion

1. On April 3, 2020, Black Hills Colorado Electric, LLC (Black Hills Electric) and Black Hills Colorado Gas, Inc., doing business as Black Hills Energy (Black Hills Colorado Gas) (collectively Black Hills), filed a Joint Petition requesting a waiver of a number of tariff provisions of Black Hills's Tariff Sheets (Black Hills Electric, and Black Hills Gas Tariffs No. 3 and No. 7).

2. Additionally, Black Hills requests that the Public Utilities Commission (Commission or PUC) waive its intervention and notice period set forth in Commission Rule 4 *Code of Colorado Regulations* (CCR) 723-1-1206(d) (Rule 1206(d)) of the Rules of Practice and Procedure and, if the Petition is uncontested or unopposed, that the Commission approve the Petition without a hearing pursuant to Commission Rule 4 CCR 723-1-1403.

3. Through its Petition, Black Hills explains that the novel coronavirus pandemic (COVID-19) has created financial hardships and uncertainty for an increasing number of Black

Hills customers. As part of its efforts to provide safe and reliable service to its customers affected by the pandemic, Black Hills therefore seeks a temporary waiver to discontinue provisions related to: late payment fees and charges and reconnection fees for residential and small commercial customers; deposit requirements for customers with recent delinquencies or requesting reconnection; removal of customers from the low-income Energy Assistance Program for non-payment; and for its gas operations waiver of the requirement that personnel visit each customer property to read the meter at least every six months.

4. On March 10, 2020, Colorado Governor Jared Polis declared a state of emergency over COVID-19. Subsequently, on March 20, 2020, the Governor's Executive Order D 2020 012 (Executive Order), directs the PUC as follows, in pertinent part through Subsection III:¹

- A. I direct the [PUC], within [the Department of Regulatory Agencies], to work with all public utilities in the State to suspend service disconnections for delayed or missed payments from residential and small business consumers related to the impacts of COVID-19.
- B. I further direct the PUC to work with all public utilities to waive reconnection fees and suspend accrual of late payment fees for all residential customers and small business consumers most significantly burdened by the impacts of COVID-19 as well as to make reasonable efforts to reinstate service for those customers currently disconnected for nonpayment or arrearage related to the impacts of COVID-19.
- C. I further direct the PUC to work with all public utilities to develop and provide payment assistance programs to aid customers, particularly customers qualified for the Low Income Energy Assistance Program, in the payment of their utility bills, related to the impacts of COVID-19.

5. The specific tariff pages which Black Hills seeks a waiver of are as follows, along with their relevant provisions. At this time, Black Hills believes it has identified the relevant

¹ The Governor's Executive Order D 2020 031, dated April 6, 2020, extended the applicable provisions of Executive Order D 2020 12 through April 30, 2020.

tariff portions for which a waiver is necessary, though Black Hills does state that it may identify additional provisions, for which it will also seek a waiver.

6. For Black Hills Electric, Tariff Volume No. 11, Black Hills includes the following requested waivers:

- a. Tariff Sheet 106, seeking a temporary waiver of reconnection fees for residential and small commercial customers to comply with Executive Order No. D 2020 012;
- b. Tariff Sheet 106B, seeking temporary waiver of late payment fee for residential and small commercial customers to comply with Executive Order No. D 2020 012;
- c. Tariff Sheet R8, Deposits, seeking temporary waiver of deposit requirements for customers with recent delinquencies or requesting reconnection to address needs of certain customers negatively impacted by the repercussions of COVID-19;
- d. Tariff Sheets R15 and R16, Section 7.9, seeking temporary waiver of late payment charge for residential and small commercial customers to comply with Executive Order No. D 2020 012;
- e. Tariff Sheet R17, Section 8.6, seeking temporary waiver of conditions required to restore service for residential and small business customers to comply with Executive Order No. D 2020 012; and
- f. Tariff Sheet R69, Black Hills Energy Assistance Program (Low Income Program), seeking waiver for removal of non-payment provisions to address needs of certain customers negatively impacted by the repercussions of COVID-19.

7. For Black Hills Colorado Gas Tariff Volume No. 3, Black Hills includes the following requested waivers:

- a. Tariff Sheet No. 5.4, Restoration of Service Fee, requesting temporary waiver of reconnection fees for residential and small business customers to comply with Executive Order No. D 2020 012;
- b. Tariff Sheet No. 22, requesting temporary waiver of deposit requirements for customers with recent or substantial delinquencies to address needs of certain customers negatively impacted by the repercussions of COVID-19;

- c. Tariff Sheet No. 38, requesting waiver of conditions required to restore service for residential and small business customers to comply with Executive Order No. D 2020 012;
 - d. Tariff Sheet Nos. 25 and 40, requesting temporary waiver to suspend the requirement for personnel to visit each customer property to read each meter at least once every six months and waiver of the six month limitation for under billing to address needs of certain customers negatively impacted by the repercussions of COVID-19; and
 - e. Tariff Sheet No. 69.3- seeking temporary waiver of payment default provisions for Energy Assistance Program customers to address needs of certain customers negatively impacted by the repercussions of COVID-19.
8. For Black Hills Colorado Gas Tariff Volume No. 7, Black Hills includes the

following requested waivers:

- a. Tariff Sheet No. 8, seeking temporary waiver of reconnection charge for residential and small commercial customers to comply with Executive Order No. D 2020 012;
- b. Tariff Sheet Nos. 9-12 and 47, seeking temporary waiver of conditions required to restore service for residential and small commercial customers to comply with Executive Order No. D 2020 012;
- c. Tariff Sheet No. 20, requesting waiver of default payment provisions (for low income/Black Hills Energy Assistance Program Customers) to address needs of certain customers negatively impacted by the repercussions of COVID-19; and
- d. Tariff Sheet No. 48, requesting temporary waiver to suspend the requirement for personnel to visit each customer property to read each meter at least once every six months and waiver of the six month limitation for under billing to address needs of certain customers negatively impacted by the repercussions of COVID-19.

9. The impacts of COVID-19 create a unique and urgent set of circumstances affecting the public interest. Therefore, we find good cause to consider the Petition expeditiously.

In these rare and specific circumstances, a waiver of the Commission's notice and intervention period provided in Rule 1206(d) is appropriate.

10. The portions of its Tariff that Black Hills has identified, require the Company to assess certain fees and contain other provisions relating to disconnection and reconnection of service and otherwise contain conditions which are contrary to the public interest given the repercussions of COVID-19, and directives in the Governor's March 20, 2020 order.

11. We find good cause to grant the Petition *nunc pro tunc* from March 12, 2020, the date Black Hills began undertaking these actions, through August 1, 2020, for the requested waivers. Extension of the waiver may be requested as appropriate given the unprecedented developments surrounding COVID-19. If developments dictate otherwise, Black Hills may seek to shorten or otherwise modify this waiver.

II. ORDER

A. The Commission Orders That:

1. The Petition filed by Black Hills Colorado Electric, LLC and Black Hills Colorado Gas, Inc., doing business as Black Hills Energy (Black Hills) on April 3, 2020, for a waiver of selected provisions of its tariff sheets, is granted, consistent with the discussion above, *nunc pro tunc*, from March 12, 2020, through August 1, 2020.

2. Black Hills's request filed within the Petition that the Commission waive its intervention and notice period set forth in Commission Rule 4 *Code of Colorado Regulations* 723-1-1206(d) is granted.

3. 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.

4. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
April 8, 2020.**

(S E A L)



ATTEST: A TRUE COPY



Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JEFFREY P. ACKERMANN

JOHN GAVAN

MEGAN M. GILMAN

Commissioners