

Decision No. C20-0711

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 20V-0299EG

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 PARTIAL VARIANCE FROM DECISION NO. C20-0246 PURSUANT TO RULE 1003 CONCERNING TARIFF WAIVERS IN PROCEEDING NO. 20V-0150EG.

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

Mailed Date: October 7, 2020
Adopted Date: September 30, 2020

I. BY THE COMMISSION

A. Statement, Findings, and Conclusion

1. On April 3, 2020, Black Hills Colorado Electric, LLC and Black Hills Colorado Gas, Inc., doing business as Black Hills Energy (collectively Black Hills or Company), filed a Joint Petition requesting waiver of a number of tariff provisions of Black Hills's Tariff Sheets (Black Hills Electric Tariff PUC No. 11, and Black Hills Gas Tariffs PUC No. 3 and No. 7), in Proceeding No. 20V-0150EG. That Joint Petition was granted by Commission Decision No. C20-0246 mailed April 14, 2020 (Initial Waiver Decision).

2. Subsequently, on June 11, 2020, Black Hills Colorado Gas, Inc. filed Advice Letter No. 2, in Proceeding No. 20AL-0252G, in compliance with Decision No. R19-1033 issued on December 27, 2019 in Proceeding No. 19AL-0075G, as adopted or modified by Decision No. C20-0372 issued on May 19, 2020 in Proceeding No. 19AL-0075G. Advice Letter No. 2 accompanied the new combined tariff—PUC Tariff Volume No. 1—for the consolidated company of Black Hills Colorado Gas, Inc. The new combined tariff became effective on July 3,

2020, as the tariff superseded and replaced in their entirety, Gas Tariff PUC Volume No. 3 and Gas Tariff PUC Volume No. 7.

3. Through its Petition filed July 16, 2020, which initiated this proceeding, Black Hills sought to extend the previously approved tariff waivers granted in the Initial Waiver Decision through September 7, 2020, as well as extending the tariff waivers to the new Gas Tariff PUC Volume No. 1 for Black Hills Colorado Gas, Inc.

4. Those waivers were granted, *nunc pro tunc*, by Commission Decision No. C20-0534 dated July 22, 2020.

5. Through a petition or partial variance filed on September 18, 2020, Black Hills now requests modification of Decision No. C20-0534. Black Hills seeks to grant the same waivers *nunc pro tunc* from September 7, 2020 through October 7, 2020, or through expiration of a final executive order concerning late payment fees and reconnection fees but no later than January 31, 2021.

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

7. Governor’s Executive Order D 2020 098 (EO 098), dated June 12, 2020, was extended by EO 132, dated July 11, 2020, EO 157, dated August 9, 2020, and EO 181, dated September 7, 2020.¹ EO 098 directed the PUC as follows, in pertinent part:

- II. 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.

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

9. 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;

¹ EO 181 expires on October 7, 2020, unless otherwise extended. EO 181 simply states that it is extending Executive Order D 2020 098.

- c. Tariff Sheet R8, Deposits, seeking temporary waiver of deposit requirements for customers with recent delinquencies or requesting reconnection to address needs of certain customers negatively impacted by the repercussions of COVID-19;
- d. Tariff Sheets R15 and R16, Section 7.9, seeking temporary waiver of late payment charge for residential and small commercial customers to comply with Executive Order No. 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.

10. 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.

11. 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, a waiver of the Commission’s notice and intervention period provided in Rule 1206(d) is appropriate.

12. 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.

13. We find good cause to grant the Petition *nunc pro tunc* from September 7, 2020 for Black Hills. To provide certainty of potential duration of the instant waivers, we will grant the waiver through the expiration of any such extension of executive orders or January 31, 2021, whichever comes first. This provides a definite end date for the requested waiver. Extension of the waiver may at that time be requested as appropriate given the unprecedented developments surrounding COVID-19.

II. ORDER

A. The Commission Orders That:

1. The Petition filed by Black Hills Colorado Electric, LLC, and Black Hills Colorado Gas, Inc., doing business as Black Hills Energy (Black Hills) on September 18, 2020, for a partial variance from Decision No. C20-0534 and associated waiver of selected provisions of its tariff sheets, is granted, consistent with the discussion above, *nunc pro tunc*, from September 7, 2020 through the earlier of the expiration of the directives of the Governor's Orders or January 31, 2021.

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

3. The 20-day time period provided by § 40-6-114(1), C.R.S., to file an application for rehearing, reargument, or reconsideration shall begin on the first day after the Commission mails this Decision.

4. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
September 30, 2020.**

(S E A L)



ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads 'Doug Dean'.

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JEFFREY P. ACKERMANN

JOHN GAVAN

MEGAN M. GILMAN

Commissioners