

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 22A-0230E

IN THE MATTER THE APPLICATION OF BLACK HILLS COLORADO ELECTRIC, LLC FOR (1) APPROVAL OF ITS 2022 ELECTRIC RESOURCE PLAN AND CLEAN ENERGY PLAN, AND (2) APPROVAL OF ITS 2023-2026 RENEWABLE ENERGY STANDARD COMPLIANCE PLAN.

**INTERIM COMMISSION DECISION ESTABLISHING
PHASE I PROCEDURAL SCHEDULE AND DISCOVERY
PROVISIONS; SCHEDULING PHASE I HEARING;
VACATING PREHEARING CONFERENCE; EXTENDING
DECISION DEADLINE UNDER § 40-6-109.5(1), C.R.S.;
REFERRING CERTAIN ITEMS TO AN ADMINISTRATIVE
LAW JUDGE; GRANTING PARTICIPATION STATUS;
REQUIRING VERIFICATION REPORTING; AND
FURTHER ESTABLISHING PROCEDURES FOR
PRESENTATION AND SUBMISSION OF EXHIBITS**

Mailed Date: August 18, 2022

Adopted Date: August 17, 2022

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I. BY THE COMMISSION

A. Statement

1. On May 27, 2022, Black Hills Colorado Electric, LLC (Black Hills or the Company) filed a Verified Application for approval of (1) its 2022 Electric Resource Plan (ERP) and Clean Energy Plan (CEP) Plan and (2) its 2023-2026 Renewable Energy Standard (RES) Compliance Plan (the Application).

2. Through this Decision, we address the consensus procedural schedule and discovery procedures set forth in Unopposed Motion to Approve Procedural Schedule and Vacate Prehearing Conference and Request for Waiver of Response Time (the Unopposed Motion) that Black Hills filed on August 9, 2022. Specifically, consistent with the discussion below, we: (1) adopt, with modifications, the schedule set forth in the Unopposed Motion; (2) schedule a five-day remote evidentiary hearing in Phase I of this matter; (3) vacate the prehearing conference currently set for August 24, 2022; (4) adopt the parties’ proposed discovery process; and (5) waive response time to the Unopposed Motion.

3. To accommodate the unopposed procedural schedule, we also extend the decision deadline in this Proceeding pursuant to § 40-6-109.5(1), C.R.S. Further, we refer discovery

disputes and any future motions for extraordinary protection to an Administrative Law Judge (ALJ), consistent with the below discussion.

4. This Decision also grants, with modification, the Motion for Limited Participation that the Colorado Department of Public Health and Environment (CDPHE) filed on June 24, 2022.

5. Finally, through this Decision, we set procedures for the submission and presentation of exhibits.

B. Unopposed Motion, Extension of Decision Deadline, and Referral of Certain Matters to an ALJ

6. In Decision No. C22-0449, issued August 1, 2022, we set this matter for an *en banc* hearing, established the parties, and required Black Hills to confer with the parties and file a proposed procedural schedule. We also scheduled a prehearing conference for August 24, 2022.

7. Consistent with Decision No. C22-0449, on August 9, 2022, Black Hills filed the Unopposed Motion. In the Unopposed Motion, Black Hills states that it conferred with all parties, including CDPHE, and reached a consensus procedural schedule and discovery procedures, which the parties request that the Commission approve.¹ The proposed procedural schedule is reproduced below:

¹ Unopposed Motion, p. 2.

Procedural Activity	Proposed Dates
<i>Application deemed complete</i>	July 16, 2022
Proposed Schedule Filed with PUC	August 15, 2022
Prehearing Conference (parties recommend vacating in light of consensus schedule)	August 24, 2022
Supplemental Direct Testimony	September 12, 2022
Answer Testimony	November 4, 2022
Rebuttal & Cross-Answer Testimony	December 13, 2022
Stipulations & Settlement Agreements	January 13, 2023
Settlement Testimony	January 20, 2023
Prehearing Motions	January 23, 2023
Responses to Prehearing Motions	January 25, 2023
Corrections to Pre-Filed Testimony and Exhibits	January 24, 2023
Cross-Examination Matrix	January 24, 2023
Public Comment Hearing	TBD at Commission's Discretion
Evidentiary Hearing (if fully litigated or if a hearing on settlement)	January 30-Feb 3, 2023. ¹
Statements of Position	February 22, 2023
Deadline for Commission Decision (250 days)	March 23, 2023

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8. The Unopposed Motion also notes that, subject to Commission approval, the parties have agreed that the discovery rules and procedures contained in Rule 1405 of the Rules of Practice and Procedures, 4 *Code of Colorado Regulations* 723-1, should govern discovery in this Proceeding.³

9. In light of the consensus procedural schedule and discovery procedures, Black Hills asks that the Commission vacate the prehearing conference currently set for August 24, 2022, and waive response time to the Unopposed Motion.⁴

² *Id.* at 3.

³ *Id.* at 4.

⁴ *Id.*

10. The Commission appreciates the conferral efforts that resulted in an uncontested proposed procedural schedule and will largely adopt, with certain modifications, the parties' proposed deadlines. The primary modification we make to the procedural schedule is the February 22, 2023, deadline for statements of position. Rather than approve this proposed deadline at this stage, the Commission will announce the deadline for statements of position at the conclusion of the evidentiary hearing.⁵

11. We adopt the parties' proposed hearing dates and schedule a five-day remote evidentiary hearing beginning January 30, 2023, and ending by February 3, 2023. This remote evidentiary hearing will be held using the web-hosted video conferencing service Zoom. To minimize the potential that the video conference may be disrupted by non-participants, the link and meeting ID or access code will be provided to the parties by e-mail before the hearing, and the parties are prohibited from distributing that information to anyone not participating in the hearing.

12. We approve the parties' proposal to have Rule 1405 govern the discovery procedures in this Proceeding.

13. Given the consensus the parties achieved regarding the procedural schedule and discovery procedures, the previously scheduled prehearing conference is no longer necessary. We grant the request in the Unopposed Motion to vacate the August 24, 2022, prehearing conference. Similarly, we grant the Unopposed Motion's request to waive response time.

14. In order to accommodate the parties' proposed procedural schedule that the Commission largely adopts through this Decision, we find that the additional time permitted in

⁵ The proposed procedural schedule leaves a placeholder for a public comment hearing. The Commission will schedule any public comment hearing(s) in this Proceeding in a future decision.

§ 40-6-109.5(1), C.R.S. is required in this Proceeding. We therefore extend the decision deadline by the 130 days allowed by statute.

15. For procedural efficiencies, the Commission refers discovery disputes and all future motions for extraordinary protection to an ALJ.⁶

C. CDPHE's Motion for Limited Participation

16. In CDPHE's Motion for Limited Participation, it requests limited participation in the Proceeding as a "neutral verifier." CDPHE notes that House Bill 19-1261 and Senate Bill 19-236 direct CDPHE, after consultation with the Air Quality Control Commission, to "participate in any proceeding seeking approval of a [CEP] developed by a qualifying retail utility pursuant to [§ 40-2-125.5, C.R.S.]"⁷ It notes, however, that the process for participation and consultation is not directed by statute, but is left to CDPHE to "describe the methods of measuring carbon dioxide emissions and [to] verify the projected carbon dioxide emission reductions as a result of the [CEP]."⁸

17. CDPHE notes that the "neutral verifier" role it seeks in this Proceeding is the same role that the Commission approved for CDPHE in Public Service Company of Colorado's ERP/CEP (Proceeding No. 21A-0141E).⁹ CDPHE states that it will verify projected carbon dioxide and greenhouse gas emission reductions using the Verification Workbook pursuant to its previously developed CEP Guidance, and that all of the data that Black Hills provides for this verification process will be available to the Commission and intervenors.¹⁰ CDPHE asserts that there was an

⁶ Black Hills filed a Motion for Extraordinary Protection on May 27, 2022, which is currently pending before the Commission. Our referral of all future motions for extraordinary protection excludes this May 27, 2022, Motion for Extraordinary Protection, which the Commission will address in a future decision.

⁷ CDPHE Motion for Limited Participation, p. 2 (citing § 40-2-125.5(4)(b), C.R.S.).

⁸ *Id.*

⁹ *Id.* at 2-3 (citing Decision No. C21-0343-I, issued June 11, 2021).

¹⁰ *Id.* at 3.

extensive, transparent process to develop the mechanism for the verification process and that discovery propounded upon CDPHE related to the verification process is unnecessary. Accordingly, CDPHE argues that a limited technical role in this Proceeding is appropriate and statutorily sufficient.¹¹

18. In addition to its proposal for limited participation, CDPHE further requests that the Commission permit CDPHE to submit verification reporting during Phase I and Phase II. CDPHE proposes August 31, 2022, as the deadline for its Phase I Verification Report and proposes to submit the Phase II Verification Report “30 days after Black Hills submits its ERP Implementation Report.”¹² CDPHE proposes that it can submit additional CEP Emission Verification reports at the request of the Commission within 14 days of any such Commission request and states that it will respond to any written technical questions from the Commission related to the report. Similarly, the CDPHE seeks leave to submit requests for additional information or clarifications, if needed.¹³

19. In Decision No. C22-0449, we set August 11, 2022, as the deadline for responses to CDPHE’s Motion for Limited Participation. No parties filed a response to the Motion for Limited Participation.

20. We find CDPHE’s unopposed participant status reasonable to meet the requirements of § 40-2-125.5, C.R.S. Parties are reminded that substantive challenges, if any, to CDPHE’s verifications or processes are not the subject of this Proceeding. The reporting and processes conducted in CDPHE reaching its verification reports provided in this Proceeding shall

¹¹ *Id.* at 4-5.

¹² *Id.* at 6.

¹³ *Id.* at 7-8.

be considered final verification determinations from CDPHE. Parties can address arguments in their respective pleadings on the weight given to a report or how best to otherwise interpret CDPHE's findings as the Commission considers the final verification reports and technical information presented in this Proceeding.

21. Consistent with CDPHE's Motion for Limited Participation, we require CDPHE to file the Phase I Verification Report by August 31, 2022, and we agree with CDPHE that the Commission should be permitted the opportunity to seek additional verification reporting and request technical clarifications. We likewise agree that CDPHE can submit requests for additional information or clarifications it might need for verification purposes.

22. Regarding CDPHE's requested deadline for the Phase II Verification Report, we find that a clarification is necessary. CDPHE contemplates submitting the Phase II Verification Report "30 days after Black Hills submits its ERP Implementation Report."¹⁴ Cooperative electric generation and transmission associations are required to submit an ERP Implementation Report in Phase II pursuant to Rule 3605(h). Rule 3605(h), however, does not apply to Black Hills. Accordingly, we clarify that CDPHE is required to file the Phase II Verification Report within 30 days of the 120-Day Report that Black Hills must file per Rule 3613(d). This is consistent with CDPHE's requested timeline for the Phase II Verification Report in Proceeding No. 21A-0141E and appears to be CDPHE's intent in this Proceeding.¹⁵

¹⁴ *Id.*

¹⁵ In the Motion for Limited Participation CDPHE filed in Proceeding No. 21A-0141E, CDPHE requested to file the Phase II Verification Report concurrently with the Independent Evaluator Report. Per Rule 3613(e), the Independent Evaluator Report is due 30 days after the filing of the 120-Day Report.

D. Presentation of Exhibits During Evidentiary Hearing

23. In connection with scheduling the evidentiary hearing in this Proceeding, we also set procedures for the submission and presentation of exhibits, as follows.

24. All evidence presented during the evidentiary hearing must be presented electronically. To facilitate the presentation and admission of electronic exhibits during the evidentiary hearing, the Commission will provide a spreadsheet identifying each hearing exhibit as it exists in the administrative record. The spreadsheet will include hyperlinks to the filings in the administrative record. The spreadsheet will be made available to the parties prior to the hearing and marked as a hearing exhibit. Commission Staff will display pre-filed electronic filings during the hearing.¹⁶

25. Any document previously filed by a party that will be offered into evidence, but has not been identified in compliance with this Decision, must be revised and re-filed in accordance with this Decision. Any such filings shall be: (a) made within 14 days of the mailed date of this Decision; and (b) treated as the original filing of hearing exhibits.¹⁷

26. Any stipulations or settlement agreements, along with any associated testimony or exhibits, shall also be filed electronically in accordance with the procedures set forth below.

¹⁶ Exhibits will be displayed electronically during the hearing. Should the parties have technical questions relating to the electronic presentation of exhibits, they may contact Mr. Alejandro Aguirre Rhode at alejandro.aguirrerhode@state.co.us or Ms. Casey Federico at Casey.Federico@state.co.us.

¹⁷ Compliance with this Decision may result in a change to pagination of prior versions of hearing exhibits. References in discovery requests and responses to prior versions of hearing exhibits will be construed to be amended to refer to the latest filed version of such testimony, unless otherwise specified. Although corresponding page and line references might be affected by such construction, corrected references will not be necessary so long as the original reference remains reasonably close to the new location of the referenced material.

27. Final versions of all previously filed hearing exhibits must be filed on or before the fourth business day prior to the hearing,¹⁸ unless otherwise ordered, so that the spreadsheet may be timely prepared and distributed during the three business days prior to the hearing. Hyperlinks will not be included for confidential or highly confidential information. If a party files any exhibits after this deadline, such late exhibits will not be included in the spreadsheet of hyperlinked electronic exhibits, and the party will need to separately move for the admission of the late exhibits during the hearing.

28. After the deadline for final versions, a party intending to present a document during the hearing must: (a) pre-mark such document with a hearing exhibit number within the party's assigned exhibit number block; and (b) upload such document into the party's designated box.com folder before presenting them during the hearing.¹⁹ This includes documents not required to be pre-filed (*e.g.*, for impeachment, to refresh recollection, or for rebuttal).

29. The parties are responsible for ensuring they and their witnesses have access to all pre-marked exhibits and are able to download and view documents from box.com during the hearing.

1. Assignment of Hearing Exhibit Number Blocks

30. 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

¹⁸ A calculation of the fourth business day prior to hearing shall exclude the first day of the hearing and include each of the four business days preceding the hearing. For example, if the first day of the hearing falls on a Monday, then the fourth business day prior to hearing is Tuesday of the preceding week.

¹⁹ The Public Utilities Commission Administrative Hearings Section uses a web-based document sharing service, box.com. All parties must ensure they can access and use box.com. An email with more details will follow.

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

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

32. 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.

2. Identification of Filing Requirements for Hearing Exhibits

33. In addition to other requirements of the Commission's Rules of Practice and Procedure (*e.g.*, Rule 1202 regarding pre-filed testimony), all pre-filed hearing exhibits shall be marked for identification and filed in accordance with this Interim Decision.²⁰

34. Parties must mark all hearing exhibits for identification in sequential order, using hearing exhibit numbers within their assigned hearing exhibit number block. Each type of a witness's testimony, including any attachments, (*e.g.*, direct, answer, rebuttal, cross-answer, and

²⁰ In order to minimize the size and allow electronic text searches of the PDF files, versions filed in PDF format should be generated from the native executable electronic file format when possible.

supplemental) shall be marked with one hearing exhibit number.²¹ Even if comprised of multiple electronic documents, the testimony and attachments will be one hearing exhibit.²²

35. Parties should not duplicate hearing exhibits or attachments previously filed by another party. At the hearing, any party may sponsor an exhibit that was pre-filed by another party.

36. The title of all pre-filed written testimony should include the type of testimony and the name of the witness. For example, if Hearing Exhibit 100 is the direct testimony of witness John J. Doe, the following title should be used: “Hearing Exhibit 100, Direct Testimony of John J. Doe.”

37. Anything accompanying pre-filed written testimony within a hearing exhibit (*e.g.*, exhibits, appendices, attachments, or attachments to filing) shall be referred to as an “attachment” to the testimony and identified by the hearing exhibit number reference, the witness’s initials, and a number sequence. For example, if the party assigned to block 300 files answer testimony of Albert B. Cooke, which includes a table as Attachment ABC-1, then the title of the table will be “Hearing Exhibit 300, Attachment ABC-1.” The attachment should not be referred to as Exhibit ABC-1 or Appendix A.

38. When filing hearing exhibits in the Commission’s E-Filings System, parties must title the exhibits to match the title of the hearing exhibit but, the title must not be in all uppercase format. All exhibit titles entered into the E-Filing System must start with “Hearing Exhibit XXX.” Building on the above examples, John J. Doe’s Direct Testimony should be titled “Hearing Exhibit 100, Direct Testimony of John J. Doe” when filing in the Commission’s E-Filing System, and the

²¹ Each type of testimony should be identified with a different hearing exhibit number. For example, John J. Doe’s direct testimony may be Hearing Exhibit 100 and his rebuttal testimony may be Hearing Exhibit 105.

²² While marked for identification with one hearing exhibit number, the testimony and each attachment should be filed in compliance with Rule 1202, which provides that the primary document and each secondary document must be separately uploaded in the Commission’s E-Filings system.

first attachment to John J. Doe’s testimony should be titled “Hearing Exhibit 100, Attachment JJD-1” when filing.

3. Formatting of Hearing Exhibits

39. The first page of all hearing exhibits shall be page 1, with each additional page numbered in succession. For example, the cover page shall be page 1, and all following pages shall be numbered sequentially, including executive summaries, tables of contents, and lists of attachments. This will facilitate electronic navigation during the hearing.

40. There shall be only one page number shown on each page of the hearing exhibits. Page numbers should be included in the header of each page-numbered hearing exhibit. The top line of the header shall include the title of the document (*e.g.*, Hearing Exhibit 400, Answer Testimony of Albert B. Cooke or Hearing Exhibit 400, Attachment ABC-1).

41. A person may modify formatting options in revisions to filed documents in order to minimize the resulting impact to page and line references (*e.g.*, widen a paragraph margin to insert a word).

42. Titles entered into the Commission’s E-Filings System should be in title format and must not be in all capitals.

4. Filing of Executable Attachments to Hearing Exhibits

43. Any spreadsheet filed as, or that is the basis for, an attachment to a hearing exhibit shall be filed in both .pdf format and in the native executable electronic file format (*e.g.*, .xlsx, .ods, .gsheet).

44. The title of the executable version filed shall mirror the title identifying the pre-filed version and include the word “Executable” after the hearing exhibit number. For example: Hearing Exhibit 300, Executable Attachment ABC-1, or Hearing Exhibit 400, Executable.

45. Parties are not required to: mark native executable hearing exhibits, including executable attachments thereto, for identification, paginate such executable exhibits, or file amended, modified, or corrected executable exhibits in redline/strikeout format.

5. Modifying, Amending, or Correcting a Previously Filed Hearing Exhibit on or Before the Deadline for Corrections

46. Should a party need to modify, amend, or correct a previously identified hearing exhibit on or before the ordered deadline for such changes, the following procedures shall be followed.

47. If the native executable electronic file format is not a spreadsheet, a complete revision including all changes in redline/strikeout format shall be filed.²³ No modification, amendment, or correction shall be made to a filed hearing exhibit without indicating a new revision number, as described below. The same title shall be used for the title as the original, except that a revision number reference must be added to give notice of the change.

48. For example, if Hearing Exhibit 100, Direct Testimony of John J. Doe changed, it would be filed as Hearing Exhibit 100, Direct Testimony of John J. Doe, Rev. 1 containing redlined modifications to the original version.²⁴ If an additional revision is later filed, it would be filed as Hearing Exhibit 100, Direct Testimony of John J. Doe, Rev. 2 and would contain all redlined modifications as compared to the original version (*i.e.*, not only as compared to Rev. 1). For Rev. 2 and all subsequent revisions, the filing shall also include a notice identifying changes in each revision from the most recent previous revision. Further, the title of any revision must not contain the word “corrected” even if the revision corrects the prior filing.

²³ Filing a “clean” version is not necessary and is discouraged.

²⁴ “Rev.” stands for revision.

49. If the native executable electronic file format is a spreadsheet (*e.g.*, .xlsx, .uos, .gsheet), a complete revision including all changes shall be filed. The changes do *not* need to be in redline/strikeout format. No modification, amendment, or correction shall be made to a filed hearing exhibit without indicating a new revision number (*e.g.*, Rev. 1). The same title shall be used for the title as the original, except that a revision number reference must be added to give notice of the change. The revision pages shall also include an additional notice attachment identifying changes in each revision from the most recent previous revision. Additionally, a complete revision of the executable spreadsheet, including all changes, shall be filed.

50. The most recent revision of a hearing exhibit shall be the version utilized during the evidentiary hearing. References in testimony to obsolete versions of other testimonies will be construed to be amended to refer to the latest filed version of such testimony, unless otherwise specified. Although corresponding page and line references might be affected by such construction, corrected references will not be necessary so long as the original reference remains reasonably close to the new location of the referenced material.

6. Modifying, Amending, or Correcting a Previously Filed Hearing Exhibit After the Deadline for Corrections

51. Should a party need to modify, amend, or correct a previously identified hearing exhibit after the earlier of the ordered deadline for such changes or the fourth business day prior to the hearing, the following procedures shall be followed to upload them into the party's designated box.com folder rather than filing through the Commission's E-Filings System.

52. If the native executable electronic file format is not a spreadsheet, all changes should be reflected on replacement pages only in redline/strikeout format that will be: (a) marked for identification with a hearing exhibit number within the party's assigned exhibit number block

in accordance with the procedures in this Decision; and (b) uploaded into the party's designated box.com folder prior to use of the exhibit during the hearing.²⁵ The replacement pages shall also include an additional notice attachment identifying changes in each revision from the most recent previous revision.

53. If the native executable electronic file format is a spreadsheet (*e.g.*, .xlsx, .uos, .gsheet), all changes shall be reflected on only replacement pages that will be: (a) marked for identification with a hearing exhibit number within the party's assigned exhibit number block in accordance with the procedures in this Decision; and (b) uploaded into the party's designated box.com folder prior to use of the exhibit during the hearing. The changes do not need to be in redline/strikeout format. The revision pages shall also include an additional notice attachment identifying changes in each revision from the most recent previous revision. Additionally, a complete revision of the executable spreadsheet, including all changes, shall be filed in accordance with Section I.D.5 above.

54. If the changes are permitted, and assuming the original filing is otherwise admissible, both hearing exhibits would be admitted into evidence during the hearing with the latter replacement pages superseding and prevailing to the extent of conflict in the previous revision.

55. References to superseded portions of a hearing exhibit will be construed to be amended to refer to the replacement pages, unless otherwise specified. Although corresponding page and line references might be affected by such construction, corrected references will not be necessary so long as the original reference remains reasonably close to the new location of the

²⁵ Filing a "clean" version is not necessary and is discouraged.

referenced material. For example, a reference in answer testimony to page 10, line 5 of a witness's direct testimony need not be revised if page 10 of the direct testimony is replaced, so long as the material that was originally at page 10 and line 5 remains reasonably close.

7. Procedures for Confidentiality

56. Any pre-filed hearing exhibit (including attachments) filed in accordance with the Standards of Conduct in the Commission's Rules of Practice and Procedure containing confidential information shall be pre-marked for identification by the same hearing exhibit number as the redacted public version of the hearing exhibit but shall be designated with a "C" following the number of the hearing exhibit or attachment.

57. For example, a witness's pre-filed written testimony might be identified as Hearing Exhibit 100, Direct Testimony of John J. Doe. If portions of the testimony in Hearing Exhibit 100, Direct Testimony of John J. Doe are claimed to be confidential, the confidential version of Hearing Exhibit 100 would be filed in accordance with the Standards of Conduct and identified as Hearing Exhibit 100C, Confidential Direct Testimony of John J. Doe. In this confidential version of the hearing exhibit, only the material that is highly confidential will be redacted. In addition, Hearing Exhibit 100, Direct Testimony of John J. Doe would remain in the public record (redacted to exclude confidential and highly confidential material).

58. Further, if portions of Hearing Exhibit 100, Direct Testimony of John J. Doe, Attachment JJD-1 are claimed to be confidential, a confidential version of Hearing Exhibit 100, Attachment JJD-1 would be filed in accordance with the Standards of Conduct and identified as Hearing Exhibit 100, Confidential Attachment JJD-1C. In this confidential version of the attachment, only the material that is highly confidential will be redacted. In addition, Hearing

Exhibit 100, Attachment JJD-1 would remain in the public record (redacted to exclude confidential and highly confidential material).

59. Likewise, any pre-filed hearing exhibit (including attachments) containing highly confidential information shall be pre-marked for identification by the same hearing exhibit number as the redacted public version of the hearing exhibit but shall be designated with a “HC” following the number of the hearing exhibit or attachment.

II. ORDER

A. The Commission Orders That:

1. The filing deadlines set forth in the Unopposed Motion to Approve Procedural Schedule and Vacate Prehearing Conference and Request for Waiver of Response Time (the Unopposed Motion) that Black Hills Colorado Electric, LLC (Black Hills) filed on August 9, 2022, are adopted, except for the deadline for statements of position. Consistent with the discussion above, the deadline for statements of position will be set at the conclusion of the evidentiary hearing in this Proceeding.

2. Consistent with the discussion above, an evidentiary hearing for Phase I of this Proceeding is scheduled as follows:

DATES: January 30, 2023, through February 3, 2023

TIMES: 9:00 A.M. until concluded, but no later than 5:00 p.m. on every day except on February 1, 2023, in which the hearing will begin at 1:00 p.m.

LOCATION: Commission Hearing Room (Webcast)

3. The parties’ discovery procedures set forth in the Unopposed Motion are adopted.

4. The prehearing conference in this Proceeding set for August, 24, 2022, at 11:00 a.m. is vacated.

5. Black Hills' request to waive response time to the Unopposed Motion is granted.
6. The deadline for a Commission decision is extended an additional 130 days, as permitted in § 40-6-109.5(1), C.R.S.
7. Discovery disputes and any future motions for extraordinary protection are referred to an Administrative Law Judge, consistent with the discussion above.
8. The Motion for Limited Participation that the Colorado Department of Public Health and Environment (CDPHE) filed on June 24, 2022, is granted, consistent with the Discussion above. CDPHE shall file the Phase I Verification Report by August 31, 2022, and shall file the Phase II Verification Report within 30 days of the 120-Day Report that Black Hills must file per Rule 3613(d).
9. 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), all pre-filed hearing exhibits shall be marked for identification and filed in accordance with this Decision,²⁶ including the following:
 - a. Any spreadsheet filed as, or that is the basis for, an attachment to a hearing exhibit shall be filed in both .pdf format and in the native executable electronic file format (e.g., .xlsx, .ods, .gsheet).

²⁶ If the Commission's E-Filings System does not accept the electronic format of any pre-filed hearing exhibit, an electronic copy must be filed with the Commission on a CD, DVD, or portable drive. If any such hearing exhibit is created from a spreadsheet, the native executable electronic file format must be filed simultaneously on the same CD, DVD, or portable drive.

- b. Within 14 days of the date of this Decision, Black Hills shall revise and re-file its previously filed testimony, if necessary for such testimony to comply with the ordered procedures and the discussion above. For purposes of this Decision, any such filings shall be treated as the original filing of hearing exhibits.²⁷
 - c. All corrections to any pre-filed hearing exhibits marked for identification shall be filed on or before the deadline for “Corrections to Pre-Filed Testimony and Exhibits” established in the procedural schedule, consistent with the discussion above.
 - d. Any objections to the admissibility of any pre-filed hearing exhibits marked for identification (*e.g.*, authenticity) shall be filed by the deadline for “Prehearing Motions” established in the procedural schedule.
10. This Decision is effective upon its Mailed Date.

²⁷ Compliance with this Decision may result in a change to pagination of prior versions of hearing exhibits. References in discovery requests and responses to prior versions of hearing exhibits will be construed to be amended to refer to the latest filed version of such testimony, unless otherwise specified. Although corresponding page and line references might be affected by such construction, corrected references will not be necessary so long as the original reference remains reasonably close to the new location of the referenced material.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
August 17, 2022.**

(S E A L)



ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ERIC BLANK

JOHN GAVAN

MEGAN M. GILMAN

Commissioners