

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 20A-0195E

IN THE MATTER OF THE VERIFIED APPLICATION OF BLACK HILLS COLORADO ELECTRIC, LLC FOR APPROVAL OF ITS TRANSPORTATION ELECTRIFICATION PLAN, READY EV, FOR PROGRAM YEARS 2021-2023 AND FOR RELATED TARIFF APPROVAL.

INTERIM DECISION ADDRESSING INTERVENTIONS

Mailed Date: June 29, 2020

Adopted Date: June 24, 2020

I. BY THE COMMISSION

A. Statement

1. Through this Decision, consistent with the discussion below, we grant requests for intervention filed by Charge Point, Inc. (Charge Point); Tesla, Inc. (Tesla); Electrify America, LLC (Electrify America); Pueblo County (Pueblo); Western Resource Advocates (WRA), Sierra Club, and Natural Resource Defense Counsel (jointly, Environmental Organizations); and Vote Solar, GRID Alternatives, Inc., Colorado Latino Forum, and GreenLatinos (jointly, Environmental Justice Coalition).

2. In addition, we acknowledge intervenors as of right that are parties to this proceeding include Staff of the Public Utilities Commission (Staff), the Office of Consumer Counsel (OCC), and Colorado Energy Office (CEO).

B. Procedural Background

3. Senate Bill (SB) 19-077, which was signed into law on May 31, 2019, requires investor owned electric public utilities to file with the Commission by May 15, 2020, “an application for a program for regulated activities to support widespread transportation

electrification” within its service territory.¹ SB 19-077 offers a wide variety of regulated activities a utility can undertake to support widespread transportation electrification, including investments or incentives to facilitate charging infrastructure and the electrification of public transit and other vehicle fleets, rate designs or programs to encourage vehicle charging that supports the operation of the electric grid, and customer education to encourage greater adoption of electric vehicles (EVs).² However, the bill further states: “The retail rate impact from the development of electric vehicle infrastructure must not exceed one-half of one percent of the total annual revenue requirements of a utility.”³

4. Black Hills Colorado Electric, LLC, d/b/a Black Hills Energy (Black Hills or the Company) filed its application regarding the Company’s first Transportation Electrification Plan (TEP or Application), referred to as “Ready EV” or the “Ready EV Plan,” along with supporting testimony on May 8, 2020. Black Hills states that its TEP is designed to meet three primary objectives. The first objective is to support the widespread adoption of EVs, while also ensuring that the Black Hills’ TEP results in a reasonable cost to all customers.⁴ The Company includes that its second objective is to establish a fundamental framework for transportation electrification that provides all necessary programs to support EVs while having the flexibility to reflect lessons learned, customer preferences, and changing technology.⁵ Third, Black Hills seeks to ensure that its TEP complies the requirements and policy objectives of SB 19-077.⁶

¹ § 40-5-107(1)(a), C.R.S.

² § 40-5-107(1)(b).

³ § 40-1-103.3(6), C.R.S.

⁴ *Id.* at 5-6.

⁵ *Id.* at 6.

⁶ *Id.*

5. On May 8, 2020, the Commission issued a Notice of Application Filed (Notice). The Notice sets a 30-day intervention period that ran through June 8, 2020.⁷

6. The OCC, the CEO, and Staff each timely filed a notice of interventions of right, and Staff and the OCC request a hearing. In addition, the following timely seek permissive intervention in this proceeding: Charge Point; Tesla; Pueblo; Electrify America; jointly by the “Environmental Organizations” (including Natural Resources Defense Council, Sierra Club, and WRA; and jointly by the “Environmental Justice Coalition” (including the Colorado Latino Forum, GreenLatinos, GRID Alternatives, and Vote Solar). No responses to the intervention pleadings were filed.

C. Intervention Findings and Conclusions

7. Two classes of parties may intervene in proceedings such as this: parties with a legally protected right that may be impacted by the proceeding (intervention of right), and parties with pecuniary or tangible interests that may be substantially impacted by the proceeding (permissive intervention).

8. Commission Rule 1401(c) of the Rules of Practice and Procedure 4 CCR 723-1, requires persons seeking permissive to show the following, in part:

A motion to permissively intervene shall state the specific grounds relied upon for intervention; the claim or defense within the scope of the Commission's jurisdiction on which the requested intervention is based, including the specific interest that justifies intervention; and why the filer is positioned to represent that interest in a manner that will advance the just resolution of the proceeding. The motion must demonstrate that the subject proceeding may substantially affect the pecuniary or tangible interests of the movant (or those it may represent) and that the movant's interests would not otherwise be adequately represented.

⁷ On June 23, 2020, by operation of Rule 1303(c)(III) of the Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1, the Application was deemed complete for purposes of § 40-6-109.5, C.R.S.

9. Pursuant to Rule 1500, 4 CCR 723-1, the person seeking leave to intervene by permission bears the burden of proof with respect to the relief sought.

10. Staff, CEO and the OCC each filed notices of intervention by right and state a number of issues each plans to address based on the initial Black Hills TEP filings. No action is necessary on these interventions by right.⁸ Staff, CEO, and the OCC are parties to this proceeding.

11. In addition to the three parties that filed intervention as of right, the Commission received six timely requests for permissive intervention.

12. Charge Point filed a timely request to intervene on May 27, 2020, and states that it is an electric vehicle charging network that sells smart charging solutions. Within its pleading, Charge Point claims its business would be affected in this proceeding, including that Black Hills' proposed incentives, qualification proposals for residential multi-dwelling, and commercial products, fleet advisory and assessment services, and other proposals in the Application would directly affect Charge Point's sales, offerings, products, and services.

13. Tesla filed its request for intervention on June 1, 2020, claiming that, as a developer in electric vehicles, charging stations, and clean energy products and services, the application could directly and substantially affect the company's business investments in Colorado.

14. On June 8, 2020, Pueblo filed its intervention and includes that, as an elected body representing citizen's diverse interests, it requests permission to intervene and address interests on customer rates and in fostering clean energy solutions, job creation, local economic activity and regional transportation and infrastructure considerations.

⁸ See Rule 1401(b), 4 CCR 723-1.

15. Electrify America also timely filed its request on June 8, 2020, stating it is a wholly-owned subsidiary of Volkswagen Group of America with investments of \$2 billion over ten years in zero-emissions vehicles infrastructure, education, and awareness. As an operator of an electric vehicle charging network with existing and potential customers in Black Hills' territory, Electrify America states it has a direct and substantial interest in the TEP, specifically in that it is developing DCFC stations along the major highway corridors in Colorado. It states that specific terms of Black Hills' application will affect its tangible interests, including the time of use rate proposal and distribution line extension tariff will both directly affect current and anticipated operation within the Black Hills' territory.

16. The June 8, 2020, intervention from the Environmental Organizations state that these collective intervenors have been active in transportation electrification policy development in Colorado, including the EV Working group (Proceeding No. 17I-0692E) and informational docket (Proceeding No. 19M-0574E). In this proceeding, the group states their collective interest in air quality and transportation-related emissions, and list specific aspects of Black Hills' ReadyEV proposal to address in order to ensure "removing key barriers to EV adoption..." and the groups aim to add information into the record regarding the statutory directives to improve air quality and carbon emission reductions.

17. Finally, and also on June 8, 2020, the Environmental Justice Coalition state combined interests representing LatinX throughout Colorado, in addition to organizations dedicated to making renewable energy technology available to underserved communities. Together, these groups state they have a tangible interest in how Black Hills "will (or will not) equitably and promptly advance EV growth in Pueblo and elsewhere in [its] territory," and that minority and low-income groups are disproportionately affected by air pollution emitted from

motor vehicles. Also, the filing claims a substantial and tangible interest in ensuring that low-income communities have ready access to EVs, particularly since transportation costs are the second highest expenditure for low-income households. The groups identify specific examples in the TEP, including effects of locations for charging infrastructures, and ensuring equitably designed rebate programs, among other specific discussion points, which the group states it will address in the proceeding.

18. Each prospective intervenor addresses its claimed interest in the proceeding, citing to a specific matter or matters that it will address based on the initial filing, and a claimed pecuniary or tangible interest in the proceeding's outcome. Particularly given the potential policy implications in this inaugural TEP filing, we find it appropriate to grant each request for permissive intervention in this proceeding. Further, we note that intervenors in the Environmental Organizations and the Environmental Justice Coalition for identifying their shared interests and choosing to file jointly where their concerns align. We commend this collaboration and efficiency, and encourage it by all parties throughout the remainder of the proceeding.

19. The following are therefore parties in this proceeding: Black Hills, the OCC, Staff, CEO, Charge Point, Tesla, Pueblo, Electrify America, the Environmental Organizations, and the Environmental Justice Coalition.

II. ORDER

A. It Is Ordered That:

1. The motion to intervene filed on May 27, 2020, by Charge Point, Inc. (Charge Point) filed May 27, 2020, is granted, consistent with the discussion above.

2. The motion to intervene filed on June 1, 2020, by Tesla, Inc. (Tesla) is granted, consistent with the discussion above.

3. The motion to intervene filed on June 8, 2020, by Electrify America, LLC (Electrify America) is granted, consistent with the discussion above.

4. The motion to intervene filed on June 8, 2020, by Pueblo County (Pueblo) is granted, consistent with the discussion above.

5. The motion to intervene filed jointly on June 8, 2020, by Western Resource Advocates, Sierra Club, and Natural Resource Defense Counsel (jointly, Environmental Organizations) is granted, consistent with the discussion above.

6. The motion to intervene filed jointly on June 8, 2020, by Vote Solar, GRID Alternatives, Inc., Colorado Latino Forum, and GreenLatinos (jointly, Environmental Justice Coalition) is granted, consistent with the discussion above.

7. Black Hills Colorado Electric, LLC, d/b/a Black Hills Energy, Staff of the Colorado Public Utilities Commission, the Office of Consumer Counsel, the Colorado Energy Office, Charge Point, Tesla, Electrify America, Pueblo, the Environmental Organization, and the Environmental Justice Coalition are parties in this proceeding.

8. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONER'S WEEKLY MEETING
June 24, 2020.**

(S E A L)



ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JEFFREY P. ACKERMANN

JOHN GAVAN

MEGAN GILMAN

Commissioners