

Decision No. R14-0863-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14A-0535E

IN THE MATTER OF THE APPLICATION OF BLACK HILLS/COLORADO ELECTRIC UTILITY COMPANY, LP FOR APPROVAL OF ITS 2015-2017 RENEWABLE ENERGY STANDARD (RES) COMPLIANCE PLAN.

PROCEEDING NO. 14A-0534E

IN THE MATTER OF THE APPLICATION OF BLACK HILLS/COLORADO ELECTRIC UTILITY COMPANY, LP FOR APPROVAL OF ITS 2014 ECA-RESA ADJUSTMENTS AND ECA TARIFF REVISION.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
MELODY MIRBABA
SCHEDULING PREHEARING CONFERENCE**

Mailed Date: July 23, 2014

I. STATEMENT, FINDINGS, AND CONCLUSIONS

1. On May 23, 2014, Black Hills/Colorado Electric Utility Company, LP (Black Hills or Company) filed in Proceeding No. 14A-0535E an application seeking approval of its 2015-2017 Renewable Energy Standard (RES) Compliance Plan (RES Plan Application). Black Hills takes the position that its 2015-2017 RES Compliance Plan is conditioned on the outcome of its Electric Resource Plan (ERP) in Proceeding No. 13A-0445E.

2. On May 23, 2014, Black Hills also filed in Proceeding No. 14A-0534E an application for approval of various adjustments to its Energy Cost Adjustment (ECA) and its Renewable Energy Standard Adjustment (RESA) (ECA-RESA Application).

3. Also on May 23, 2014, Black Hills filed a Motion for Waivers, in which it seeks variances from certain provisions related to the Standard Rebate Offer as set forth in the Commission's RES Rules, 4 *Code of Colorado Regulations* (CCR) 723-3-3650, *et seq.*

4. In both application proceedings, the Company filed a motion for consolidation of the proceedings.

5. The Colorado Office of Consumer Counsel (OCC) and the Staff of the Colorado Public Utilities Commission (Staff) each timely filed a notice of intervention of right in both proceedings. Staff and the OCC also request a hearing on both applications.

6. The Colorado Energy Office (CEO) timely filed a notice of intervention of right in Proceeding No. 14A-0535E.

7. In addition, Western Resource Advocates (WRA) and the Colorado Independent Energy Association (CIEA) timely filed requests for permissive intervention in Proceeding No. 14A-0535E.

8. On June 3, 2014, the OCC filed a Motion for Additional Response Time (Motion) to allow additional time to respond to the Company's Motion for Waivers.

9. On June 6, 2014, the Commission granted in part, the OCC's Motion, extending the deadline to respond to the Motion for Waivers, but did not set a deadline for such responses. Decision No. C14-0614-I. The Decision notes that a deadline will be established by a future decision.

10. On July 9, 2014, the Commission consolidated Proceeding Nos. 14A-0535E with 14A-0534E, and designated 14A-0535E as the primary proceeding. Decision No. C14-0831-I.

11. The same Decision deems both applications complete and grants WRA and CIEA's requests to permissively intervene. Thus, the parties to this consolidated proceeding are Black Hills, the OCC, Staff, CEO, WRA, and CIEA. *Id.*

12. In addition, the Commission noted that Black Hills is presently conducting a competitive solicitation for new utility resources as part of its ongoing ERP and may evaluate bids and proposals for the acquisition of up to 60 MW of eligible energy resources. *Id.* The Commission agreed with Black Hills that resources acquired as part of the ERP in Proceeding No. 13A-0445E and their associated costs may influence its decisions regarding the RES Plan Application. The Commission anticipated that Black Hills will file its 120-Day report in "Phase II" of the ERP in late November 2014. *Id.* And, the Commission also noted that it expects to issue a Phase II decision on resource selection in the first quarter of 2015, in accordance with the deadlines set forth in Rule 3611 of the Commission's ERP Rules, 4 (CCR) 723-3. *Id.*

13. The Commission concluded that the decision in this proceeding should be timed and coordinated with its deliberations in Phase II of Black Hills' ongoing ERP in Proceeding No. 13A-0445E. As a result, the Commission referred this consolidated proceeding to an Administrative Law Judge (ALJ) to issue an Initial Commission decision under § 40-6-109(6), C.R.S. *Id.*

14. The ALJ finds that it is necessary to hold a prehearing conference to address several issues and will schedule one, in accordance with Rule 1409(a) of the Rules of Practice and Procedure, 4 CCR 723-1.

15. The parties are expected to appear at the prehearing conference.¹

16. At the prehearing conference, the parties should be prepared to address the following:

- The manner in which this consolidated proceeding and the “Phase II” of the Company’s ongoing ERP in Proceeding No. 13A-0445E should be coordinated, as well as each party’s position on the relationship between this consolidated proceeding and the referenced Phase II ongoing ERP proceeding;
- A timeframe for Black Hills to file an application for expedited approval of its small solar and Community Solar Gardens (CSGs) program in 2015,² as well as each parties’ position on the relationship between that filing and this consolidated proceeding;
- The procedure that should be employed to render this consolidated proceeding ripe for disposition, (*e.g.*, evidentiary hearing coupled with legal briefs, versus some other appropriate process);
- The scope of any evidentiary hearing to be held;
- A procedural schedule to render this consolidated proceeding ripe for disposition, including a disclosure schedule, schedule for filing of motions *in limine*, legal memoranda, an evidentiary hearing (if appropriate), the manner in which the evidentiary hearing or other hearing should be conducted, and any such other filing as is appropriate;
- A deadline to file responses to Black Hills’s Motion for Waivers; and
- Any other issue relevant to the disposition of this consolidated proceeding.

17. The parties are on notice that failure to appear at the prehearing conference may result in dismissal of the Applications without prejudice, or an order denying intervenor the ability to participate in this proceeding.

¹ The parties need not personally appear, but may appear through counsel.

² Through the Direct Testimony of Black Hills’s witness Mr. Frederic Stoffel, the Company explains that while it is proposing to continue the small solar program for 2015, 2016 and 2017, it also intends to file a separate, expedited application to approve the small solar and Community Solar Gardens (CSGs) program in 2015 outside of this proceeding. Stoffel Direct, 14:12-22, filed in Proceeding No. 14A-0535E. Black Hills explains that the expedited proceeding should provide the Commission the means of providing interim or conditional approval for a 2015 small solar and CSG programs outside of this proceeding so that the Company can have on-site solar incentives available in January 2015. *Id.*

II. ORDER

A. It Is Ordered That:

1. A prehearing conference in this proceeding is scheduled as follows:

DATE: August 12, 2014

TIME: 2:00 p.m.

PLACE: Commission Hearing Room
1560 Broadway, 2nd Floor
Denver, Colorado

2. At the prehearing conference, the parties shall be prepared to address the issues identified in this Decision.

3. 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 that reads "Doug Dean".

Doug Dean,
Director