

Decision No. C24-0489

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 24AL-0275E

IN THE MATTER OF ADVICE LETTER NO. 871 FILED BY BLACK HILLS COLORADO ELECTRIC, LLC DOING BUSINESS AS BLACK HILLS ENERGY TO INCREASE BASE RATES FOR RESIDENTIAL AND SMALL COMMERCIAL CUSTOMER CLASSES, TO BECOME EFFECTIVE JULY 15, 2024.

**COMMISSION DECISION
SUSPENDING EFFECTIVE DATE OF TARIFF SHEETS,
CERTIFYING THE FILING AS COMPLETE, AND
ESTABLISHING NOTICE AND INTERVENTION PERIOD**

Issued Date: July 9, 2024
Adopted Date: July 3, 2024

IMPORTANT NOTICE: ANY PERSON DESIRING TO PARTICIPATE ONLY BY MAKING A STATEMENT MAY DO SO BY SUBMITTING A WRITTEN COMMENT THROUGH <https://puc.colorado.gov/> INDICATING PROCEEDING NO. 24AL-0275E. IF YOU DESIRE TO ASK QUESTIONS OF A WITNESS OR OTHERWISE PARTICIPATE AS A PARTY IN THIS MATTER, YOU MUST REQUEST PERMISSION FROM THE COMMISSION TO BE AN INTERVENOR (EVEN IF YOU HAVE ALREADY FILED AN OBJECTION). ANYONE DESIRING TO INTERVENE MUST CAREFULLY FOLLOW THE LAW AND COMMISSION RULES FOR BECOMING AN INTERVENOR. FOR FURTHER INFORMATION ON HOW TO INTERVENE, CALL (303) 894-2070 (PUC EXTERNAL AFFAIRS OFFICE).

I. BY THE COMMISSION

A. Statement

1. On June 14, 2024, Black Hills Colorado Electric, LLC doing business as Black Hills Energy (“BHCOE” or “Company”) filed Advice Letter No. 871 (“AL 871”) with tariff sheets to revise base rate revenue for all electric service in the Company’s Colorado P.U.C. No. 11 Tariff, along with certain other changes to its tariff.

2. By this Decision, the Commission certifies the completeness of BHCOE's initial filing in this Proceeding for purposes of § 40-3-102.5(1)(b), C.R.S.

3. This Decision sets for hearing the tariff sheets filed under AL 871 and suspends their effective date to November 12, 2024.

4. A pleading to intervene in this matter may be filed by any person, firm, or corporation desiring to be a party and fully participate in this Proceeding no later than August 2, 2024.

5. The Commission will establish additional procedures by separate Decision.

B. Discussion

1. Advice Letter No. 871

6. Through AL 871, BHCOE proposes to increase the base rates it charges its customers for electric service, increasing its base rate revenue by \$36,760,812 above its current base rate revenue of \$179,706,763. The Company contends that its existing rates do not cover its current cost of providing electric service.

7. BHCOE states that it is filing AL 871 as a combined Phase I and Phase II rate case, as ordered by the Commission in the last Phase II proceeding¹ and that this is the first Phase I electric rate case filed by BHCOE since 2016.

8. BHCOE witness Harrington explains that the Company is seeking the revenue increase because its service area has not seen the same economic growth that the rest of Colorado has enjoyed and that even though the number of the Company's residential customers has

¹ Decision No. C16-1140 at ¶ 204, in Proceeding No. 16AL-0326E, issued on December 19, 2016.

increased, use per customer has decreased, largely because of net metering.² Additionally, Commercial and Industrial sales have remained flat since the Company's 2016 Electric Rate Case. At the same time, the Company has experienced higher operating costs and has made investments in its electric system. Specifically, the Company states that it has invested \$371 million since the 2016 rate case and plans an additional \$99 million in 2024.

9. BHCOE calculates its revenue requirement at \$216 million, based on a Current Test Year ("CTY") ending December 31, 2024 and using year-end rate base valuation. The Company requests a weighted average cost of capital ("WACC") of 7.72 percent, with a capital structure of 52.75 percent equity and 47.25 percent long-term debt. Return on equity ("ROE") is proposed at 10.50 percent and cost of long-term debt at 4.61 percent.

10. The revenue increase reflects the roll-in to base rates investments currently being recovered through the Clean Air Clean Jobs Adjustment ("CACJA"), Transmission Cost Adjustment ("TCA"), and Purchased Capacity Cost Adjustment ("PCCA").

11. The Company also proposes a new depreciation study, noting that its last study was completed in 2011 in Proceeding No. 11A-387E. The result of BHCOE's new study is an increase of \$3.6 million over the previous total depreciation expense of \$32.4 million; the study also includes a \$56,000 Reserve Adjustment for Amortization.

12. Additionally, BHCOE proposes new deferred tracking mechanisms for property taxes, insurance expense, rate case expense, PUC Administration fees and greenhouse gas fees,

² The Company states that some ten percent of its requested \$37 million revenue increase results from losses due to net metering. While the BHCOE does not have a specific request with regard to net metering, it provides an informational CCOSS demonstrating the cost shifting effect of net metering and suggests that Colorado should re-visit its net-metering statutes.

vegetation management, and a Customer Communication and Education Plan to inform customers of changes resulting from this Proceeding.

13. The Company requests recovery of \$450,000 in rate case expenses, including \$80,000 for a depreciation consultant, \$65,000 for an ROE consultant, \$250,000 for outside legal counsel, and \$55,000 for other rate case expenses, amortized over 24 months.

14. In providing its class cost of service study (“CCOSS”) BHCOE witness Hyatt notes that since the last CCOSS in 2015, there has been a significant load shift from the Commercial rate class to the Residential rate class, such that Residential customers would see a 26 percent increase in rates. In order to mitigate this increase, the Company proposes a uniform 20.46 percent increase across all rate classes, relieving the Residential class of some \$5 million in cost responsibility.

15. While BHCOE currently has an inclining block rate structure for its Residential rate class, the Company proposes replacing this rate structure with a flat energy rate of \$0.14805/kWh. BHCOE also requests an increase to its Residential fixed customer charge from \$8.77 to \$9.16 per month. The overall changes in rate design, energy charge, and customer charge result in a \$20 increase in average monthly residential bills.

16. In the same manner, the Company proposes to change the billing determinants for Large General Service and Large Power rate classes from a tiered rate to a structure of monthly charge, demand charge, and energy charge.

17. Additionally, BHCOE proposes an update of its time of use (“TOU”) tariffs and making these available to all rate classes as an optional service. The TOU rates would be at a 2:1 on-peak/off-peak ratio, with On-Peak hours from 4:00 p.m. to 8:00 p.m. on weekdays.

18. BHCOE filed the direct testimony of 13 witnesses in support of its request. As part of this testimony and in compliance with Rule 3109(e) of the Commission's Rules Regulating Electric Utilities, 4 *Code of Colorado Regulations* ("CCR") 723-3, the Company included a graph illustrating the ten-year trend of its rates³ and details of its rate trend report.⁴

2. UCA Protest Letter

19. On June 20, 2024, the Colorado Office of the Utility Consumer Advocate ("UCA") submitted a Protest Letter asking the Commission to suspend the tariff sheets, require the filing of an historical test year, and set the matter for hearing. UCA states that it is concerned as to whether BHCOE's requests are in the public interest and if these requests will lead to just and reasonable rates.

20. UCA cites the following areas of specific concern: (1) bill impacts of the proposed rate increase; (2) use of a 2024 CTY, which results in a revenue deficiency more than \$16 million greater than a HTY ended December 31, 2023; (3) WACC of 7.72 percent and the components in the WACC calculation; (4) employee compensation and incentive programs; (5) the CCOSS and resulting allocations; (6) net-metering compensation; (7) TOU rate proposals; (8) proposed deferral and tracking mechanisms; (9) compliance with §40-3-102.5, C.R.S. relating to limiting rate case expenses, and §40-3-114, C.R.S. relating to the removal of certain prohibited expenses, and the filing of an annual report with the Commission to ensure the Company's compliance with this section; and (10) the allocation of costs from BHCOE's parent companies, Black Hills Corporation and Black Hills Service Company, LLC.

³ Hr. Ex. 101, Harrington Direct at 18:13.

⁴ Hr. Ex. 113, Attachment DSA-4.

3. Certification of Filing

21. Section 40-3-102.5(1)(b), C.R.S., and Rule 3109(f),⁵ require the Commission to certify that a filing from an electric or gas utility to modify its base rates is complete. To make this certification, the Commission must determine whether the base rate tariff filing includes sufficient information both to compare test years presented by the utility and prospective parties in the case to what is commonly called a “historic test year” and whether the filing includes sufficient information to satisfy other purposes as established by the Commission. At a minimum, the base rate tariff filing must include a comprehensive cost and revenue requirement analysis based on actual, auditable, historic data, or, in other words, a historic test year. Such analysis also must be accompanied by workpapers and other supporting materials. Rule 3109(f)(III)(C), 4 CCR 723-3, provides that the Commission will address the certification of the utility’s base rate tariff filing at a regular weekly meeting prior to the effective date of the base rate tariffs.

22. In accordance with the Commission’s certification rules, BHCOE explains that it included the following items in its Advice Letter No. 871 filing:

- Pursuant to Rule 3109(f)(I)(A), BHCOE states that it has filed a COSS using two test years; a 2023 “Historical Test Year” ended December 31, 2023, as well as its COSS for the proposed 2024 “Current Test Year” ended December 31, 2024. The HTY includes actual capital, O&M, revenue, and capital structure data through December 31, 2023, along with certain known and measurable adjustments.
- Pursuant to Rule 3109(f)(I)(B), BHCOE states that it satisfies this requirement by providing this information in Direct Testimony.
- Pursuant to Rule 3109(f)(I)(C), BHCOE states it has provided a COSS that is fully executable.
- Pursuant to Rule 3109(f)(I)(D), BHCOE states it provided workpapers for the COSS and testimonies in executable format.

⁵ In Proceeding No. 23R-0408EG, the Commission adopted temporary administrative rules to implement the rate case filing requirements enacted in Senate Bill 23-291, effective August 7, 2023. The applicable “certification rule” for electric utilities is Rule 3109(f).

23. In its protest letter, UCA makes no statements regarding the Commission’s pending certification of the base rate tariff filing.

C. Conclusions and Findings

24. Upon our review of the filing and the protest submitted by UCA in accordance with § 40-3-102.5(1)(b), C.R.S., the Commission certifies the completeness of BHCOE’s initial filing in this Proceeding.

25. Pursuant to § 40-6-111(1), C.R.S., the Commission may suspend tariff sheets for 120 days. Based on the foregoing, we find good cause to suspend the tariff sheets submitted with Advice Letter No. 871 for 120 days through November 12, 2024, and to set the matter for hearing.⁶ UCA provides a reasonable list of issues that are necessary for us to further examine regarding BHCOE’s proposed tariff changes.

26. A pleading to intervene may be filed by any person, firm, or corporation desiring to be a party and fully participate in this Proceeding, as ordered below. The filing of any other document protesting the tariff sheets shall not allow participation as an intervenor in this matter.

27. Further procedures for this matter will be addressed by separate decision.

II. ORDER

A. The Commission Orders That:

1. The proposed July 15, 2024, effective date of the tariff sheets filed with Advice Letter No. 871, filed by Black Hills Colorado Electric, LLC doing business as Black Hills Energy (“BHCOE”) on June 14, 2024, is suspended until November 12, 2024, or until further order of the Commission.

⁶ Under § 40-6-111(1)(b), C.R.S., the Commission may by separate order extend the suspension period for an additional 130 days, for a total of 250 days, through March 24, 2025.

2. In accordance with § 40-3-102.5(1)(b), C.R.S., the Commission certifies the completeness of BHCOE’s initial filing in this Proceeding.

3. Any person, firm, or corporation, including any who have previously filed a document protesting the proposed tariff pages, who desire to intervene and participate as a party in this Proceeding shall file a motion to intervene with the Commission no later than **August 2, 2024**, and shall serve a copy of the notice or motion on BHCOE’s attorney of record.

4. This Decision is effective on its Issued Date.

**B. ADOPTED IN COMMISSIONERS’ WEEKLY MEETING
July 3, 2024.**

(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