

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23A-0628E

IN THE MATTER OF THE VERIFIED APPLICATION OF BLACK HILLS COLORADO ELECTRIC, LLC FOR APPROVAL OF COST ASSIGNMENT AND ALLOCATION MANUAL AND FULLY DISTRIBUTED COST.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
AVIV SEGEV
ACKNOWLEDGING INTERVENTION, GRANTING
MOTION FOR LATE INTERVENTION, ADOPTING
PROCEDURAL SCHEDULE, SCHEDULING
EVIDENTIARY HEARING, AND PROVIDING
INSTRUCTIONS CONCERNING EXHIBITS AND
PARTICIPATING IN HYBRID
EVIDENTIARY HEARING**

Mailed Date: March 12, 2024

I. STATEMENT

A. Procedural Background

1. On December 29, 2023, Black Hills Colorado Electric (Black Hills) filed its Verified Application (Application) seeking approval of a Cost Assignment and Allocation Manual (CAAM) and Fully Distributed Cost Study (FDC). With the Application, Black Hills filed a notarized Verification (Verification) and four Attachments.¹

2. On December 29, 2023, the Commission issued a notice of the Application.

¹ See Verification and Attachments A-D, filed December 29, 2023.

3. On January 30, 2024, Staff of the Commission (Staff) timely noticed its Intervention of right.

4. On February 7, 2024, the Commission deemed the Application complete and referred this matter to an Administrative Law Judge (ALJ) by minute entry.

5. This matter was subsequently assigned to the undersigned ALJ, who informally invited the parties to submit a proposed procedural schedule and indicate the parties' preference for the type of evidentiary hearing to be held in this Proceeding.

6. On February 22, 2024, the Unopposed Motion for Late-Filed Intervention of Right, and Entry of Appearances and Request for Waiver of Response Time by the Office of Utility Consumer Advocate (the Unopposed Motion) was filed by Office of Utility Consumer Advocate (UCA).

7. On March 5, 2023, Black Hills informally indicated to the undersigned ALJ that Black Hills prefers an in-person hearing – Staff prefers an in-person hearing but with the option for a hybrid hearing – and UCA prefers either an in-person or a fully remote hearing with no preference between those two options. Black Hills further indicated that it, Staff, and UCA have unanimously agreed to the following procedural schedule (Consensus Procedural Schedule):

<u>Procedural Activity</u>	<u>Proposed Date</u>
Direct Testimony	April 4, 2024
Answer Testimony	May 31, 2024
Rebuttal & Cross-Answer Testimony	June 28, 2024
Settlement Agreements and Supporting Testimony	July 10, 2024
Corrections to Pre-Filed Testimony and Exhibits, Final Exhibits, Non-Testimonial Exhibits	July 11, 2024
Prehearing Motions	July 11, 2024
Responses to Prehearing Motions	July 17, 2024
Cross-Examination Matrix, Witness and Exhibit Lists	July 17, 2024
Evidentiary Hearing (if fully litigated or if a hearing on settlement)	July 22 and 23, 2024
Statements of Position	August 13, 2024

B. UCA's Intervention

8. In the Unopposed Motion, UCA states:

UCA did not initially intend to intervene in this proceeding; however, the Commission chose to suspend this filing and referred it to an ALJ on February 7, 2024 after listening to the Commission advisor's comments on Staff's intervention and recommending that the Commission suspend the filing. UCA desires to participate in this proceeding to represent the public interest and residential, small commercial and agricultural consumers. Further, UCA's participation will not expand the issues raised by Staff. UCA takes this case as it finds it...²

UCA further states that "UCA provides as the basis for its intervention its mandated duty to represent the public interest pursuant to § 40-6.5-104, C.R.S., including the Company's residential, small business, and agricultural customers in Colorado."³

² Unopposed Motion at 2.

³ *Id.*

9. Rule 1401(a) of the Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1 states, in part: “[t]he Commission may, for good cause shown, allow late intervention, subject to reasonable procedural requirements...”

10. Rule 1401(c) of the Rules of Practice and Procedure, 4 CCR 723-1 states, in part: “

A motion to permissively intervene shall state the specific grounds relied upon for intervention; the claim or defense within the scope of the Commission's jurisdiction on which the requested intervention is based, including the specific interest that justifies intervention; and why the filer is positioned to represent that interest in a manner that will advance the just resolution of the proceeding...

11. The ALJ finds and concludes that UCA stated good cause for its late intervention. Therefore, and in accordance with Rules 1401(a) and (c) of the Rules of Practice and Procedure, 4 CCR 723-1, the Unopposed Motion will be granted, as ordered below.

C. Procedural Schedule, Hybrid Evidentiary Hearing, and Unified Numbering System for Hearing Exhibits

12. The Consensus Procedural Schedule was agreed to by the parties, is reasonable, and will be adopted, as ordered below.

13. As agreed by the parties, an evidentiary hearing shall be scheduled for July 22 – July 23, 2024. The evidentiary hearing shall be held in hybrid format, as it best accommodates the parties’ preferences as to the type of hearing to be held in this Proceeding. A hybrid hearing involves the ALJ and at least one party and/or witness participating from one of the Commission’s hearing rooms in Denver, and the remaining party(ies) and witness(es) participating from one or more remote locations using the Zoom web conferencing platform. This Decision, Attachment A, and Attachment B provide critical information and instructions to facilitate the videoconference portion of the evidentiary hearing, which all parties must follow.

14. To minimize the potential that the remote hearing may be disrupted by non-participants, the link, meeting ID code, and passcode to attend the hearing will be provided to the participants by email before the hearing, and the participants will be prohibited from distributing that information to anyone not participating in the hearing.

15. Attachment A to this Decision provides the information addressing how to use the Zoom platform for remotely participating in the hearing. Attachment B outlines procedures and requirements for marking and formatting exhibits to facilitate the efficient and smooth electronic evidence presentations at the hybrid hearing. It is extremely important that the parties carefully review and follow all requirements in this Decision and Attachment A and Attachment B.

16. 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:

- Black Hills is assigned hearing exhibit numbers 1 to 199;
- Staff is assigned hearing exhibit numbers 200 to 399; and
- UCA is assigned hearing exhibit numbers 400 to 599.

D. Additional Procedural Notice

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

18. Additional and/or superseding procedural requirements may be addressed in future Interim Decisions.

II. ORDER**A. It Is Ordered That:**

1. The interventions of right by the Trial Staff of the Colorado Public Utilities Commission, noticed January 30, 2024, is acknowledged.

2. The Unopposed Motion for Late-Filed Intervention of Right, and Entry of Appearances and Request for Waiver of Response Time by the Office of Utility Consumer Advocate, filed by February 22, 2024 by the Office of Utility Consumer Advocate, is granted.

3. The following procedural schedule is adopted to govern this proceeding:

<u>Procedural Activity</u>	<u>Date</u>
Direct Testimony	April 4, 2024
Answer Testimony	May 31, 2024
Rebuttal & Cross-Answer Testimony	June 28, 2024
Settlement Agreements and Supporting Testimony	July 10, 2024
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4. A hybrid hearing in this proceeding is scheduled as follows:

DATE: July 22 and 23, 2024

TIME: 9:00 a.m., daily

PLACE: In-person: Commission Hearing Room A, 1560 Broadway,
Suite 250, Denver, Colorado

By video conference: using the Zoom web conferencing
platform at a link to be provided to the participants by email.

5. The parties shall be held to, and shall comply with, the requirements in this Decision. In addition to other requirements of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* 723-1 (e.g., Rule 1202 regarding pre-filed testimony and Rule 1405 regarding discovery procedures), all pre-filed hearing exhibits shall be marked for identification and filed in accordance with this Decision, including Attachment B hereto.

6. This decision shall be effective immediately.

(S E A L)



ATTEST: A TRUE COPY

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

AVIV SEGEV

Administrative Law Judge

Rebecca E. White,
Director