

Decision No. C19-0981-I

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 DENYING REQUEST FOR A
SHORTENED NOTICE AND INTERVENTION PERIOD
AND SETTING RESPONSE TIME TO
INITIAL PROCEDURAL MOTION**

Mailed Date: December 6, 2019
Adopted Date: December 4, 2019

TO THE PARTIES IN THIS MATTER AND ALL INTERESTED PERSONS, FIRMS,
OR CORPORATIONS:

I. BY THE COMMISSION

A. 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 that includes a request for a shortened notice and intervention period.

2. This Decision denies the request for a shortened notice and intervention period. We instead implement the standard 30-day notice and intervention period for applications generally pursuant to 4 *Code of Colorado Regulations* (CCR) 723-1-1206 of the Commission's Rules of Practice and Procedure. Requests for intervention shall be filed no later than **January 3, 2020**. In

addition, responses to the components of the initial procedural motion filed by Black Hills with its Application shall also be filed no later than **January 3, 2020**.

B. Discussion

3. By the Application, Black Hills seeks to amend its previously approved 2016 Electric Resource Plan (ERP)¹ by conducting a new competitive solicitation for renewable energy and storage up to 200 MW to determine whether new resources can be added to the Company's system and result in annual customer savings. Black Hills states that, unlike the typical ERP process, the Company is proposing "Renewable Advantage" to take place on an expedited basis. Within a year, the Company would issue a request for proposals (RFP), evaluate the bids, make acquisition recommendations to the Commission, and then—if the Commission approves procurement—facilitate the entering of an energy purchase agreement. In the event that Renewable Advantage results in bids that require bill increases, Black Hills states that the Company will recommend to the Commission that no procurement take place and that the Commission delay procurement decisions until Black Hills' next ERP filing.

4. Black Hills explains in the Application that, following the Company's 2016 ERP, Public Service Company of Colorado conducted a competitive solicitation in 2019 for solar and storage resources and received very low median prices for new solar resources. Black Hills also notes that existing tax credits for wind and solar generation resources are expiring and phasing-out after year 2019.

5. Black Hills supports the Application with testimony claiming that customer savings would occur by displacing higher-cost power supplies with lower cost renewable energy supplies.

¹ Decision Nos. R17-0039, issued January 17, 2017, and C18-0462, issued June 14, 2018, Proceeding No. 16A-0436E.

Black Hills' customers would receive the benefits of these savings through the Company's Energy Cost Adjustment. The Company's testimony also states that Renewable Advantage has the potential to increase the Company's retail load served by renewable energy resources to approximately 55 to 65 percent.

6. Black Hills filed the Application with an initial procedural motion that sets forth several requests. The Company asks the Commission: (1) to shorten the notice and intervention period for the Application, such that interventions are due on or before December 20, 2019; (2) modify response time to the other requests set forth in the motion such that responses are likewise due on or before December 20, 2019; (3) adopt a procedural schedule proposed within the motion; (4) agree to hear this proceeding *en banc*; (5) grant all necessary waivers and variances as set forth in the motion or as otherwise deemed necessary by the Commission; and (6) grant extraordinary protection for certain information the Company claims to be highly confidential.

7. With respect to its request for a shortened notice and intervention period, Black Hills argues that Renewable Advantage requires a unique procedural schedule that accomplishes within a year the goals of a typical "Phase I" and "Phase II" ERP proceeding. Black Hills states that the Company is hopeful that, because it is proposing an amendment to the 2016 ERP and not a new ERP, there will not be any contested Phase I issues, and thus, no need for a hearing on those issues. Nevertheless, following any necessary Phase I process, Black Hills proposes to proceed to a Phase II portion, where it will develop a "120-Day Report," followed by a response by the Independent Evaluator,² intervenor comments, and a final Commission decision. The proposed procedural schedule includes a pre-bid conference scheduled on December 6, 2019, the issuance

² Black Hills filed a Motion for Approval of Independent Evaluator Designation on November 22, 2019. The motion is separate from the initial procedural motion also filed on November 22, 2019.

of the RFP on December 13, 2019, and a deadline for bids of February 15, 2020, when the Company's Phase II evaluation of bids would begin. In the event a Phase I process is required, Black Hills proposes a decision on Phase I topics to issue no later than April 10, 2020. Black Hills proposes an opportunity for bids to be "refreshed" in light of the Phase I decision by May 19, 2020. The Phase II portion of Renewable Advantage would end with a Commission decision issuing on September 9, 2020. Black Hills argues that its proposed schedule will ensure that bidders have an opportunity to claim federal tax credits from year 2019.

8. Black Hills states that the Company conducted stakeholder outreach prior to the filing of the Application. The Company also served copies of the Application on the following: Staff of the Colorado Public Utilities Commission (Staff), the Colorado Office of Consumer Counsel, the Colorado Energy Office, the City of Pueblo, Pueblo County, Western Resource Advocates, the Colorado Independent Energy Association, the Colorado Solar and Storage Association, Environmental Defense Fund, Energy Outreach Colorado, Cripple Creek & Victor Gold Mining Company LLC, and LaFarge/Holcim (U.S.) Inc.

C. Conclusions and Findings

9. The Commission denies Black Hills' request for a shortened Commission notice and intervention period. Requests for intervention, with the exception of a notice of intervention as of right by Staff, shall be filed no later than January 3, 2020, consistent with the Notice of Application Filed issued following our oral deliberations at our December 4, 2019 weekly meeting.³

10. We find good cause to set response time to the request set forth in Black Hills' initial procedural motion. Responses to the requests shall also be filed no later than January 3, 2020.

³ Notice of Application Filed, issued December 4, 2019, Proceeding No. 19A-0660E.

11. Responses to intervention requests shall be filed no later than January 10, 2020.

II. **ORDER**

A. **It Is Ordered That:**

1. The request of Black Hills Colorado Electric, LLC (Black Hills) to shorten the notice and intervention period for the 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 is denied.

2. Any person desiring to intervene or participate as a party in this Proceeding, with the exception of Staff of the Colorado Public Utilities Commission, shall file a petition for leave to intervene, or under the Commission's Rules of Practice and Procedure, file other appropriate pleadings to become a party, by January 3, 2020. Alternatively, persons who do not wish to intervene or become a party, but desire to file comments, may send written comments addressed to the Public Utilities Commission, 1560 Broadway, Suite 250, Denver, Colorado 80202. All persons who file an objection, notice of intervention as of right, motion to permissively intervene, or any other appropriate pleading shall do so in accordance with the instructions set forth in the Commission's Rules of Practice and Procedure and this Decision.

3. Responses to the requests set forth in the initial procedural motion filed by Black Hills on November 22, 2020 shall be filed no later than January 3, 2020.

4. Responses to requests for intervention shall be filed no later January 10, 2020.

5. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
December 4, 2019.**

(S E A L)



ATTEST: A TRUE COPY



Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JEFFREY P. ACKERMANN

FRANCES A. KONCILJA

JOHN GAVAN

Commissioners