

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 20A-0195E

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.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
MELODY MIRBABA
SCHEDULING REMOTE
PUBLIC COMMENT HEARING**

Mailed Date: February 16, 2021

I. STATEMENT, SUMMARY, AND BACKGROUND

A. Statement and Summary.

1. Through this Decision, the Administrative Law Judge (ALJ) grants the request to hold a public comment hearing in the “ . . . Unopposed Motion Requesting the Commission Schedule a Remote Public Comment Hearing and Requesting a Waiver of Response Time to this Motion” (Unopposed Motion), and schedules a remote public comment hearing. In addition, this Decision and Attachment A hereto provides information on how to participate in the remote public comment hearing.

B. Background.

2. Per § 40-5-107(1)(a), C.R.S. (2020),¹ on May 8, 2020, Black Hills Colorado Electric LLC (Black Hills) filed its Application for Approval of its Transportation Electrification

¹ This statute 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. § 40-5-107(1)(a), C.R.S.

Plan, Ready EV, for Program Years 2021 through 2023 and for Related Tariff Approvals (Application).²

3. On June 24, 2020, the Commission decided to hear the Application *en banc*. See ¶ 7, Decision No. C20-0466 issued June 24, 2020. Since then, the Commission addressed interventions and waiver of the statutory deadline under §40-6-109.5; referred discovery disputes and motions for extraordinary protection relating to discovery to an ALJ; established discovery procedures; addressed procedural matters; established a procedural schedule; and scheduled a remote evidentiary hearing for April 19-23, 2021. Decision Nos. C20-0474-I issued June 29, 2020; C20-0500-I issued July 10, 2020; C20-0670-I issued September 18, 2020; C20-0701-I issued October 2, 2020; and C20-0737-I issued October 15, 2020.

4. In addition to Black Hills, parties to this proceeding include: Colorado Public Utilities Commission Trial Staff (Staff); the Colorado Office of Consumer Counsel (OCC); Colorado Energy Office (CEO); Charge Point, Inc. (Charge Point); Tesla, Inc. (Tesla); Electrify America, LLC (Electrify America); Pueblo County; the City of Pueblo; Western Resource Advocates; Sierra Club; Natural Resources Defense Council; Vote Solar; GRID Alternatives, Inc. (GRID); Colorado Latino Forum; GreenLatinos; and Walmart Inc. (Walmart). Decision Nos. C20-0474-I and C20-0670-I.

5. The current procedural schedule sets the following deadlines and hearing dates:

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|---|-------------------|
| Answer Testimony | February 22, 2021 |
| Rebuttal/Cross-Answer Testimony | March 29, 2021 |
| Prehearing Motions, Witness and Exhibit Lists, Exhibits, Corrected Testimony, and Settlement Agreements | April 12, 2021 |
| Evidentiary Hearing | April 19-23, 2021 |

² Only the procedural history necessary to understand this Decision is included.

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|------------------------|--------------|
| Statements of Position | May 10, 2021 |
|------------------------|--------------|

Decision No. C20-0737-I.

6. On January 26, 2021, the Colorado Latino Forum, GreenLatinos, GRID, and Vote Solar (collectively, the Environmental Justice Coalition), filed the Unopposed Motion requesting that the Commission schedule a public comment hearing.

7. During its February 10, 2021 Weekly Meeting, the Commission noted that the timing of the scheduled hearing, and the volume of other proceedings being heard *en banc*, stretches the Commission's resources to an untenable position.³ As such, the Commission referred by minute entry the entire proceeding, including the Unopposed Motion, to an ALJ for disposition.

II. FINDINGS AND CONCLUSIONS

A. **Unopposed Motion.**

8. The Unopposed Motion submits that this proceeding will have numerous equity and environmental justice impacts, that Black Hills's service territory includes a high number of income-qualified customers, and that hearing directly from these customers is critical to ensuring that Black Hills's first Transportation Electrification Plan equitably advances vehicle electrification and meets their needs. Unopposed Motion, at 1-2. For these reasons, the Unopposed Motion asks the Commission to schedule a remote public comment hearing "preferably at a date prior, and near in time, to the evidentiary hearing." *Id.* at 2. The Unopposed Motion also requests that the Commission schedule a second public comment hearing, if necessary, to accommodate all those who wish to speak. *Id.*

³ For example, the Commission is scheduled to hold multiple evidentiary hearings in the weeks leading up to the hearing in this matter, including: an evidentiary hearing in Proceeding No. 20A-0379G on April 12, 2021 and a 5-day evidentiary hearing in Proceeding No. 20A-0345E starting on April 5, 2021.

9. The Unopposed Motion states that: (a) Western Resource Advocates, Sierra Club, Natural Resources Defense and CEO support the Unopposed Motion; (b) the OCC supports the Unopposed Motion but believes a one-day hearing is sufficient; (c) Charge Point, Pueblo County, the City of Pueblo, Electrify America, Tesla and Walmart do not oppose the Unopposed Motion; and (d) Black Hills and Staff take no position the Unopposed Motion. Because no parties object to the Unopposed Motion, the Environmental Coalition requests that the response time to it be waived.

10. As an initial matter, the ALJ notes that the response time to the Unopposed Motion has elapsed, thus rendering the request to waive the response time moot. *See* Rule 1400(b), 4 *Code of Colorado Regulations* (CCR) 723-1, of the Commission's Rules of Practice and Procedure. No party filed a response.

11. The ALJ finds that holding a public comment hearing supports a transparent process, invites public participation and input in this proceeding, and is consistent with Rule 1509 as a means for interested persons to encourage the ALJ and the Commission in the exercise of their discretion. 4 CCR 723-1. For the same reasons, the ALJ finds that it is in the public interest to hold a public comment hearing. For all these reasons and because no party objects, the ALJ will schedule a public comment hearing as set forth below.

12. The ALJ is scheduling the public comment hearing to take place at least 30 days from now to provide ample notice to interested persons. The public comment hearing will be held several weeks before the evidentiary hearing. Doing so allows the ALJ, advisors, and the parties to consider public comments well before the evidentiary hearing.

III. PUBLIC COMMENT HEARING AND WRITTEN PUBLIC COMMENTS

13. The hearing will be held using the web-hosted video conferencing service, GoToMeeting. Members of the public should *not* attend the public comment hearing in-person.

14. As explained below, interested persons have the option of participating by telephone or video-conference. Video-conference participation is encouraged because it allows for the hearing to be held in a manner most similar to in-person hearings and makes it easier for the ALJ to manage the orderly progression of the hearing.

15. During the public comment hearing, the ALJ will take action as necessary to facilitate a clear and understandable record, and to ensure the orderly progress of the hearing. For the same reasons, all participants are required to: (a) mute their microphone during the hearing until called upon by the ALJ; (b) ensure they are participating from a location with minimal or no background noise; and (c) not connect to the hearing using multiple devices located in the same room (which will cause audio feedback). Participants are encouraged to use headphones or a headset to listen to the hearing, as this may also help avoid background noise and feedback when unmuted.

A. Telephone Participation in Public Comment Hearing.

16. Any member of the public who wishes to provide comments by telephone during the remote public comment hearing must call +1 (669) 224-3412 at the date and time of the hearing. When prompted, input the pin 637-003-045, which will then connect the call to the public comment hearing.

B. Video-Conference Participation in Public Comment Hearing.

17. Any member of the public who wishes to participate in the public comment hearing by video-conference must use a computer, smart phone, or tablet that is connected to the

internet and has an operational microphone, speaker, and camera. At the date and time of the hearing, video-conference participants must enter the following link in their internet browser: <https://global.gotomeeting.com/join/637003045>. Anyone having difficulty with this link may instead using the following link: <https://www.gotomeeting.com/meeting/join-meeting>, and enter this number in the space provided for the meeting ID: 637-003-045. Participants are required to input their full name when prompted to do so. This will allow the ALJ to call on participants to provide oral comments in an orderly fashion.

18. Attachment A to this Decision provides step-by-step technical instructions and requirements to participate by video-conference using a computer. This is intended to ensure that the remote hearing proceeds efficiently. Hence, it is important that video-conference participants carefully review and follow all requirements in this Decision and Attachment A.

C. Observing Public Comment Hearing.

19. Consistent with Commission practice, the public comment hearing will be webcast on the Commission's website. This means that those persons wishing to observe, but not participate in the hearing, may do so without needing to join the hearing online or by telephone. To observe the public comment hearing, enter this link in the web browser <https://puc.colorado.gov/webcasts> and select the audio or video option for Hearing Room A. The ALJ encourages interested persons who do not wish to provide comments to observe the hearing through the webcast because this will help minimize background noise during the hearing and may assist in the orderly progression of the hearing.

D. Written Public Comments.

20. Participating in the public comment hearing is not the sole method available to the public to provide comment on this proceeding. Interested persons may also provide written public comments. Indeed, the Commission prefers written comments over oral comments. Interested persons are encouraged to submit written comments through either: (a) the Commission's Electronic Filing System at <https://www.dora.state.co.us/pls/efi/EFI.homepage> in this proceeding; or (b) the Commission's website at <https://puc.colorado.gov/> by clicking on the "FILE A COMMENT OR COMPLAINT" link. Oral and written comments will be given the same weight.

IV. ORDER:**A. It Is Ordered That:**

1. A remote public comment hearing is scheduled as follows:

DATE: March 23, 2021

TIMES: 4:00 p.m.

METHOD: By video conference or telephone using the information provided above.

2. Participants may *not* attend the public comment hearing in-person.

3. Those wishing to participate in the remote public comment hearing by video-conference must follow the requirements in Attachment A, which is incorporated into this Decision. Participants are required to enter their full name when prompted to do so through GoToMeeting.

4. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

MELODY MIRBABA

Administrative Law Judge

ATTEST: A TRUE COPY

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

Doug Dean,
Director