

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO**

PROCEEDING NO. 20A-0195E

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IN THE MATTER OF THE 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 APPROVALS.

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**INTERIM DECISION GRANTING  
WALMART INC.'S AND  
THE CITY OF PUEBLO'S INDIVIDUAL  
MOTIONS FOR LATE INTERVENTION**

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Mailed Date: September 18, 2020

Adopted Date: September 16, 2020

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**I. BY THE COMMISSION**

**A. Statement**

1. By this Interim Decision, we grant the individual Motions for Late Intervention filed by Walmart Inc. (Walmart) and the City of Pueblo (Pueblo).

2. On May 8, 2020, Black Hills Colorado Electric, LLC (Black Hills or Company) filed its Application for Approval of its Transportation Electrification Plan, Ready EV, for Program Years 2021-2023 and for Related Tariff Approvals (Application). Black Hills seeks approval of: (1) its Application; (2) the Ready EV Plan, including its programs; (3) the Ready EV Plan budget; (4) the Company's proposal to recover certain prudently-incurred costs associated with the Ready EV Plan through the Demand Side Management Cost Adjustment; (5) the proposed new time-of-day rate schedules governing electric vehicle (EV) charging for the residential class, the small general service class, and the large general service-secondary class; and (6) the tariff sheets.

3. On May 15, 2020, Public Service Company of Colorado filed its Application for Approval of its 2021-2023 Transportation Electrification Plan.<sup>1</sup> Public Service requests the Commission issue an order approving the proposals contained in its 2021-2023 Transportation Electrification Plan application.

4. The applications were filed pursuant to Senate Bill 19-077 which requires each Colorado electric public utility to file with the Commission "an application for a program for regulated activities to support widespread transportation electrification" within their service territories for Commission approval by May 15, 2020.

5. By Decision Nos. C20-0465<sup>2</sup> and C20-0466,<sup>3</sup> we found it appropriate to stagger the proceedings, initiating one application, followed after a period of time by the second

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<sup>1</sup> See Proceeding No. 20A-0204E.

<sup>2</sup> Decision No. C20-0465 was issued on June 24, 2020 in Proceeding No. 20A-0204E.

<sup>3</sup> Decision No. C20-0466 was issued on June 24, 2020 in Proceeding No. 20A-0195E.

application. Initially we planned to hear the Public Service application first followed by Black Hills' application.

6. By Interim Decision No. C20-0500-I, issued July 10, 2020, we determined it appropriate to approve the request of Black Hills to waive the statutory deadline in this proceeding pursuant to § 40-6-109.5(3), C.R.S., for a period of 90 days from the effective date of that Interim Decision. We also held this proceeding in abeyance for a period not to exceed 60 days from the effective date of Interim Decision No. C20-0500-I.

**B. Walmart Motion for Late Intervention**

7. On July 8, 2020 Walmart filed its Motion for Late Intervention (Walmart Motion). As good cause to grant its intervention, Walmart states it was unable to timely file its intervention Motion because its business and operations have been significantly disrupted by the coronavirus pandemic and its surges. Walmart states that the current parties to this proceeding are all either unopposed or take no position to Walmart's Motion.

8. As for its reasons to intervene, Walmart states that it is actively expanding its publicly accessible charger locations across the nation and has over 1,300 publicly accessible EV charging stations and 2,000 ports located across 41 states, including 15 charging stations within Colorado. Walmart provides a list of all the Colorado municipalities in which EV charging stations are located. If the Commission approves Black Hills' Ready EV Plan, Walmart represents it could directly and substantially affect its goal to increase EV charging capabilities within Black Hills' service territory and reduce carbon emissions.

9. Walmart urges that the rate design and charges for the electricity supplied to an EV charging station will have a direct and substantial impact on Walmart's ability to site EV charges on its facilities in Colorado. Walmart represents that it balances the risks associated

with the costs of installing and maintaining EV charging infrastructure by participating in various EV-specific programs such as rebate programs and “make ready” programs, similar to the proposals in Black Hills’ Ready EV Plan. Therefore, according to Walmart, it is likely that this proceeding will substantially affect the pecuniary and tangible interests of Walmart as it pursues EV charging installations within Colorado.

10. As a large commercial customer, Walmart indicates its interests are unique and not adequately represented by any other party to this proceeding. It states it faces unique challenges regarding EV charging siting and installation and has identified certain EV program opportunities throughout the U.S. that are more attractive to customers like Walmart. Further, allowing Walmart to intervene will assist the Commission by ensuring it is apprised of the interests of a large commercial electrical customer actively engaged in the EV charging space.

### **1. Finding**

11. Walmart claims that the Covid-19 pandemic disrupted its business operations enough to cause it to file the Walmart Motion late. We are satisfied with Walmart’s explanation and therefore accept its late-filed Motion.

12. As for its request for intervention, we find Walmart provides sufficient information by stating the specific grounds relied upon for intervention, including the specific interests that justify its participation in this proceeding. We find Walmart provides sufficient information pursuant to Rule 4 *Code of Colorado Regulations* (CCR) 723-1-1401(c) of the Commission’s Rules of Practice and Procedure that demonstrates the subject proceeding may substantially affect its pecuniary or tangible interests and that Walmart’s interests would not otherwise be adequately represented. Finally, we agree Walmart’s participation will assist the

Commission by ensuring it is apprised of the interests of a large commercial electrical customer actively engaged in the EV charging space.

13. Therefore, we grant the Walmart Motion. Walmart is now a party to this proceeding.

**C. Pueblo Motion for Late Intervention**

14. On July 21, 2020, Pueblo filed its Motion for Late Intervention (Pueblo Motion). As good cause to grant its intervention, Pueblo states that during the intervention period it was focused on Black Hills' pending Renewable Advantage application in Proceeding No. 19A-0660E. Pueblo notes it filed the answer testimony of Mayor Nicholas Gradisar in support of the relief sought by Black Hills in that proceeding on July 16, 2020. Pueblo represents that due to its limited resources for participating in Commission proceedings, it was required to prioritize the Renewable Advantage program proceeding over this proceeding. Pueblo states it nonetheless understands that as the largest city within Black Hills' designated electric service territory, it will be a focus of the Ready EV Plan and will host numerous EV charging stations within its city limits if the application is granted. As a result, Pueblo believes it has a direct and pecuniary interest in the outcome of the proceeding which cannot be represented by any other party.

15. Pueblo argues that due to the Commission's decision to stagger this proceeding and hold it in abeyance while the Public Service EV proceeding advances, no party to this proceeding will be prejudiced by the Commission granting Pueblo's Motion.

16. Pueblo asserts that energy is a large part of its operating costs so the rate design and charges for the electricity supplied to an EV charging station will have a direct and substantial impact on Pueblo's ability to site EV chargers within the city's limits. Therefore,

according to Pueblo, this proceeding will substantially affect its pecuniary and tangible interests. In addition, Pueblo states that its interests are unique and are not adequately represented by any other party to this proceeding.

17. Pueblo argues that due to limited resources it determined it reasonable to give priority to the Renewable Advantage proceeding. We are satisfied with Pueblo's explanation and therefore accept its late-filed Motion.

18. As for its request for intervention, we find Pueblo provides sufficient information by stating the specific grounds relied upon for intervention, including the specific interests that justify its participation in this proceeding. We find Pueblo provides sufficient information pursuant to 4 CCR 723-1-1401(c) to demonstrates the subject proceeding may substantially affect its pecuniary or tangible interests and that Pueblo's interests would not otherwise be adequately represented.

19. Therefore, we grant the Pueblo Motion. Pueblo is now a party to this proceeding.

20. We advise Walmart and Pueblo that they must take the proceeding as they find it. No accommodations will be afforded either party as a result of their late intervention in this proceeding.

## **II. ORDER**

### **A. It Is Ordered That:**

1. The Motion for Late Intervention filed by Walmart Inc. on July 8, 2020 is granted consistent with the discussion above.

2. The Motion for Late Intervention filed by the City of Pueblo on July 21, 2020 is granted consistent with the discussion above.

3. Walmart Inc. and the City of Pueblo will be held to the advisements in this Decision.

4. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING  
September 16, 2020.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,  
Director

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

JEFFREY P. ACKERMANN

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JOHN GAVAN

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MEGAN M. GILMAN

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Commissioners