BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 21AL-0236G

IN THE MATTER OF ADVICE LETTER NO. 9 FILED BY BLACK HILLS COLORADO GAS, INC. TO INCREASE BASE RATE REVENUES, TO IMPLEMENT REVISED BASE RATES FOR ALL RATE SCHEDULES AND OTHER TARIFF REVISIONS EFFECTIVE JULY 2, 2021.

SETTLEMENT AGREEMENT

October 5, 2021

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I. INTRODUCTION

Pursuant to Rule 1408, Black Hills Colorado Gas, Inc. d/b/a Black Hills Energy ("BHCG" or the "Company"), Staff of the Public Utilities Commission of the State of Colorado ("Staff"), the Colorado Office of the Utility Consumer Advocate ("UCA"),[1] Energy Outreach Colorado ("EOC"), A M Gas Transfer Corp. ("A M Gas")[2] and Bachelor Gulch Village Association ("BGVA") enter into this Settlement Agreement ("Settlement Agreement") to resolve all of the issues that have been raised or could have been raised in this proceeding. BHCG, Staff, UCA, EOC, A M Gas and BGVA shall be referred to herein collectively as the "Settling Parties" and individually as a "Settling Party." This Settlement Agreement is a full and complete resolution of BHCG's Advice Letter No. 9 tariff filing to place into effect new base rates for all gas sales and transportation service customers. The Settling Parties are the only parties to this proceeding. As such, this Settlement Agreement is unopposed.

II. BACKGROUND AND PROCEDURAL HISTORY

A. BHCG's Advice Letter No. 9 Filing

1. On June 1, 2021, BHCG filed revised tariff sheets with Advice Letter No. 9 initiating this comprehensive rate review proceeding. In support of the proposed rate and tariff changes reflected therein, BHCG filed the direct testimony (including attachments) of seven witnesses. The Company's filing in this proceeding was a combined revenue requirement (a/k/a Phase I) and cost allocation and rate design (a/k/a Phase II) proposal. BHCG sought in its filing

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[1] The UCA is a Colorado state agency that formerly operated under the name, "Colorado Office of Consumer Counsel," ("OCC"), and the OCC changed its name to the UCA effective September 1, 2021. See the Colorado Office of Consumer Counsel's Notice of Name Change filed August 31, 2021. As such, references herein to UCA should be construed as referring to the Colorado Office of Consumer Counsel or OCC as to events occurring before September 1, 2021.

[2] AM Gas, a signatory party hereto, concurs in the outcome of this Settlement Agreement, but takes no position as to the resolution of individual issues as provided herein.

to implement revised base rates to be effective July 2, 2021, that reflect updated revenue requirements, cost allocations and rate design for each of its three existing base rate areas – Rate Area 1 ("RA 1"), Rate Area 2 ("RA 2") and Rate Area 3 ("RA 3").

2. The principal purpose of BHCG's filing was to increase the rates for all rate schedules under the Company's Colorado P.U.C. No. 1 Gas Tariff for all services offered by the Company. BHCG sought in its filing to increase total jurisdictional revenues by $14,578,803, as compared to annual revenues of $71,942,254 under currently approved rates, based on an overall revenue requirement of $86,521,057. The Company supported the need for this revenue increase through revenue requirement studies developed and based on a test year consisting of the 12 months ending December 31, 2020,[3] a rate base calculated using the year-end method, a capital structure of 50.26% equity, 49.74% debt, a cost of long-term debt of 3.91%, and a return on equity ("ROE") of 9.95%, for a composite weighted-average cost of capital of 6.94%. Table 1 below shows the Company's Advice Letter No. 9 proposed revenue requirement increase by Rate Area and the percent increase over annual test year revenues:

Table 1

Base Rate Area	**Proposed Revenue Requirement Increase**	**Percent Increase Over Annual Revenues**
1	$5,331,686	15.0%
2	$4,547,940	46.7%
3	$4,699,177	17.6%
Combined	**$14,578,803**	**20.3%**

[3] The Company's test year was developed based on a year-end rate base using historical plant balances at December 31, 2020, historical revenues through December 31, 2020, and historical costs for the 12 months ended June 30, 2020, adjusted for known and measurable and other changes to certain operations and maintenance expenses.

3. BHCG stated in its advice letter that the primary driver of the proposed increase in annual revenues was to allow the Company to recover the significant investments made to provide safe and reliable service to its customers.

4. The proposed revised base rates were developed using the revenue requirement study results for each base rate and incorporating such results into separate Class Cost of Service Studies and rate design for each rate area. The bill impacts for BHCG's residential and small commercial customers resulting from the revised base rates as originally proposed in Advice Letter No. 9 are summarized as follows:

Table 2

Residential Customers

Base Rate Area	GCA Region	Increase (Decrease) in Average Monthly Bill	Percent Increase (Decrease)
RA 1	Western Slope Without Storage	$5.43	6.7%
RA 1	Western Slope With Storage	$5.43	6.3%
RA 1	North/Southwest	$45.43	7.2%
RA 2	Central	$13.31	25.1%
RA 2	North/Southwest	$13.31	21.0%
RA 3	Central	$4.60	8.2%

Small Commercial Customers

Base Rate Area	GCA Region	Increase (Decrease) in Average Monthly Bill	Percent Increase (Decrease)
RA 1	Western Slope Without Storage	$4.03	2.5%
RA 1	Western Slope With Storage	$4.03	2.4%
RA 1	North/Southwest	$4.03	2.7%
RA 2	Central	$21.42	20.2%
RA 2	North/Southwest	$21.42	16.4%
RA 3	Central	$4.64	5.7%

5. In addition to proposing revised base rates for all rate schedules, BHCG proposed tariff changes to accomplish the following:

- reclassify the Small Volume and Large Volume sales rate schedules into Large Commercial;
- discontinue interruptible sales services;
- discontinue residential transportation service and reclassify the lone existing customer to Small Commercial Transportation service;
- add Small Commercial Transportation Service to Rate Area 3 for conformity;
- add a Monthly Administrative Charge for transportation customers in Rate Area 3; and
- provide additional textual changes of a conforming and clarifying nature.

6. As mentioned above, BHCG currently has three base rate areas with different rates which is a legacy of prior acquisitions and the legal combination in 2018 of BHCG's predecessor gas utilities. While it did not present a specific proposal seeking consolidation of the three base

rate areas, the Company submitted for informational purposes a revenue requirement study and CCOSS reflecting consolidated statewide rates.

7. In support of its rate filing, the Company simultaneously filed the written direct testimony and attachments of seven witnesses.

B. Procedural Background

8. On June 7, 2021, BHCG filed a Motion for Protective Order Affording Extraordinary Protection for Highly Confidential Information consisting of certain customer information included in several attachments supporting the CCOSS's submitted as part of its direct testimony and attachments filed with Advice Letter No. 9.

9. On June 10, 2021, Staff filed a protest letter identifying several issues that Staff indicated were or may become disputed. The UCA filed a protest letter on June 15, 2021 raising issues of concern regarding BHCG's rate filing, which was subsequently amended on June 17, 2021.

10. By Decision No. C21-0380 issued June 28, 2021, the Commission suspended the effective date of the tariffs for 120 days pursuant to § 40-6-111(1), C.R.S., set a period of 30 days after the issuance of its decision for the filing of interventions by interested persons, and referred the matter to an administrative law judge for disposition.

11. On June 28, 2021, Staff filed its Notice of Intervention of Right and on July 1, 2021, UCA filed its Notice of Intervention of Right.

12. On July 7, 2021, BHCG filed a second Motion for Protective Order Affording Extraordinary Protection for Highly Confidential Information consisting of compensation surveys, material non-public financial information, and forward-looking financial information responsive to discovery requests propounded by Staff and the UCA.

13. On July 8, 2021, BGVA filed its Motion to Intervene. On July 13, 2021, EOC filed its Motion to Intervene, which was subsequently amended on July 15, 2021. On July 19, 2021, A M Gas Transfer filed its Motion to Intervene.

14. By Interim Decision No. R21-0459-I issued July 27, 2021, Administrative Law Judge Conor F. Farley ("ALJ") shortened response time to the motions for permissive intervention, granted BHCG's two motions for extraordinary protection, scheduled a prehearing conference for August 16, 2021, directed the parties to confer regarding a procedural schedule and directed BHCG to file a report of the results of such conferral.

15. On August 9, 2021, BHCG filed its Report of Stipulated Procedural Schedule setting forth the consensus procedural schedule proposed by the parties. Of note, the proposed procedural schedule provided for the filing of Answer Testimony by September 10, 2021, the filing of Rebuttal and Cross-Answer Testimony on October 1, 2021, Stipulations and Settlement Agreements by October 15, 2021, and five-day evidentiary hearing to take place on October 20-22 and 25-26, 2021. In light of the consensus proposed procedural schedule, the ALJ vacated the prehearing conference scheduled for August 16, 2021, by electronic mail to the parties dated August 12, 2021.

16. By Interim Decision No. R21-0521-I issued August 27, 2021, the ALJ adopted the parties' proposed procedural schedule, set the hearing for October 20-22 and 25-26, 2021, granted the interventions of BGVA, A M Gas and EOC, further suspended the tariff sheets filed with Advice Letter No. 9 by an additional 130 days pursuant to § 40-6-111(1), C.R.S., or until March 9, 2022, and scheduled a public comment hearing for September 7, 2021.

17. On September 10, 2021, Staff filed answer testimony and attachments of five witnesses, the UCA filed answer testimony and attachments of three witnesses and EOC filed the

answer testimony and attachments of two witnesses. Through their witnesses, Staff, the UCA and EOC contested various aspects of the Company's revenue requirements, cost allocations and rate design, as well as certain of its proposed tariff changes.

18. As a result of settlement negotiations, including an all-party settlement conference on September 17, 2021, the Settling Parties have come to an understanding and reached an agreement to resolve all of the issues in this proceeding. This Settlement Agreement memorializes such agreement.

III. SETTLEMENT AGREEMENT

19. This Settlement Agreement reflects the input and careful consideration of all issues by the Settling Parties. As memorialized in this Settlement Agreement, the Settling Parties have agreed to a resolution of all issues that were or could have been raised in this proceeding and the issues in dispute between them in this proceeding have been resolved to the satisfaction of the Settling Parties. To the extent that an issue has not been addressed specifically herein, the Settling Parties agree that the principles underlying the Company's original proposals as set forth in its Direct Testimony and Attachments shall govern until the Company's next rate review filing.

20. In resolution of the issues raised or which could have been raised by the parties to this proceeding, the Settling Parties hereby stipulate and agree as follows:

A. Settled Revenue Requirements.

21. The Settling Parties agree that the Commission should approve the Settled Revenue Requirements, as summarized in Appendix 1 to this Settlement Agreement, which were developed using the revenue requirement models originally filed as part of the Company's Direct Testimony and Attachments, as modified in accordance with this Section III.A. The Settling Parties acknowledge and agree that the following modifications are incorporated into the Settlement

Revenue Requirement Studies used to calculate the overall $6,498,189 base rate revenue increase agreed to herein:

1. Adjustment for Test Year O&M Expenses

22. **Background.** In its direct case, BHCG proposed revenue requirements developed based on revenues and investments for an historical test year consisting of the 12-month period ending December 31, 2020 ("Test Year"). No party opposed BHCG's use of its proposed Test Year as part of the development of its proposed revenue requirements. BHCG proposed to include in its Test Year revenue requirements actual operations and maintenance ("O&M") expenses for the 12 months ended June 30, 2020, adjusted for known and measurable and other changes to certain O&M expenses. In its answer testimony, Staff recommended adopting the Company's actual O&M expenses for the 12 months ending June 30, 2020, but with specific modifications for known and measurable adjustments. In its answer testimony, UCA recommended an adjustment that reflects the Company's Appendix A for O&M expenses for calendar year 2020 with certain limited known and measurable adjustments.

23. **Resolution.** The Settling Parties agree that the Settled Revenue Requirements shall include O&M expenses for the 12 months ended June 30, 2020, adjusted for known and measurable and other changes to certain operations and maintenance ("O&M") expenses as proposed by the Company except as modified pursuant to this Section III.A.

2. Calculation of Rate Base.

24. **Background.** In its direct case, BHCG proposed the use of year-end method of calculating rate base. In their answer testimony, Staff and UCA opposed the use of year-end rate base and recommended that rate base be calculated using the 13-month average method.

25. **Resolution.** The Settling Parties agree that the Settled Revenue Requirements shall be developed using 13-month average method of calculating rate base for plant in-service and plant-related items.

3. Capital Structure

26. **Background.** In its direct case, BHCG proposed its per-book capital structure as of December 31, 2020, of 50.26% equity and 49.74% long-term debt. In its answer testimony, Staff recommended adoption of the capital structure of 42.71% common equity and 57.29% long-term debt, reflecting the capital structure of Black Hills Corporation ("BHC"), BHCG's parent company, as of June 30, 2021. In its answer testimony, the UCA recommended adoption of BHC's capital structure of 42.1% common equity and 57.9% long-term debt as of December 31, 2020.

27. **Resolution.** The Settling Parties agree that the Settled Revenue Requirements shall use the per-book capital structure of BHCG as of December 31, 2020, of 50.26% equity and 49.74% long-term debt.

4. Cost of Long-Term Debt

28. **Background.** In its direct testimony, BHCG proposed a cost of long-term debt of 3.91% based on its proposed method of calculating long-term debt held by BHC. Under BHCG's proposed method, the cost of long-term debt for BHCG is determined based on the weighted-average cost of all long-term debt issued by BHC other than certain indentures secured by the assets of Black Hills Power, Inc. and Cheyenne Light, Fuel & Power Company under first-mortgage bonds. Under this method, the cost of long-term debt for all subsidiaries, including other BHC utility subsidiaries operating in Colorado subject to the Commission's jurisdiction,[4] will be based on the weighted-average cost of debt of all BHC debt instruments described above. In their

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[4] The other two Colorado operating utilities are Black Hills Colorado Electric, LLC and Rocky Mountain Natural Gas LLC.

Answer Testimony, Staff and the UCA agreed to BHCG's proposed cost of debt of 3.91% and BHCG's proposed allocation method for determining the cost of long-term debt, although the UCA recommended certain modifications for future consideration.

29. **Resolution.** The Settling Parties agree that the Settled Revenue Requirements shall include a cost of long-term debt of 3.91% and BHCG's allocation method for determining BHCG's cost of long-term debt should be approved.

5. Authorized ROE

30. **Background.** In its direct case, BHCG proposed an ROE of 9.95%. In their answer testimony, both Staff and the UCA recommended an ROE of 9.20%.

31. **Resolution.** The Settling Parties agree that the Settled Revenue Requirements shall be based on an authorized ROE of 9.20%.

6. Resulting Weighted Average Cost of Capital

32. **Background.** Based on its original proposals regarding capital structure, the cost of long-term debt and ROE, BHCG proposed a weighted-average cost of capital ("WACC") of 6.94%. Based on their positions reflected in their answer testimony, Staff recommended a WACC of 6.17% and the UCA recommended a WACC of 6.14%.

33. **Resolution.** The Settling Parties acknowledge and agree that when applying the various principles outlined above for ROE, cost of debt and capital structure, the resulting WACC is 6.56%. This is the return on rate base applied for purposes of the Settled Revenue Requirements.

7. Adjustment to Test Year Revenues to Normalize for Weather.

34. **Background.** In its direct case, BHCG proposed to use a 10-year average of weather data for developing its weather normalization adjustment. In its answer testimony, Staff did not oppose the Company's use of a 10-year average for the weather normalization adjustment.

In its answer testimony, the UCA recommended using either a 20-year or 30-year average for the weather normalization adjustment.

35. **Resolution.** The Settling Parties agree that the weather normalization adjustment for test year revenues shall be calculated using a 20-year average of weather data.

8. Adjustment to Normalize Test Year Seasonal/Irrigation Revenues.

36. **Background.** In its direct case, BHCG proposed to use a five-year average of weather data for purposes of normalizing test year revenues for Seasonal/Irrigation customers. In their answer testimony, Staff recommended using a 10-year average calculated on a per-customer sales basis and the UCA recommended using a 10-year average calculated on a total sales basis for purposes of normalizing Seasonal/Irrigation revenues.

37. **Resolution.** The Settling Parties agree that the normalization adjustment for Seasonal/Irrigation customer revenues in the Settled Revenue Requirements shall be based on a ten-year average of volumetric sales per customer.

9. Gas Plant Investments to Replace COYLs.

38. **Background.** BHCG originally proposed revenue requirements that included gross plant of approximately $2 million associated with COYLs replaced in 2019 and 2020. In its answer testimony, Staff recommended denying recovery of all COYL investments for purposes of this proceeding. In its answer testimony, the UCA recommended denying recovery of all costs associated with COYLs.

39. **Resolution.** The Settling Parties agree that BHCG shall withdraw its request to include the investments to replace COYLs for purposes of the revenue requirement in this rate review proceeding, without prejudice to BHCG including those investments for recovery in any future rate review proceeding. The Settling Parties reserve all of their rights to challenge or defend

the prudence of these investments, as the case may be, in an appropriate future proceeding and the Settling Parties agree not to contest the assertion of each other's rights in regard thereto. Specifically, and without limitation, the intervening parties shall not be deemed to have waived their rights to challenge the prudence of the COYL Replacement Costs because they did not elect to pursue such challenge in this rate proceeding. The Settling Parties agree that nothing herein shall be interpreted as changing the applicable prudence review standard with regard to these investments. The standard of review to be used in assessing the utility's action (or lack of action) is whether the action (or lack of action) of a utility was reasonable in light of the information known, or which should have been known, at the time of the action (or lack of action).[5]

10. Employee Compensation Costs

40. Various issues concerning the costs included in the Company's Test Year revenue requirements regarding employee compensation were raised by Staff and the UCA in their answer testimony, including the recoverable amount of equity compensation under the Long-Term Incentive Program ("LTIP"), limitations on the amount of Annual Incentive Plan ("AIP") and Short-Term Incentive Plan ("STIP"), the Company's employee headcount used to determine labor expenses, and geographic differential pay. These issues were settled together as one of the final negotiated elements necessary to reach a consensus Settlement. Thus, the resolutions described below for each of these issues reflect the Settling Parties' compromise in resolution of all of the employment compensation issues raised in this proceeding taken together as a whole.

a. Equity Compensation Under the LTIP.

41. **Background.** In its direct case, BHCG proposed to include all the per-book equity compensation incurred as part of the LTIP. In its answer testimony, Staff recommended

[5] *See e.g.,* Commission Rule 4607(c).

disallowing recovery of the cost associated with LTIP. In its answer testimony, UCA recommended disallowing recovery of the cost associated with LTIP.

42. **Resolution.** As part of the resolution of all employee compensation issues, the Settling Parties agree that the Settled Revenue Requirements shall include 50% of the per-book equity compensation for LTIP.

b. AIP and STIP.

43. **Background.** In its direct case, BHCG proposed wage adjustments that included 100% of targeted payout for bonuses under the AIP and STIP based on base pay after adjustment for merit increases. In its answer testimony, Staff recommended limiting the annual incentive to 15% of base salary applied on a per-employee basis. In its answer testimony, UCA recommended limiting AIP and STIP incentive compensation at 15% per employee.

44. **Resolution.** As part of the resolution of all employee compensation issues, the Settling Parties agree to limit AIP and STIP incentive compensation to 15% of base salary applied on a per-employee basis.

***c. Employee Headcount*.**

45. **Background.** In its direct case, BHCG proposed wages of BHCG employees based on headcount of 171 employees. As of December 31, 2020, the Company had filled nine of those positions. In its answer testimony, Staff recommended removing costs associated with 12 open/unfilled position as of July 6, 2021. In its answer testimony, the UCA recommended use of actual labor expenses for calendar year 2020.

46. **Resolution.** As part of the resolution of all employee compensation issues, the Settling Parties agree the Settled Revenue Requirements shall reflect BHCG's direct labor costs

associated with 168 employees by removing the costs associated with three unfilled positions at the end of December 31, 2020.

d. Geographic Differential Pay.

47. **Background.** In its direct case, BHCG's proposed base wages included geographic differentials paid to employees in certain locations with a higher cost of living within the BHCG territory who are required to respond to service calls within a specific timeframe. In its answer testimony, Staff recommended disallowing all recovery of geographic differential pay. In its answer testimony, UCA recommended the use of actual labor expenses for calendar year 2020.

48. **Resolution.** As part of the resolution of all employee compensation issues, the Settling Parties agree that the Settled Revenue Requirement shall include 50% of the costs associated with geographic differentials paid to employees.

11. <u>Amortization of the Synergy Regulatory Asset</u>.

49. **Background.** In Proceeding No. 19AL-0075G, the Commission approved the Company's recovery of $880,484 in transition costs over a two-year amortization period consistent with the terms of the Settlement Agreement approved in the SourceGas Acquisition Application docket in Proceeding No. 15A-0667G. The two-year amortization commenced on July 3, 2020. In its direct case, the Company proposed to include a full year of amortization, or $440,242, in the revenue requirement and to file a General Rate Schedule Adjustment to remove that expense amount from its rates effective July 3, 2022. Neither Staff nor the UCA took any position on the Company's proposal.

50. **Resolution.** In consideration of the resolution of all issues concerning the various tracker imbalances, the Settling Parties agree that the $440,242 amortization expense shall be removed from the Settled Revenue Requirement.

12. <u>Property Tax Tracker</u>.

51. **Background.** In its direct case, the Company proposed to include property taxes in the revenue requirement based on the 2020 tax year valuation and the changes in net plant investment included in the revenue requirements and to reset the base expense level for purposes of the accounting tracking mechanism approved for property taxes. The Company proposed to continue the property tax tracker but did not propose an amortization to address the imbalance in the tracker. In its answer testimony, Staff supported continuation of the property tax tracker. The property tax tracker is projected to reflect an under-recovered balance of $782,594 as of December 31, 2021.

52. **Resolution.** In consideration of the resolution of all issues concerning the various tracker imbalances and the synergy regulatory asset, the Settling Parties agree that the property tax tracker shall be continued and the imbalance of $782,594 shall be amortized over two years. Accordingly, the base level of property tax expense for purposes of the property tax tracker shall be reset at $4,202,242, reflecting the revised level of annual property tax expense of $3,810,945 plus the annual amortization of $391,297 to resolve the tracker imbalance.

13. <u>Periodic Pension Expense Tracker</u>.

53. **Background.** In its direct case, BHCG proposed to continue the periodic pension expense tracker and to reset the annual expense level for purposes of the tracker at the 2020 pension expense amount of $217,510. The Company did not propose an amortization to address the imbalance in the tracker. In its answer testimony, Staff supported continuation of the pension expense tracker, but recommended the annual expense level be set at the 2021 pension expense amount of $59,800 that the tracker imbalance be reduced through an amortization. The pension

expense tracker is projected to reflect an over-recovered balance of $7,087 as of December 31, 2021.

54. **Resolution.** In consideration of the resolution of all issues concerning the various tracker imbalances and the synergy regulatory asset, the Settling Parties agree that the periodic pension expense tracker shall be continued, the 2021 annual pension expense of $59,800 shall be used for the current periodic pension expense and the tracker imbalance of ($7,087) shall be amortized over two years. Accordingly, the base level of pension expense for purposes of the pension expense tracker shall be reset at $55,356, reflecting the revised level of annual pension expense of $59,800 reduced by the annual amortization of $3,544 to resolve the tracker imbalance.

14. <u>Periodic Retiree Medical Expense Tracker.</u>

55. **Background.** In its direct case, BHCG proposed to continue the periodic retiree expense tracker and to reset the annual expense level for purposes of the tracker at the 2020 retiree medical expense amount of $284,848. The Company did not propose an amortization to address the imbalance in the tracker. In its answer testimony, Staff supported continuation of the retiree medical expense tracker, but recommended the annual expense level be set at the 2021 retiree expense amount of $297,225 and that the tracker imbalance be reduced through an amortization. The retiree medical tracker is projected to reflect an over-recovered balance of $11,721 as of December 31, 2021.

56. **Resolution.** In consideration of the resolution of all issues concerning the various tracker imbalances and the synergy regulatory asset, the Settling Parties agree that the periodic pension expense tracker shall be continued, the 2021 annual retiree medical expense of $297,225 shall be used for the current periodic retiree medical expense and the tracker imbalance of ($11,721) shall be amortized over two years. Accordingly, the base level of retiree medical tax

expense for purposes of the retiree medical expense tracker shall be reset at $291,365, reflecting the revised level of annual retiree medical expense of $297,225 reduced by the annual amortization of $5,860 to resolve the tracker imbalance.

15. Legacy Pension and Retiree Medical Regulatory Asset Tracker.

57. **Background.** In its direct case, the Company proposed to continue the Legacy Pension/Retiree Medical Regulatory Asset tracker but to reset annual amortization expense level at $75,674, which was based on the 2021 annual expense levels plus an annual amortization of the tracker imbalance projected for purposes of BHCG's Phase I rate filing in Proceeding No. 20AL-0380G. The Legacy Pension/Retiree Medical Regulatory Asset tracker is projected to reflect an over-recovered balance of $122,909 as of December 31, 2021 and the total remaining amount to be amortized between January 1, 2022 and when the last regulatory asset is fully amortized in June 2025 is projected to be $276,787. In its answer testimony, Staff proposed that the tracker be terminated and that all future recoveries of these regulatory assets cease going forward.

58. **Resolution.** In consideration of the resolution of all issues concerning the various tracker imbalances and the synergy regulatory asset, the Settling Parties agree that the base level annual amortization expense for purposes of the Legacy Pension/Retiree Medical Regulatory Asset amortization tracker shall be reset at $43,965, reflecting the net of the remaining amortization to be recovered of $276,787 and the tracker imbalance of ($122,909), or $153,877, amortized over the 42-month period beginning January 2022 and ending June 2025.

16. Rate Case Expenses.

59. **Background.** In its direct case, BHCG proposed to recover its actual incurred rate case expenses for this rate review (Proceeding No. 21AL-0236G), expenses incurred in connection

with its prior rate review filing in Proceeding No. 20AL-0380G and its SSIR Application in Proceeding No. 20A-0379G, and the unamortized balance of approved rate case expenses from its last rate review in the Proceeding No. 19AL-0075G. The Company proposed to amortize the resulting total of $1,495,188 in rate case expenses over 18 months. In its answer testimony, Staff recommended limiting rate case expenses to $600,000 for the instant case, and disallowing recovery of BHCG's expenses for the SSIR Application (Proceeding No. 20A-0379G) and the 2020 Phase I rate case (Proceeding No. 20AL-0380G). In its answer testimony, UCA recommended the disallowance of BHCG's recovery of rate case expenses from the Proceeding No. 20AL-0380G and the unamortized balance of approved rate case expenses from the Proceeding No. 19AL-0075G and recommended a 50% disallowance of expenses incurred in connection with Proceeding Nos. 20A-0379G and this rate review (Proceeding No. 21AL-0236G), and that the remaining allowed amounts be amortized over three years. In its answer testimony, EOC recommended disallowance of all rate case expenses associated with Proceeding No. 20AL-0380G.

60. **Resolution.** The Settling Parties agree that BHCG shall be entitled to recover actual incurred rate case expenses in connection with this rate review (Proceeding No. 21AL-0236G), not to exceed $600,000. BHCG shall also be entitled to recover actual incurred rate case expenses for Proceeding No. 20A-0379G of $187,715 and the unamortized balance of approved rate case expenses from the Proceeding No. 19AL-0075G. BHCG agrees to withdraw its request to recover its expenses incurred in connection with Proceeding No. 20AL-0380G. The Settling Parties agree that the approved rate case expenses will be amortized over three years. The Settling Parties further agree that if the three-year amortization period is longer than the period of time between the effective date of rates from this case and the effective date of rates in the

Company's next rate case, the unamortized balance of deferred rate case expenses remaining from this rate case shall be recoverable and included for recovery through an amortization in BHCG's next rate case. If the amortization period is shorter than the three-year period between the effective date of rates in this case and BHCG's next rate case, the Company will place a negative rider in place that will reduce rates by the amount of the annual amortization expense that had expired. That negative rider will remain in place until the effective date of the rates resulting from the next rate case.

61. Within 90 days following a final Commission decision in this proceeding, BHCG shall provide Staff and the UCA with a schedule of its total actual rate case expenses, broken down by category of expense and vendor. Within 15 days thereafter, BHCG shall confer with Staff and the UCA to resolve any issues with regard to any errors or inconsistencies in such expenses and, upon request, shall provide any non-privileged invoices or other information in support of such expenses. Following the resolution of any errors or inconsistencies, the difference between the actual rate case expenses and the amount BHCG is allowed to recover pursuant to this Settlement Agreement (either positive or negative) shall be credited or charged, as applicable, to the remaining balance of rate case expenses to be amortized in BHCG's next rate case.

17. Summary of Revenue Requirement Adjustments

62. The Settled Revenue Requirement, as summarized in Appendix 1 to this Settlement Agreement, results in an increase of $6,498,189, or 9.0%, to BHCG's annual base rate revenues. This increase is based on a Settled Revenue Requirement of $78,860,742 on test year revenues of $72,362,556. This compares to the Company's original requested increase of $14,578,803 based on an overall revenue requirement of $86,521,057 on test year revenues of $71,942,254. The resulting Settled Base Rates for service under BHCG's gas sales and transportation rate schedules,

as compared to currently effective rates, are reflected in Appendix 2 to this Settlement Agreement. Table 3 below provides the Settled Revenue Requirement and revenue increase for each Base Rate Area as follows (exclusive of the impact resulting from the mitigation provided for in Section III.D.3. below):

Table 3

Base Rate Area	Settled Revenue Requirement	Revenue Increase	% Increase Over Annual Revenues
1	$37,940,728	$2,475,528	7.0%
2	$12,197,160	$2,377,157	24.2%
3	$28,722,854	$1,645,504	6.1%
Total	**$78,860,742**	**$6,498,189**	**9.0%**

63. Table 4 below reflects the impact of each of the above adjustments to the Company's proposed revenue requirements.

Table 4

No.	Section Reference	Settlement Description	Rate Area 1	Rate Area 2	Rate Area 3	Sum of RA 1,2,3 (total)
1		BHCG Direct Testimony Revenue Requirement	$ 5,331,686	$ 4,547,940	$ 4,699,177	$ 14,578,803
2	Sec.III.A. 2	Rate Base Calculation Method - 13 Mo Avg	(1,417,991)	(1,425,973)	(1,381,163)	(4,225,126)
3	Sec.III.A. 4-6	Return on Equity and Resulting WACC	(770,721)	(280,271)	(491,965)	(1,542,956)
4	Sec.III.A. 7	Revenue - Weather Normalization Adjustment	87,742	(77,875)	(388,372)	(378,505)
5	Sec.III.A. 8	Revenue - Irrigation Normalization	(1,888)	(1,532)	(46,020)	(49,440)
6	Sec.III.A. 9	Customer Owned Yard Line (COYL) Replacements	(1,459)	(156,303)	(44,418)	(202,179)
7	Sec.III.A. 10.(a)	Long-Term Incentive Program (LTIP)/Equity Compensation	(127,036)	(43,506)	(93,013)	(263,554)
8	Sec.III.A. 10.(b)	Annual Incentive Plan (AIP) and Short-Term Incentive Plan (STIP)	(11,867)	(4,064)	(22,023)	(37,954)
9	Sec.III.A. 10.(c)	Employee Headcount	(59,115)	(20,247)	(102,908)	(182,269)
10	Sec.III.A. 10.(d)	Geographic Differential Pay	(112,439)	(38,512)	-	(150,951)
11	Sec.III.A. 11	Synergy Reg Asset Amortization	(346,884)	(101,149)	-	(448,033)
12	Sec.III.A. 12	Property Tax Tracker Amortization	187,030	60,642	130,274	377,945
13	Sec.III.A. 13	Periodic Pension Expense and Tracker Amortization	458	(18,378)	(90,742)	(108,662)
14	Sec.III.A. 14	Periodic Retiree Medical Expense and Tracker Amortization	8,605	21,071	(85,419)	(55,743)
15	Sec.III.A. 15	Pension and Retiree Medical Legacy Regulatory Assets	8,193	2,435	(42,422)	(31,793)
16	Sec.III.A. 16	Rate Case Expenses	(298,786)	(87,125)	(395,486)	(781,396)
17		Other/rounding		2	1	3
18		**Final Revenue Deficiency**	**$ 2,475,528**	**$ 2,377,157**	**$ 1,645,504**	**$ 6,498,189**

B. <u>Settled Class Cost of Service and Rate Design</u>

64. The Settling Parties agree that the Settled Revenue Requirements, as modified in accordance with Section III.A. above, shall be incorporated into the Company's proposed

CCOSS's, as modified in accordance with the cost allocation and rate design principles set forth below. The results are the Settled Base Rates reflected in Appendix 2 to this Settlement Agreement. The Settling Parties agree that the Commission should approve the Settled Base Rates.

1. <u>Consolidation of Base Rate Areas</u>

65. **Background.** In its direct case, BHCG proposed to maintain the existing base rate areas, but included for informational purposes a revenue requirement study and CCOSS on a consolidated statewide basis. In its answer testimony, EOC proposed statewide consolidation, and in the alternative, consolidation of RA 2 and RA 3.

66. **Resolution.** The Settling Parties agree to maintain the existing three base rate areas for purposes of this case.

2. <u>Elimination of Interruptible Services</u>

67. **Background.** In its direct case, BHCG proposed to eliminate its interruptible sales rate schedules in RA 3. It its answer testimony, Staff recommended keeping interruptible rate schedules in RA 3 and expanding services in RA 1 and RA 2.

68. **Resolution.** The Settling Parties agree that BHCG will not eliminate the interruptible rate schedules in RA 3.

3. <u>CCOSS Functionalization, Classification, and Allocation of Costs</u>

69. **Background.** In its direct case, the Company presented CCOSS's that, for the most part, reflected the cost allocation and rate design principles reflected in the Supplemental CCOSS's filed by BHCG in Proceeding No. 19AL-0075G on September 27, 2019, as subsequently revised on October 8, 2019 ("Supplemental CCOSS's"). In its answer testimony, EOC took issue with and suggested changes to various aspects of the Company's CCOSS regarding the

functionalization, classification and allocation of distribution mains and the treatment of meters/regulators and service lines.

70. **Resolution.** The Settling Parties agree that the Settlement CCOSS shall incorporate the following changes to the functionalization, classification, and allocation of costs for distribution mains, services, meters and regulators in order to reflect the use of weighting factors most favorable to the residential class within each base rate area consistent with those used in the Company's Supplemental CCOSS's filed in Proceeding No. 19AL-0075G. The following changes have been incorporated into the Settlement CCOSS for each base rate area, which is based on the Settled Revenue Requirements, which include the adjustments provided for in Section III.A. above.

a. Load Factors resulting from changes to weather normalized therms have been updated.

b. The allocation of distribution mains was performed as follows for each Base Rate Area:

i. RA 1 – the mains analysis reflected in the Company's proposed CCOSS is used as it is slightly favorable to residential customers.

ii. RA 2 – the mains analysis reflected in the Company's proposed CCOSS is used as it is slightly favorable to residential customers.

iii. RA 3 – the mains analysis reflected in the Supplemental CCOSS is used as it favors residential customers.

c. Services and Meters/Regulators were allocated based upon the weighting factors most favorable to the residential class as between the Supplemental CCOSS and the Company's proposed CCOSS for each base rate area.

71. In addition, not less than two months prior to its next Phase II rate case, BHCG will meet with the Settling Parties to discuss (1) the Company's CCOSS data and methodologies used to develop rates and (2) EOC's concerns with respect to the CCOSS's in this proceeding and potential modifications to the Company's CCOSS's.

4. Inter-Class and Inter-Base Rate Area Mitigation

72. **Background.** In its direct case, BHCG proposed cost-based rates set by its CCOSS's with no inter-class or inter-base rate area mitigation. In its answer testimony, the UCA discussed rate shock as a concern for Residential and Small Commercial class customers in RA 2, and recommended that, for RA 2 only, the Commission approve 50 percent of the revenue requirement increase to be implemented when rates go into effect from this proceeding and then implement the remaining 50 percent of the revenue requirement increase six months later. In the alternative, the UCA proposed the method adopted in Proceeding No. 20AL-0049G – i.e., a fully delayed implementation of the rate increase with tracking and no carrying costs applied to the regulatory asset account created for the tracking. In its answer testimony, EOC recommended that, in the event base rate areas were not consolidated, the Company should mitigate the rate impacts to residential customers in RA 2 by limiting the percentage increase of that group's revenue requirement to two times the average system base-rate increase, and that no group should be allocated revenue responsibility lower than its current rates would produce.

73. **Resolution.** The Settling Parties agree that the decrease in rate revenues resulting from cost-based allocation for non-residential customers will be distributed to offset residential increases so that no customer class receives an overall decrease in rate revenues, such that 80% of those non-residential rate revenues in RA 1 and RA 3 will be used to reduce the rate revenues of residential customers within each such base rate area, and the remaining 20% will be distributed

to reduce the rate revenues of RA 2 residential customers. These changes have been incorporated into the CCOSS's used to calculate the Settled Base Rates. In addition, the Settling Parties agree to the deferral of the rate increase for residential Rate Area 2 customers as set forth below in Section III.D.

5. Customer Charge

74. **Background.** In its direct case, BHCG proposed customer charges at cost-based rates set by its proposed CCOSS's with certain limited modifications for residential customers at: $17.00 for RA 1; $16.00 for RA 2; and $13.00 for RA 3. In its answer testimony, Staff recommended limiting the increase to the percentage increase approved for the overall revenue requirement for residential customers at: $12.00 for RA 1; $13.00 for RA 2; and $11.00 for RA 3. In its answer testimony, the UCA recommended a residential customer charge capped at: $14.31 for RA 1; $13.01 for RA 2; and $13.16 for RA 3. EOC recommended residential customer charges at: $10.66 for statewide consolidated rates; $9.42 for RA 1; $10.95 for RA 2; and $11.93 for RA 3.

75. **Resolution.** The Settling Parties agree that the residential customer charge shall be set at $12.00 per month in each base rate area. Table 5 below summarizes the changes to the Customer Charge for each Base rate Area is as follows:

Table 5

Sale Services - Residential Customer Charge			
Rate Area	Current including GRSA	BHCG Proposed	Settled Base Rates
RA-1	$10.28	$17.00	$12.00
RA-2	$11.70	$16.00	$12.00
RA-3	$9.44	$13.00	$12.00

6. Summary of Overall Impact to BHCG's Customers

76. The bill impacts resulting from the Settled Base Rates for all customer classes and all rate schedules are shown in Appendix 2 to this Settlement Agreement. The resulting bill impacts for average residential and small commercial customers resulting from the Settled Base Rates, without consideration of the agreed-to deferral of one-half of the revenue increase for RA 2 residential customers, are shown in Table 6 as follows:

Table 6

Average Residential Customer Monthly Bill Impact

Base Rate Area	GCA Region	Current Average Monthly Bill	Direct Average Monthly Bill	Settlement Average Monthly Bill	Direct Monthly Change	Direct Percentage Change	Settlement Monthly Change	Settlement Percentage Change
1	North/Southwest	$75.84	$81.27	**$78.73**	$5.43	7.2%	**$2.89**	**3.8%**
1	Western Slope - Without Storage	$81.51	$86.94	**$84.40**	$5.43	6.7%	**$2.89**	**3.5%**
1	Western Slope - With Storage	$85.84	$91.28	**$88.73**	$5.44	6.3%	**$2.89**	**3.4%**
2	Central	$52.92	$66.24	**$59.14**	$13.32	25.2%	**$6.22**	**11.8%**
2	North/Southwest	$63.39	$76.71	**$69.61**	$13.32	21.0%	**$6.22**	**9.8%**
3	Central	$55.77	$60.38	**$57.45**	$4.61	8.3%	**$1.68**	**3.0%**

Average Small Commercial Customer Monthly Bill Impact

Base Rate Area	GCA Region	Current Average Monthly Bill	Direct Average Monthly Bill	Settlement Average Monthly Bill	Direct Monthly Change	Direct Percentage Change	Settlement Monthly Change	Settlement Percentage Change
1	North/Southwest	$148.85	$152.88	**$148.85**	$4.03	2.7%	**$0.00**	**0.0%**
1	Western Slope - Without Storage	$160.73	$164.76	**$160.73**	$4.03	2.5%	**$0.00**	**0.0%**
1	Western Slope - With Storage	$169.80	$173.82	**$169.80**	$4.02	2.4%	**$0.00**	**0.0%**
2	Central	$106.24	$127.66	**$116.88**	$21.42	20.2%	**$10.64**	**10.0%**
2	North/Southwest	$130.73	$152.15	**$141.37**	$21.42	16.4%	**$10.64**	**8.1%**
3	Central	$81.38	$86.02	**$82.70**	$4.64	5.7%	**$1.32**	**1.6%**

C. Settled Base Rates to Be Effective January 1, 2022.

77. The Settling Parties agree that it is in the public interest to have the Settled Base Rates, as mitigated for RA 2 residential customers as set forth in Section III.D., become effective as of January 1, 2022. To this end, the Settling Parties recognize and request that the Commission issue a final decision approving this Settlement Agreement without modification such that the Company may make its compliance tariff filing on or before December 28, 2021 (i.e., on at least two business days' notice).

D. Deferral of Rate Increase for Rate Area 2 Residential Customers

78. **Background.** As discussed above, the UCA and EOC recommended certain measures to address potential rate shock to customers located in RA 2.

79. **Resolution.** To further address concerns of rate shock to residential customers in RA 2, the Settling Parties agree that an alternative rate implementation is appropriate for RA 2 residential customers. The Settling Parties have therefore agreed to the following, which will delay the implementation of one-half of the base rate revenue increase for RA 2 residential customers bills by six months, and outside of the 2021-2022 winter heating season. The Settling Parties acknowledge and agree that the Company is not foregoing any incremental revenue under this alternative rate implementation to which it otherwise would recover. To that end, the Settling Parties agree as follows:

a. Without changing the Company's right to recover incremental revenue as of January 1, 2022, the Company will delay the implementation of one-half of the approved revenue increase for RA 2 residential customer bills until July 1, 2022 through a negative GRSA rider of 13.66% to be applied to the volumetric component of the Settled Base Rates for RA 2 residential customers.

b. The amount of foregone revenue for the period from January 1, 2022 through June 30, 2022, shall be determined by multiplying the negative GRSA of 13.66% by the volumetric component of the Settled Base Rates for RA 2 Residential customers multiplied by the actual RA 2 residential customer monthly billing determinants (the "Deferred Incremental Revenue").

c. The Deferred Incremental Revenue will be deferred and recorded in a regulatory asset, with no return on the asset.

d. The Deferred Incremental Revenue will subsequently be billed to RA 2 residential customers through a GRSA Surcharge of 24.83%, subject to a final true-up to ensure that the Company recovers from RA 2 residential customers no more and no less than it would have recovered had the full Settled Base Rates been charged to RA 2 residential customers effective January 1, 2022 without the negative GRSA. The GRSA Surcharge will apply to the Settled Base Rate volumetric charge only (not the customer charge) for RA 2 residential customers and shall be billed effective July 1, 2022 through December 31, 2022.

e. On or about March 1, 2023, the Company shall file an advice letter to place into effect a GRSA, whether positive or negative, to true-up any over- or under-recoveries of the Deferred Incremental Revenue. Such true-up GRSA shall apply to the RA 2 residential customer volumetric charge only (not the customer charge), calculated based on estimated RA 2 residential billing determinants, and shall be effective for the period April 1, 2023 through September 30, 2023, with no further true-up thereafter.

f. The tariff mechanism providing for the above are as set forth on Sheet Nos. 59-60 of Appendix 3 attached to this Settlement Agreement.

E. Other Issues

1. Future Updating of BHCG Depreciation Rates.

80. **Background.** BHCG did not file updated depreciation studies in its direct case, but rather proposed to use same depreciation rates approved in Proceeding No. 19AL-0075G, which were supported by updated depreciation studies in that proceeding. In its answer testimony, Staff recommended that the Commission order the Company to prepare updated depreciation schedules, incorporating the results of Proceeding No. 21M-0395G, prior to the filing of BHCG's

next Phase I rate review. Proceeding No. 21M-0395G is a Commission investigatory docket to collect information and stakeholder comments regarding future rulemaking requirements in Senate Bill ("SB") 21-264 and House Bill ("HB") 21-1238, including consideration of "opportunities to better align depreciation schedules and line extension policies with the transition in long-term planning due to the new requirements in SB 21-264 and HB 21-1238."

81. **Resolution.** BHCG agrees to prepare updated depreciation schedules that incorporate any Commission directives issued in Proceeding No. 21M-0395G, or final rules in a subsequent rulemaking proceeding, in the rate review filed after the conclusion of that proceeding.

2. <u>BHCG Future Commitments Regarding Base Rate Area Consolidation and Clean Heat Plans</u>.

82. **Background.** As discussed, EOC recommended that the Company consolidate its rate areas statewide, or at a minimum for RA 2 and RA 3, and raised concerns about how maintaining separate base rate areas could impact future system-wide beneficial electrification and DSM efforts. In addition, EOC recommended that the Company be required to show in its future rate cases that it reasonably analyzed whether replacement or retirement of natural gas lines was preferred in light of legislative policy regarding beneficial electrification and carbon reduction. As indicated above in Section III.B.1, the Settling Parties have agreed not to provide for the consolidation of base rate areas for purposes of this proceeding, but rather to maintain the three existing Base Rate Areas.

83. **Resolution.** In consideration of the compromises regarding consolidation, BHCG agrees to continue evaluating the impacts of consolidated and separate base rate areas with respect to costs and customer rates. BHCG agrees to complete a study that evaluates the impacts of maintaining separate base rate areas on beneficial electrification program participation, rates, and costs if such program is proposed as part of its Clean Heat Plan filed pursuant to Commission rules

promulgated under SB 21-264. BHCG will provide any such study to parties no later than one month following the filing of its Clean Heat Plan. In addition, not less than two months prior to its next Phase II rate case, BHCG will meet with the Settling Parties to discuss its analysis of the impacts of consolidation and separate base rate areas.

F. __BHCG Tariff Changes__

84. The Settling Parties agree to the Settled Base Rates and tariff sheets in substantially the same form as the *pro forma* tariff sheets as forth in Appendix 3 ("*Pro Forma* Tariff Sheets"). The Settling Parties agree that the *Pro Forma* Tariff Sheets incorporate the changes contemplated by this Settlement Agreement. Appendix 4 contains tariff sheets in legislative format reflecting the changes being implemented as compared to the currently effective BHCG tariff sheets.

85. In addition to the changes necessary to implement the Settled Base Rates, the Settling Parties agree that the Commission should approve the tariff language changes reflected in Appendix 3, which include the following:

a. the reclassification of Small Volume and Large Volume sales and interruptible rate classes into Large Commercial sales and interruptible rate classes, respectively, consistent with BHCG's agreement to maintain interruptible service as set forth in Section III.B.2 above;

b. the discontinuance of residential transportation service and reclassification of the lone existing residential transportation customer to Small Commercial Transportation service in RA 1;

c. addition of Small Commercial Transportation Service to RA 3;

d. implementation of a Monthly Administrative Charge for transportation service in RA 3; and

e. additional textual changes of a conforming and clarifying nature.

IV. IMPLEMENTATION

86. The Settling Parties agree that the rate and tariff changes resulting from this Settlement Agreement should be approved by the Commission to become effective January 1, 2022. Upon the issuance of a Commission decision approving this Settlement Agreement in all material respects, BHCG shall file with the Commission an advice letter to place into effect revised tariff sheets in substantially the same form as the *pro forma* tariff sheets contained in Appendix 3 hereto to become effective on not less than two business days' notice, but no later than January 1, 2022.

V. GENERAL TERMS AND CONDITIONS

87. Through active prehearing investigation and negotiations, the Settling Parties have negotiated agreements set forth in this Settlement Agreement, resolving the contested and disputed issues in this proceeding in a manner which the Settling Parties agree is just and reasonable and in the public interest. This Settlement Agreement reflects the compromise and settlement of those issues between and among the Settling Parties in this proceeding. The Settling Parties further agree that reaching agreement by means of negotiations, rather than through the formal adversarial litigation process, is encouraged by Rule 1408 and is in the public interest.

88. This Settlement Agreement shall not become effective until the issuance of a final Commission decision approving the Settlement Agreement that does not contain any modification of the terms and conditions of this Settlement Agreement that is unacceptable to any of the Settling Parties. In the event the Commission modifies this Settlement Agreement in a manner unacceptable to any of the Settling Parties, that Party shall have the right to withdraw from this

Agreement and proceed to hearing on the issues that may be appropriately raised by that Party in this proceeding.

89. Approval by the Commission of this Settlement Agreement shall constitute a determination that the Settlement Agreement represents a just, equitable, and reasonable resolution of the disputed issues resolved herein.

90. The Settling Parties specifically agree and understand that this Settlement Agreement represents a negotiated settlement that is in the public interest with respect to the various matters and issues enumerated herein. The Settling Parties shall not be deemed to have approved, accepted, agreed to, or consented to any concept, theory or principle underlying or supposed to underlie any of the matters provided for in this Settlement Agreement, other than as specifically provided for herein. Notwithstanding the resolution of the issues set forth in this Settlement Agreement, none of the methods or principles herein contained shall be deemed by the Settling Parties to constitute a settled practice or precedent in any future proceeding.

91. The Settling Parties agree to join in a motion that requests that the Commission approve this Settlement Agreement, and to support the Settlement Agreement in any subsequent pleadings or filings. Each Settling Party further agrees that in the event that it sponsors a witness to address the Settlement Agreement at any hearing that the Commission may hold to address it, the Settling Party's witness will testify in support of the Settlement Agreement and all of the terms and conditions of the Settlement Agreement.[6]

92. The Settling Parties agree that all their pre-filed testimony and exhibits shall be admitted into evidence in this proceeding without cross examination by the Settling Parties.

[6] BHCG will pre-file testimony and executable models in support of the Settlement Agreement on October 8, 2021.

93. The discussions among the Settling Parties that have produced this Settlement Agreement have been conducted with the understanding, pursuant to Colorado law, that all offers of settlement, and discussions relating thereto, are and shall be privileged and shall be without prejudice to the position of any of the Settling Parties and are not to be used in any manner in connection with this or any other proceeding.

94. All Settling Parties have had the opportunity to participate in the drafting of this Settlement Agreement and the term sheet upon which it was based. There shall be no legal presumption that any specific Settling Party was the drafter of this Settlement Agreement.

95. This Settlement Agreement embodies the entire agreement and understanding between the Settling Parties with respect to the subject matter hereof and supersedes all prior oral or written agreements and understandings relating to the subject matter hereof. The parties are not relying on any statement or representation not contained herein.

96. This Settlement Agreement may be executed in counterparts and by electronic copies of signatures, all of which when taken together shall constitute the entire Settlement Agreement with respect to the matters addressed herein.

Date: October 5, 2021

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