

Decision No. R23-0682-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23A-0244E

IN THE MATTER OF THE VERIFIED APPLICATION OF BLACK HILLS COLORADO ELECTRIC, LLC FOR APPROVAL OF ITS TRANSPORTATION ELECTRIFICATION PLAN, READY EV, FOR PROGRAM YEARS 2024-2026 AND FOR RELATED TARIFF APPROVALS.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
MELODY MIRBABA
GRANTING MOTION TO WITHDRAW INTERVENTION,
VACATING OCTOBER 23, 2023 HEARING DATE, AND
REQUIRING SETTLEMENT TESTIMONY
TO ADDRESS CERTAIN ITEMS**

Mailed Date: October 11, 2023

I. STATEMENT AND PROCEDURAL HISTORY

A. Procedural History¹

1. On May 15, 2023, Black Hills Colorado Electric, LLC's doing business as Black Hills Energy (Black Hills) filed the above-captioned Application (Application), and associated Transportation Electrification Plan.

2. On June 21, 2023, the Commission deemed the Application complete and referred this Proceeding to an Administrative Law Judge (ALJ) for disposition.

3. In addition to Black Hills, the following entities are parties to this Proceeding: the Office of Utility Consumer Advocate (UCA); the Colorado Public Utilities Commission Trial Staff

¹ Only the procedural history necessary to understand this Decision is included.

(Staff); Colorado Energy Office (CEO); ChargePoint, Inc. (ChargePoint); and Green Latinos, Mothers out Front, Vote Solar, and Womxn from the Mountain (collectively the Coalition).²

4. With the parties' input, the ALJ scheduled a three-day hybrid evidentiary hearing for October 23, 24 and 26, 2023, and established numerous procedural deadlines to accommodate that hearing, including an October 16, 2023 deadline to file testimony in support of or in response to any settlement agreement that is filed (Settlement Testimony).³

5. On September 12, 2023, ChargePoint filed a Motion to Withdraw Intervention (Motion to Withdraw). No party filed a response.

6. On October 10, 2023, Black Hills filed a Motion to Approve Non-Unanimous Partial Settlement Agreement (Motion) and a Non-Unanimous Partial Settlement Agreement (Settlement Agreement or Agreement).

II. FINDINGS, ANALYSIS, AND CONCLUSIONS

A. ChargePoint's Motion to Withdraw

7. In its Motion to Withdraw, ChargePoint states that it no longer intends to participate in this Proceeding, and as a result, no longer requires party status.⁴ As a result, ChargePoint asks that its Motion to Withdraw be granted and that it be dismissed as a party.

8. The ALJ finds good cause to grant ChargePoint's Motion to Withdraw and does so. ChargePoint is no longer a party to this Proceeding.

² Decision R23-0461-I at 13 (mailed July 20, 2023).

³ Decision R23-0461-I at 14 (mailed July 20, 2023).

⁴ Motion to Withdraw at 1.

B. Hearing Dates and Requirement for Settlement Testimony

9. In light of the Settlement Agreement, the Motion asks that the October 24, 2023, and October 26, 2023 hearing dates be vacated and that the October 23, 2023 hearing remain untouched.⁵

10. The ALJ generally agrees that it is likely that a hearing on the Settlement Agreement will not require three full days. That said, the Agreement is described as a partial Settlement Agreement, as it addresses “certain issues and concerns that have been raised or could have been raised” in this Proceeding.⁶ The Agreement does not identify the issues that are not addressed, or all the issues that may remain in dispute. In addition, the Agreement is not unanimous, which means that a number of parties oppose certain portions of the Agreement. Based on all of this, it is unclear whether one day of hearing will be sufficient. As such, in an abundance of caution, the ALJ will only vacate one of the hearing dates. The ALJ will vacate the October 23, 2023 hearing date and maintain the October 24 and 26, 2023 hearing dates.⁷ Should the parties’ complete their evidentiary presentations on October 24, 2023, the ALJ will vacate the October 26, 2023 hearing date.

11. For the same reasons discussed above, the ALJ will require that Settlement Testimony specifically identify the issues that remain in dispute, including issues that are not addressed in the Settlement Agreement.⁸

⁵ Motion at 4.

⁶ Settlement Agreement at 1.

⁷ The ALJ appreciates the parties’ request to maintain the October 23, 2023 hearing date, but due to a potential issue with ensuring that a Commission legal assistant is available to assist with the hearing on that date, the ALJ finds that the parties’ interests would be better served by vacating the October 23, 2023 hearing date.

⁸ Based on the Motion and Agreement, the ALJ understands that CEO and the Coalition object to paragraphs 16, 42, 43, 44, and 54 of the Agreement, and support the other Agreement terms. Motion at 2 and 4 and Agreement at 2.

III. ORDER

A. It Is Ordered That:

1. ChargePoint, Inc.'s (ChargePoint) Motion to Withdraw Intervention is granted. ChargePoint is no longer a party to this Proceeding.
2. Consistent with the above discussion, the October 23, 2023 hybrid evidentiary hearing date is vacated, and the October 24, and 26, 2023 hybrid evidentiary hearing dates remain in place.
3. The hearing on October 24 and 26, 2023 will address whether the Non-Unanimous Partial Settlement Agreement (Settlement Agreement) should be approved and whether any other relief the parties request should be granted.
4. As discussed, in their Settlement Testimony (due on October 16, 2023), the parties are required to specifically identify the issues that remain in dispute, including issues that are not addressed in the Settlement Agreement.

5. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

MELODY MIRBABA

Administrative Law Judge

ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Rebecca E. White".

Rebecca E. White,
Director