

Decision No. C25-0528-I

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

PROCEEDING NO. 22A-0230E

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IN THE MATTER OF THE APPLICATION OF BLACK HILLS COLORADO ELECTRIC, LLC FOR (1) APPROVAL OF ITS 2022 ELECTRIC RESOURCE PLAN AND CLEAN ENERGY PLAN, AND (2) APPROVAL OF ITS 2023-2026 RENEWABLE ENERGY STANDARD COMPLIANCE PLAN.

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**INTERIM COMMISSION DECISION GRANTING SECOND  
UNOPPOSED MOTION FOR VARIANCES FROM  
RULES 3613(I) AND 3613(J), AND REQUEST FOR  
WAIVER OF RESPONSE TIME**

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Issued Date: July 30, 2025

Adopted Date: July 16, 2025

**I. BY THE COMMISSION**

**A. Statement**

1. Through this Decision, we grant the Second Unopposed Motion for Variances from Rules 3613(i) and 3613(j) and Request for Waiver of Response Time (“Second Unopposed Motion”) that Black Hills Colorado Electric, LLC, doing business as Black Hills Energy (“Black Hills” or the “Company”), filed on July 11, 2025.

**B. Background and Second Unopposed Motion**

2. In Decision No. C24-0634, issued September 4, 2024, (the “Phase II Decision”) the Commission authorized Black Hills to pursue a modified portfolio of generation and storage resources with further due diligence and contract negotiations.

3. In Decision No. C24-0837, issued November 15, 2024, the Commission addressed Black Hills' application for rehearing, reargument, or reconsideration ("RRR") of the Phase II Decision. This RRR Decision modified the resource portfolio approved in the Phase II Decision.

4. Pursuant to 4 *Code of Colorado Regulations* ("CCR") 723-3-3613(i) of the Commission's Rules Regulating Electric Utilities, a utility must execute contracts for resources within 18 months after the utility's receipt of bids to receive the presumption of prudence per Rule 3617(d). In this Proceeding, the deadline under Rule 3617(d) to execute contracts was initially April 21, 2025.

5. Similarly, under Rule 3613(j), a utility must file a proposal within 14 months after the receipt of bids that addresses the public release of all confidential and highly confidential information related to bids. In this Proceeding, the deadline to file such a proposal was initially December 20, 2024.

6. On April 14, 2025, Black Hills filed an Unopposed Motion for Variance from Rules 3613(i) and 3613(j). In the April 14 Unopposed Motion, Black Hills requested a three-month extension to execute contracts until July 21, 2025. The Company similarly requested a variance of Rule 3613(j) in which to file a proposal regarding the public release of confidential information.

7. In Decision No. C25-0307-I, issued on April 18, 2025, the Commission granted Black Hills' Unopposed Motion. We set a deadline of July 21, 2025, for Black Hills to execute all contracts for the new resources and directed the Company to file a motion within two weeks after the completion of contracting to set a new deadline for purposes of Rule 3613(j).

8. In the Second Unopposed Motion, Black Hills notes it has executed the build-transfer agreement ("BTA") with the developer of Bid 245-01 (a storage resource) and has filed an application for a Certificate of Public Convenience and Necessity for the resource.

Regarding the other two projects (Bid 114-08 and Bid 223-03b/Bid 223-01b), Black Hills states the Company and developers have been working diligently toward the execution of the necessary contracts, but the Company anticipates needing a 45-day extension to evaluate the feasibility of the projects and finalize the contracts. Black Hills asserts uncertainties have been created from recent federal legislation and by the July 7, 2025 executive order.<sup>1</sup>

9. Regarding the public filing of confidential bid information pursuant to Rule 3613(j), the Company argues that with the ongoing contracting for resources, the public release of Highly Confidential bid information is not warranted at this time. The Company proposes that upon completion of contracting for all of the power purchase agreement (“PPA”) and BTA projects, the Company would file within two weeks a motion to set a deadline for the Rule 3613(j) public filing.

10. Finally, Black Hills seeks a waiver of response time to the Unopposed Motion pursuant to 4 CCR 723-1-1308(c) of the Commission’s Rules of Practice and Procedure. Black Hills asserts the Company’s requested relief is unopposed.

### **C. Findings and Conclusions**

11. For the reasons set forth in Black Hills’ Second Unopposed Motion, we find good cause to grant the additional requested variances from Rules 3613(i) and 3613(j).

12. Regarding Rule 3613(i), Black Hills shall have until September 4, 2025, within which to execute contracts for new resources. As for the deadline to file a proposal for the public release of confidential bid information per Rule 3613(j), the Company shall file a proposal within two weeks after the completion of contracting, consistent with its request in the Second Unopposed Motion. As in Decision No. C25-0307-I, we establish this new deadline in the context of the

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<sup>1</sup> Second Unopposed Motion, ¶ 21.

Second Unopposed Motion. If Black Hills seeks an extension of the September 4 deadline to execute PPAs and build-transfer agreements, the Commission may consider whether the deadline for the Rule 3613(j) filing is still appropriate.

13. Lastly, we grant Black Hills' request for waiver of remaining response time per Rule 1308(c). The Company has represented that its requested relief is unopposed.

## **II. ORDER**

### **A. It Is Ordered That:**

1. Consistent with the above discussion, the Second Unopposed Motion for Variances from Rules 3613(i) and 3613(j) and Request for Waiver of Response Time ("Second Unopposed Motion") that Black Hills Colorado Electric, LLC, doing business as Black Hills Energy ("Black Hills"), filed on July 11, 2025, is granted and the remaining response time to the Second Unopposed Motion is waived.

2. Consistent with the discussion above, Black Hills shall have until September 4, 2025, within which to execute contracts for new resources pursuant to 4 *Code of Colorado Regulations* 723-3-3613(i) of the Commission's Rules Regulating Electric Utilities.

3. Consistent with the discussion above, Black Hills shall file a motion within two weeks after the completion of contracting for all power purchase agreements and build-transfer agreements to set a new deadline for purposes of Rule 3613(j).

4. This Decision is effective immediately upon its Issued Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING  
July 16, 2025.**

(S E A L)



ATTEST: A TRUE COPY

Rebecca E. White,  
Director

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

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Commissioners