

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 20A-0253G

IN THE MATTER OF THE VERIFIED APPLICATION OF BLACK HILLS GAS COLORADO GAS, INC. D/BA BLACK HILLS ENERGY FOR COMMISSION APPROVAL OF A REFUND PLAN, AND REQUEST FOR SHORTENED NOTICE AND INTERVENTION PERIOD.

**DECISION GRANTING APPLICATION AND
APPROVING PROPOSED REFUND**

Mailed Date: June 24, 2020

Adopted Date: June 24, 2020

I. BY THE COMMISSION

A. Statement

1. By this Decision, we grant the Verified Application (Application) filed on June 11, 2020 by Black Hills Colorado Gas, Inc. (BHCOG or Applicant), requesting a Commission decision approving a refund plan. We also shorten response time to and grant Black Hills' Motion for Partial Waiver of Commission Rules 1207(c) Requiring Publication of Customer Notice Within Three Days.

B. Summary of Application and Motions

2. The Applicant is an operating public utility subject to the jurisdiction of this Commission and is engaged in, inter alia, the purchase, transmission, distribution, transportation, and resale of natural gas in various certificated areas within the State of Colorado.

3. On June 11, 2020, BHCOG filed an Application for a Commission decision approving a refund plan that would provide a one-time bill credit to active retail customers during the July 1 to July 31 billing period. BHCOG also requested a five-day shortened notice

period. The five-day shortened notice period was granted in the Commission Weekly meeting held on June 17, 2020 and will end on June 22, 2020.

4. On June 19, 2020, BHCOG filed a Motion for Partial Waiver of Commission Rules 1207(c) Requiring Publication of Customer Notice Within Three Days. BHCOG states that “due to an administrative oversight and limitations associated with the weekend, the Company inadvertently failed to ensure that publication of the customer notice occurred within three days of filing the Application.” “As the Application was filed on Thursday, June 11, 2020, publication was to occur no later than Sunday, June 14, 2020.” But due to the oversight and limitations associated with the weekend, “The notice was published in *The Denver Post* on Tuesday, June 16, 2020, five days after filing the Application.”

5. The Motion also asks the Commission to waive response time to the Motion under Rule 1308(c) because Commission approval of the Application no later than June 26, 2020, is required in order to begin issuing refunds during the July 2020 billing period. Therefore, BHCOG argues waiver of response time is appropriate because time is of the essence. Additionally, because no party has intervened, BHCOG argues the Motion is unopposed which is a second ground on which the request may be granted.

C. Findings and Conclusions

6. The Commission granted the request for shortened notice and intervention period in Commission Decision No. C20-0446, issued June 17, 2020. The notice and intervention period expired at 5:00 p.m. on June 22, 2020. No protests or motions to intervene in opposition were filed in connection with this Application for a proposed refund. BHCOG also submitted an affidavit of publication from *The Denver Post*, dated June 16, 2020. Accordingly, because the Application is uncontested, it may be decided without a 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.

7. Relatedly, BHCOG's request that we waive response time to their Motion for Waiver is unopposed because no protests or interventions have been filed. And, we find that given the Application's proposed July 1 start date and related June 26 approval "deadline", time is of the essence. Therefore we find it appropriate to waive response time to the Motion.

8. We also find that it is appropriate to grant BHCOG's partial waiver request relating to the Tuesday, rather than Sunday, publication of customer notice of the proposed refund. In particular, we find the following constitutes good cause under Rule 1003 to waive, for this proceeding only, the requirement that BHCOG must provide notice of proposed refunds within three days:

- Notice was provided two business days after the application was filed, making the discrepancy between the rule and the actual notice fairly minor
- Rejecting the waiver would require filing a new application which would push back the possible refund dates and lead to administrative inefficiency
- Because the application concerns a refund agreed to in a settlement, only the timing of the refund is at issue
- No other parties have intervened or filed comments in the proceeding.

Accordingly, we waive, for this proceeding only, the requirement in Commission Rule 1207(c) that publication occur within three days of filing the Application.

9. So, we find that the Application is deemed complete for purposes of § 40-6-109.5, C.R.S., and Rule 1303(c), 4 CCR 723-1.

10. In compliance with Rules 4410(b)(II) and 4609(b) of the Commission's Rules Regulating Gas Utilities and Pipeline Operators and Decision No. R19-1033, BHCOG states that

refunds to its retail customers are required to comply with Decision No. R19-1033, in Proceeding No. 19AL-0075G, to get account 191 balances to an agreed level in consolidating its current seven Gas Cost Adjustment (GCA) rate areas to four GCA rate areas.

11. 4 CCR 723-4-4609(b) requires a utility to monitor 191 account balances to mitigate significant under/over recovery of gas costs and if a significant under/over balance occurs, the utility should take the appropriate steps to mitigate that balance, therefore, absent an approved Stipulation and Agreement, Black Hills would have to refund the over-recovery of gas costs.

12. Black Hills is proposing to issue a one-time bill credit to refund customers the over-recovery of its actual deferred balance as of April 30, 2020 for each respective GCA rate area and each respective rate class. The one-time bill credit will be applied to customer's bills commencing July 1, 2020 and completed by July 31, 2020, or one full billing cycle.

13. Balances in the current seven GCA rate area 191 accounts after the one-time credit will be applied to the relevant consolidated GCA rate area 191 account.

14. The total amount proposed to be refunded to customers is approximately \$15,896,527. When the refund is complete, BHCOG will file an affidavit stating the exact amount that was refunded.

15. We approve the method of refund as proposed in the Application and grant the Application. BHCOG shall file in this proceeding the affidavit establishing that the refund has been made, in accordance with this Decision and pursuant to Rule 4410(b)(VIII), 4 CCR 723-4.

II. ORDER

A. The Commission Orders That:

1. Response time is waived for Black Hills Colorado Gas' Motion for Partial Waiver of Commission Rules 1207(c) Requiring Publication of Customer Notice Within Three Days.

2. Black Hills Colorado Gas' Motion for Partial Waiver of Commission Rules 1207(c) Requiring Publication of Customer Notice Within Three Days is granted, consistent with the discussion above.

3. The Application filed June 11, 2020, filed by Black Hills Colorado Gas, Inc. for approval of a refund plan is deemed complete and is granted, consistent with the discussion above.

4. BHCOG is authorized to provide the refund to its customers in accordance with the discussion above.

5. Pursuant to Rule 4410(b)(VII), 4 *Code of Colorado Regulations* 723-4, we require BHCOG to submit an affidavit establishing that the exact amount that has been refunded.

6. The 20-day time period provided by § 40-6-114, C.R.S., to file an application for rehearing, reargument, or reconsideration shall begin on the first day after the effective date of this Decision.

7. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
June 24, 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 GILMAN

Commissioners