

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 22V-0384E

IN THE MATTER OF THE PETITION OF BLACK HILLS COLORADO ELECTRIC, LLC,
D/B/A BLACK HILLS ENERGY, FOR APPROVAL OF A PARTIAL VARIANCE TO DELAY
THE FILING OF ITS DISTRIBUTION SYSTEM PLAN AND PARTIAL WAIVER RELATING
TO REPORTING ON ENERGY STORAGE SYSTEMS.

COMMISSION DECISION GRANTING PETITION

Mailed Date: November 17, 2022

Adopted Date: September 28, 2022

I. BY THE COMMISSION

A. Statement

1. This Decision grants the petition filed by Black Hills Colorado Electric, LLC (Black Hills or Company) on September 2, 2022, for a partial variance from Rule 3528 of Commission’s Rules Regulating Electric Utilities (Electric Rules), 4 *Code of Colorado Regulations* (CCR) 723-3. Black Hills seeks to extend the filing date for the filing of a Distribution System Plan (DSP) by 150 days, and for a partial, one-year waiver of paragraph 3207(c) of the Electric Rules related to the consideration of energy storage systems.

B. Discussion

2. Through its request for a partial waiver of Rule 3528, Black Hills seeks a 150-day extension to file its inaugural DSP no later than June 30, 2023.

3. Black Hills further seeks a waiver from Rule 3207(b) that requires Black Hills to consider “energy storage systems in its planning processes as an alternative to construction or

extension of distribution facilities.” Black Hills argues that Rule 3534(a), within the set of rules that govern DSPs, also requires the Company to conduct a non-wires alternative (NWA) suitability screening analysis for any “major distribution grid project.” Black Hills explains that because it will evaluate NWAs throughout its DSP planning process and will apply the competitive and technology neutral solicitation required by the DSP Rules, the Company will satisfy Rule 3207(b) requirements for energy storage systems in its forthcoming DSP proceeding.

4. With respect to conferral, Black Hills states that it consulted with several parties involved in the DSP rulemaking in Proceeding No. 20R-0516E about this petition, including the Staff of the Colorado Public Utilities Commission, the Colorado Energy Office, Western Resource Advocates, the Colorado Solar and Storage Association, Southwest Energy Efficiency Project, and the Colorado Office of the Utility Consumer Advocate. Black Hills states that these consulted potential parties take no position on the Company’s request for an additional 150 days to file the DSP application, provided that time is also used to engage in meaningful stakeholder engagement sessions on key DSP topics. In addition, all these parties take no position on a partial, one-year waiver of Rule 3207(c).

5. Notwithstanding the Company’s conferral with certain parties, the Commission established a shortened notice and intervention period by Decision No. C22-0528-I, issued on September 8, 2022. No interventions were filed by the deadline of September 21, 2022.

C. Findings and Conclusions

6. Paragraph 1403 (a) of Rule 4 *Code of Colorado Regulations* (CCR) 723-1-1403 of the Commission’s Rules of Practice and Procedure states that the Commission may determine any petition without a hearing and without further notice if the petition is uncontested or unopposed.

7. We find good cause to grant the unopposed petition. We agree with Black Hills that the requested delay for the filing of its first DSP will foster efficiencies. We also agree with Black Hills that the evaluation of NWAs throughout its DSP planning process, if properly implanted by the Company, will satisfy the requirements in Rule 3207(b).

II. **ORDER**

A. **The Commission Orders That:**

1. The petition filed by Black Hills Colorado Electric, LLC on September 2, 2022, for a partial variance from Rule 3528 of Commission's Rules Regulating Electric Utilities, 4 *Code of Colorado Regulations* 723-3 is granted, consistent with the discussion above.

2. The 20-day period provided for in § 40-6-114, C.R.S., within which to file applications for rehearing, reargument, or reconsideration, begins on the first day following the effective date of this Decision.

3. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
September 28, 2022.**

(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

ERIC BLANK

JOHN GAVAN

MEGAN M. GILMAN

Commissioners