

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 24AL-0275E

IN THE MATTER OF ADVICE LETTER NO. 871 FILED BY BLACK HILLS COLORADO ELECTRIC, LLC DOING BUSINESS AS BLACK HILLS ENERGY TO INCREASE BASE RATES FOR RESIDENTIAL AND SMALL COMMERCIAL CUSTOMER CLASSES, TO BECOME EFFECTIVE JULY 15, 2024.

**INTERIM COMMISSION DECISION
ESTABLISHING PROCEDURAL SCHEDULE,
SCHEDULING EVIDENTIARY HEARING, ADOPTING
PROCEDURES FOR EXHIBITS, ADDRESSING
DISCOVERY PROVISIONS, AND VACATING
PREHEARING CONFERENCE**

Issued Date: August 21, 2024

Adopted Date: August 21, 2024

I. BY THE COMMISSION

A. Statement

1. By this Decision, the Commission addresses several procedural matters for this Proceeding. The Commission adopts the “Non-Holiday Proposal,” discussed below, for the procedural schedule for this matter, except for the proposed public comment hearing dates, which the Commission will confirm and schedule by separate order. The Commission schedules an eight-day fully remote *en banc* evidentiary hearing for the days of December 2, 3, 4, 5, 6, 9, 10, and 11, 2024. In Attachment A to this Decision, the Commission provides instruction for how the remote evidentiary hearing will be conducted. Relatedly, in Attachment B to this Decision, the Commission sets forth procedures for the electronic submission of exhibits. The Commission

addresses the discovery provisions for this Proceeding. Finally, the Commission vacates, as unnecessary, the prehearing conference scheduled for August 22, 2024.

B. Background

2. On June 14, 2024, Black Hills Colorado Electric, LLC doing business as Black Hills Energy (“Black Hills” or the “Company”) filed Advice Letter No. 871-Electric with tariff sheets to revise base rate revenue for all electric service in the Company’s Colorado P.U.C. No. 11 Tariff, along with certain other changes to its tariff.

3. By Decision No. C24-0489, issued July 9, 2024, the Commission set for hearing and suspended the effective date of the tariff sheets filed with Advice Letter No. 871 for 120 days, to November 12, 2024, pursuant to § 40-6-111(1), C.R.S.

4. By Decision No. C24-0581-I,¹ issued on August 13, 2024, the Commission suspended the effective date of the tariff sheets filed with Advice Letter No. 871 an additional 130 days, to March 22, 2025, pursuant to § 40-6-111(1), C.R.S. By the same decision, the Commission established the parties to this Proceeding,² set a prehearing conference for August 22, 2024, and required Black Hills to confer with the parties and file a proposed procedural schedule by August 16, 2024. Among other directives for the procedural schedule, the Commission instructed that the procedural schedule proposed by the parties should include an evidentiary hearing that concludes no later than December 6, 2024.

¹ Decision No. C24-0581-I was initially issued in error having Decision No. C24-0580-I listed. An Errata correcting that error issued on August 20, 2024.

² Parties to this Proceeding are: Black Hills; Trial Staff of the Commission (“Staff”); the Colorado Office of Utility Consumer Advocate (“UCA”); the City of Pueblo, County of Pueblo, and Pueblo Economic Development Corporation; Energy Outreach Colorado; Laborers International Union of North America, Local 720; Colorado Solar and Storage Association and the Solar Energy Industries Association; Board of Water Works of Pueblo, The Fountain Valley Authority, and Colorado Springs Utilities/Southern Delivery System; the City of Cañon City and the City of Florence, Colorado; Electrify America, LLC; Western Resource Advocates/Sierra Club; Holcim (U.S.), Inc.

C. Discussion

1. Procedural Schedule Proposals

5. On August 16, 2024, Black Hills submitted a Procedural Schedule Filing in Compliance with Decision No. C24-0580-I (“Procedural Schedule Filing”). The Company notes it conferred with the established parties to develop and propose a consensus procedural schedule consistent with the Commission’s directives in Decision No. C24-0581-I.

6. Black Hills indicates the intervening parties anticipate sponsoring 32 to 35 witnesses at the evidentiary hearing and the Company expects it could have as many as 14 witnesses. Black Hills explains, given the significant number of expected witnesses, at least eight days will be required for the hearing. Consistent with the directive that the proposed procedural schedule conclude the evidentiary hearing by December 6, 2024, the parties determined the following procedural schedule:

Procedural Schedule	(Holiday) Proposal
Supplemental Direct Testimony (rate forecast through 2040)	August 23, 2024
Pueblo Public Comment Hearing	September 23, 2024
Answer Testimony	September 30, 2024
Rebuttal & Cross-Answer Testimony	October 28, 2024
Pre-Hearing Motions	November 12, 2024
Settlement & Supporting Testimony	November 12, 2024
Corrections/Cross-Matrix/Witness List	November 14, 2024
Cañon City Public Comment Hearing	November 15, 2024
Evidentiary Hearing	November 25, 26, 27 and December 2-6, 2024
Statements of Position	January 10, 2025
Statutory Deadline	March 22, 2025

7. In the Procedural Schedule Filing, Black Hills indicates that certain parties raised concern that holding the hearing over the Thanksgiving holiday week could present difficulties for hearing participants, especially those with children out of school for the holiday. Black Hills

indicates it therefore developed an alternative schedule that extends the hearing through December 11, 2024, and avoids the Thanksgiving holiday week. Black Hills presents this alternative “Non-Holiday Proposal” for the Commission’s consideration:

Procedural Schedule	Non-Holiday Proposal
Supplemental Direct Testimony (rate forecast through 2040)	August 28, 2024
Pueblo Public Comment Hearing	September 23, 2024
Answer Testimony	October 11, 2024
Rebuttal & Cross-Answer Testimony	November 8, 2024
Pre-Hearing Motions	November 13, 2024
Settlement & Supporting Testimony	November 20, 2024
Corrections/Cross-Matrix/Witness List	November 22, 2024
Cañon City Public Comment Hearing	November 15, 2024
Evidentiary Hearing	December 2-6, and December 9-11, 2024
Statements of Position	January 10, 2025
Statutory Deadline	March 22, 2025

8. Black Hills states it did not circulate the Non-Holiday Proposal to all of the parties because it does not comply with the scheduling directives in Decision No. C24-0581-I, but that it did present the Non-Holiday Proposal to intervenors Staff and UCA, who indicated support for it. Black Hills contends the Non-Holiday Proposal results in a good compromise for all parties.

2. Proposed Discovery Procedures

9. Black Hills states that, given the uncertainty of the procedural schedule for this Proceeding, specifically, not knowing the testimony deadline dates, it is difficult to determine whether normal Commission discovery rules should apply.

3. Commission-Ordered Supplemental Direct Testimony

10. Decision No. C24-0581-I directed Black Hills to file supplemental direct testimony that includes a rate forecast through 2040 that incorporates the information provided by the Company in its most recent investor presentation for Colorado and an historical test year (“HTY”)

for the 12 months ending December 31, 2023. The Company notes that it provided the HTY through its testimonies and in response to discovery questions.

11. UCA agrees its request for an HTY has been met. The Company states it will provide the supplemental testimony on the rate impact forecast through 2040 by August 28, 2024.

D. Findings and Conclusions

1. Procedural Schedule

12. We find the Non-Holiday Proposal submitted by Black Hills sets forth a reasonable schedule for this Proceeding.

13. In response to parties' concerns that holding the hearing over the Thanksgiving holiday week could present difficulties for hearing participants, we find good cause to waive the requirement in prior Decision No. C24-0581-I that the procedural schedule proposed by the parties include an evidentiary hearing that concludes no later than December 6, 2024.

14. We establish the procedural schedule for this matter in accordance with the Non-Holiday Proposal, except for the public comment hearing dates. We acknowledge the proposed dates for public comment hearings in Pueblo and Cañon City, but will defer final scheduling of those hearings until we have had an opportunity to confirm availability and logistics for those hearings, and will therefore set those dates by separate order.

15. The Commission adopts the following procedural schedule:

Deadline/Action	Date
Supplemental Direct Testimony (rate forecast through 2040)	August 28, 2024
Answer Testimony	October 11, 2024
Rebuttal & Cross-Answer Testimony	November 8, 2024
Pre-Hearing Motions	November 13, 2024
Settlement & Supporting Testimony	November 20, 2024
Corrections/Cross-Matrix/Witness List	November 22, 2024

Remote <i>En Banc</i> Evidentiary Hearing	December 2-6, and December 9-11, 2024
Statements of Position	January 10, 2025

2. Discovery Procedures

16. We find that the rules governing discovery procedures, found at 4 *Code of Colorado Regulations* 723-1-1405(b) and (d) are sufficient for this Proceeding without modification.

3. Evidentiary Hearing and Instructions Concerning Exhibits

17. The Commission schedules an eight-day fully remote *en banc* evidentiary hearing for the days of December 2, 3, 4, 5, 6, 9, 10, and 11, 2024.

18. 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 hybrid 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 before the hearing, and the parties and witnesses will be prohibited from distributing that information to anyone not participating in the hearing.

19. Exhibits must be presented electronically at the evidentiary hearing. Attachment B to this Decision outlines the procedures and requirements for marking and formatting exhibits aimed at facilitating efficient and smooth electronic evidence presentations at the remote hearing. It is extremely important that the parties carefully review and follow all requirements in Attachment B.

20. Hearing exhibits shall be marked numerically and sequentially for identification by the filing parties within their respective blocks of numbers. In order to efficiently organize the numbering and preparation of exhibits for the hearing, all parties shall use a unified numbering

system for all hearing exhibits. Parties should not duplicate hearing exhibits or attachments previously filed by another party.

21. The party initiating the proceeding is assigned hearing exhibit numbers 100 to 299.

22. Each intervening person or entity is assigned a block of 100 hearing exhibit numbers (*e.g.*, 300-399, 400-499, *etc.*) in the chronological order that notices of intervention by right and petitions for permissive intervention are filed, as reflected in the Commission's E-Filings System. As a result, the first person or entity noticing an intervention by right or requesting permissive intervention is assigned hearing exhibit numbers from 300 to 399, the second person or entity is assigned hearing exhibit numbers from 400 to 499, *etc.* Parties shall rely upon the Commission's E-Filings System to determine sequencing of requests for intervention (*i.e.*, without regard to whether or when the interventions were granted). To determine the sequencing and avoid duplicative use of blocks, parties are encouraged to confer as needed.

II. ORDER

A. It Is Ordered That:

1. The Non-Holiday Proposal included in the Procedural Schedule Filing in Compliance with Decision No. C24-0580-I filed by Black Hills Colorado Electric, LLC doing business as Black Hills Energy on August 16, 2024, is adopted, with the modifications set forth in the discussion above.

2. The dates and venues for public comment hearings in this Proceeding will be established by separate order.

3. A remote *en banc* evidentiary hearing is scheduled as follows:

DATE: December 2, 3, 4, 5, 6, 9, 10, and 11, 2024

TIME: 9:00 a.m. until 5:00 p.m. on December 2, 3, 5, 6, 9, and 10, 2024
1:00 p.m. until 5:00 p.m. on December 4 and 11, 2024

WEBCAST: Commission Hearing Room A

METHOD: Join by videoconference using Zoom at the link to be provided to parties by e-mail from Commission staff.

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

5. The rules governing discovery at 4 *Code of Colorado Regulations* 723-1-1405(b) and (d) shall apply without modification.

6. The prehearing conference scheduled for August 22, 2024, in this Proceeding is vacated.

7. This Decision is effective immediately on its Issued Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
August 21, 2024.**

(S E A L)



ATTEST: A TRUE COPY

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ERIC BLANK

MEGAN M. GILMAN

Commissioners

Rebecca E. White,
Director

COMMISSIONER TOM PLANT ABSENT.