

Decision No. C25-0307-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 22A-0230E

IN THE MATTER OF THE APPLICATION OF BLACK HILLS COLORADO ELECTRIC, LLC FOR (1) APPROVAL OF ITS 2022 ELECTRIC RESOURCE PLAN AND CLEAN ENERGY PLAN, AND (2) APPROVAL OF ITS 2023-2026 RENEWABLE ENERGY STANDARD COMPLIANCE PLAN.

**INTERIM COMMISSION DECISION GRANTING
UNOPPOSED MOTION FOR VARIANCES FROM RULES
3613(I) AND 3613(J), AND REQUEST FOR WAIVER OF
RESPONSE TIME**

Issued Date: April 18, 2025
Adopted Date: April 16, 2025

I. BY THE COMMISSION

A. Statement

1. Through this Decision, we grant the Unopposed Motion for Variances from Rules 3613(i) and 3613(j) and Request for Waiver of Response Time (“Unopposed Motion”) that Black Hills Colorado Electric, LLC doing business as Black Hills Energy (“Black Hills” or the “Company”) filed on April 14, 2025.

B. Background and Unopposed Motion

2. In Decision No. C24-0634, issued September 4, 2024, (the “Phase II Decision”) the Commission authorized Black Hills to pursue a modified portfolio of generation and storage resources with further due diligence and contract negotiations.

3. In Decision No. C24-0837, issued November 15, 2024, the Commission addressed Black Hills' application for rehearing, reargument, or reconsideration ("RRR") of the Phase II Decision. This RRR Decision modified the resource portfolio approved in the Phase II Decision.

4. Pursuant to 4 *Code of Colorado Regulations* ("CCR") 723-3-3613(i) of the Commission's Rules Regulating Electric Utilities, a utility must execute contracts for resources within 18 months after the utility's receipt of bids to receive the presumption of prudence per Rule 3617(d). In this Proceeding, the deadline under Rule 3617(d) to execute contracts is April 21, 2025.

5. Similarly, under Rule 3613(j), a utility must file a proposal within 14 months after the receipt of bids that addresses the public release of all confidential and highly confidential information related to bids. In this Proceeding, the deadline to file such a proposal was December 20, 2024.

6. In the Unopposed Motion, Black Hills asserts the Company and developers have been working diligently toward the execution of the necessary contracts but the Company anticipates needing a three-month extension given "the advanced but not yet final state of negotiations."¹ The Company thus requests a variance in the form of an order to extend the deadline to execute contracts for potential resources from the current deadline of April 21, 2025 until July 21, 2025.

7. As for the Company's requested variance of Rule 3613(j), Black Hills argues that the public release of highly confidential bid information is not warranted at this time given the ongoing contract negotiations. Black Hills proposes that upon completion of contracting for all

¹ Unopposed Motion, p. 5.

projects, the Company would file within two weeks a motion to set a new deadline for the Rule 3613(j) public filing.

8. Finally, Black Hills seeks a waiver of response time to the Unopposed Motion pursuant to 4 CCR 723-1-1308(c) of the Commission's Rules of Practice and Procedure. Black Hills asserts the Company's requested relief is unopposed.

C. Findings and Conclusions

9. For the reasons set forth in Black Hills' Unopposed Motion, we find good cause to grant the requested variances from Rules 3613(i) and 3613(j).

10. Regarding Rule 3613(i), Black Hills shall have until July 21, 2025, within which to execute contracts for new resources. As for the deadline to file a proposal for the public release of confidential bid information per Rule 3613(j), the Company shall file a proposal within two weeks after the completion of contracting, consistent with its request in the Unopposed Motion. We note, however, that we establish this new deadline in the context of the present Unopposed Motion. If Black Hills seeks another extension of the July 21 deadline to execute PPAs and build-transfer agreements, the Commission may consider whether the deadline for the Rule 3613(j) filing is still appropriate.

11. Lastly, we grant Black Hills' request for waiver of remaining response time per Rule 1308(c). The Company has represented that its requested relief is unopposed.

II. ORDER

A. It Is Ordered That:

1. Consistent with the above discussion, the Unopposed Motion for Variances from Rules 3613(i) and 3613(j) and Request for Waiver of Response Time (“Unopposed Motion”) that Black Hills Colorado Electric, LLC doing business as Black Hills Energy (“Black Hills”) filed on April 14, 2025, is granted and the remaining response time to the Unopposed Motion is waived.

2. Consistent with the discussion above, Black Hills shall have until July 21, 2025, within which to execute contracts for new resources pursuant to 4 *Code of Colorado Regulations* (“CCR”) 723-3-3613(i) of the Commission’s Rules Regulating Electric Utilities.

3. Consistent with the discussion above, Black Hills shall file a motion within two weeks after the completion of contracting for all power purchase agreements and build-transfer agreements to set a new deadline for purposes of Rule 3613(j).

4. This Decision is effective immediately upon its Issued Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
April 16, 2025.**

(S E A L)



ATTEST: A TRUE COPY

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ERIC BLANK

MEGAN M. GILMAN

TOM PLANT

Commissioners

Rebecca E. White,
Director