

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.

**COMMISSION DECISION DIRECTING ADDITIONAL
MODELING AND OTHER INFORMATION IN
CONNECTION WITH THE MOTION FOR GUIDANCE ON
WHETHER TO PROCEED WITH CERTAIN CLEAN
ENERGY PLAN PROJECTS**

Issued Date: September 22, 2025

Adopted Date: September 17, 2025

I. BY THE COMMISSION

A. Statement

1. Through this Decision, we require Black Hills Colorado Electric, LLC, doing business as Black Hills Energy (“Black Hills” or the “Company”) to conduct new modeling and provide additional information in connection with the Motion for Guidance on Whether to Proceed with Clean Energy Projects (“Guidance Motion”) that the Company filed on August 29, 2025.

B. Guidance Motion and Responses

2. In the Guidance Motion, Black Hills states the developers of the two solar projects have announced price increases due to changes in federal law, tariffs, and the passage of time from their original bids. One of the projects—Bid 223-01b—is a 100 MW solar facility that Black Hills will purchase from a developer and own and operate pursuant to a Build Transfer Agreement

(“BTA”). The other project—Bid 114-08—is a 200 MW solar facility tied to a power purchase agreement (“PPA”). Black Hills further states the Company has attempted to “negotiate these increases down,” but the negotiating parties have reached an impasse.¹ According to Black Hills, if the Company does not agree to the price changes, the developers will not execute a contract and will walk away from the respective projects.

3. Black Hills states that the price changes result in overall project costs that are outside the presumption of prudence previously established by the Commission in its Phase II Decision. Black Hills explains that in both cases the change in pricing is greater than five percent of the initially bid price and thus seeks guidance from the Commission as to whether to proceed with each project, and, if so, under what parameters. Black Hills notes that if the Commission decides that the Company should not proceed with one or both projects, the Company will not be able to show that its Clean Energy Plan (“CEP”) will result in at least an 80 percent emissions reduction by 2030, “which begets further requests for direction from the Commission.”² Moreover, Black Hills argues that the Commission’s Phase II Decision requires that price increases above 5 percent would result in a failure of the associated bid and would require the Company to present a back-up bid through the 30-day notice process. Adding to the complexity of the situation, however, Black Hills states that the back-up bid will also require a price increase.

4. Black Hills further seeks guidance in the event the Commission determines that neither the BTA solar project nor the PPA solar project should be pursued as to how “this may affect cost recovery of the 50 MW battery project and any remaining CEP project for which the Commission does authorize proceeding to a CPCN.”³

¹ Guidance Motion, p. 11.

² Guidance Motion, p. 10.

³ Guidance Motion, p. 19.

5. Regarding the 100 MW BTA project (Bid 223-01b), Black Hills states that to move forward with this project, the Company would need the ability to argue in a CPCN proceeding that the cost-to-construct performance incentive mechanism (“PIM”) baseline should be adjusted upward to a reasonable amount to account for price increases. Similarly, regarding the operations PIM for Bid 223-01b, the Company states it is at an impasse with the developer regarding taking on operations risk. The Company asserts it needs clarification that it can propose changes to the operations PIM in the CPCN to enable it to move forward with the project.⁴

6. In Decision No. C25-0650-I,⁵ the Commission set a shortened response deadline of September 10, 2025.

7. On September 9, 2025, Black Hills filed a Supplement to its Guidance Motion. In the Supplement, Black Hills provides additional information, which Trial Staff of the Commission (“Staff”) had informally requested of the Company. This information includes total levelized \$/MWh for the 100 MW BTA, the annual rate impacts of the bid price increases, emissions impacts of not going forward with either or both solar projects, and the Company’s annual resource positions. The Company also confirms that the updated pricing for the two solar projects assumes the projects will continue to qualify for federal tax credits.

8. On September 10, 2025, the Commission received responses from Staff, the Office of the Utility Consumer Advocate (“UCA”), the Colorado Energy Office (“CEO”), and the Board of County Commissioners of Pueblo County (“Pueblo County”).

9. Pueblo County opposes moving forward with either solar project, arguing that the increased prices will be passed on to ratepayers, who already bear unreasonably high rates.⁶

⁴ Guidance Motion, pp. 13-14.

⁵ Issued September 5, 2025.

⁶ Pueblo County’s Response at p. 1.

Pueblo County acknowledges that not moving forward with the solar projects would likely prevent the Company from reaching the 80 percent by 2030 emissions reduction threshold. Pueblo County offers that it would support a Black Hills' request to the appropriate regulatory agency that the Company still be provided safe harbor because changing market conditions prohibited the Company from reaching 80 percent by 2030 target. If the Commission nevertheless directs Black Hills to pursue either one of the solar projects, Pueblo County questions whether the performance PIMs are still appropriate.

10. In Staff's Response, it argues the Commission will need to reevaluate whether Black Hills' CEP continues to comport with the public interest in light of the rising costs or whether the Commission should modify the CEP. Staff evaluates the possible variations the Commission could pursue in terms of costs, emissions, and the Company's capacity position. Staff has "serious concerns about the rising costs of the remaining solar projects" but recognizes the importance of reducing emissions and maintaining reliability.⁷ Ultimately, Staff prefers moving forward only with the smaller, 100 MW BTA solar project. Staff notes this option is nearly half the cost of the 200 MW solar project and keeps the Company within striking distance of its capacity position and the 80 percent by 2030 target. Staff opposes either moving forward with both solar projects or rejecting both solar projects.

11. In addition, Staff notes that important information that could help the Commission make a more well-informed decision remains outstanding. Staff specifically cites the updated costs of the backup projects as well as the actual rate impacts of the primary and backup projects.⁸

⁷ Staff's Response at pp. 7-8.

⁸ Staff's Response at pp. 8-9.

Staff acknowledges, however, that producing actual rate impact analyses would require additional modeling which the Company has not done in this proceeding.

12. UCA's position is similar to that of Staff's. UCA warns that allowing the Company to pursue both of the solar projects "would challenge the cost reasonableness guidance provided in §40-2-125.5(4)(d)(III), C.R.S."⁹ As between pursuing only the 200 MW PPA solar project or only the 100 MW BTA solar project, UCA argues that, on balance, the cost impacts, emissions reductions, and capacity position make the 100 MW project the better choice. If the Commission allows the Company to move forward with either solar project, UCA argues for additional ratepayer protections, including converting the cost-to-construct PIM to a hard cap with no deadband.¹⁰

13. CEO takes a different position, arguing that the Commission should allow Black Hills to move forward with two solar projects to meet the 80 percent by 2030 target and that the Commission should resolve this issue swiftly so that the projects can still qualify for the federal clean energy tax credits. While CEO fully supports moving forward with the 100 MW solar BTA, CEO argues the Commission should wait until Black Hills files updated pricing on the backup project before selecting the second solar project to pursue. CEO also supports the Company's suggestion to use the Renewable Energy Standard Adjustment ("RESA") deferred balance to reduce the incremental costs of financing the 100 MW BTA solar project.

14. On September 16, 2025, Black Hills filed an update regarding the refreshed pricing of backup Bid 248-01.

⁹ UCA's Response at p. 4.

¹⁰ UCA's Response at p. 5.

C. Discussion

15. We agree with Staff that additional information will help the Commission to make a more well-informed decision on the Guidance Motion. The proposed price increases require us to examine whether the Company's CEP—after the increased prices—will result in a reasonable cost to customers, considering any projected savings associated with the plan, including projected avoided fuel costs.¹¹ As we noted earlier in this Proceeding after reviewing the affordability concerns that Pueblo County, Cañon City, and others raised, “it would be unconscionable for us to move forward with such large investments in Black Hills’ system unless and until we are more confident the investments will result in a reasonable cost to customers.”¹² Regarding the Guidance Motion in particular, we note Pueblo County's opposition to moving forward with either solar project at the increased prices. The Commission is also concerned with the cumulative long-term rates and bill impacts associated with the recent cost increases.

16. Accordingly, we direct Black Hills to provide additional modeling. To conduct this modeling, the Company shall start with Hearing Exhibit 111C that was filed on August 6, 2025, in Black Hills’ distribution system plan (“DSP”) proceeding (Proceeding No. 25A-0062E). Hearing Exhibit 111C is the executable revised DSP revenue requirement forecast. To achieve a more appropriate baseline for this proceeding, the Company shall incorporate the actual historical plant, rate base, depreciation, cost, class cost allocation, rate, sales and other data for 2023 and 2024 in the “Forecast 3” tab of Hearing Exhibit 111C. Black Hills must then include the actual historical 2024 data on the “Bill Impact” tab of Hearing Exhibit 111C. Finally, the Company must

¹¹ § 40-2-125.5(4)(d)(III), C.R.S.

¹² Decision No. C24-0509-I, ¶ 11

use the distribution capital spending as proposed in the DSP consistent with the Partial Settlement Agreement filed in Proceeding No. 25A-0062E on July 9, 2025.

17. With this baseline in place, the Company must incorporate both Bid 223-01b (the 100 MW BTA solar facility) and Bid 114-08 (the 200 MW PPA solar facility) using the revised higher proposed cost numbers in the Guidance Motion. Black Hills must then conduct three additional runs, for a total of four modeling runs. The first alternative shall remove from the baseline the 100 MW BTA solar project and look at the base rate, ECA, total rate, and bill impacts for both residential and all customers. The second alternative shall remove both the 100 MW BTA and the 200 MW PPA solar projects and again look at base rate, adjusted ECA, and total rate and bill impact by residential and all customers. The third alternative shall add back in just the 100 MW solar PPA and again adjust the ECA and purchase power costs to see the rate and bill impact by residential and all customers.

18. Except for the different combinations of Bid 223-01b and Bid 114-08, the modeling must otherwise use identical inputs to those used in the DSP modeling, including forecasted gas prices. If Black Hills feels it is necessary to change any other assumptions, it can present additional modeling with the changed assumptions, but the Company shall include in its filing the reasons why the changed assumptions are necessary. If market purchases are necessary for the Company to retain resource adequacy under any of these scenarios, those costs shall be included along with a robust explanation of the forecasted prices for future market purchases as compared to recent market purchases.

19. Because the foundation of this requested modeling has already been completed in Proceeding No. 25A-0062E, it is our hope that Black Hills will be able to timely comply with these additional directives. Nevertheless, we are sensitive to CEO's concerns about tax credit eligibility.

We encourage Black Hills to alert the Commission if it believes conducting this additional modeling will cause significant enough delays to jeopardize the ability of the two solar projects from qualifying for the federal tax credits.

20. We believe this additional modeling information is critical in that it gives us the most up-to-date and holistic information about how moving forward with the two solar projects at the increased prices will impact Black Hills' customers. Black Hills may provide additional modeling runs if the Company believes doing so would provide useful context for our deliberations.

21. In addition to the modeling described above, Black Hills shall explain whether it has conducted any independent analysis of the net capacity factor and production estimates for Bid 223-01b (the 100 MW BTA). The production estimates and capacity factor for this bid seem to be materially higher than average estimates of the other solar bids as well as for Bid 114-08 (the 200 MW PPA). We are puzzled by this difference and given that the Company appears to be laying the groundwork to put the production risk of Bid 223-01b back on customers by modifying the operations PIM, we have concerns with the assumption that this project will have a relatively high capacity factor.

22. Black Hills shall provide the modeling runs described above and the additional information regarding Bid 223-01b by October 3, 2025.

II. ORDER

A. The Commission Orders That:

1. By October 3, 2025, Black Hills Colorado Electric, LLC, doing business as Black Hills Energy ("Company") shall provide four additional modeling runs, consistent with the

discussion above, to help us better understand whether moving forward with the Company's Clean Energy Plan will result in a reasonable cost to customers.

2. By October 3, 2025, the Company shall explain whether it has conducted any independent analysis of the net capacity factor and production estimates for Bid 223-01b, consistent with the discussion above.

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

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
September 17, 2025.**

(S E A L)



ATTEST: A TRUE COPY

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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MEGAN M. GILMAN

TOM PLANT

Commissioners

Rebecca E. White,
Director