

Decision No. R22-0809-I

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

PROCEEDING NO. 22A-0304E

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IN THE MATTER OF THE VERIFIED APPLICATION OF BLACK HILLS COLORADO ELECTRIC, LLC FOR APPROVAL OF ITS 2023-2025 BENEFICIAL ELECTRIFICATION PLAN.

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

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Mailed Date: December 16, 2022

**I. STATEMENT, SUMMARY, AND BACKGROUND**

**A. Summary**

1. This Decision schedules a remote public comment hearing for March 14, 2023 from 11:30 a.m. to 1:00 p.m. and from 4:00 p.m. to 6:00 p.m. and grants the Colorado Energy Office's (CEO) Motion Requesting the Commission Schedule a Public Comment Hearing and Requesting a Waiver of Response Time to This Motion (Motion) filed on October 14, 2022.

**B. Procedural History**

2. On June 30, 2022, Black Hills Colorado Electric LLC, doing business as Black Hills Energy, (Black Hills) filed the above-captioned Application (Application) with attachments seeking the Commission to approve its proposed 2023 to 2024 Beneficial Electrification Plan (Plan).

3. On August 31, 2022, the Commission referred this Proceeding to an administrative law judge (ALJ) for disposition.

4. In addition to Black Hills, the following entities are parties to this Proceeding: the Office of the Utility Consumer Advocate (the UCA); the Colorado Public Utilities Commission Trial Staff; CEO; Energy Outreach Colorado; and Western Resource Advocates (WRA).<sup>1</sup>

5. With the parties' input, the ALJ established procedural deadlines and scheduled a remote evidentiary hearing on the Application for April 5 and 6, 2023.<sup>2</sup> During this process, no party suggested that a public comment hearing be scheduled.<sup>3</sup>

6. On October 14, 2022, CEO filed the Motion.

## II. FINDINGS, ANALYSIS AND CONCLUSIONS

### A. **CEO's Motion**

7. The Motion states that it is unopposed and that the UCA and WRA affirmatively support the Motion.<sup>4</sup>

8. The Motion submits that the Application's proposed programs will require the Commission to make decisions relating to retail customer programs relating to energy efficiency, beneficial electrification, demand response, and demand flexibility and that such programs will have an impact on disproportionately impacted communities.<sup>5</sup> CEO argues that holding a public comment hearing will provide the impacted members of the public an opportunity to voice their opinions on the Application and learn how the programs in the Application will impact their communities.<sup>6</sup> CEO submits that scheduling a public comment hearing is consistent with the goals and directives in Senate Bill (SB) 21-272 to help correct historical inequities, prioritize

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<sup>1</sup> Decision No. R22-0553-I at 11 (mailed September 19, 2022).

<sup>2</sup> Decision No. R22-0582-I at 3-4 and 7 (mailed September 28, 2022).

<sup>3</sup> *See id.* at 3-4.

<sup>4</sup> Motion at 1.

<sup>5</sup> *Id.* at 3.

benefits to disproportionately impacted communities, and host hearings that invite input from such communities when making decisions related to retail customer programs.<sup>7</sup>

9. CEO suggests that a public comment hearing be held near in time before the scheduled evidentiary hearing, and that additional public comment hearings be scheduled if necessary to accommodate all those who wish to speak.<sup>8</sup>

10. In addressing similar arguments in several other proceedings impacting retail customer programs, the Commission noted that SB 21-272 recognizes that certain Colorado communities have historically been forced to bear a disproportionate burden of adverse human health and environmental effects; that SB 21-272 identifies the lack of public participation as a factor that impacts a community's health and environment; and scheduled public comment hearings.<sup>9</sup> The Commission's approach is sound and supported by SB 21-272. The ALJ sees no reason not to follow suit here. As such, the ALJ will grant the Motion and schedule a public comment hearing approximately two weeks before the scheduled evidentiary hearing, (as set forth below).

### **B. Participating in the Public Comment Hearing**

11. Given the geographic nature of Black Hills's service territory, the ALJ is scheduling a remote public comment hearing to best accommodate interested persons appearing from different locations spread throughout the Company's service territory in the state. Along these same lines, the ALJ is scheduling two public comment hearing sessions for the same day,

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<sup>6</sup> *Id.*

<sup>7</sup> *See id.* at 1-2, citing § 40-2-108(3)(a)(I) and (II), (c)(II), and (d)(II)(B), C.R.S.

<sup>8</sup> *Id.*

<sup>9</sup> *See e.g.*, Decision Nos. R22-0696-I (mailed November 8, 2002) in Proceeding No. 22A-0189E; C22-0700-I (mailed November 8, 2022) in Proceeding No. 22A-0309E; and C22-0699-I (mailed November 8, 2022) and C22-0699-I-E (mailed November 15, 2022) in Proceeding No. 22A-0315EG.

with the first to include the lunch hour, and the second to run past ordinary business hours (as necessary to accommodate all those who appear). This is intended to provide flexibility for interested persons to appear during their lunch break or after regular business hours, should it be otherwise difficult for them to appear during regular Commission business hours (8:00 a.m. to 5:00 p.m.). This approach also encompasses hearing time during regular business hours, which also accommodates those for whom appearing during business hours is preferred.

12. As noted below, a remote public comment hearing is scheduled for March 14, 2023, with the first session scheduled from 11:30 a.m. to 1:30 p.m., and the second session from 4:00 p.m. to 6:00 p.m. Both sessions will continue until concluded, meaning, that the sessions will continue until all public comments are received, but will end no later than the designated end-time (1:30 p.m. and 6:00 p.m.). The hearing sessions will not be held open for public comments after all those who have appeared have provided public comment, even if this means concluding the hearing well before the scheduled end times (1:30 p.m. and 6:00 p.m.). For example, if all those who appear at the 11:30 a.m. session have provided public comment by 12:00 p.m. or earlier, that hearing session will be adjourned. This also means that anyone who chooses to join the public comment hearing sessions after the designated start times assume the risk that the hearing will be concluded before they join.

13. The public comment hearing will be held using the web-hosted video-conferencing service, Zoom. This means that members of the public who wish to participate in the public comment hearing should not appear in person at the Commission's offices but should instead appear remotely via Zoom. Participants in the hearing should prepare in advance to use this platform. 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.

14. For those who wish to provide oral comments during the hearing, video-conference participation is preferred and encouraged because it allows for the hearing to be held in a manner most similar to in-person hearings. Nevertheless, interested persons have the option to participate by telephone. The link, access code, and call-in information to participate in the hearing will be available on the Commission's calendar of events for the date and time of the hearing at <https://puc.colorado.gov/pucalendar>.

15. Any member of the public participating 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. 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.

16. 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 a headset to listen to the hearing, as this may also help avoid background noise and feedback when they speak.

17. The Commission will publicize the public comment hearing by press release, announce it on its public calendar, and make it known by other avenues to the extent resources are available.

18. The Commission strives to accommodate all members of the public at its hearings by providing services for foreign language users and persons with disabilities upon receipt of a reasonable accommodation request. Requests for such accommodations should be made at least one week prior to the event by completing the Language Access Form. Requests can also be made directly by contacting Holly Bise at 303-894-2024 or by emailing [holly.bise@state.co.us](mailto:holly.bise@state.co.us).

### **C. Observing the Public Comment Hearing**

19. Consistent with Commission practice, the public comment hearing will be webcast on the Commission's website. Persons wishing to observe, but not participate in the hearing may do so by observing the webcast of the rulemaking hearing and need not join the hearing by telephone or video-conference. To observe the hearing by webcast, enter this link in the web browser <https://puc.colorado.gov/webcasts> and select the audio or video option for the assigned hearing room. The assigned hearing room will be identified on the Commission's public calendar for the date and time of the hearing, at the following link: <https://puc.colorado.gov/pucalendar>.

20. The ALJ encourages interested persons who do not wish to provide comments during the hearing 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. Methods to Submit Public Comment**

21. Interested persons may provide written or oral comments. Although the Commission prefers written comments over oral comments, they are given the same weight.

22. 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. Anyone using the latter option should ensure that their comments include this Proceeding number.

23. Oral comments can be provided during the scheduled public comment hearing, or by leaving a voice mail message at (303) 869-3490. Voice mail public comments will be placed in the record of this Proceeding and should include a reference to this Proceeding number.

24. The Commission will equally consider public comments, regardless of the format in which they are submitted (verbal or in writing).

**III. ORDER**

**A. It Is Ordered That:**

1. The Colorado Energy Office’s Motion Requesting the Commission Schedule a Public Comment Hearing and Requesting a Waiver of Response Time to This Motion filed on October 14, 2022 is granted, consistent with the above discussion.

2. A fully remote public comment hearing on the above-captioned Application is scheduled as follows:

DATE: March 14, 2023

TIMES: 11:30 a.m. to 1:30 p.m. or until concluded, and  
4:00 p.m. to 6:00 p.m. or until concluded.

PLACE: By video conference or telephone using the Zoom web conferencing platform at a link in the Commission's calendar of events available at <https://puc.colorado.gov/pucalendar>.

3. All participants in the public comment hearing must follow the requirements in Attachment A hereto, which is incorporated as if fully set forth herein.

4. Those wishing to observe but not participate in the above public comment hearing may do so by observing the Commission's webcast for the assigned hearing room at: <https://puc.colorado.gov/webcasts>.

5. Members of the public who wish to provide written or oral comments outside of the public comment hearing may do so by following the instructions in this Decision.

6. The Administrative Law Judge may schedule additional hearings if necessary.

7. 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, appearing to read "G. Harris Adams".

G. Harris Adams,  
Interim Director