

Decision No. R23-0355-I

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

PROCEEDING NO. 23F-0170EG

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PAUL HILTON,

COMPLAINANT,

v.

BLACK HILLS ENERGY,

RESPONDENT.

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**INTERIM DECISION OF  
ADMINISTRATIVE LAW JUDGE  
AVIV SEGEV  
SCHEDULING REMOTE PREHEARING CONFERENCE,  
VACATING EVIDENTIARY HEARING,  
RESCHEDULING EVIDENTIARY HEARING,  
AND PROVIDING INSTRUCTIONS CONCERNING EXHIBITS  
AND PARTICIPATING IN REMOTE HEARINGS**

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Mailed Date: May 25, 2023

**I. STATEMENT**

**A. Procedural Background**

1. On April 7, 2023, Complainant Paul Hilton filed a Complaint against Black Hills Energy (Black Hills). Mr. Hilton generally alleges that Black Hills has improperly demanded payment for utility services.

2. On April 19, 2023, the Commission issued its Order Setting Hearing and Notice of Hearing (Notice), which set this matter for a hearing on June 26, 2023, before an Administrative Law Judge (ALJ).

3. On May 1, 2023, the Answer of Black Hills Energy was filed by Black Hills.

4. The undersigned ALJ informally reached out to the parties, informed the parties he could not hold a hearing on June 26, 2023, due to a conflict, and invited the parties to propose a consensus procedural schedule. The parties agreed to the scheduling of a remote hearing on July 24, 2023, at 9:00 a.m. Black Hills requested to hold a remote prehearing conference to discuss the procedural schedule and indicated it was available to participate in the same on June 7, 2023, at 10:30 a.m. Mr. Hilton did not object to the holding or timing of the remote prehearing conference.

#### **B. Advisements**

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

6. Each party is specifically advised that all filings with the Commission must also be served upon all other parties in accordance with Rule 1205 of the Rules of Practice and Procedure, 4 CCR 723-1.

#### **C. Prehearing Conference**

7. In anticipation of the evidentiary hearing ordered herein, and given Black Hills' informal request to hold a remote prehearing conference, the undersigned ALJ will hold a prehearing conference in accordance with Rule 1409(a) of the Rules of Practice and Procedure, 4 *Code of*

*Colorado Regulations* 723-1. Accordingly, a remote prehearing conference shall be scheduled as ordered below and will be conducted using the Zoom videoconferencing platform. The ALJ or a member of Commission Staff will email the log-in information in advance of the hearing.

8. The parties are urged to thoroughly review this Interim Decision, including the attachments thereto, in advance of the prehearing conference ordered herein, and confer amongst themselves regarding any questions, concerns, or special requests the parties may have regarding the procedural schedule.

**D. Remote Evidentiary Hearing and Unified Numbering System for Hearing Exhibits**

9. The evidentiary hearing scheduled for June 26, 2023, will be vacated, as ordered below.

10. As agreed by the parties, a remote evidentiary hearing shall be scheduled for July 24, 2023, at 9:00 a.m. This Decision and Attachments A and B provide important information and instructions to facilitate holding the remote hearing, which all parties must follow.

11. The procedures developed for the remote evidentiary hearing are intended to replicate, as practicable, evidence presentation as it occurs when parties and witnesses are present in the hearing room. For example, participating by videoconference allows parties and witnesses to view exhibits on the video-conference screen while the exhibits are being offered into evidence and witnesses testify about them.

12. The evidentiary hearing will be conducted via video conference using the Zoom platform. Attachment A to this Decision provides information about the Zoom platform and how to use Zoom to participate in the remote hearing. To minimize the potential that the remote hearing may be disrupted by non-participants, the link and meeting ID, or access code, to attend the hearing will be provided to the parties by email approximately one week before the hearing, and the parties and

witnesses will be prohibited from distributing that information to anyone not participating in the hearing.

13. At the hearing, the parties may call witnesses, present evidence, and make arguments in support of their position. Evidence includes documentary exhibits, testimony, and other tangible items that a party wishes the ALJ to consider in reaching a decision as to the allegations in this case. Given that the hearing will accommodate remote participation by videoconference, exhibits must be presented electronically.

14. The Public Utilities Commission Administrative Hearings Section uses [box.com](https://box.com) to receive and manage exhibits that are first presented in this type of remote evidentiary hearing.<sup>1</sup> As such, it is essential that the parties ensure they are able to access and use box.com prior to the evidentiary hearing. The ALJ is entering orders to facilitate using box.com to manage exhibits during the hearing. To this end, the parties will be provided box.com links and instructions to: (a) upload exhibits for use during the hearing; and (b) download exhibits once they are presented during the hearing.

15. Each party must: (a) pre-mark all hearing exhibits with a hearing exhibit number within their assigned number block before uploading the exhibits to the party's designated box.com folder; (b) sequentially page-number each page of exhibits longer than two pages, with the first page numbered as page 1, regardless of content before uploading the exhibits to the party's designated box.com folder; and (c) upload all pre-marked exhibits into each party's respective designated box.com folder prior to presenting them during the hearing.

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<sup>1</sup> Box.com is a web-based document sharing service. When exhibits are first presented during the hearing, the Commission will receive them electronically from each party's box.com folder for display.

16. Attachment B outlines procedures and requirements for marking and formatting exhibits aimed at facilitating efficient and smooth electronic evidence presentations at the remote hearing. It is very important that the parties carefully review and follow all requirements in this Decision and Attachments A and B.

17. 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:

- Complainant Hilton is assigned hearing exhibit numbers 100 to 199; and
- Black Hills is assigned hearing exhibit numbers 200 to 299.

**E. Additional Procedural Notices**

18. The parties are on notice that the ALJ will retain the discretion to change the method by which the hearing will be conducted.

19. Additional procedural requirements may be addressed in future Interim Decisions.

**F. Informal Video-Conference Practice Session.**

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

21. The parties may contact a Commission Legal Assistant by email at [stephanie.kunkel@state.co.us](mailto:stephanie.kunkel@state.co.us) or [casey.federico@state.co.us](mailto:casey.federico@state.co.us) to schedule an informal practice video-conference session.

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

## II. **ORDER**

### A. **It Is Ordered That:**

1. A remote prehearing conference is scheduled as follows:

DATE: June 7, 2023

TIME: 10:30 a.m.

PLACE: Join by video conference using Zoom at the link to be provided in an email from the Administrative Law Judge<sup>2</sup>

2. The evidentiary hearing scheduled for June 26, 2023, at 9:00 a.m. is vacated and rescheduled as follows:

DATE: July 24, 2023

TIME: 9:00 a.m.

PLACE: Join by video conference using Zoom at the link to be provided in an email from the Administrative Law Judge<sup>3</sup>

3. No one should appear in-person for the remote prehearing conference or evidentiary hearing.

4. Participants in the prehearing conference and evidentiary hearing may not distribute the Zoom link and access code to anyone not participating in the remote prehearing conference, or evidentiary hearing.

5. All participants in the hearing must comply with the requirements in Attachments A and B to this Decision, which are incorporated herein.

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<sup>2</sup> Additional information about the Zoom platform and how to use the platform are available at: <https://zoom.us/>. The parties are strongly encouraged to participate in a test meeting prior to the scheduled hearing. See <https://zoom.us/test>.

<sup>3</sup> See *supra*, Footnote 2.

6. **Video-Conference Participation.** Counsel for the parties, parties, and witnesses, as applicable, may attend the prehearing conference and the evidentiary hearing by videoconference using the Zoom platform.

7. **Evidence Presentation at the Evidentiary Hearing.** Because the participation in the evidentiary hearing will be via 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.

8. The Administrative Law Judge will hold an informal Zoom practice session upon request.

9. The parties shall comply with the requirements established in this Interim Decision and shall make the filings as required by the adopted procedural schedule.

10. This Decision shall be effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

AVIV SEGEV

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Administrative Law Judge

ATTEST: A TRUE COPY

Rebecca E. White,  
Director