

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 19A-0660E

IN THE MATTER OF THE APPLICATION OF BLACK HILLS COLORADO ELECTRIC, LLC FOR APPROVAL OF AN AMENDMENT TO ITS 2016 ELECTRIC RESOURCE PLAN CONCERNING A COMPETITIVE SOLICITATION FOR UP TO 200 MW OF RENEWABLE ENERGY AND ENERGY STORAGE.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
ROBERT I. GARVEY
GRANTING UNOPPOSED MOTION
SEEKING MODIFICATION OF DECISION
NO. R20-0094-I AND WAIVING RESPONSE TIME**

Mailed Date: February 20, 2020

I. STATEMENT

1. On November 22, 2019, Black Hills Colorado Electric, LLC (Black Hills or the Company) filed an Application for Approval of an Amendment to its 2016 Electric Resource Plan Concerning a Competitive Solicitation for Up to 200 MW of Renewable Energy and Energy Storage (Application). Black Hills filed the Application with an initial procedural motion (Omnibus Motion) requesting that the Commission: (1) agree to hear this Proceeding *en banc*; (2) adopt the procedural schedule proposed within the Omnibus Motion; (3) grant all necessary waivers and variances from the Commission's Rules as set forth in the Omnibus Motion or as otherwise deemed necessary by the Commission; and (4) grant extraordinary protection for certain information the Company claims to be highly confidential.

2. The procedural history of this proceeding is set out in previous Decisions and is repeated here as necessary to put this Decision in context.

3. On December 6, 2019, by Decision No. C19-0981-I, the Commission rejected the Company's request for a shortened notice and intervention period as set forth in the Omnibus Motion and instead, following its regular business meeting on December 4, 2019, issued a standard Notice of Application Filed establishing a notice and intervention period ending January 3, 2020. The Commission further set a deadline of January 3, 2020 for responses to the remaining components of the Omnibus Motion.

4. On January 29, 2020, by Decision No. C20-0064-I, the Commission denied the Company's request for an *en banc* hearing, referred the matter to an Administrative Law Judge (ALJ) for a recommended decision pursuant to § 40-6-109, C.R.S., and instructed the ALJ to, among other things, rule on the requests for intervention and establish the parties in this proceeding. The undersigned ALJ was subsequently assigned to preside over this Proceeding.

5. On February 12, 2020, by Decision No. R20-0094-I, a prehearing conference was scheduled for February 27, 2020, the requests for permissive intervention were ruled on, and the Company's Request for Highly Confidential Protection was granted. Specifically, the requests for permissive intervention filed by the Colorado Independent Energy Association, the City of Pueblo, the Board of County Commissioners of Pueblo County, LafargeHolcim US Inc., and the Board of Water Works of Pueblo were granted, and the request for permissive intervention filed by Western Resource Advocates (WRA) was denied.

6. On February 14, 2020, WRA filed an Unopposed Motion Seeking Modification of Decision No. R20-0094-I (Unopposed Motion), requesting language be added to certify the Decision as immediately appealable pursuant to Rule 1502(c), 4 *Code of Colorado Regulations* (CCR) 723-1 of the Commission's Rules of Practice and Procedure. WRA also states that it

intends to file a forthcoming motion to contest Decision No. R20-0094-I consistent with Rules 1400 and 1502, 4 CCR 723-1.

7. The Unopposed Motion will be granted, and response time will be waived.

II. ORDER

A. It Is Ordered That:

1. The Unopposed Motion Seeking Modification of Decision No. R20-0094-I (Unopposed Motion) filed by Western Resource Advocates on February 14, 2020 is granted.

2. Response time to the Unopposed Motion is waived.

3. Ordering Paragraph 4 of Interim Decision R20-0094-I is modified to state:

The Petition for Leave to Intervene filed by Western Resource Advocates on January 3, 2020 is denied. This Interim Decision is certified as immediately appealable to the Commission *en banc* pursuant to 4 *Code of Colorado Regulations* 723-1-1502(d).

4. This Decision is effective immediately.



Doug Dean

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Administrative Law Judge