

Decision No. C21-0065

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

PROCEEDING NO. 21V-0051EG

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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 AN ORDER GRANTING A TEMPORARY WAIVER OF CERTAIN OF ITS TARIFF REQUIREMENTS IN COMPLIANCE WITH COVID-19 EXECUTIVE ORDERS.

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

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Mailed Date: February 9, 2021  
Adopted Date: February 3, 2021

**I. BY THE COMMISSION**

**Statement, Findings, Conclusion**

1. On July 22, 2020, Black Hills Colorado Electric, LLC and Black Hills Colorado Gas, Inc. (collectively “Black Hills”), filed a petition for waivers of tariff provisions in Proceeding No. 20V-0299EG. This petition was granted by Commission Decision No. C20-0534 dated July 22, 2020. The waivers in Decision No. C20-0534 were requested to comply with Governor’s Executive Orders which were then in effect, and related tariff provisions, as well as a waiver of intervention and notice period.

2. Subsequently, on September 18, 2020, Black Hills filed in the same Proceeding for a renewed waiver of the same tariff provisions. These waivers were granted *nunc pro tunc* by Commission Decision No. C20-0711 from September 7, 2020 through January 31, 2021, or the expiration of the directives of the Governor’s Executive Orders.

3. Black Hills now requests modification of Decision No. C20-0711. Black Hills requests that the Commission grant the same waivers through September 30, 2021, or through expiration of the directives of the Governor’s Executive Orders, whichever comes first (Petition).

4. Additionally, Black Hills requests that the Commission waive the intervention and notice period set forth in Commission Rule 4 *Code of Colorado Regulations* (CCR) 723-1-1206(d) (Rule 1206(d)) 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.

5. Governor’s Executive Order D 2020 098 (EO 098), dated June 12, 2020, was extended for an additional thirty days most recently by Governor’s Executive Order D 2021 030, dated January 30, 2021. EO 098 directed the PUC as follows, in pertinent part:

III. A. I 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.

B. I 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. The PUC will report on the development of the payment assistance programs to DORA and the Office of the Governor.

C. I direct the PUC to work with public utilities to provide guidance on prioritizing payment assistance. Further, the PUC shall collect and monitor relevant data from public utilities on the implementation of Statewide measures undertaken in response to this Executive Order and on a weekly basis report these efforts to the Office of the Governor and post them on PUC’s website.

EO 098.

6. The specific tariff pages for which Black Hills seeks an extended waiver are as follows, along with their relevant provisions.

7. 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 Sheet 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. D2020 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.

8. For Black Hills Colorado Gas Tariff Volume No. 1, Black Hills includes the following requested waivers:

- a. Tariff Sheet No. 32- Restoration of Service Fee- Waiver of reconnection fees and late payment fees for residential and small business customers;
- b. Tariff Sheet No. 48 – Waiver of payment default provisions for Black Hills Energy Assistance Program participants;
- c. Tariff Sheet No. R25- Waiver of late payment charges for residential and small commercial customers, and 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;
- d. Tariff Sheet Nos. 35-38, R70- Waiver of conditions required to restore service for residential and small commercial customers; and
- e. Tariff Sheet No. R58- Waiver of deposit requirement for disconnection purposes.

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 this specific circumstance, 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 otherwise contain conditions which are contrary to the public interest given the repercussions of COVID-19, and directives in the Governor's Executive Orders.

11. We find good cause to grant the Petition *nunc pro tunc* from January 31, 2021, through the expiration of any such extension of executive orders or September 30, 2021, whichever comes first.

## **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) for a partial variance from Decision No. C20-0711 and associated waivers of selected provisions of its tariff sheets, is granted, consistent with the discussion above, *nunc pro tunc*, from January 31, 2021 through the earlier of the expiration of the directives of the Governor's Orders or September 30, 2021.

2. Black Hills's request filed within the Petition that the Commission waive the 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  
February 3, 2021**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,  
Director

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

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JOHN GAVAN

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Commissioners