

Decision No. C22-0528-I

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

PROCEEDING NO. 22V-0384E

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IN THE MATTER OF THE PETITION OF BLACK HILLS COLORADO ELECTRIC, LLC,  
D/B/A BLACK HILLS ENERGY, FOR APPROVAL OF A PARTIAL VARIANCE TO DELAY  
THE FILING OF ITS DISTRIBUTION SYSTEM PLAN AND PARTIAL WAIVER RELATING  
TO REPORTING ON ENERGY STORAGE SYSTEMS.

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**INTERIM COMMISSION DECISION ESTABLISHING  
SHORTENED NOTICE AND INTERVENTION PERIOD**

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Mailed Date: September 8, 2022

Adopted Date: September 7, 2022

TO THE PARTIES IN THIS MATTER AND ALL INTERESTED PERSONS, FIRMS,  
OR CORPORATIONS:

**I. BY THE COMMISSION**

**A. Statement**

1. This Decision establishes a shortened notice and intervention period for the petition, filed by Black Hills Colorado Electric, LLC (Black Hills or Company) on September 2, 2022, for a partial variance from Rule 3528 of Commission's Rules Regulating Electric Utilities (Electric Rules), 4 *Code of Colorado Regulations* (CCR) 723-3, to extend the filing date for the filing of a Distribution System Plan (DSP) by 150 days, and for a partial, one-year waiver of paragraph 3207(c) of the Electric Rules related to the consideration of energy storage systems.

2. Requests for intervention, including a notice of intervention by right of Staff of the Colorado Public Utilities Commission (Staff), shall be filed no later than **September 21, 2022**.

**B. Discussion**

3. Through its request for a partial waiver of Rule 3528, Black Hills seeks a 150-day extension to file its inaugural DSP no later than June 30, 2023. Black Hills states the delay will save costs by having the benefit of understanding the Commission’s final decision on the application filed by Public Service Company of Colorado (Public Service) for approval of its initial DSP in Proceeding No. 22A-0189E, which Black Hills notes is a case of first impression. Black Hills further argues that staggering the start of its DSP’s proceeding by one year from the start of Public Service’s proceeding would allow Black Hills to make its own application more efficient.

4. Black Hills further seeks a waiver from Rule 3207(b) that requires Black Hills to consider “energy storage systems in its planning processes as an alternative to construction or extension of distribution facilities.” Black Hills argues that Rule 3534(a), within the set of rules that govern DSPs, also requires the Company to conduct a non-wires alternative (NWA) suitability screening analysis for any “major distribution grid project.” Black Hills explains that because it will evaluate NWAs throughout its DSP planning process and will apply the competitive and technology neutral solicitation required by the DSP Rules, the Company will satisfy Rule 3207(b) requirements for energy storage systems in its forthcoming DSP proceeding.

5. Notwithstanding the distant deadlines for its DSP filing, Black Hills requests that the Commission waive the notice and intervention period for the petition. Black Hills asks the Commission to issue a decision on the petition as soon as possible, within 40 days of the date of its filing.

6. With respect to conferral, Black Hills states that it consulted with several parties involved in the DSP rulemaking in Proceeding No. 20R-0516E, including Staff, the Colorado Energy Office, Western Resource Advocates, the Colorado Solar and Storage Association,

Southwest Energy Efficiency Project, and the Colorado Office of the Utility Consumer Advocate. Black Hills states that these consulted potential parties take no position on the Company's request for an additional 150 days to file the DSP application, provided that time is also used to engage in meaningful stakeholder engagement sessions on key DSP topics. In addition, all these parties take no position on a partial, one-year waiver of Rule 3207(c).

### C. Findings and Conclusions

7. Paragraph (d) of Rule 4 *Code of Colorado Regulations* (CCR) 723-1-1206 of the Commission's Rules of Practice and Procedure, states that unless shortened by Commission decision or rule, the intervention period for notice mailed by the Commission shall expire 30 days after the mailing date. Paragraph (3) of 4 CCR 723-1-1206 requires the Commission's notice to state the date by which any objection, notice of intervention of right, or motion to permissively intervene must be filed.

8. We conclude that it is reasonable to establish a two-week shortened notice and intervention period for the petition before rendering a decision on the merits of the Company's petition. There is sufficient time to accommodate a notice and intervention period given the distant January 1, 2023 deadline that Black Hills seeks to extend. We therefore reject Black Hills' request to waive the notice and intervention period.

9. Requests for intervention, including a notice of intervention by right of Staff, shall be filed no later than **September 21, 2022**.

10. Black Hills' petition for a partial variance from Rule 3528 to extend the filing date for the filing of a DSP by 150 days and for a partial, one-year waiver of paragraph 3207(c) related to the consideration of energy storage systems is available for public inspection by accessing the

Commission's E-Filings System at: Colorado.gov/dora/puc. **This Decision is the Commission's notice that Black Hills' petition has been filed.**

## **II. ORDER**

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

1. The request of Black Hills Colorado Electric, LLC (Black Hills) for the Commission to waive the notice and intervention period for its petition, filed on September 2, 2022, for a partial variance from Rule 3528 of Commission's Rules Regulating Electric Utilities (Electric Rules), 4 *Code of Colorado Regulations* (CCR) 723-3, to extend the filing date for the filing of a Distribution System Plan by 150 days, and for a partial, one-year waiver of paragraph 3207(c) of the Electric Rules related to the consideration of energy storage systems, is denied.

2. Service of this Decision will provide notice of Black Hills' petition to all interested persons, firms, and corporations.

3. The notice and intervention period shall expire at **5:00 p.m. on September 21, 2022.**

4. Any person desiring to intervene or participate as a party in this proceeding, including Staff of the Colorado Public Utilities Commission, shall file a petition for leave to intervene, or under the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* 723-1, file other appropriate pleadings to become a party, no later than **September 21, 2022.**

5. All persons who file an objection, notice of intervention as of right, motion to permissively intervene, or any other appropriate pleading shall do so in accordance with the instructions set forth in the Commission's Rules of Practice and Procedure and this Decision.

6. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING  
September 7, 2022.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,  
Director

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

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JOHN GAVAN

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MEGAN M. GILMAN

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Commissioners