

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
ESTABLISHING PROCEDURES AND
SETTING ADDITIONAL DEADLINES**

Mailed Date: February 18, 2021

I. STATEMENT, SUMMARY, BACKGROUND, FINDINGS AND CONCLUSIONS

A. Statement and Summary.

1. Through this Decision, the Administrative Law Judge (ALJ) establishes procedures to facilitate holding the evidentiary hearing in this proceeding remotely. This Decision does not modify any existing deadline or hearing date, but instead adds new filing deadlines. This Decision also clarifies existing exhibit filing requirements, and establishes requirements for identifying, filing, and formatting exhibits. Attachments A and B to this Decision provide detailed direction and technical information to facilitate participation in the evidentiary hearing, and are incorporated into this Decision as if fully set forth.¹

B. Background.

2. On May 8, 2020, Black Hills Colorado Electric LLC (Black Hills) filed an Application for Approval of its Transportation Electrification Plan, Ready EV, for Program Years 2021 through 2023 and for Related Tariff Approvals (Application).

¹ Only the procedural history necessary to understand this Decision is included.

3. During its February 10, 2021 Weekly Meeting, the Commission referred this proceeding to an ALJ for disposition.

4. Before referring this matter, the Commission established procedural deadlines and scheduled a remote evidentiary hearing as follows:

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
Remote Evidentiary Hearing	April 19-23, 2021
Statements of Position	May 10, 2021

Decision No. C20-0737-I adopted October 14, 2020.

C. Procedures to Facilitate Remote Evidentiary Hearing.

5. Per Decision No. C20-0737-I, the evidentiary hearing will be held remotely. The Commission will use the web-hosted video conferencing service GoToMeeting to hold the remote evidentiary hearing. This also means that all exhibits must be presented electronically. This Decision and Attachments A and B hereto includes requirements to facilitate holding the hearing remotely using electronic exhibits. These requirements are intended to ensure that the remote evidentiary hearing proceeds efficiently without technical problems.

6. Attachment A includes important requirements and technical information on participating in the evidentiary hearing through the GoToMeeting platform.

7. Attachment B includes uniform requirements relating to exhibits that primarily aim to ensure that electronic exhibits may be presented and navigated at the hearing without issues. For example, among other matters, Attachment B directs the parties to format, mark for identification, and file exhibits and attachments thereto in a manner that facilitates the efficient and clear presentation of electronic exhibits during the hearing. Attachment B also explains the

manner in which evidence will be presented and accepted at hearing, and identifies additional requirements relating to certain types of exhibits (*e.g.*, excel spreadsheets) and correcting, modifying, or amending an exhibit.

8. As such, it is vitally important that the parties carefully review and follow all requirements in this Decision and Attachments A and B.

9. To minimize the potential that the video-conference hearing may be disrupted by non-participants, the GoToMeeting link and meeting ID or access code will be provided to the parties by email before the hearing, and the parties and witnesses will be prohibited from distributing that information to anyone not participating in the hearing.²

D. Deadlines and Filing Requirements.

10. The deadlines and hearing dates established by Decision No. C20-0737-I are unaffected by this Decision. There is, however, room for clarity and direction as to existing exhibit filing requirements. Decision No. R20-0737-I requires the parties to file exhibits, (among other items), on or by April 12, 2021. When setting this deadline, the Commission was silent on a few issues relating to exhibits, which are addressed below.

11. First, as the April 12, 2021 deadline is the only deadline generally relating to filing exhibits, this will be treated as the deadline to file final versions of exhibits.

12. Second, by the April 12, 2021 deadline, the parties must file all exhibits not already filed, which they intend to introduce into evidence during the hearing. This *explicitly includes* filing exhibits that parties intend to use on cross-examination. Because the hearing will be presented using electronic exhibits only, it is vitally important that the parties pre-file all exhibits

² The ALJ anticipates that the hearing will be webcast, consistent with Commission practice; this means that those wishing to observe the hearing may do so without the need to join the hearing as a participant.

that they intend to offer into evidence during the hearing. Failing to do so will cause unnecessary delay and expenditure of resources.

13. The parties are not required to pre-file exhibits that may be used *solely* to impeach, refresh recollection, or for rebuttal. Parties seeking to admit exhibits that are not pre-filed for impeachment or to refresh recollection *must establish* that the exhibits are being used for those purposes. Otherwise, the exhibits may not be admitted based on the parties' failure to pre-file the exhibits as required by this Decision.

14. Next, the ALJ finds that in order to minimize confusion and the unnecessary expenditure of resources, it is appropriate to set parameters on filing corrected, modified, or amended exhibits. Those are laid out below and in Attachment B to this decision.

15. Finally, a deadline is established for the parties to file a joint witness testimony matrix identifying the amount of time each party anticipates for their examination of each witness that will testify in this proceeding.

II. ORDER

A. It Is Ordered That:

1. All parties must comply with the requirements in Attachments A and B to this Decision, which are incorporated into this Decision as if fully set forth.

2. The remote evidentiary hearing scheduled by Decision No. C20-0737-I will be held using the GoToMeeting platform. The parties are responsible for sharing the GoToMeeting Link, access, and ID code to witnesses and others participating in the hearing. Participants in the hearing may not distribute the GoToMeeting link, access, or ID code to anyone not participating in the hearing. Unless otherwise ordered, the parties and witnesses may not appear in person at the

Commission for the evidentiary hearing in this matter. Instead, parties and witnesses will participate in the hearing from remote locations, consistent with the requirements of this Decision.

3. **Video-Conference Participation.** The parties and witnesses are required to participate in the evidentiary hearing by video-conference using GoToMeeting. The parties must ensure that they and their witnesses are ready and able to participate in the evidentiary hearing by video-conference, including presenting evidence electronically during the hearing using GoToMeeting.

4. **Electronic Evidence Presentation.** Because the hearing will be held remotely by video-conference, all evidence must be presented electronically. Attachment B outlines detailed requirements to facilitate electronic evidence presentation.

5. Consistent with the above discussion, the parties must file all exhibits they intend to introduce into evidence during the evidentiary hearing, including exhibits to be used for cross-examination, by the deadline established in Decision No. R20-0737-I for exhibits, **April 12, 2021**. The parties are not required to re-file any exhibits already filed before that date. The parties are also not required to pre-file exhibits that may be used *solely* for impeachment, to refresh recollection, or for rebuttal. Any party may use any other party's hearing exhibits during the course of the hearing and should not file them separately.

6. As discussed, the parties must file final versions of exhibits and attachments thereto on or by **April 12, 2021**.

7. **Joint Witness Testimony Matrix.** On or by **April 12, 2021**, the parties must submit a joint witness testimony matrix listing all the witnesses the parties anticipate will testify at the hearing, and the anticipated amount of time each party will use to examine the witnesses. To the extent practicable, the witnesses should be listed in the order in which they will be called.

8. **Corrections, Modifications, and Amendments to Exhibits.** The parties may make corrections to exhibits, including written testimony and attachments, without filing a motion seeking leave to do so. Corrections include minor changes, such as fixing typographical errors. Corrections do not include material or substantive changes. Material or substantive changes to a hearing exhibit or attachment amount to amending or modifying such documents. Any party wishing to amend or modify an exhibit or attachment thereto must file a motion establishing good cause; such a motion must be filed as soon as the party becomes aware of the need to amend or modify the filing. The parties must confer with each other prior to filing such a motion. Unreasonable delay in filing such a motion is grounds to deny the motion. Attachment B includes additional requirements relating to corrected, modified or amended exhibits or attachments.

9. 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

Doug Dean,
Director