

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

PROCEEDING NO. 14A-0058E

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IN THE MATTER OF THE JOINT APPLICATION TO (1) TRANSFER A PORTION OF THE CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FROM BLACK HILLS/COLORADO ELECTRIC UTILITY, LP TO SAN ISABEL ELECTRIC ASSOCIATION; AND TO TRANSFER A PORTION OF THE CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FROM SAN ISABEL ELECTRIC ASSOCIATION TO BLACK HILLS/COLORADO ELECTRIC UTILITY, LP.

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**DECISION GRANTING APPLICATION  
TO TRANSFER PART OF CERTIFICATES  
OF PUBLIC CONVENIENCE AND NECESSITY**

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Mailed Date: February 19, 2014

Adopted Date: February 19, 2014

**I. BY THE COMMISSION**

**A. Statement**

1. On January 10, 2014, Black Hills/Colorado Electric Utility, LP (Black Hills) and San Isabel Electric Association (SIEA) (collectively Joint Applicants or Parties) filed a joint application for transfer to SIEA, a portion of the certified service territory of Black Hills pursuant to § 40-5-105, C.R.S., 4 *Code of Colorado Regulations* (CCR) 723-1-1303 of the Commission's Rules of Practice and Procedure and Rule 4 CCR 723-3-3002(a)(V) of the Rules Regulating Electric Utilities. Accordingly, the proposed transfer will remove specified territory in Pueblo County, Colorado from the certificated territory of Applicant Black Hills and add the same specified territory to the certificated territory of Applicant SIEA. The proposed transfer will also, remove specified territory in Pueblo County, Colorado from the certificated territory of Applicant SIEA and add the same specified territory to the certificated territory of Applicant Black Hills.

2. The Commission issued notice of the Application to all interested persons, firms, and corporations on January 15, 2014. No petition to intervene or notice of intervention has been filed, and thus the Application is uncontested. Accordingly, the Application will be determined without a formal hearing in accordance with § 40-6-109(5), C.R.S., and Rule 1403, 4 CCR 723-1.

**B. Finding and Conclusions**

3. Black Hills is a public utility subject to the jurisdiction of the Commission, pursuant to § 40-1-103, C.R.S., and the rules and regulations of the Commission regulating electric utilities. Black Hills is engaged in the business of transmission and distribution of electrical energy to customers in its Colorado service territory. The portion of Black Hills' service territory that is the subject of this Application was originally certificated, in Decision No. 76421, issued December 9, 1970 in Application No. 23873, to Southern Colorado Power Company, later known as Aquila, Inc., Black Hills' predecessor. Black Hills acquired the assets of Aquila Inc. in July, 2008. *See* Decision No. C08-0204, issued February 29, 2008 in Proceeding No. 07A-108EG.

4. SIEA is a Colorado cooperative electric association providing electrical energy to customers in its Colorado service territory. SIEA is subject to the territorial jurisdiction of this Commission. The portion of SIEA's territory, that is the subject of this application, has been granted under a certificate in Decision No. 76421, issued December 9, 1970.

5. The requirement to provide a feasibility study as set forth in Rule 4100(b)(VI) of the Rules Regulating Gas Utilities and Pipeline Operators, 4 CCR 723-4 can be satisfied by alternatively utilizing Black Hills' and SIEA's most recent balance sheets, income statements, and statements of retained earnings filed with the Application. Accordingly, the Commission

will accept the financial statements submitted as part of this Application, in lieu of a feasibility study.

6. Black Hills seeks to annex certain sections of SIEA's territory in which Black Hills serves several customers from Black Hills' own facilities along State Highway 10 near the Pueblo and Otero County line. These sections are generally described as:

Township 24 South, Range 59 West, 6th P.M.  
Sections 25, 35 and 36

Township 25 South, Range 59 West, 6th P.M.  
Sections 1, 2, 11 through 14, 23 through 26, 35 and 36

Township 26 South, Range 59 West, 6th P.M.  
Sections 1 and 2.

7. SIEA seeks to annex combined parcels of property it purchased in Black Hills' territory near 813 East Industrial Boulevard, Pueblo West, Colorado, on which SIEA constructed new facilities (two new buildings), and converted an existing building located at 813 East Industrial Boulevard, to serve as SIEA's new office and warehouse headquarters complex and to serve these facilities from its own electric distribution system. The combined parcel results from combining Lots 18 and 19 of Block 1 in Tract 258 of Pueblo West, Colorado. Lot 20 of Block 1 in Tract 258 is also part of the annexation.

8. SIEA's conversion of the existing building and the construction of its new facilities, comprising its new headquarters complex with a street address of 813 East Industrial Boulevard, were completed at the end of 2012. Joint Applicants had further agreed that connection of electric service to SIEA's new headquarters complex from the SIEA electric distribution system could occur prior to the filing of this Application. SIEA is currently providing service to this new headquarters complex from its electric distribution system.

9. Joint Applicants had also mutually agreed: (1) that at such time that SIEA no longer used its old headquarters complex at 893 East Enterprise Drive principally for the operation of its electric utility, the electric service to this facility would revert to Black Hills; and (2) that at such time that SIEA no longer used its West Peak Warehouse at 716 East Industrial Boulevard principally for the operation of its electric utility, the electric service to this facility would also revert to Black Hills. These premises, although located in Black Hills' service territory, had been historically served by SIEA, through SIEA's own electric distribution system.

10. SIEA is currently providing service to its new headquarters complex from its electric distribution system; and therefore, is no longer using its old headquarters complex at 893 East Enterprise Drive, Pueblo West, described as Tract 249, Block 4, Lots 19 and 20. Likewise, SIEA is no longer using its West Peak Warehouse at 716 East Industrial Boulevard, Pueblo West, described as Tract 249, Block 1, Lot 16. As agreed to by Joint Applicants, electric service to the warehouse has reverted to Black Hills under its Rates, Rules and Regulations. Electric service to SIEA's old headquarters building, currently for sale, will revert to Black Hills under its Rates, Rules and Regulations once the building is sold.

11. The proposed exchange of certificated service territory which is the subject of this Application will modify Joint Applicants' respective certificated service territories to conform with the manner in which Joint Applicants have been providing service to customers in each other's service territory under customer invasion agreements.

12. Joint Applicants believe the proposed exchange of service territory as described in this application is in the public interest because Joint Applicants will acquire the service territory in which each is serving certain respective customers. The existing customers will benefit from their continued service from their current provider at the same rates. The proposed transfer will

modify Joint Applicants' respective territories to conform with the manner in which Joint Applicants are providing service to customers in each other's territory through agreement.

13. Further, the warehouse facility located at 716 East Industrial Boulevard is no longer being used by SIEA and has reverted back to Black Hills. Black Hills is providing service to this facility under its Rates, Rules and Regulations. SIEA's old headquarters located at 893 East Industrial Boulevard, which it is no longer using, will be sold and will revert back to Black Hills for Black Hills to provide service to that facility also under its Rates, Rules and Regulations.

14. Black Hills and SIEA state in the joint application that approval of the proposed transfer is not contrary to the public interest. No other person or entity affiliated with either Black Hills or SIEA holds duplicating authority with respect to the proposed service territory transfer area and no other public utilities provide similar service in or near the area involved in the Application.

15. We find that both Black Hills and SIEA have the financial ability and are qualified and competent to conduct the utility operations sought under its Application.

16. The granting of the requested transfer of service territory requested by SIEA's and Black Hills' Certificates of Public Convenience and Necessity are in the public interest, and the transfers are therefore granted.

## **II. ORDER**

### **A. The Commission Orders That:**

1. The Application for Transfer of the portions of Black Hills/Colorado Electric Utility, LP (Black Hills) and San Isabel Electric Association (SIEA) Certificates of

Public Convenience and Necessity (CPCNs) pursuant to Commission Rule 4 *Code of Colorado Regulations* (CCR) 723-3-3002(a)(V), is deemed complete.

2. Black Hills and SIEA are authorized to transfer the portions of their CPCNs as legally described in the application, and the adjustment to the respective utility's CPCNs, in certain portions of Pueblo County, Colorado, for transmission and distribution of electrical energy in that area is granted.

3. Black Hills and SIEA may substitute the submitted financial statements as proof of sufficient financial ability to continue to provide utility service as prescribed, in lieu of a feasibility study, as permitted by Rule 3100(b)(VI), 4 CCR 723-3.

4. The Commission shall retain jurisdiction of this proceeding to the end that it may take such action and enter such orders as may appear necessary to fully effectuate this Decision.

5. 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.

6. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING  
February 19, 2014.**

(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

JOSHUA B. EPEL

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PAMELA J. PATTON

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GLENN A. VAAD

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Commissioners