

Decision No. C23-0732

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

PROCEEDING NO. 23A-0025E

---

IN THE MATTER OF THE VERIFIED APPLICATION OF BLACK HILLS COLORADO ELECTRIC, LLC FOR COMMISSION APPROVAL OF AN ALTERNATE ELECTRIC VEHICLE CHARGING RATE.

---

**COMMISSION DECISION GRANTING APPLICATION  
FOR REHEARING, REARGUMENT, OR  
RECONSIDERATION OF DECISION NO. C23-0611**

---

---

Mailed Date: October 27, 2023

Adopted Date: October 25, 2023

**I. BY THE COMMISSION**

**A. Statement**

1. Through this Decision, the Commission addresses the Application for Rehearing, Reargument, and Reconsideration (Application for RRR) of Decision No. C23-0611, filed by Trial Staff of the Commission (Staff), on October 3, 2023. Through Decision No. C23-0611, issued September 12, 2023, the Commission approved with modification a settlement agreement (Settlement) to implement an alternative electric vehicle (EV) direct-current fast charging (DCFC) station rate. The Settlement was filed among applicant Black Hills Colorado Electric, LLC d/b/a Black Hills Energy (Black Hills or the Company) and intervenors the Colorado Energy Office, ChargePoint, Inc., and Electrify America, LLC (the Settling Parties). In its Application for RRR, Staff proposes a modest clarification to Decision No. C23-0611 as it relates to Black Hills' filing requirements for subsequent applications.

2. Consistent with the discussion below, we grant the Application for RRR. We find Staff's clarification to add valuable specificity to our order in this Proceeding. We therefore adopt Staff's proposed filing requirements for future relevant Company filings.

### **B. Background**

3. On January 4, 2023, Black Hills filed an Application for approval of a DCFC station rate, along with proposed tariffs for the alternative rate designs set forth in the Application.

4. On May 26, 2023, Black Hills filed the Settlement, along with the proposed tariffs for the settled rate.

5. Staff opposed the Settlement on two main issues: (1) the selection of peak hours (Staff suggested peak hours be defined from 3:00 p.m. to 9:00 p.m., not 1:00 p.m. to 7:00 p.m. as proposed in the Settlement); and (2) the ratio of on-peak to off-peak prices (Staff suggested the Commission select a ratio far higher than the 1.2 to 1 value proposed by the Settling Parties).

6. On June 21, 2023, the Commission convened a one-day evidentiary hearing. On September 6, 2023, the Commission deliberated on the arguments in the Proceeding.

7. The Commission found Staff's argument regarding peak hours compelling, and agreed to set the peak hours from 3:00 p.m. to 9:00 p.m. Regarding the ratio of on-peak to off-peak prices, the Commission agreed with the Settling Parties that the smaller ratio would generally support the development of EV charging stations and recognized that additional data would be forthcoming shortly. The Commission also found that subsequent Company evaluations should incorporate the evaluation of *net* peak load. Specifically, in paragraph 63 of Decision No. C23-0611, the Commission stated:

We find Black Hills' focus on system peaks is inadequate, given the broader need for emission-free power; instead, the emphasis should be on matching loads to renewable energy production profiles as best as possible. Accordingly, we direct Black Hills to develop its upcoming CCOSS to assess, or be expanded to also assess, net peak loads in a manner consistent with the outcome of the ERP process.

8. On October 3, 2023, Staff filed its Application for RRR, requesting clarification related to the forthcoming data submission per the Company's Class Cost of Service Study (or, CCOSS).

**C. Staff's Application for RRR**

9. Staff states that it believes the Commission's intent was to direct the Company to provide the necessary information for the Commission to consider time-of-use (TOU) rate design options in a future proceeding but that the Commission's directive would be insufficient because the purpose of a CCOSS is to allocate a utility's revenue requirement among its customer classes, not among hours of the day or year.

10. Staff also notes that a CCOSS is a backward-looking exercise, with no way of accounting for assets approved in the Electric Resource Plan (ERP) process but not yet constructed and included in the utility's cost of service.

11. To ensure that the Commission has sufficient data to consider TOU rate design options for Black Hills, Staff requests the Commission clarify that in its next Phase II rate case, Black Hills shall provide the following: (i) an updated CCOSS, (ii) an hourly load study that includes system load net of all renewable generation using actual historical data from the most recent 12-month period available, and (iii) a forecasted hourly net load study that includes system load net of all renewable generation.

12. Staff suggests the Commission specify that if the Phase II rate case is filed after the conclusion of the Company's ERP proceeding, the forecasted hourly net load study should incorporate how resources approved in that proceeding affect the hourly net load.

**D. Commission Findings and Conclusions**

13. The Commission agrees with Staff that the intent of paragraph 63 was for the Company to conduct TOU rate analyses, and that the Company's CCOSS may be an insufficient analysis tool, as represented by Staff. We find Staff's proposed modification to Decision No. C23-0611 adds valuable specificity and clarity to our Decision, and adopt the language as proposed.

**II. ORDER**

**A. The Commission Orders That:**

1. The Application for Rehearing, Reargument, or Reconsideration of Decision No. C23-0611, filed by Trial Staff of the Commission, on October 3, 2023, is granted, consistent with the discussion above.

2. The 20-day period provided for in § 40-6-114, C.R.S., within which to file applications for rehearing, reargument, or reconsideration, begins on the first day following the effective date of this Decision.

3. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING  
October 25, 2023.**

(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