

Decision No. C25-0650-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 22A-0230E

IN THE MATTER OF 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
SETTING SHORTENED RESPONSE TIME TO MOTION**

Issued Date: September 5, 2025
Adopted Date: September 3, 2025

I. BY THE COMMISSION

A. Statement

1. In Decision No. C24-0634, issued September 4, 2024, (the “Phase II Decision”) the Commission authorized Black Hills Colorado Electric, LLC, doing business as Black Hills Energy (“Black Hills” or the “Company”) to pursue a modified portfolio of generation and storage resources with further due diligence and contract negotiations.

2. In Decision No. C24-0837, issued November 15, 2024, the Commission addressed Black Hills’ application for rehearing, reargument, or reconsideration (“RRR”) of the Phase II Decision. This RRR Decision modified the resource portfolio approved in the Phase II Decision.

3. On August 29, 2025, Black Hills filed a motion asking for guidance whether to move forward with two resources addressed by those Phase II decisions (“Guidance Motion”). One of the projects is a 100 MW solar facility that Black Hills will purchase from a developer and own and operate pursuant to a Build Transfer Agreement (“BTA”), and the other project is a

200 MW solar facility tied to a purchased power agreement (“PPA”). Black Hills is seeking the guidance due to “recently increased pricing and other changes proposed by the respective developers of the projects.”¹

4. Through this Decision, we set a shortened deadline for responses to the Guidance Motion. Responses to the Guidance Motion shall be filed no later than September 10, 2025.

B. Motion for Commission Guidance

5. Black Hills states in the Guidance Motion that the developers of the two solar projects have announced price increases due to changes in federal law, tariffs, and the passage of time from their original bids. Black Hills further states that the Company has attempted to “negotiate these increases down,” but the negotiating parties have reached an impasse.² According to Black Hills, if the Company does not agree to the price changes, the developers will not execute a contract and will walk away from the respective projects.

6. Black Hills explains that the price changes result in overall project costs that are outside the presumption of prudence previously established by the Commission in its decisions rendered in Phase II. Black Hills explains that in both cases the change in pricing is greater than five percent of the initially bid price and thus seeks guidance from the Commission as to whether to proceed with each project, and, if so, under what parameters. Black Hills notes that if the Commission decides that the Company should not proceed with one or both projects, the Company will not be able to show that its Clean Energy Plan (“CEP”) will result in at least an 80 percent emissions reduction by 2030, “which begets further requests for direction from the Commission.”³ Moreover, Black Hills argues that the Commission’s Phase II decisions require that price increases

¹ Guidance Motion, p. 2.

² Guidance Motion, p. 11.

³ Guidance Motion, p. 10.

above 5 percent would result in a failure of the associated bid and would require the Company to present a back-up bid through the 30-day notice process. Adding to the complexity of the situation, however, Black Hills states that the back-up bid will also require a price increase.

7. Black Hills further seeks guidance in the event the Commission determines that neither the BTA solar project nor the PPA solar project should be pursued as to how “this may affect cost recovery of the 50 MW battery project and any remaining CEP project for which the Commission does authorize proceeding to a CPCN.”⁴

8. Black Hills also seeks additional relief by the motion related to the Commission’s Rules Regulating Electric Utilities, 4 *Code of Colorado Regulations* 723-3. First, it requests a variance from Rule 3613(i) in the form of an order to extend the deadline to execute contracts for potential resources from the current deadline of September 4, 2025, to November 4, 2025. Second, it requests an extension of the deadline to file as public information certain information in this proceeding kept confidential or highly confidential. Black Hills also states that it is unable to set a specific date for the public filing of all such information currently. The Company thus proposes that upon completion of contracting for all the PPA and BTA projects, the Company would file within two weeks a motion to set a deadline for the public filing pursuant to Rule 3613(j).⁵

9. Black Hills asks for a 12-day response period for the Guidance Motion and states that this request for shortened response time is unopposed by the parties in this Proceeding.

⁴ Guidance Motion, p. 19.

⁵ The Commission has previously addressed similar requests from Black Hills through Decision Nos. C25-0307-I and C25-0528-I.

C. Findings and Conclusions

10. We find good cause to grant Black Hills' request for a shortened response time to the Guidance Motion.

11. Responses to the Guidance Motion shall be filed no later than September 10, 2025.

II. ORDER

A. It Is Ordered That:

1. Consistent with the above discussion, responses to the Motion for: (1) Whether to Proceed with 100 MW Solar and 200 MW Solar Clean Energy Projects in Light of Developer Price Changes; (2) Adjustments to the Performance Incentive Mechanism Construction Cost Baseline and Clarification of Operations PIM; and (3) Variances from Rules 3613(i) and 3613(j) filed by Black Hills Colorado Electric, LLC, doing business as Black Hills Energy on August 29, 2025, shall be filed no later than September 10, 2025.

2. This Decision is effective immediately upon its Issued Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
September 3, 2025.**

(S E A L)



ATTEST: A TRUE COPY

Rebecca E. White,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ERIC BLANK

MEGAN M. GILMAN

TOM PLANT

Commissioners