

Decision No. R14-1091-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
REGARDING SCOPE OF**

PART I AND PART 2 DISCLOSURES

Mailed Date: September 8, 2014

I. STATEMENT, FINDINGS, AND CONCLUSIONS

1. Only those portions of the procedural history necessary to understand this Decision are included.

2. The Commission has referred this consolidated proceeding to an Administrative Law Judge (ALJ) for issuance of an Initial Commission decision under § 40-6-109(6), C.R.S. *Id.* Decision No. C14-0831-I issued July 16, 2014.

3. The Commission consolidated Black Hills/Colorado Electric Utility Company, LP's (Black Hills or Company) application seeking approval of its 2015-2017 Renewable Energy Standard (RES) Compliance Plan (RES Plan Application) in Proceeding No. 14A-0535E,

with its application for approval of various adjustments to its Energy Cost Adjustment (ECA) and its Renewable Energy Standard Adjustment (RESA) (ECA-RESA Application) in Proceeding No. 14A-0534E into this single proceeding. Decision No. C14-0831-I.

4. The parties to this consolidated proceeding are: Colorado Office of Consumer Counsel, the Staff of the Colorado Public Utilities Commission, the Colorado Energy Office, Western Resource Advocates, and the Colorado Independent Energy Association.

5. The Commission has also concluded that the decision in this proceeding should be timed and coordinated with its deliberations in Phase II of Black Hills' ongoing Electric Resource Plan (ERP) in Proceeding No. 13A-0445E (Phase II Proceeding). Decision No. C14-0831-I.

6. The ALJ scheduled a prehearing conference for August 12, 2014. Decision No. R14-0863-I issued July 22, 2014. At the date, time and location designated, the ALJ convened the prehearing conference. All parties appeared and provided their positions on the issues identified by Decision No. R14-0863-I.

7. After hearing the parties' positions on the manner in which this consolidated proceeding and the Phase II Proceeding should be coordinated, and their positions on the relationship between this consolidated proceeding and the Phase II Proceeding, the ALJ concluded that the hearing in this proceeding should be held after the anticipated date (late February 2015), for issuance of the Commission's decision in the Phase II proceeding. With that in mind, the parties agreed to, and the ALJ approved hearing dates and a procedural schedule, which is set forth in Decision No. R14-0989-I issued August 14, 2014.

8. The hearing will be held on April 21, 22 and 23, 2015. The hearing dates allow for approximately two months from the anticipated date of the issuance of the Commission's

decision in the Phase II Proceeding. In order to minimize potential difficulties this may present, testimony and exhibits shall be filed in two parts. The first set of testimony and exhibits (Part I disclosures) shall be filed before the Phase II Commission decision is issued; the second set of testimony and exhibits (Part II disclosures) shall be filed after the Phase II Commission decision is issued. This allows the parties to address Black Hills' direct testimony without delay and to account for any impact the Phase II Commission decision may have on this proceeding.

9. The ALJ ordered the parties to submit a proposed order setting forth the scope of the disclosures for Parts I and II, which may also be relevant to the scope of discovery for Part I and Part II. Decision No. R14-0989-I. Black Hills coordinated that filing, which was made on August 28, 2014 ([Proposed] Decision).

10. The [Proposed] Decision sets forth a proposal for the timelines for disclosing evidence relating to each request for relief. Decision No. R14-0989-I required that if any party objected to the proposed decision that Black Hills drafted, that the party so objecting may file their own proposed decision, which should include its objection to the specific part of the proposed decision submitted by Black Hills. That filing was due on September 5, 2014. No party made a filing objecting to the proposed decision. Thus, the ALJ deems the parties' silence on the [Proposed] Decision to indicate they do not object to it. *See* Rule 1400(d), 4 *Code of Colorado Regulations* 723-1 of the Commission's Rules of Practice and Procedure.

11. Except as stated herein, the ALJ finds that the division of the disclosure of evidence during Part I and Part II, as identified by the parties in the [Proposed] Decision is reasonable and appropriate.

A. Part I

12. The parties shall file and serve testimony and exhibits in Part I for all the requests for relief from the Applications in each of the consolidated proceedings, the ECA-RESA (14A-0534E) and the RES Plan (14A-0534E), as set forth below:

	Request for Relief	Application
1)	Approves the Solar DG adjustment for years 2012-2014, reducing charges against the RESA account by approximately \$1,931,854 and recovering an equal amount through the ECA in avoided costs.	ECA-RESA Proceeding No. 14A-0534E
2)	Approves the Busch Ranch Wind Project adjustment from 2012-2014, reducing charges against the RESA account by \$1,653,807 and recovering an additional \$3,692,210 through the ECA in avoided costs.	ECA-RESA Proceeding No. 14A-0534E
3)	Approves the Vestas contract adjustment reducing the reported balance of the RESA account for years 2011-2014 due to an error in reporting in the Company's Monthly Renewables report; in addition to crediting customers approximately \$182,426 through the ECA and charging an equal amount to the RESA for incremental costs from 2013-2014 to reflect the Commission decision designating the Vestas wind turbine as a Section 124 resource from 2013 going forward in Decision No. C14-0007.	ECA-RESA Proceeding No. 14A-0534E
4)	Approves the revised ECA tariff as attached hereto with an effective date of January 1, 2015.	ECA-RESA Proceeding No. 14A-0534E
5)	Directs Black Hills to make a compliance filing seven days after the Commission's decision is effective to place the approved tariff sheets into effect.	ECA-RESA Proceeding No. 14A-0534E
6)	Grants such waivers (including Black Hills's Motion for Waivers) of the Commission's Rules as necessary for the implementation of the above (for ECA-RESA).	ECA-RESA Proceeding No. 14A-0534E

Part I, Cont'd

	Request for Relief	Application
7)	Allows Black Hills to file compliance tariffs relating to on-site solar 30 days after the Commission's decision is effective.	RES Plan Proceeding No. 14A-0534E
8)	Approves the requested modifications to the on-site solar contracts.	RES Plan Proceeding No. 14A-0534E
9)	Approves the proposed modifications to the CSG contracts.	RES Plan Proceeding No. 14A-0534E
10)	Allows Black Hills to file compliance tariffs on this issue 30 days after the Commission's decision is effective.	RES Plan Proceeding No. 14A-0534E
11)	Approves the adjustment to the avoided costs that were included in the Company's 2013-2014 RES Compliance Plan and approved in Decision No. C14-0007 in Proceeding No. 13A-0445E.	RES Plan Proceeding No. 14A-0534E
12)	Approves the recalculation of the RESA deferred account based on the outcome of the ECA-RESA Adjustment Proceeding.	RES Plan Proceeding No. 14A-0534E
13)	Grants Black Hills' motion for waivers and any other waivers necessary to implement Black Hills' RES Plan.	RES Plan Proceeding No. 14A-0535E

13. The parties are reminded that the following deadlines apply to the topics identified in Part I (above):

- Answer testimony and exhibits shall be filed on or by 5:00 p.m. MST on October 16, 2014.
- Rebuttal and cross-answer testimony and exhibits shall be filed on or by 5:00 p.m. MST on December 4, 2014.

- The cut off for issuing discovery requests relating to Part I is 5:00 p.m. MST on January 9, 2015.
- Corrected testimony and exhibits shall be filed on or by 5:00 p.m. MST on January 15, 2015.

B. Part II

14. The parties shall file and serve testimony and exhibits in Part II for all the requests for relief identified below in the Applications in both the ECA-RESA Application (14A-0534E) and the RES Plan Application (14A-0534E):

	Request for Relief	Application
1)	Approves Black Hills 2015 – 2017 RES Compliance Plan including the charging of the maximum 2% surcharge that complies with the RES.	RES Plan Proceeding No. 14A-0535E
2)	Determines the amounts of eligible energy resources, RECs, or other methods for meeting the Electric resource standards of the RES.	RES Plan Proceeding No. 14A-0535E
3)	Approves Black Hills proposed on-site solar program for the years 2015, 2016, and 2017.	RES Plan Proceeding No. 14A-0535E
4)	Determines the minimum and maximum size of the CSG offering for 2015, 2016, and 2017.	RES Plan Proceeding No. 14A-0535E
5)	Approves its compliance approach for the non-Small DG aspects of the RES after accounting for the outcome of the All-Source solicitation the Company is conducting pursuant to Decision No. C14-0007.	RES Plan Proceeding No. 14A-0535E

15. The parties are reminded that the following deadlines apply to the topics identified in Part II (above):

- Supplemental direct testimony and exhibits due by 5:00 p.m. on March 10, 2015.
- Answer testimony and exhibits due by 5:00 p.m. on March 24, 2015.
- Rebuttal and cross-answer testimony and exhibits due by 5:00 p.m. on April 2, 2015.
- Corrected testimony and exhibits due by 5:00 p.m. on April 13, 2015.

16. The [Proposed] Decision does not suggest when any testimony and exhibits relating to Applicant's Motion for Waivers (in both proceedings), and Applicant's request for a waiver of any rule as necessary to implement the plans in both proceedings, should be filed. Instead, the [Proposed] Decision instead asserts that it is not necessary to set a time-frame for disclosures of testimony and exhibits related to those topics. The ALJ disagrees. While it is true that the deadline to file a response to the Motion for Waivers has expired, that does not eliminate a party's ability to address issues relating to that request, and Applicant's request for any such waivers as are necessary, through testimony and exhibits. The ALJ has designated Part I for these subjects. Should the parties wish to re-allot these topics to a different part, they may file a motion so stating. Any party wishing file such a motion must attempt to confer in good faith with the other parties to this proceeding and include a statement in their motion both relating their good-faith attempts to confer, and the position of the other parties on the motion.

17. Except as stated above, because the [Proposed] Decision is unopposed, and for good cause shown, the ALJ will approve the division of the topics for the evidence to be disclosed during Part I and Part II in this proceeding.

II. ORDER

A. It Is Ordered That:

1. Except as stated herein, the ALJ approves the parties' proposed division of the topics for the evidence to be disclosed during Part I and Part II as set forth in their [Proposed] Decision.

2. The division of topics for Part I and Part II shall be as set forth in ¶¶ 13 and 15 above.

3. Any party wishing to re-designate disclosure of testimony and exhibits relating to Applicant's Motion for Waivers (in both proceedings), and Applicant's request for a waiver of any rule as necessary to implement the plans in both proceedings, may file a motion so requesting. Any party wishing file such a motion must attempt to confer in good faith with the other parties to this proceeding; any such motion must include a statement indicating their good-faith attempts to confer, and the position of the other parties on the relief sought by the motion.

4. 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