

Decision No. C24-0219

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23A-0244E

IN THE MATTER OF THE VERIFIED APPLICATION OF BLACK HILLS COLORADO ELECTRIC, LLC FOR APPROVAL OF ITS TRANSPORTATION ELECTRIFICATION PLAN, READY EV, FOR PROGRAM YEARS 2024-2026 AND FOR RELATED TARIFF APPROVALS.

**COMMISSION DECISION GRANTING
APPLICATION FOR REHEARING,
REARGUMENT, OR RECONSIDERATION OF
COMMISSION DECISION NO. C24-0119**

Mailed Date: April 9, 2024
Adopted Date: April 3, 2024

I. BY THE COMMISSION

A. Statement

1. Through this Decision, the Commission grants the Application for Rehearing, Reargument, or Reconsideration of Decision No. C24-0119 (RRR or RRR Application) filed on March 18, 2024, by Black Hills Colorado Electric, LLC (Black Hills or Company).

B. Background

2. On December 20, 2023, Administrative Law Judge (ALJ), Melody Mirbaba, issued Recommended Decision No. R23-0843 (Recommended Decision) that approves, with modifications, the Partial Settlement Agreement (Settlement Agreement) filed October 10, 2023, and grants, with modifications, the Application for Approval of the 2024-2026 Transportation Electrification Plan (TEP) that Black Hills filed May 15, 2023. The primary modification the Recommended Decision makes to the Settlement Agreement is to include a \$70,000 income qualified (IQ) electric vehicle (EV) Purchase Rebate Program. Under this program, IQ customers

are eligible for \$2,500 rebates for the purchase of new or used EVs.¹ The ALJ dismissed arguments from certain intervenors that Black Hills should be required to offer the IQ EV Purchase Rebate as a point-of-sale rebate.²

3. The Recommended Decision also approves provisions of the Settlement Agreement establishing a similar rebate program for electric bicycles (eBikes)—the IQ eBike Pilot. As with the IQ EV Purchase Rebate Program, however, the ALJ declined to require Black Hills to administer the eBike rebates at the point-of-sale.³

4. On January 8, 2024, the Colorado Energy Office (CEO), the Utility Consumer Advocate (UCA), and GreenLatinos, Mothers Out Front, Vote Solar, and Womxn from the Mountain (collectively, the Environmental Justice Coalition or EJC) filed Exceptions to the Recommended Decision.

5. In Decision No. C24-0119, the Commission granted CEO's Exceptions but denied the Exceptions filed by UCA and EJC. The Commission found that requiring the IQ EV Purchase rebates and the eBike rebates to be administered at the point-of-sale per CEO's Exceptions better aligns with the policy direction of related state and federal rebate programs. Noting the modest size of the IQ EV Purchase Rebate Program and the IQ eBike Pilot,⁴ the Commission found Black Hills' arguments regarding the costs and administrative burden of point-of-sale rebates to be unconvincing. The Commission ultimately gave Black Hills 180 days within which to implement both the IQ EV Purchase Rebate Program and the IQ eBike Pilot as point-of-sale rebate programs.⁵

¹ Decision No. C24-0119, issued February 26, 2024, ¶ 7.

² Decision No. C24-0119, ¶¶ 22-23.

³ Recommended Decision, ¶ 112.

⁴⁴ The Commission notes that "[t]he IQ EV Purchase Rebate Program might produce a total of 28 rebates over the three-year TEP, and the IQ eBike Pilot might produce a total of 60 eBike rebates over that same period." (Decision No. C24-0119, ¶ 34).

⁵ Decision No. C24-0119, ¶ 35.

C. Black Hills' RRR

6. In its RRR, Black Hills does not seek to modify the requirement to commence the IQ EV Purchase Rebate Program and the IQ eBike Pilot as point-of-sale rebates within 180 days. Rather, Black Hills seeks clarifications to reduce the costs and administrative burden of the programs. At a high level, Black Hills requests authorization to limit the implementation of the point-of-sale programs to those dealerships and bicycle shops in its service territory that sell new EVs or eBikes as well as one EV outlet dealership close to its service territory.

7. Black Hills argues that it would be “exceedingly difficult and costly” to implement the point-of-sale programs across the entire state.⁶ Citing its testimony at hearing, Black Hills asserts that to administer point-of-sale rebates, the Company needs to negotiate and enter into agreements with all participating bicycle and automotive dealers. Rather than attempt to do this throughout the state, Black Hills requests that the Commission clarify that the point-of-sale programs are “limited to dealerships and bicycle shops within Black Hills’ territory that offer new EVs or new eBikes and are willing to accept the terms of the TEP program.”⁷ Regarding the terms of the TEP programs, Black Hills notes that it cannot guarantee that each EV dealership and eBike shop will agree to the terms for implementing point-of-sale rebates, but the Company hopes that they will be agreeable to help spur their own sales.⁸

8. As referenced above, the IQ EV Purchase Rebate Program covers both new and used EVs. Under Black Hills’ requested clarification, customers would generally only be able to use the point-of-sale EV rebate at dealerships that sell new EVs. On this point, Black Hills argues

⁶ Black Hills’ RRR, p. 3. The Company states that there are likely hundreds of dealerships across Colorado that sell new EVs but only approximately ten such dealerships in Black Hills’ service territory. (Black Hills’ RRR, p. 2).

⁷ Black Hills’ RRR, p. 3. As discussed more below, to increase the available supply of used EVs, Black Hills proposes to implement the point-of-sale EV rebates at one dealership outside of its service territory—the Phil Long EV Outlet dealership in Colorado Springs. (Black Hills’ RRR, p. 4).

⁸ Black Hills’ RRR, p. 4.

that new car dealerships are more likely to offer used EVs compared to the purely used car dealerships that are located in the Company's service territory. The Company asserts that the purely used car dealerships within Black Hills' service territory often do not have any EVs in their inventory. Moreover, Black Hills states that—in addition to all dealerships within its service territory that sell new EVs—it will seek to implement the point-of-sale rebates at the Phil Long EV Outlet dealership in Colorado Springs. The Company asserts that this particular dealership “offers a steady stream of used EVs for sale near the Company's territory” and is a better alternative to attempting to enter into agreements with every purely used car dealership in the Company's service territory.⁹

9. While Black Hills seeks to limit the implementation of point-of-sale rebates to the Phil Long EV Outlet dealership in Colorado Springs and all dealerships and bicycle shops in the Company's service territory that offer new EVs or new eBikes,¹⁰ the Company maintains that customers who purchase an EV or eBike at other locations (or online) should still be eligible to receive a post-sale rebate. The Company reasons that customers might be able to find a better price by shopping online, at a big box store, or at a dealership outside the Company's service territory. These customers should not be precluded from obtaining a post-sale rebate on eligible EV or eBike purchases.¹¹

D. Findings and Conclusions

10. The Commission grants Black Hills' RRR. We agree with Black Hills that setting up point-of-sale rebate agreements with every auto dealership and bicycle shop in the state would

⁹ Black Hills' RRR, p. 4.

¹⁰ In its RRR, Black Hills specifies that it intends to implement the point-of-sale rebate in all bicycle shops in its territory that sell new eBikes and accept the terms of the rebate program. By “bicycle shops” Black Hills means “brick-and-mortar stores that are located in Black Hills' service territory and specialize in the sale of bicycles (including new eBikes), as distinguished from online retailers or big box stores (e.g., Amazon, Target, Walmart, Sam's Club, Dick's Sporting Goods).” (Black Hills' RRR, p. 2, fn.4).

¹¹ Black Hills' RRR, pp. 4-5.

be exceedingly difficult for the Company. Moreover, efforts to set up such contracts with shops and dealerships far outside Black Hills service territory would likely be of little benefit to the IQ programs. Allowing Black Hills to focus its efforts on bicycle shops and dealerships within its service territory (as well as the Phil Long EV Outlet in Colorado Springs) will help ensure the effective and timely implementation of point-of-sale rebates. Also, the Company's modifications have the added benefit of promoting local economic activity. It is fitting that these TEP programs could help benefit the bicycle shops and dealerships within and around Black Hills' service territory.

11. We similarly find persuasive Black Hills' arguments that the point-of-sale rebate programs should be limited to dealerships that sell new EVs and bicycle shops (as defined in Black Hills' RRR) that sell new eBikes. To be clear, this limitation does not preclude participants from using the point-of-sale rebate to purchase a used EV. Black Hills anticipates that the approximately 10 dealerships within its territory that sell new EVs are more likely to also sell used EVs compared to the dealerships within its service territory that only sell used cars. The addition of the Phil Long EV Outlet in Colorado Springs will further help ensure that IQ customers can use the point-of-sale rebate to purchase used EVs. Requiring the Company to try to reach agreement with every used car dealership in its service territory would likely impede the Company's ability to efficiently and timely implement the point-of-sale rebates at those dealerships that are most likely to offer new and used EVs.

12. Finally, consistent with Black Hills' RRR, we clarify that IQ customers can still pursue post-sale rebates for eligible EVs and eBikes that are excluded from the point-of-sale rebate programs. For instance, if an IQ customer purchases an eBike or EV online, the customer could

still apply for a post-sale rebate. This clarification adds helpful optionality for IQ customers without making it more difficult for Black Hills to administer the point-of-sale rebates.

13. In sum, and consistent with Black Hills' RRR, the Commission clarifies that the point-of-sale rebates for eligible EVs and eBikes are limited to dealerships and bicycle shops within Black Hills' service territory that offer new EVs/eBikes and that agree to accept the terms of the relevant TEP rebate program. Point-of-sale rebates under the IQ EV Purchase Rebate program will also be available at the Phil Long EV Outlet in Colorado Springs. For customers who opt to purchase EVs or eBikes outside of the dealerships/shops within Black Hills' service territory or at businesses that will not agree to the terms of the TEP rebate program, such customers may utilize the EV or eBike rebate programs on a post-sale basis. These clarifications will help reduce the administrative burdens of the programs and promote local economic activity.

II. ORDER

A. The Commission Orders That:

1. The Application for Rehearing, Reargument, or Reconsideration of Decision No. C24-0119 filed by Black Hills Colorado Electric, LLC on March 18, 2024, is granted.

2. The 20-day time period provided by § 40-6-114, C.R.S., to file an application for rehearing, reargument, or reconsideration shall begin on the first day after the effective date of this Decision.

3. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
April 3, 2024.**

(S E A L)



ATTEST: A TRUE COPY

Rebecca E. White,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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MEGAN M. GILMAN

TOM PLANT

Commissioners