

Decision No. C24-0340

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 DENYING
APPLICATION FOR REHEARING,
REARGUMENT, OR RECONSIDERATION OF
COMMISSION DECISION NO. C24-0219**

Mailed Date: May 24, 2024

Adopted Date: May 15, 2024

I. BY THE COMMISSION

A. Statement

1. Through this Decision, the Commission denies the Application for Rehearing, Reargument, or Reconsideration of Decision No. C24-0219 (Second-Round RRR) that Colorado Energy Office (CEO) filed on April 29, 2024.

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 Colorado Electric, LLC (Black Hills or Company) filed on May 15, 2023. Among other thing, the Recommended Decision approves an income qualified (IQ) electric vehicle (EV) Purchase Rebate Program, under which 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, CEO filed Exceptions to the Recommended Decision primarily relating to whether the IQ EV Purchase Rebate and the IQ eBike Pilot should be administered as point-of-sale rebates.⁴

5. In Decision No. C24-0119,⁵ the Commission granted CEO's Exceptions and required Black Hills to administer the IQ EV Purchase Rebate program and the IQ eBike Pilot program as point-of-sale rebates. 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.⁶

6. On March 18, 2024, Black Hills filed RRR regarding Decision No. C24-0119 (First-Round RRR). In its First-Round RRR, the Company requested 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 in Colorado Springs. Citing its testimony at hearing, Black Hills argued that to administer point-of-sale

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

² Decision No. C24-0119, ¶¶ 22-23.

³ Recommended Decision, ¶ 112.

⁴ See Decision No. C24-0119, ¶¶ 25, 27. Other parties also filed Exceptions to the Recommended Decision, but those Exceptions are not directly pertinent to this Decision.

⁵ Issued February 26, 2024.

⁶ Decision No. C24-0119, ¶ 35.

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 asked the Commission to 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

7. In Decision No. C24-0219⁸ (First RRR Decision), we granted Black Hills’ First-Round RRR. The Commission clarified 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 (as well as one dealership in Colorado Springs). The Commission further noted that customers who opt to purchase EVs or eBikes outside of the dealerships or bicycle shops within Black Hills’ service territory may still utilize the EV or eBike rebate programs on a post-sale basis.⁹ We reasoned that these limitations will help ensure the timely implementation of the point-of-sale rebates and promote local economic activity:

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.¹⁰

C. CEO’s Second-Round RRR

8. In its Second-Round RRR, CEO asks that the Commission “direct Black Hills to prioritize retailers in the Company’s service territory and authorize Black Hills to expand that territory on a reasonable, retailer-by-retailer basis based on EV or eBike availability and

⁷ Black Hills’ First-Round RRR, p. 3.

⁸ Issued April 9, 2024.

⁹ First RRR Decision, ¶ 13.

¹⁰ First RRR Decision, ¶ 10.

manufacturer diversity.”¹¹ CEO clarifies that the rebates should only be available to Black Hills’ customers but argues that allowing the Company to expand the geographic area increases flexibility. Regarding the importance of flexibility, CEO notes that the one dealership outside of Black Hills’ service territory that the Company identified for point-of-sale rebates has changed its focus to internal combustion vehicles.¹²

9. CEO further argues that allowing Black Hills to expand the geographic area for dealerships and bicycle shops will provide Black Hills’ customers with more options, thereby contributing to the success of the IQ EV Purchase Rebate program and the IQ eBike Pilot program. For instance, CEO asserts that Tesla, Volkswagen, and Volvo have no dealerships in Black Hills’ service territory but do have locations in nearby Colorado Springs and that expanding the available dealerships provides more options to Black Hills’ customers to purchase EVs that qualify for the federal tax credit.¹³ Similarly, CEO states that there are currently only seven dealerships within Black Hills’ service territory that participate in the State’s Vehicle Exchange (VXC) Colorado program, compared to 19 dealerships in Colorado Springs.¹⁴

10. CEO goes on to argue that slightly expanding the geographic area of the point-of-sale rebates would not significantly increase the resources needed to administer the programs.¹⁵ CEO commits to helping Black Hills administer the point-of-sale program by “making introductions and, if needed, facilitating dialogue between Black Hills and VXC dealerships outside of the Company’s service territory.”¹⁶ CEO acknowledges the goal of promoting local economic development, but asserts that “the primary goal of the program... is to

¹¹ CEO’s Second-Round RRR, p. 7.

¹² CEO’s Second-Round RRR, p. 7.

¹³ CEO’s Second-Round RRR, pp. 4-5.

¹⁴ CEO’s Second-Round RRR, p. 4.

¹⁵ CEO’s Second-Round RRR, p. 5.

¹⁶ CEO’s Second-Round RRR, p. 6.

provide Black Hills' Income Qualified customers EV purchase incentives to reduce the upfront cost barrier of EVs and for Black Hills' customers to realize the economic and environmental benefits of driving an EV.”¹⁷ CEO offers a similar rational for eBikes, arguing that increasing the number of bicycle shops at which Black Hills administers the point-of-sale rebates increases the likelihood that ratepayers can find eBikes that meet their needs and budgets.¹⁸

D. Findings and Conclusions

11. The Commission denies CEO's Second-Round RRR. CEO suggests that the Commission's First RRR Decision unnecessarily prohibits Black Hills from voluntarily expanding the dealerships and bicycle shops with which the Company implements the point-of-sale rebate programs. CEO fails to acknowledge, however, that Black Hills was the entity that requested the geographic limitations the First RRR Decision imposes. In the context of the Commission's directive for the Company to commence both the IQ EV Purchase Rebate Program and the IQ eBike Pilot with point-of-sale rebates within 180 days after a final decision, Black Hills filed its First-Round RRR asking the Commission to set clear limits on the scope of the point-of-sale rebate programs in order to reduce costs and administrative burdens.¹⁹ Thus, it does not appear that Black Hills wants the flexibility that CEO now urges the Commission to provide.

12. We see little benefit to providing Black Hills unwanted flexibility to expand the scope of the point-of-sale rebate programs. Conversely, such an expansion risks wasting time and resources trying to identify the perfect group of dealerships and bicycle shops with which to implement the point-of-sale rebates. By sticking with the clear parameters set forth in the First

¹⁷ CEO's Second-Round RRR, p. 6.

¹⁸ CEO's Second-Round RRR, p. 6.

¹⁹ Black Hills' First-Round RRR, p. 2.

RRR Decision, Black Hills can focus on actually commencing the point-of-sale rebate programs. Further refinement of the appropriate dealerships and bicycle shops at which Black Hills provides point-of-sale rebates, if necessary, is better left for the next TEP, after the Company has successfully commenced the rebate programs.

13. We similarly find unpersuasive CEO's arguments that its approach would increase the options IQ customers have when purchasing EVs and eBikes.²⁰ Granting CEO's Second-Round RRR would simply allow Black Hills to expand its point-of-sale rebate programs, "if it so chooses," and open the door for further debate between CEO and Black Hills.²¹ As discussed above, it appears that Black Hills prefers to have clear parameters on the scope of the point-of-sale rebate programs. Thus, CEO's approach could complicate and delay the implementation of the point-of-sale rebate programs, and Black Hills could ultimately elect to maintain the limitations it requested in its First-Round RRR. In addition, the limitations Black Hills requested in its First-Round RRR already come with helpful optionality. The First RRR Decision is clear that if IQ customers opt to purchase EVs or eBikes outside of the dealerships/shops within Black Hills' service territory, such customers may utilize the EV or eBike rebate programs on a post-sale basis.²² Accordingly, if an IQ customer wanted to purchase an EV at a dealership not contemplated in the First-RRR Decision, the customer would simply need to obtain the \$2,500 rebate on a post-sale basis.

14. In conclusion, we deny CEO's Second-Round RRR. At this stage, Black Hills' focus should be on quickly and effectively implementing the point-of-sale rebate programs. Sticking with the clear limitations that Black Hills requested in its First-Round RRR will help

²⁰ See CEO's Second-Round RRR, pp. 4-5.

²¹ CEO's Second-Round RRR, p. 3.

²² First RRR Decision, ¶ 13.

remove any confusion, eliminate delays, and have the added benefit of promoting local economic activity.

II. ORDER

A. The Commission Orders That:

1. The Application for Rehearing, Reargument, or Reconsideration of Decision No. C24-0219 filed by Colorado Energy Office on April 29, 2024, is denied.

2. This Decision is effective on its Mailed Date.

B. **ADOPTED IN COMMISSIONERS' WEEKLY MEETING May 15, 2024.**

(S E A L)



ATTEST: A TRUE COPY

Rebecca E. White

Rebecca E. White,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ERIC BLANK

MEGAN M. GILMAN

TOM PLANT

Commissioners