

Decision No. C23-0541-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23A-0357E

IN THE MATTER OF THE APPLICATION OF BLACK HILLS COLORADO ELECTRIC, LLC
FOR APPROVAL OF ITS DISTRIBUTION SYSTEM PLAN.

**INTERIM COMMISSION DECISION
DEEMING APPLICATION COMPLETE, FINDING
APPLICATION FILING MINIMALLY MEETS THE
COMMISSION'S STANDARDS FOR A DISTRIBUTION
SYSTEM PLAN, AND REFERRING THE MATTER TO AN
ADMINISTRATIVE LAW JUDGE**

Mailed Date: August 15, 2023

Adopted Date: August 9, 2023

I. BY THE COMMISSION

A. Statement

1. On June 30, 2023, Black Hills Colorado Electric, LLC (Black Hills or the Company) filed an Application for Approval of its Distribution System Plan (Application). Black Hills also filed with the Application a Motion for Waivers from Commission Rules Associated with its Distribution System Plan (Motion).

2. By this Decision, we deem complete the Application complete, find that the Application filing minimally meets the Commission's standards, and refer the matter to an Administrative Law Judge (ALJ).

B. Discussion

3. The Commission's Electric Rules contain provisions that govern the development and filing of a Distribution System Plan (DSP) by Colorado investor-owned electric utilities, 4 *Code of Colorado Regulations* (CCR) 723-3-3525 through 3542 (DSP Rules).

4. Black Hills filed the Application pursuant to the DSP Rules.

5. Black Hills explains in the Application that its inaugural DSP filing under the Commission's newly established DSP Rules presents a detailed discussion regarding how the Company plans its distribution system to safely, reliably and cost effectively deliver electric service to customers while addressing the new challenges the Company is facing. Black Hills states that the filing presents new planning processes, procedures, and analysis which were not previously performed in planning the Company's distribution system. The Company further states that the DSP includes significant information by distribution substation and feeder and the identification of major grid distribution projects for which non-wires alternatives (NWAs) were considered. Black Hills states that its goal for distribution system planning is to maintain or increase the reliability, safety, and security of its systems at the lowest reasonable cost.

6. By the Application, Black Hills requests the Commission approve the DSP and make a series of specific approvals, findings, and determinations. First, the Company seeks a determination from the Commission that the Company's DSP satisfies the requirements of the DSP Rules. Second, the Company seeks a finding that the analyses in the DSP for which a waiver has not been requested are consistent with the DSP Rules. Third, the Company seeks authorization to defer expenses associated with the transaction and hearing costs, consultant expenses, and outside counsel costs for this Proceeding. Finally, the Company requests several waivers and variances set forth in the contemporaneously filed Motion.

7. In the Motion, Black Hills requests waivers from some or all of the requirements of related to the web portal and NWAs as described in the DSP Rules. Specifically, Black Hills requests waivers from: subparagraph 3529(a)(X) regarding documents and model contracts for an NWA solicitation; rule 3530 regarding the distribution load forecast; subparagraphs 3531(a)(II)(A-F) regarding hosting capacity analysis and mapping; paragraph 3533(a) regarding grid innovation programs and pilots; rule 3534 regarding NWA screening; rule 3535 regarding NWA cost-benefit analysis; rule 3537 regarding an NWA solicitation process (Phase II); and rule 3541 regarding the creation of a web portal. Black Hills clarifies that all of the requested waivers are temporary, in that they all would apply only to this DSP filing and would remain in effect only until its next DSP proceeding. Black Hills states that the rule waiver requests are supported by the Direct Testimonies of certain Company witnesses filed with the Application.

C. Findings and Conclusions

8. We deem the Application complete for purposes of § 40-6-109.5, C.R.S.

9. Paragraph 3528(b) of the DSP Rules states: “Within 30 days of the filing of the application, the Commission shall issue a decision addressing whether the contents of the DSP meet Commission standards based on the information provided by the utility set forth in paragraph 3528(d).”

10. We conclude that the DSP Plan and the supporting information filed with the Application minimally meet the standards set forth in the DSP Rules. Nevertheless, the Company’s DSP Plan and the Motion together raise several questions concerning what Black Hills should be expected to include in its DSP Plan and what it may be reasonable for the Company to exclude from DSP filings. For this reason and for the purpose of rendering a decision on the Application, we set this matter for hearing before an ALJ.

11. In Proceeding No. 20R-0516E, the Commission examined similar issues surrounding Black Hills' future compliance with the DSP Rules. For example, Decision No. R21-0387 in Proceeding No. 20R-0516E noted that, for rule 3541, for example, the Commission rejected the Company's proposal in its Supplemental Closing Comments that the rule's requirement for a web portal should be eliminated for smaller utilities. The Commission observed that data could alternatively be provided in a spreadsheet format, rather than via a web portal.

12. We encourage the ALJ to consider ruling on the waiver requests in the Motion early in this Proceeding so that additional information would potentially be made available by Black Hills, allowing for a more complete evaluation of the Application and the DSP. Intervenor participation in the Proceeding will enhance consideration of the waiver requests and evaluation of the Company's DSP.

13. In addition, we have several concerns regarding Black Hills' proposed treatment of distributed energy resources (DERs) in the DSP. For instance, it is unclear how the Company plans to evaluate value of DERs as NWA solutions, and more specifically, it is ambiguous how the Company views DERs in terms of their value for either demand response (*i.e.*, peak load savings) or ancillary services. It is further unclear how Black Hills views the aggregation of DERs, initially for virtual power plant configurations and, over a longer term, for use as dispatchable resources.

II. ORDER

A. It Is Ordered That:

1. The Application for Approval of its Distribution System Plan filed by Black Hills Colorado Electric, LLC on June 30, 2023 is deemed complete for purposes of § 40-6-109.5, C.R.S.

2. Consistent with the discussion above, the Application and the information filed in support of the Application meet Commission standards in accordance with 4 *Code of Colorado Regulations* (CCR) 723-3-3528(b).

3. This matter is referred to an Administrative Law Judge. The Administrative Law Judge shall: set a hearing date; rule on interventions; rule on the Motion for Waivers from Commission Rules Associated with its Distribution System Plan filed by Black Hills on June 30, 2023; and establish other procedures by separate decision(s), consistent with the discussion above.

4. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
August 9, 2023.**

(S E A L)



ATTEST: A TRUE COPY

Rebecca E. White,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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Commissioners