

Decision No. R25-0739-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 25A-0255E

IN THE MATTER OF THE APPLICATION OF BLACK HILLS COLORADO ELECTRIC, LLC DOING BUSINESS AS BLACK HILLS ENERGY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO CONSTRUCT A 50 MW BATTERY STORAGE AND OTHER FACILITIES PURSUANT TO COMMISSION DECISION NOS. C24-0634 AND C24-0837.

**INTERIM DECISION
WAIVING RESPONSE TIME TO MOTIONS, GRANTING
MOTION TO AMEND PROCEDURAL SCHEDULE, AND
AMENDING PROCEDURAL SCHEDULE**

Issued Date: October 9, 2025

I. STATEMENT

A. Procedural Background

1. On June 12, 2025, Black Hills Colorado Electric, LLC (“Black Hills” or “Applicant”) filed its Verified Application of Black Hills Colorado Electric, LLC For a Certificate of Public Convenience and Necessity to Construct a 50 MW Battery Storage and Other Facilities and Request for Expedited Decision (“Application”).

2. By Decision No. C25-0583-I, issued August 7, 2025, the Commission, among other things, deemed the Application complete and referred this matter to an Administrative Law Judge (“ALJ”).

3. By Decision No. C25-0620-I, issued August 26, 2025, the Commission, among other things, granted Black Hills' Motion¹ and Modified Decision No. C25-0583-I by striking ¶¶ 19-21 of Decision No. C25-0583-I.

4. By Decision No. R25-0655-I, issued September 9, 2025, the undersigned ALJ, among other things, adopted the procedural schedule proposed by the parties and scheduled an evidentiary hearing for November 4–5, 2025. The Procedural Schedule adopted by Decision No. R25-0655-I included an October 3, 2025, deadline for the filing of Answer Testimony.

5. By Decision No. R25-0677-I, issued September 22, 2025, the undersigned ALJ, among other things, amended the procedural schedule adopted by Decision No. R25-0655-I, to shorten the deadline for the submission of statements of position to November 14, 2025.

6. On October 3, 2025, Black Hills Colorado Electric, LLC's Unopposed Motion to Modify Procedural Schedule as a Result of Anticipated Settlement, and Request for Waiver of Response Time ("Motion to Modify") was filed by Black Hills.

7. On October 8, 2025, Black Hills Colorado Electric, LLC's Unopposed Motion to Approve Settlement and Request for Waiver of Response Time ("Motion to Approve") was filed by Black Hills. To the Motion to Approve, Black Hills attached as Attachment A, the parties' Unanimous Comprehensive Settlement Agreement ("Settlement Agreement").

B. Motion to Modify

1. Request to Waive Response Time

8. The Motion is unopposed, and the waiver of response time will not harm any party herein. Therefore, consistent with Rule 1308(c) of the Rules of Practice and Procedure,

¹ See the Motion of Black Hills Colorado Electric, LLC for the Commission to Modify or Clarify Interim Decision No. C25-0583-I and for Shortened Response Time, filed by Black Hills on August 11, 2025.

4 *Code of Colorado Regulations* (“CCR”), 723-1, Black Hills’ request for waiver of response time to the Motion will be granted, as ordered below.

2. Requests to Modify Procedural Schedule

9. In the Motion, Black Hills states that:

11. With its Application Black Hills filed the Direct Testimonies of Mark L. Lux and Michael J. Harrington. The deadline for filing Answer Testimony is today, October 3, 2025, and because the parties believe a settlement in principle is likely, neither Staff nor UCA plan to file answer testimony in this proceeding. However, the Settling Parties will file testimony in support of the anticipated Settlement Agreement to provide a complete record by which the ALJ may render a decision.

12. The Parties will file the anticipated Settlement Agreement and testimony in support of the Settlement Agreement by October 10, 2025. (In the unlikely event that a settlement is not reached, Staff and UCA would file their answer testimony by October 10, 2025, one week later than currently scheduled.) The Parties agree that their filed direct and settlement testimonies should be admitted by the ALJ into the record of this proceeding. The Parties also agree that, with the filing of settlement testimonies and Settlement Agreement, the requirement to file statements of position should be vacated.

13. If the ALJ decides that a hearing on the settlement should occur, the Parties request that the hearing date be moved up to October 23, 2025, to help enable the ALJ to issue an expedited decision in this proceeding. In lieu of filing statements of position, the Parties agree that the Settlement Agreement and settlement testimony will address all material issues to enable a decision by the ALJ. To ensure a timely final decision is rendered by the Commission, the Parties request that the ALJ issue a decision by December 15, 2025, or earlier.²

14. The Parties request that all other procedural dates provided in Decision No. R25-0655-I be vacated.

On this basis, Black Hills “requests that the Commission modify the procedural schedule as set forth above...”³

² Motion at pp.3-4.

³ Motion at p. 3.

10. The undersigned ALJ welcomes the settlement agreement that has been reached between the parties and finds and concludes that the requests made in the Motion to Modify are reasonable. Therefore, deadline for the filing of Answer Testimony will be vacated and the parties may file their respective settlement testimony by October 10, 2025, as ordered below.

11. The ALJ further finds and concludes that the request in the Motion to potentially hold a hearing on the Settlement Agreement on October 23, 2025, is reasonable, provided a Settlement Agreement is filed and the ALJ determines that a hearing is warranted. Because it remains uncertain whether a Settlement Agreement will be reached or whether a hearing on the settlement is necessary, the ALJ will refrain from deciding on this request at this time.

12. However, the undersigned ALJ will endeavor to maintain availability for a possible hearing on October 23, 2025, and requests that the parties do the same. The ALJ will also coordinate with Commission staff to facilitate a hybrid or remote hearing on that date if necessary. Notwithstanding the foregoing, the ALJ retains full discretion regarding whether to hold a hearing on the Settlement Agreement, as well as its timing and format.

C. Motion to Approve

1. Request to Waive Response Time

13. Because the Motion to Approve is unopposed and no party will be prejudiced by a waiver of response time, that request is granted consistent with Rule 1308(c) of the Rules of Practice and Procedure, 4 CCR 723-1.

2. Requests to Approve the Settlement Agreement

14. In the Motion to Approve, “the Parties respectfully request that the Commission find that the Settlement Agreement, attached to this Motion as Highly Confidential Attachment A, is just, reasonable, in the public interest and should be approved without modification...”⁴

15. Because the deadline for filing settlement testimony, as ordered herein, has not yet passed and the undersigned ALJ has not yet had an opportunity to fully review and consider the Settlement Agreement, the Motion to Approve will be addressed by a separate decision.

II. ORDER

A. It Is Ordered That:

1. Black Hills Colorado Electric, LLC’s Unopposed Motion to Modify Procedural Schedule as a Result of Anticipated Settlement, and Request for Waiver of Response Time (“Motion”), filed by Black Hills Colorado Electric, LLC (“Black Hills”) on October 3, 2025, is granted, in part, and the request to waive response time is granted, consistent with the discussion above.

2. The procedural schedule adopted by Decision No. R25-0655-I, as amended by Decision No. R25-0677-I, is further amended to vacate the Answer Testimony deadline.

3. The parties may file any testimony in support of the Unanimous Comprehensive Settlement Agreement, filed on October 8, 2025, as Attachment A to Black Hills Colorado Electric, LLC’s Unopposed Motion to Approve Settlement and Request for Waiver of Response Time (“Motion to Approve”), no later than October 10, 2025.

4. The request to waive response time to the Motion to Approve is granted.

⁴ Motion to Approve at p. 4.

5. All other procedural dates established by Decision No. R25-0655-I are vacated to the extent inconsistent with this Decision.
6. This Decision is effective immediately.

(S E A L)



ATTEST: A TRUE COPY

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

AVIV SEGEV

Administrative Law Judge

Rebecca E. White,
Director