

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
MODIFYING PROCEDURAL SCHEDULE**

Mailed Date: February 23, 2021

I. STATEMENT, SUMMARY, AND BACKGROUND

A. Statement and Summary.

1. Through this Decision, the Administrative Law Judge (ALJ) grants the request to modify the procedural schedule in the “Notice of Partial Settlement, Unopposed Motion to Modify Procedural Schedule, and Request for Waiver of Response Time,” (Motion) filed on February 19, 2021. This Decision does not modify procedures established by Decision No. R21-0089-I issued February 18, 2021, or any attachments thereto, or any other deadline not specifically modified herein.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.

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

3. 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.

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

5. On February 18, 2021, the ALJ clarified expectations as to the April 12, 2021 exhibit filing deadline; established procedures for correcting, modifying or amending exhibits; and set April 12, 2021 as the deadline for the parties to file a joint witness testimony matrix. Decision No. R21-0089-I. The ALJ also established detailed procedures to ensure that the parties are able to present exhibits electronically during the evidentiary hearing without issue and provided technical information to aid parties and witnesses in participating in the hearing. *See* Attachments A and B to Decision No. R21-0089-I. Decision No. R21-0089-I did not modify any existing deadline or hearing date.

6. On February 19, 2021, Black Hills filed the Motion. The Motion states that the following parties have reached an unopposed partial settlement in principle in this proceeding: Colorado Public Utilities Commission Trial Staff; the Colorado Office of Consumer Counsel; Colorado Energy Office; Charge Point, Inc.; Tesla, Inc.; the City of Pueblo; Western Resource Advocates; Sierra Club; Natural Resources Defense Council; and Walmart Inc. Motion at 1. The

Motion describes the above-listed parties as “Joint Movants.” *Id.* The Motion also states that the following parties have not joined the partial settlement agreement, but support the Motion: Electrify America, LLC; Pueblo County; Vote Solar, GRID Alternatives, Inc.; and Colorado Latino Forum and GreenLatinos. *Id.* at 1-2. As such, the Motion states that it is unopposed, and requests that the response time to it be waived. *Id.* at 2.

7. The Motion seeks to modify the procedural schedule to account for the partial settlement. Specifically, the Motion seeks to extend the deadline to file answer testimony to March 1, 2021; set a March 12, 2021 deadline to file testimony on the partial settlement agreement, and modify and set a March 26, 2021 deadline to file “other settlement agreements.” *Id.* The Motion states that the parties plan to file the partial settlement agreement and supporting motion before filing answer testimony on March 1, 2021. *Id.* at 3

8. The Motion explains that the parties have engaged in discovery and settlement negotiations, resulting in a settlement in principle on the following issues: (1) retail rate cap; (2) presumption of prudence; (3) budget flexibility; (4) rider recovery; (5) electric vehicle supply equipment (EVSE) rebate levels; (6) EVSE rebate amortization; (7) income qualification; (8) line extensions; (9) performance incentive mechanism; (10) dealership engagement and employee engagement programs; (11) Black Hills’s ready EV metrics; (12) litigation and expert expenses; and (13) filing a compliance advice letter. *Id.*

II. FINDINGS AND CONCLUSIONS

A. Motion.

9. Given that the Motion is unopposed and the closely approaching deadlines, the ALJ finds good cause to waive the response time to the Motion and will do so. Rules 1308(c)

and 1400(c), of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1.

10. Modifying the procedural schedule as requested is consistent with the Commission's policy to encourage settlement of contested proceedings. Rule 1408(a), 4 CCR 723-1. Settlement conserves the parties' resources, which ultimately provides a benefit to ratepayers. It also conserves the Commission's resources. The proposed modifications to the schedule do not delay the forward progress of this proceeding while allowing time for all participants, including the ALJ, to prepare for the scheduled evidentiary hearing. For all these reasons, the ALJ finds that the Motion establishes good cause to modify the current procedural schedule as requested.

11. That said, the Motion is silent as to setting a deadline for the parties to file the partial settlement agreement and supporting motion. Instead, it says that the parties intend to file the partial settlement agreement and supporting motion before the requested answer testimony deadline of March 1, 2021. Motion at 3. To ensure that this happens, the ALJ is setting a deadline to file the partial settlement agreement and supporting motion for February 26, 2021, one business day before the March 1, 2021 answer testimony deadline.

12. Thus, with changes discussed, the procedural schedule is as follows:

<u>Filing Requirement</u>	<u>Filing Deadline</u>
Partial Settlement Agreement and supporting Motion	February 26, 2021
Answer Testimony	March 1, 2021
Testimony on Partial Settlement Agreement	March 12, 2021
Other Settlement Agreement	March 26, 2021
Rebuttal/Cross-Answer Testimony	March 29, 2021
Prehearing Motions; Witness and Exhibit Lists; Final Exhibits; Modified, Amended, or Corrected Testimony; and Joint Witness Testimony Matrix	April 12, 2021
Remote Evidentiary Hearing	April 19-23, 2021
Statements of Position	May 10, 2021

13. The parties are still obligated to follow all other requirements in Decision No. R21-0089-I, including Attachments A and B thereto.

III. ORDER:

A. It Is Ordered That:

1. Consistent with the above discussion, the Notice of Partial Settlement, Unopposed Motion to Modify Procedural Schedule, and Request for Waiver of Response Time filed on February 19, 2021, is granted.

2. The procedural schedule is modified as described above. The new procedural schedule is outlined in ¶ 12 above.

3. 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