

Decision No. C19-0588

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 18A-0791E

IN THE MATTER OF THE VERIFIED APPLICATION OF BLACK HILLS COLORADO ELECTRIC, LLC DOING BUSINESS AS BLACK HILLS ENERGY FOR EXPEDITED APPROVAL OF ITS ECONOMIC DEVELOPMENT RATE TARIFF.

PROCEEDING NO. 19A-0055E

IN THE MATTER OF THE VERIFIED APPLICATION OF BLACK HILLS COLORADO ELECTRIC, LLC FOR EXPEDITED APPROVAL OF A SERVICE AGREEMENT PURSUANT TO ITS ECONOMIC DEVELOPMENT RATE TARIFF.

**COMMISSION DECISION GRANTING APPLICATIONS
FOR REHEARING, REARGUMENT, OR
RECONSIDERATION FOR THE SOLE PURPOSE
OF TOLLING THE STATUTORY TIME LIMIT**

Mailed Date: July 12, 2019

Adopted Date: July 10, 2019

I. BY THE COMMISSION

A. Statement

1. By this Decision, the Commission grants the applications filed on June 17, 2019, by Staff of the Public Utilities Commission (Staff) and Western Resource Advocates (WRA), seeking rehearing, reargument, or reconsideration (RRR) of Decision No. C19-0446. We grant RRR for the sole purpose of tolling the 30-day statutory time limit in § 40-6-114(1) (2018), C.R.S. We will consider the merits of these applications at a future Commissioners' Weekly Meeting.

B. Findings and Conclusions

2. On May 28, 2019, the Commission issued Decision No. C19-0446 in this Consolidated Proceeding. By that Decision, we approved, with modifications and for limited applicability, the Economic Development Rate Tariff (EDR Tariff) proposed by Black Hills Colorado Electric, LLC (Black Hills) to implement economic development rates pursuant to subsections (6) through (8) of § 40-3-104.3 (2018), C.R.S. We approved the modified EDR Tariff for applicability to one customer, AX2 Data Centers, and imposed certain conditions and requirements of Black Hills. In addition, we approved, with certain conditions and requirements, the Service Agreement negotiated between Black Hills and AX2 Data Centers.

3. Consistent with the statutory time limit in § 40-6-114(1) (2018), C.R.S., and the procedures in Rule 4 *Code of Colorado Regulations* 723-1-1506 of the Commission's Rules of Practice and Procedure, applications for RRR were due within 20 days after Decision No. C19-0446 became effective (in this case, by June 17, 2019).

4. On June 17, 2019, Staff filed an application for RRR of Decision No. C19-0446. Staff requests that we require Black Hills to file an updated tariff with the marginal cost to serve AX2 Data Centers when that cost is known. Also, Staff requests clarification that shared corporate costs specific to economic development rate customers be removed from the cost of service in each base rate case. Further, Staff asks for clarification regarding the need for actual values for marginal cost and how that could be implemented in a general tariff.

5. Also on June 17, 2019, WRA filed an application for RRR of Decision No. C19-0446. WRA raises concerns regarding deferral of decisions on certain intervenor proposals. WRA also asks that we clarify that the Commission has authority to impose terms and conditions on its approval, including terms limiting contract length. WRA asks that we require

future economic development rate tariffs to contain provisions that ensure consistency with state renewable energy policies. Finally, WRA makes certain requests regarding reporting of the energy source used to serve AX2 Data Centers and Black Hills' compliance with state renewable energy requirements.

6. Pursuant to § 40-6-114(1) (2018), C.R.S., we are required to consider and act upon any application for RRR within 30 days of its filing or the RRR will be denied by operation of law. We grant the applications for RRR filed by Staff and WRA to toll this statutory time limit and allow for more time to consider the issues in these filings and accommodate schedule constraints. Accordingly, this grant is merely procedural in order to toll the statutory time limit in § 40-6-114(1) (2018), C.R.S. We will issue a future order ruling upon the merits of these applications.

II. ORDER

A. The Commission Orders That:

1. The application for rehearing, reargument, or reconsideration of Decision No. C19-0446, filed by Staff of the Public Utilities Commission on June 17, 2019, is granted consistent with the discussion above.

2. The application for rehearing, reargument, or reconsideration of Decision No. C19-0446, filed by Western Resource Advocates on June 17, 2019, is granted consistent with the discussion above.

3. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
July 10, 2019.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JEFFREY P. ACKERMANN

FRANCES A. KONCILJA

JOHN GAVAN

Commissioners