

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23A-0633G

IN THE MATTER OF THE VERIFIED APPLICATION OF BLACK HILLS COLORADO
GAS, INC. FOR APPROVAL OF ITS 2024-2028 CLEAN HEAT PLAN.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
ALENKA HAN
ACKNOWLEDGING WAIVER OF STATUTORY PERIOD,
SCHEDULING EVIDENTIARY HEARING,
ESTABLISHING PROCEDURAL SCHEDULE, AND
SCHEDULING PUBLIC COMMENT HEARING**

Mailed Date: May 13, 2024

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I. STATEMENT AND PROCEDURAL HISTORY

1. Black Hills Colorado Gas, Inc., doing business as Black Hills Energy (BHCG or the Company), initiated this matter on December 29, 2023, by filing its Verified Application with the Public Utilities Commission of the State of Colorado (PUC or Commission) seeking approval of its 2024-2028 Clean Heat Plan.¹

2. Contemporaneously with its Application, BHCG prefiled the direct testimony of five individuals.

3. On December 29, 2023, the Commission sent out a Notice of Application Filed (Notice) to interested persons.

4. Three entities have intervened as of right in this Proceeding: the Office of the Utility Consumer Advocate (UCA); the Colorado Energy Office (CEO); and Trial Staff of the Commission (Staff).

5. In addition, on January 29, 2024, Southwest Energy Efficiency Project (SWEEP) moved to permissively intervene.

6. By Decision No. C24-0148-I, mailed March 7, 2024, the Commission noted that the Application had been deemed complete on February 13, 2024, in accordance with § 40-6-109.5, C.R.S., and referred the matter to an Administrative Law Judge (ALJ) for disposition. The Proceeding was subsequently assigned to the undersigned ALJ.

7. The ALJ granted SWEEP's Motion to Intervene by Decision No. R24-0218-I, issued April 9, 2024.

8. The parties to this Proceeding are thus BHCG, Staff, UCA, CEO, and SWEEP.

¹ Verified Application of Black Hills Colorado Gas, Inc., doing business as Black Hills Energy, filed Nov. 21, 2023, p. 1.

9. Decision No. R24-0218-I also scheduled a prehearing conference to be held April 30, 2024, at 10:30 a.m.

10. On April 29, 2024, counsel for BHCG, Emmanuel Cocian, informally contacted the undersigned ALJ by email to advise that the parties had agreed to a proposed procedural schedule and dates for an evidentiary hearing.

II. SUMMARY OF PREHEARING CONFERENCE

11. The ALJ convened the prehearing conference as scheduled on April 30, 2024.

12. The following individuals appeared at the prehearing conference on behalf of the parties:

- a) BHCG Emmanuel Cocian;
- b) Staff: Ross Smith and Josh Horman;
- c) UCA: Tom Dixon;
- d) CEO: Jessica Lowery; and,
- e) SWEEP: Michael Hiatt.

13. This Decision memorializes the issues discussed and decided at the prehearing conference.

A. Waiver of Statutory Time Period

14. Pursuant to § 40-6-109.5(1), C.R.S., Decision No. R24-0218-I extended the time period within which a final Commission decision must issue by 130 days, or up to and including October 30, 2024.

15. In his email to the undersigned ALJ, Mr. Cocian advised that BHCG waives the statutory time period, as permitted by § 40-6-109.5(3), C.R.S.

16. Mr. Cocian also verbally confirmed BHCG's waiver of the statutory time period at the prehearing conference on April 30, 2024.

17. The ALJ therefore acknowledges BHCG's waiver of the statutory time period pursuant to § 40-6-109.5(3), C.R.S.

B. Procedural Schedule

18. Prior to the prehearing conference, the parties proposed the following procedural schedule to govern this Proceeding:

ACTION	DEADLINE
Supplemental Direct Testimony	April 8, 2024
Written Discovery Directed to Direct and Supplemental Direct Testimony	June 16, 2024
Answer Testimony	June 21, 2024
Written Discovery Directed to Answer Testimony	July 21, 2024
Rebuttal Testimony and Cross-Answer Testimony	July 26, 2024
Prehearing Motions	August 14, 2024
Stipulations and Settlement Agreements	August 16, 2024
Corrected Testimony and/or Settlement Testimony	August 23, 2024
Cross-Examination Matrix	August 23, 2024
Evidentiary Hearing	August 28-30, 2024
Statements of Position	September 13, 2024

19. Given that BHCG has waived the statutory time period, the ALJ finds and concludes that the parties' proposed procedural schedule is reasonable and will adopt it.

C. Evidentiary Hearing

20. By email and at the prehearing conference, representatives for all five parties expressed a preference for a hybrid hearing format to be held at the end of August 2024.

21. The ALJ will therefore schedule **a hybrid hearing** to be held on the dates proposed by the parties: **August 28, 29, and 30, 2024.**

22. The ALJ notes that the Commission can conduct in-person, remote, or hybrid hearings. A remote hearing is one in which all of the participants appear and participate from remote locations over the Zoom web conferencing platform. A hybrid hearing involves the ALJ and at least one party and/or witness participating from one of the Commission's hearing rooms in Denver, and the remaining party(ies) and witness(es) participating from one or more remote locations using the Zoom web conferencing platform. An in-person hearing is one in which the ALJ and all parties and witnesses participate in the hearing at the same location.

23. The parties are advised that if circumstances or conditions change, the ALJ retains the discretion to alter the hearing forming as necessary.

D. Unified Numbering System for Hearing Exhibits

24. In order to efficiently organize the numbering and preparation of exhibits for the hearing, the parties shall use a unified numbering system for all hearing exhibits. Blocks of hearing exhibit numbers are assigned as follows:

Party	Hearing Exhibit Numbers
BHCG	100-199
Staff	200-299
UCA	300-399
CEO	400-499
SWEEP	500-599

25. The parties are instructed to adhere to this exhibit numbering system for any prefiled testimony filed in this Proceeding, as well as any documentary evidence sought to be offered into evidence at the evidentiary hearing.

26. Because the evidentiary hearing will be accommodating remote participation, the parties are further ordered to follow the guidelines for the electronic presentation of evidence applicable to remote hearings and set out in detail in Attachment B to this Decision.

E. Advisements

27. The Parties are advised and are on notice that this proceeding is governed by the Rules of Practice and Procedure found at 4 CCR 723-1. The ALJ expects the Parties to be familiar with and to comply with these rules. The rules are available on the Commission's website (<https://puc.colorado.gov/pucrules>).

28. The parties are also on notice that failure to appear at the scheduled evidentiary hearing may result in decisions adverse to their interests, including granting the complete relief opposing parties seek, dismissing interventions, and dismissing or granting the Application.

F. Informal Video-Conference Practice Session

29. The ALJ will hold an informal practice video-conference session if requested by any party to give the parties an additional opportunity to practice using Zoom and box.com before the hearing.

30. The parties may contact a Commission Legal Assistant by email at casey.federico@state.co.us and stephanie.kunkel@state.co.us, to schedule an informal practice video-conference session.

31. The parties will receive information and a link to participate in the informal practice session by email.

III. PUBLIC COMMENT HEARINGS

32. At the prehearing conference, counsel for CEO, Ms. Lowery, requested that the ALJ schedule and convene public comment hearings in order to give the general public and interested persons an opportunity to provide the Commission comments about BHCG's Clean Heat Plan. No parties objected to CEO's request, and all concurred that public comment hearings would be beneficial in this Proceeding.

33. The ALJ agrees, finds and concludes that public comment hearings should be convened in this Proceeding. The nature of the issues raised in this Clean Heat Proceeding are of great importance to the State of Colorado's efforts to reach energy savings goals and reduce carbon emissions. The ALJ concludes that public comment hearing will provide the general public with an opportunity to express their views about BHCG's Clean Heat Plan, which is of great interest and import to members of the public.

34. Given the statewide impact of BHCG's Clean Heat Plan, the ALJ is scheduling remote public comment hearings to best accommodate interested persons appearing from different locations throughout BHCG's service territory and throughout the State. Two public comment hearing sessions will be held, the first on **Tuesday, July 9, 2024, from 11:30 a.m. to 1:30 p.m.** to accommodate those wishing to participate during their lunch hour, and a second session on **Tuesday, July 9, 2024, from 4:00 p.m. to 6:00 p.m.** to accommodate those wishing to participate after normal business hours. Two sessions provide flexibility for interested persons to appear during their lunch break or after regular business hours, should it be otherwise difficult for them to appear during regular Commission business hours (8:00 a.m. to 5:00 p.m.), while also accommodating those who prefer to appear during regular business hours.

35. Both public comment hearing sessions will continue until concluded, meaning that the sessions will continue until all public comments are received, but will end no later than the designated end-time (1:30 p.m. and 6:00 p.m.). The hearing sessions will not be held open for public comments after all those who have appeared have provided public comment and therefore may conclude before the scheduled end times (1:30 p.m. and 6:00 p.m.). For example, if all those who appear at the 11:30 a.m. session have provided public comment by 1:00 p.m. or earlier, that hearing session will be adjourned. This also means that anyone who chooses to join the public

comment hearing sessions after the designated start times assumes the risk that the hearing will be concluded before they join. However, regardless of how early registered participants conclude their comments, the first session will continue at least into the lunch hour and the second session will continue at least past 5:00 p.m.

36. The public comment hearing will be held using the web-hosted video-conferencing service, Zoom. This means that members of the public who wish to participate in the public comment hearing should not appear in person at the Commission's offices but should instead appear remotely via Zoom.

A. Observing the Public Comment Hearing

37. Consistent with Commission practice, the public comment hearing will be webcast on the Commission's website. Persons wishing to observe but not provide comments in the hearing may do so by observing the webcast of the hearing and need not register through Zoom. To observe the hearing by webcast, enter this link in the web browser <https://puc.colorado.gov/webcasts> and select the audio or video option for the assigned hearing room. The assigned hearing room will be identified on the Commission's public calendar for the date and time of the hearing, at the following link: <https://puc.colorado.gov/puccalendar>.

B. Participating in the Public Comment Hearing

38. Those interested in providing public comment during the hearing must register in advance using a link posted on the calendar of events on the PUC's website at <https://puc.colorado.gov/puccalendar>. Registrants will receive an email with a link to provide comment during the Zoom session. If an interested person cannot obtain the link and register, they can contact the PUC for assistance at 303-894-2000.

39. Those registered to provide comment during the hearing are strongly encouraged to prepare in advance and familiarize themselves with how to use the Zoom meeting platform. Attachment C to this Decision provides step-by-step technical instructions and requirements to participate by video-conference using a computer. This is intended to ensure that the remote hearing proceeds efficiently. Hence, it is important that registered video-conference participants carefully review and follow all requirements in this Decision and Attachment C.

40. For those who wish to provide oral comments during the hearing, video-conference participation is preferred and encouraged because it allows for the hearing to be held in a manner most similar to in-person hearings. Nevertheless, interested persons have the option to participate by telephone.

41. The Commission strives to accommodate all members of the public at its hearings by providing services for foreign language users and persons with disabilities upon receipt of a reasonable accommodation request. Registrants requesting an interpreter during the public comment hearing should complete the [Language Access Form](#) at <https://puc.colorado.gov/how-to-participate> at least one week prior to the event. Requests for accommodation can also be made directly by contacting Holly Bise at 303-894-2024 or holly.bise@state.co.us.

C. Other Methods to Submit Public Comment

42. Interested persons wishing to provide public comment need not participate in the public comment hearing to do so. In addition to accepting comments during the public comment hearing, the Commission makes available other means by which interested persons may provide written or oral comments. The Commission prefers written comments over oral comments but gives written and oral comments the same weight.

43. Interested persons are encouraged to submit written comments through either: (a) the Commission's Electronic Filing System at <https://www.dora.state.co.us/pls/efi/EFI.homepage> in this Proceeding; or (b) the Commission's website at <https://puc.colorado.gov/> by clicking on the "FILE A COMMENT OR COMPLAINT" link. Anyone using the latter option should ensure that their comments include this Proceeding number (Proceeding No. 23A-0633G).

44. Oral comments will be accepted from any interested person who leaves a voice mail message at (303) 869-3490 or from registered commenters offering public comment during the scheduled public comment hearing. Those leaving voice mail public comments must include their name, the spelling of their name, and this Proceeding number (Proceeding No. 23A-0633G) in their message. Voice mail messages will be transcribed and placed in the record of this Proceeding.

45. The Commission will equally consider public comments, regardless of the format in which they are submitted (verbal or in writing).

IV. **ORDER**

A. **It Is Ordered That:**

1. The waiver of the statutory time period by Black Hills Colorado Gas, Inc., doing business as Black Hills Energy, (BHCG), as permitted by § 40-6-109.5(3), C.R.S., is acknowledged.

2. **Evidentiary Hearing:** A hybrid evidentiary hearing is scheduled as follows:

Date: August 28, 29, and 30, 2024

Time: 9:00 a.m.

Location: Commission Hearing Room
1560 Broadway, Suite 250
Denver, Colorado

METHOD: In person in the Commission Hearing Room and by videoconference using Zoom at the link to be provided to counsel and the parties via email prior to the hearing.

All parties and witness must participate remotely by joining a video conference using Zoom at the link provided to the established parties in an e-mail prior to the scheduled hearing, as addressed above.²

3. Participants in the hearing may not distribute the hearing link, access, or ID code to anyone not participating in the hearing.

4. Video-Conference Participation. Counsel for the parties, parties, and witnesses may attend in person or participate in the evidentiary hearing by videoconference using the Zoom platform.

5. Instructions for Remote Hearings Via Zoom: Detailed instructions governing participation in and procedures for remote hearings conducted via Zoom are set out in Attachment A to this order, which is incorporated into and made part of this order.

6. The ALJ will hold an informal Zoom practice session upon request.

7. **Public Comment Hearings:** Two fully remote public comment hearings on the above-captioned proceeding are scheduled as follows:

Date: July 9, 2024

Times: 11:30 a.m. to 1:30 p.m. (or until concluded), and
4:00 p.m. to 6:00 p.m. (or until concluded).

Place: By video conference or telephone using the Zoom web conferencing platform at a link emailed to all those who register to participate in the public comment hearing.

8. All those who wish to provide comments in the public comment hearing must register for the hearing in order to receive the Zoom information to join the public comment hearing. Interested persons must register to participate in the public comment hearing by clicking

² Instructions for using the Zoom videoconferencing platform are provided in Attachment A to this Decision.

on a link available on the Commission's calendar of events on its website for the date and time(s) of the hearing at <https://puc.colorado.gov/puccalendar>, and following the requirements in Attachment C hereto, which is incorporated as if fully set forth herein.

9. Participants may not appear in person at the Commission for the above-scheduled public comment hearings. Instead, they must participate in the hearing(s) from remote locations, consistent with the requirements of this Decision.

10. Those wishing to observe but not provide comment in the above public comment hearing may do so by observing the Commission's webcast for the assigned hearing room at: <https://puc.colorado.gov/webcasts>.

11. Members of the public who wish to provide written or oral comments outside of the public comment hearing may do so by following the instructions set out in section III.C of this Decision.

12. The Administrative Law Judge may schedule additional public comment hearings if necessary.

13. **Procedural Schedule:** The following procedural schedule is adopted:

ACTION	DEADLINE
Supplemental Direct Testimony	April 8, 2024
Written Discovery Directed to Direct and Supplemental Direct Testimony	June 16, 2024
Answer Testimony	June 21, 2024
Written Discovery Directed to Answer Testimony	July 21, 2024
Rebuttal Testimony and Cross-Answer Testimony	July 26, 2024
Prehearing Motions	August 14, 2024
Stipulations and Settlement Agreements	August 16, 2024
Corrected Testimony and/or Settlement Testimony	August 23, 2024
Cross-Examination Matrix	August 23, 2024
Evidentiary Hearing	August 28-30, 2024
Statements of Position	September 13, 2024

14. **Evidence Presentation at the Evidentiary Hearing.** Because the hearing may accommodate remote participation by videoconference, all evidence must be presented electronically. Each party is responsible for ensuring that they and their respective witnesses: (a) have access to all pre-filed exhibits; and (b) can download and view documents available from box.com during the hearing.

15. **Instructions for Preparation and Presentation of Exhibits at Hearing:** In addition to other requirements of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1 (e.g., Rule 1202 regarding pre-filed testimony), detailed additional instructions governing the preparation and presentation of exhibits at the hearing are set out in Attachment B to this order, which is incorporated into and made part of this order.

16. The parties shall adhere to the following numbering system for their respective exhibits and prefiled testimony:

Party	Hearing Exhibit Numbers
BHCG	100-199
Commission Trial Staff	200-299
Office of Utility Consumer Advocate	300-399
Colorado Energy Office	400-499
Southwest Energy Efficiency Project	500-599

17. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES
COMMISSION
OF THE STATE OF COLORADO

ALENKA HAN

Administrative Law Judge

ATTEST: A TRUE COPY

Rebecca E. White,
Director