

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO**  
**PROCEEDING NO. 22A-0304E**

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**IN THE MATTER OF THE VERIFIED APPLICATION OF BLACK HILLS  
COLORADO ELECTRIC, LLC FOR APPROVAL OF ITS 2023-2025  
BENEFICIAL ELECTRIFICATION PLAN**

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**UNOPPOSED COMPREHENSIVE SETTLEMENT AGREEMENT**

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## **I. INTRODUCTION**

This Unopposed Comprehensive Settlement Agreement (“Settlement Agreement” or “Agreement”) is entered into by Black Hills Colorado Electric, LLC d/b/a Black Hills Energy (“Black Hills” or the “Company”), Trial Staff of the Commission (“Staff”), the Office of the Utility Consumer Advocate, (“UCA”), and the Colorado Energy Office (“CEO”), and Western Resource Advocates (“WRA”), (each a “Settling Party” and collectively the “Settling Parties”), pursuant to Rule 1408 of the Colorado Public Utilities Commission’s (“Commission”) Rules of Practice and Procedure, 4 CCR 723-1. Energy Outreach Colorado (“EOC”) takes no position on the Settlement Agreement.

This Settlement Agreement is intended to resolve all issues which were or could have been raised by the Settling Parties in this Proceeding with respect to the Company’s Verified Application (“Application”) for approval of: (1) the proposed 2023-2025 BE Plan, including the proposed programs, goals, reporting structure, and 60 and 90-Day Notice process; (2) approving the Company’s proposal to recover costs of 2023-2024 BE Plan through the DSMCA; (3) approving the BE incentive mechanism; (4) approving any and all other relief set forth in the Company’s Direct Case, including any waivers, variances or other relief necessary to implement the Company’s 2023-24 BE Plan; and (5) authorizing Black Hills to file the necessary tariffs to implement the approved 2023-2024 BE Plan through a compliance advice letter filing on not less than two business days’ notice.

## **II. SETTLEMENT TERMS**

The Settling Parties agree that the Commission should approve the Company’s Application, subject to the following modifications and conditions:

**A. Residential Electrification Programs, including Income Qualified Programs**

1. Black Hills will update income qualification levels applicable to the Residential IQ Electrification Program to align with Commission Rule 3412(c).
2. The Company’s BE Plan will clarify that customers are only eligible for building shell or weatherization measures through the BE Plan if they are also receiving an incentive for a BE space or water heating measure.
3. The Settling Parties agree to remove the Residential Electrification Products from the Company’s BE Plan, which consisted of incentives for the purchase of electric measures such as lawn care equipment and electric bikes. The budget that was proposed for the Residential Electrification Products is summarized in the below table.

**Table 1: Direct Case Residential Electrification Products Budget**

<b>Budget Categories</b>	<b>2023</b>	<b>2024</b>
Incentives	\$12,650	\$12,650
Administration	\$879	\$879
Marketing	\$2,636	\$2,636
Delivery	\$4,925	\$4,925
Total	\$21,090	\$21,090

4. The parties recommend that the Commission find that Black Hills’ electric DSM Plan meets its BE Plan obligations for the market rate residential sector.<sup>1</sup>
5. The Company will propose incentives for transportation electrification measures, including electric bikes, in its next TEP which will be filed in 2023.
6. The Settling Parties agree that the budget for the Residential IQ Electrification Program shall be increased by the amount initially proposed for the Residential

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<sup>1</sup> Recommended by CEO witness Jocelyn Durkay (see HE 500 at 31:4-16).

Electrification Products in the Company’s direct case, as summarized in the below table.

**Table 2: Revised Settlement Detailed Program Budget for 2023 and 2024**

<b>Program Name</b>	<b>Incentives</b>	<b>Admin</b>	<b>Marketing</b>	<b>Delivery</b>	<b>Total</b>
Residential IQ Electrification	\$153,010	\$16,715	\$15,305	\$22,925	\$207,955
Residential Electrification Products	0	0	0	0	0

**B. Commercial and Industrial (“C&I”) Electrification Programs**

7. The Settling Parties agree the Company will modify the C&I Electrification Program to exclude incentives for electric pressure washers and electric forklifts and reallocate related budgets to support C&I measures incentivizing the electrification of space and water heating.

**C. Whole Home Electrification Pilot**

8. The Settling Parties agree that the Company and CEO will work together to help educate customers on utility, state, and federal incentives that can help customers reduce their overall energy costs through a Whole Home Electrification Pilot (“Pilot”). The Pilot will serve dual fuel residential customers of Black Hills and Black Hills Colorado Gas, Inc., both income qualified and market rate, as proposed in Ms. Durkay’s Answer Testimony (Hearing Exhibit 500).
9. This Pilot will launch within six months of available state or federal funding (estimated early 2024), either through a 60-Day Notice or in the Company’s 2024 combined BE/DSM Plan filing. The Pilot will be conducted over 24 months, with

the opportunity to extend the Pilot based on available funds. The Company will work with CEO to finalize the Pilot design and execution.

10. The Company and CEO will prioritize outreach and enrollment in areas where the gas distribution system is constrained, or where future gas distribution system capacity investment may be avoided,
11. The Settling Parties will have the opportunity to comment on specifics of the proposed Pilot either through the 60-Day Notice process or in the Company's 2024 DSM/BE Plan filing.
12. The Company and CEO will leverage 1) existing utility incentives for DSM, BE, and distributed generation as provided for in paragraph 17; and 2) all applicable state or federal funding prior to spending incremental (additional) pilot funds to minimize costs to participants and Black Hills customers.
13. The Pilot will have a not-to-exceed budget for Black Hills Electric of \$40,000 annually, for two consecutive years. Additionally, Black Hills Gas will propose to recover \$40,000 annually, for two consecutive years, through its Clean Heat Plan.
14. Given the flexible timing on the launch of the Pilot and the Clean Heat Plan filing (expected by Jan. 1, 2024), CEO and Black Hills will come to a mutually agreeable determination on the length of the Pilot program should it not directly align with the Clean Heat Plan.
15. Black Hills Gas will be credited for any gas DSM and BE emission reductions resulting from the Pilot toward its Clean Heat targets pursuant to all applicable statutory and regulatory limitations, and subject to Commission approval.

16. The Pilot budget will fund administrative expenses and customer recruitment and education. The total incremental cost of the Pilot will depend on the number of program participants, and may be less than the proposed budget. Anticipated Pilot measures include: building shell, air sealing, and insulation; air source heat pumps; heat pump water heaters; electric heat pump clothes dryers; induction stoves and pots; electric service upgrades; and distributed generation.
17. Existing and potential funding sources to leverage may include but are not limited to:
  - State funds, including potential collaboration with Colorado’s Weatherization Assistance Program.
  - Utility customer program funding
    - Proposed BE Plan incentives (22A-0304E)
      - Residential IQ Electrification program
    - Electric DSM approved incentives (Approved in 21A-0166E)
      - Residential Programs (multiple)
      - Income-Qualified Assistance
    - Gas DSM approved incentives (Approved in 20A-190G) excluding gas water heating incentives
      - Residential Retrofit program (Prescriptive Component)
      - Income-Qualified Weatherization program
    - Pending distributed generation incentives (Proceeding No. 22A-0230E)
      - Solar and Storage (residential) program
      - Solar and Storage (IQ) program

- Community Solar Garden program
- Federal funds
  - IRA-funded rebates (not to exceed \$14,000 per eligible entity)
    - \$1,750: heat pump water heater
    - \$8,000: heat pump
    - \$840: induction stove, cooktop, range or oven
    - \$840: electric heat pump clothes dryer
    - \$4,000: electric load service center upgrade
    - \$1,600: insulation, air sealing, ventilation
    - \$2,500: electric wiring
  - IRA-funded tax credits
    - Up to \$600: exterior windows and skylights
    - Up to \$250: exterior doors, not to exceed \$500
    - Up to \$2,000: heat pump and heat pump water heaters

**D. Performance Incentive Mechanism (“PIM”)**

18. The Settling Parties agree that the Commission should approve the proposed PIM as recommended in Staff witness Mr. Soufiani’s Answer Testimony (Hearing Exhibit 700).
19. Black Hills will only earn an incentive for achieving beyond 100 percent of its BE Plan goal for each year. At 101 percent of the goal, the Company will earn 1 percent of the net economic benefits achieved. For each additional 1 percent of goal attainment, the Company will earn an incremental 0.2 percent of the net economic

benefits achieved, up to 150 percent of the goal.<sup>2</sup> The PIM will be capped at \$30,000 annually, which is approximately the incentive at 150 percent of goal.<sup>3</sup> In calculating the net economic benefits used in the PIM calculation, the Company will not include the Social Cost of Carbon, the Social Cost of Methane, or other non-energy benefits that do not impact customer bills.

20. The PIM will be capped at \$30,000 annually, which is approximately the incentive at 150 percent of goal.<sup>4</sup>
21. In calculating the net economic benefits used in the PIM calculation, the Company will not include the Social Cost of Carbon, the Social Cost of Methane, or other non-energy benefits that do not impact customer bills.

**E. Reporting**

22. The Company will submit a final compliance BE Plan within 30 days of a final Commission decision in this proceeding.<sup>5</sup> The final compliance BE Plan will update goals, savings, and budgets that result from the terms of this settlement.
23. Black Hills will present the incremental load attributable to beneficial electrification in compliance with § 40-3.2-109(2)(b)(IV), C.R.S. in its compliance plan.
24. Black Hills will file annual BE Plan reports by April 1 of each year.<sup>6</sup> In annual BE Plan reports, the Company will include reporting on its compliance with labor

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<sup>2</sup> Recommended by Staff witness Seina Soufiani (see HE 700 at 18:1-12).

<sup>3</sup> Recommended by Staff Witness Soufiani (see HE 700 at 18:13-14).

<sup>4</sup> Recommended by Staff Witness Soufiani (see HE 700 at 18:13-14).

<sup>5</sup> Recommended by CEO witness Durkay (see HE 500 at 41:13-20).

<sup>6</sup> Recommended by CEO witness Durkay (see HE 500 at 41:21-42:6).

requirements under § 40-3.2-105.6(4), C.R.S. in connection with this BE Plan and future BE Plans, as applicable.

25. The Company commits to developing an outreach plan for the Residential IQ Electrification Program that complies with § 40-3.2-109(2)(b)(VI), C.R.S. in consultation with the intervenors to this Proceeding and to submit such outreach plan with the compliance BE Plan.

**F. Education and Outreach**

26. The Company will endeavor to include education and marketing materials related to BE, when possible, in planned outreach for other retail customer programs, such as under its electric Demand-Side Management (“DSM”) and Transportation Electrification Plans (“TEPs”).
27. The Company will endeavor to include relevant education materials on the Inflation Reduction Act (“IRA”) when conducting outreach for its BE Plan.

**G. Commitments Related to Future BE Plans**

28. The BE Plan approved through this proceeding will be effective from 2023-2024, and Black Hills commits to file a combined DSM and BE Plan in 2024 with a proposed effective date of January 1, 2025. Going forward, the Company will propose BE Plans in combination with its electric DSM Plans.<sup>7</sup>
29. In future BE Plans, the Company commits to include an outreach plan that complies with the requirements of § 40-3.2-109(2)(b)(VI), C.R.S.

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<sup>7</sup> Recommended by CEO witness Durkay and UCA witness Chris Neil (see HE 500 at 41:21-42:6 and HE 300 at 10:4-12).

30. In future BE Plans, the Company commits to demonstrate how it will, to the greatest extent practicable, serve incremental load attributable to beneficial electrification with generation that can be reasonably expected to have a carbon intensity no higher than the average carbon intensity for all generation in the utility's portfolio in compliance with § 40-3.2-109(2)(b)(IV), C.R.S.

#### **H. Regulatory Compliance**

31. The Settling Parties agree that the Commission should authorize the Company to implement any and all tariffs and tariff changes necessitated by the Commission's decision in this Proceeding through one or more compliance advice letter filing(s) on not less than two business days' notice. Settling Parties agree not to challenge any such filing(s).
32. The Settling Parties agree that the Commission should grant all other necessary approvals and relief necessary, including any rule waivers or variances, to implement the Company's proposals set forth in its Application, as modified by this Settlement Agreement.

#### **III. GENERAL PROVISIONS**

33. Except as expressly set forth herein, nothing in this Settlement Agreement is intended to have precedential effect or bind the Settling Parties with respect to positions they may take in any other proceeding regarding any of the issues addressed in this Settlement Agreement. No Settling Party concedes the validity or correctness of any regulatory principle or methodology directly or indirectly incorporated in this Settlement Agreement. Furthermore, this Settlement Agreement does not constitute agreement, by any Settling Party, that any principle

or methodology contained within or used to reach this Settlement Agreement may be applied to any situation other than the above-captioned proceeding, except as expressly set forth herein.

34. The Settling Parties agree the provisions of this Settlement Agreement, as well as the negotiation process undertaken to reach this Settlement Agreement, are just, reasonable, and consistent with and not contrary to the public interest, and should be approved and authorized by the Commission.
35. The discussions among the Settling Parties that produced this Settlement Agreement have been conducted in accordance with Rule 408 of the Colorado Rules of Evidence.
36. Nothing in this Settlement Agreement shall constitute a waiver by any Settling Party with respect to any matter not specifically addressed in this Settlement Agreement.
37. The Settling Parties agree to support or not oppose all aspects of the Settlement Agreement embodied in this document in any hearing conducted to determine whether the Commission should approve this Settlement Agreement, and/or in any other hearing, proceeding, or judicial review relating to this Settlement Agreement or the implementation or enforcement of its terms and conditions. Each Settling Party also agrees that, except as expressly provided in this Settlement Agreement, it will take no formal action in any administrative or judicial proceeding that would have the effect, directly or indirectly, of contravening the provisions or purposes of this Settlement Agreement. However, except as expressly provided herein, each Settling Party expressly reserves the right to advocate positions different from those

stated in this Settlement Agreement in any proceeding other than one necessary to obtain approval of, or to implement or enforce, this Settlement Agreement or its terms and conditions.

38. The Settling Parties do not believe any waiver or variance of Commission rules is required to effectuate this Settlement Agreement but agree jointly to apply to the Commission for a waiver of compliance with any requirements of the Commission's Rules and Regulations if necessary to permit all provisions of this Settlement Agreement to be approved, carried out, and effectuated.
39. This Settlement Agreement is an integrated agreement that may not be altered by the unilateral determination of any Settling Party. There are no terms, representations or agreements among the parties which are not set forth in this Settlement Agreement.
40. This Settlement Agreement shall not become effective until the Commission issues a final decision addressing the Settlement Agreement. In the event the Commission modifies this Settlement Agreement in a manner unacceptable to any Settling Party, that Settling Party may withdraw from the Settlement Agreement and shall so notify the Commission and the other Settling Parties in writing within ten (10) days of the date of the Commission order. In the event a Settling Party exercises its right to withdraw from the Settlement Agreement, this Settlement Agreement shall be null and void and of no effect in this or any other proceeding.
41. There shall be no legal presumption that any specific Settling Party was the drafter of this Settlement Agreement.

42. This Settlement Agreement may be executed in counterparts, all of which when taken together shall constitute the entire Agreement with respect to the issues addressed by this Settlement Agreement. This Settlement Agreement may be executed and delivered electronically and the Settling Parties agree that such electronic execution and delivery, whether executed in counterparts or collectively, shall have the same force and effect as delivery of an original document with original signatures, and that each Settling Party may use such facsimile signatures as evidence of the execution and delivery of this Settlement Agreement by the Settling Parties to the same extent that an original signature could be used.

Dated this 22nd day of February, 2023.

Agreed on behalf of:

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