

Decision No. C14-0204

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

PROCEEDING NO. 13A-0445E

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IN THE MATTER OF THE APPLICATION OF BLACK HILLS/COLORADO ELECTRIC UTILITY COMPANY, LP FOR (1) APPROVAL OF ITS 2013 ELECTRIC RESOURCE PLAN, AND (2) APPROVAL OF ITS 2013-2014 RES COMPLIANCE PLAN.

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PROCEEDING NO. 13A-0446E

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IN THE MATTER OF THE APPLICATION OF BLACK HILLS/COLORADO ELECTRIC UTILITY COMPANY LP FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO CONSTRUCT A POWER PLANT CONSISTING OF A 40 MW SIMPLE CYCLE COMBUSTION TURBINE AND ASSOCIATED BALANCE OF PLANT PURSUANT TO COMMISSION DECISION NO. C12-1434.

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PROCEEDING NO. 13A-0447E

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IN THE MATTER OF THE APPLICATION OF BLACK HILLS/COLORADO ELECTRIC UTILITY COMPANY LP, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR THE RETIREMENT OF PUEBLO 5 AND 6.

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**DECISION ADDRESSING APPLICATION FOR  
REHEARING, REARGUMENT OR RECONSIDERATION**

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Mailed Date: February 25, 2014

Adopted Date: February 19, 2014

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## I. **BY THE COMMISSION**

### A. **Statement**

1. This matter comes before the Commission for consideration of an Application for Rehearing, Reargument or Reconsideration (RRR) of Decision No. C14-0007 (Application for RRR) timely filed by Black Hills/Colorado Electric Utility Company, LP (Black Hills or the Company) on January 27, 2014.

2. By Decision No. C14-0007, issued January 6, 2014, the Commission approved: (1) a Settlement Agreement reached by Black Hills and certain intervenors; (2) the Company's Electric Resource Plan (ERP), with modifications; and (3) its 2013-2014 Renewable Energy Standard (RES) Compliance Plan, with modifications. The Commission also granted the Company a Certificate of Public Convenience and Necessity (CPCN) to construct and own a 40 MW LM6000 unit at its Pueblo Airport Generating Station and a CPCN to retire its Pueblo generating Units 5 and 6.

3. In its Application for RRR, Black Hills does not challenge the Commission's approval of these items but states that it is seeking reconsideration or clarification on four issues. Being duly advised, we grant, in part, and deny, in part, the RRR.

### B. **In-Service Dates for Eligible Energy Resources**

4. Black Hills explains that Decision No. C14-0007 limits the in-service dates to 2017 and 2018 for eligible energy resources bid into the approved all-source solicitation.

The Company seeks reconsideration of this restriction to allow the Company to evaluate and present bids that have an in-service date earlier than 2017 in Phase II of the ERP. Because projects qualifying for the Investment Tax Credit (ITC) must be in-service before December 31, 2016, allowing the earlier in-service date permits the Company to consider pricing of projects benefitting from the ITC.

5. We agree that solar resources taking advantage of the ITC may lower the cost of Black Hills' compliance with the RES. Therefore, we find good cause to grant the Company's request for reconsideration in this matter. Black Hills is authorized to evaluate and present bids for eligible energy resources with an in-service date prior to 2017. However, we reiterate our concerns about the rate impacts Black Hills' customers will face from the Company's acquisition of new generation resources, including the LM6000. Rate impact during the resource acquisition period of the ERP will be an important and necessary consideration as we review the Company's bid evaluation and selection in Phase II.

**C. Compliance Filing Date**

6. At paragraphs 30 and 32 of Decision No. C14-0007, the Commission directed Black Hills to submit a compliance filing with the modeling inputs and assumptions, as well as its final bid evaluation criteria for Phase II, six weeks prior to the deadline for the submission of bids. Black Hills seeks clarification of whether this filing deadline is six weeks prior to the issuance of the Request for Proposals (RFPs), which the Company expects to be May 1, 2014.

7. We deny Black Hills' request to clarify and set the deadline six weeks before the issuance of the RFPs. The compliance filing date of six weeks prior to the bid submission deadline provides bidders sufficient time to understand project modeling and evaluative criteria.

**D. Independent Auditor**

8. By Decision No. C14-0007, the Commission did not require an Independent Evaluator (IE) for Phase II of the ERP. Black Hills seeks Commission direction as to whether, if the Company or an affiliate bids in the All-Source solicitation, the Company must select an “Independent Evaluator/Auditor” pursuant to paragraph 3656(h) of the Commission’s RES Rules, 4 *Code of Colorado Regulations* 723-3-3650, *et seq.*

9. We note an Independent Auditor (IA) under paragraph 3656(h) serves a different function than an IE. In Proceeding No. 08R-424E, the Commission declined to expand the role of the IA to become an IE. Decision No. C09-0990, Proceeding No. 08R-424E issued September 9, 2009.

10. It appears that Black Hills intends to retain an IA if the Company or an affiliate will bid into the approved all-source solicitation. This approach is consistent with the RES Rules, and no clarification is necessary.

**E. Presumption of Prudence**

11. By Decision No. C14-0007, the Commission granted Black Hills a presumption of prudence for the costs of the LM6000 of up to 5 percent of the Company’s revenue requirement at the time it requests cost recovery. Black Hills seeks clarification that this 5 percent measure applies only to the revenue requirement associated with the LM6000 and not to other expenditures for which the Company may seek cost recovery in a future rate case.

12. Decision No. C14-0007 states that the scope of the presumption of prudence relates only to the costs of the LM6000. We therefore deny the Company’s request for clarification.

**II. ORDER****A. The Commission Orders That:**

1. The Application for Rehearing, Reargument or Reconsideration of Commission Decision No. C14-0007 filed by Black Hills/Colorado Electric Utility Company, LP, on January 27, 2014, is granted, in part, and denied, in part, consistent with the discussion above.

2. The 20-day period provided 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  
February 19, 2014.**

(S E A L)



ATTEST: A TRUE COPY

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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Commissioners

COMMISSIONER GLENN A. VAAD  
NOT PARTICIPATING.