

Decision No. C24-0892

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 16A-04363E

IN THE MATTER OF THE APPLICATION OF BLACK HILLS COLORADO ELECTRIC INC.
FOR (1) APPROVAL OF ITS 2016 ELECTRIC RESOURCE PLAN, AND (2) APPROVAL OF
ITS 2018-2021 RES COMPLIANCE PLAN.

**COMMISSION DECISION GRANTING MOTION FOR
APPROVAL OF BLACK HILLS COLORADO ELECTRIC
2023 RENEWABLE ENERGY STANDARD COMPLIANCE
PLAN**

Issued Date: December 5, 2024
Adopted Date: November 27, 2024

I. BY THE COMMISSION

A. Statement

1. This Decision grants Black Hills Colorado Electric, LLC’s (“Black Hills” or the “Company”) Motion for Approval of 2023 RES Compliance Report filed on May 31, 2024, pursuant to Rule 3662 of the Commission’s Renewable Energy Standard (“RES”) Rules, 4 *Code of Colorado Regulations* (“CCR”) 723-3-3650, *et seq.* As discussed below, we find that Black Hills complied with the RES requirements in 2023 and that no hearing is necessary.

B. Discussion

2. Black Hills’ 2018-2021 RES Plan was approved pursuant to Recommended Decision No. R17-0039, issued January 17, 2017, which became the final decision of the Commission. By Decision No. R21-0766, issued December 3, 2021, Black Hills was granted an extension of its 2018-2021 RES Plan into 2022, during the pendency of its next RES Plan application in Proceeding No. 21V-0342E.

3. Black Hills subsequently filed its 2023-2026 RES Plan in Proceeding No. 22A-0230E, which was modified by settlement agreement and approved by the Commission by Decision No. C23-0193, issued March 22, 2023.¹

4. The Commission has previously granted motions by Black Hills to approve its 2018, 2019, 2020, 2021, and 2022 compliance reports in this Proceeding.²

5. On May 31, 2024, Black Hills filed its 2023 RES Compliance Report pursuant to Rule 3662 of the Commission's RES Rules.³ The Commission issued a notice of the Company's filing of its RES Compliance Report on June 3, 2024, and thereby established a 30-day period for interested persons to submit comments in response to the RES Compliance Report. No comments were filed.

6. Rule 3663(a)(III) of the Commission's RES Rules requires Staff of the Commission ("Staff") to review a utility's annual compliance report within 60 days of its filing and recommend to the Commission whether the utility complied with the RES during the compliance year, whether a hearing is necessary, and whether any changes to the report are needed.

7. The Commission granted motions by Staff to extend the time required to file its analysis of the 2023 RES Compliance Report.⁴ Staff filed its review of Black Hills' 2023 RES Compliance Report on September 13, 2024.

C. Findings and Conclusions

8. In accordance with the Electric Resource Standards of the Colorado Renewable Energy Standards, codified at § 40-2-124(1)(c)(I)(C), C.R.S., Black Hills was required to generate

¹ The 2023 RES Compliance Report addresses programs from both proceedings. We expect that Black Hills will file its 2024 RES Compliance Report in Proceeding No. 22A-0230E.

² Decision Nos. C19-0703 (issued August 23, 2019), C20-0626 (issued August 26, 2020), C21-0566 (issued September 14, 2021), C22-0647 (issued October 25, 2022), and C23-0588 (issued September 7, 2023).

³ Black Hills filed Attachment A, which had inadvertently been omitted, on June 5, 2024.

⁴ Decision No. C24-0586-I (issued August 14, 2024); Decision No. C24-0640-I (issued September 5, 2024).

30 percent of its retail electric sales from eligible energy resources. The Company's retail sales for 2023 were 1,798,655 MWh. Therefore, the 30 percent of RES requirement is 539,597 MWh. Pursuant to the statute, Black Hills was required to generate three percent of its retail electric sales—amounting to 53,960 MWh—from renewable distributed generation (“DG”) resources. At least one-half of that—amounting to 26,980 MWh—must come from retail DG resources.

9. Consistent with the requirements in Commission Rule 3659, Black Hills generally demonstrates compliance with the RES through the retirement of renewable energy credits (“RECs”), as further defined by Rules 3652 and 3654. Each REC corresponds to 1 MWh of electricity generated from an eligible energy resource. Using this approach, Black Hills must show it retired a minimum of 539,597 RECs for the 2023 compliance year or demonstrate that it caused a certain number of MWh of electricity to be generated from eligible energy resources.

10. Based on its review of Black Hills' 2023 RES Compliance Report, Staff concluded that the Company retired sufficient RECs to comply with all aspects of the RES for the 2023 compliance year. Staff concluded therefore that no hearing is necessary.

11. The Commission finds that Black Hills is in compliance with the RES statute and rules for 2023. In addition to retiring the required RECs pursuant to Rule 3663(a)(IV)(A), Black Hills satisfied the requirement of retiring renewable DG resources pursuant to Rule 3663(a)(IV)(B). As it did not have eligible energy resources planned for the upcoming compliance year, it satisfied the requirement of Rule 3663(IV)(C). Black Hills will carry forward 18,484 RECs in this compliance year, consistent with the 2023 RES Compliance Report and Staff's analysis.

12. We note, however, that Staff identified certain unsettling information with regard to the Company’s future compliance with Senate Bill (“SB”) 21-272. Staff stated that Black Hills did not provide a clear analysis regarding the participation of, and incentives awarded to, customers who are income-qualified (“IQ”) or residents of disproportionately impacted communities (“DICs” or “DI Communities”). Staff calculates that pursuant to the previously approved settlement terms regarding SB 21-272—which requires utilities to dedicate not less than 40 percent of Renewable Energy Standard Adjustment collections to programs, incentives, or other investments benefiting IQ/DI Community customers⁵—Black Hills should have dedicated \$2.28 million in revenue to qualifying customers. Instead, it spent just \$195,389, of which the majority was for community solar garden (“CSG”) credits. Staff also stated that 31 percent of CSG customers were qualifying IQ/DIC customers, but those received only 10 percent of the bill credits. Moreover, Black Hills has not yet finished mapping customers to census block groups associated with DI Communities.

13. More IQ/DIC participation is anticipated in future compliance years due to CSG development pipelines. But Black Hills’ lag on customer mapping and enrollment concerns us. While we have not yet made rules to implement SB 21-272,⁶ the legislative language has clearly referred to census block groups as a means of identifying DI Communities since its passage in 2021. Our expectation is that by the time we receive the next compliance report in 2025, Black Hills will have dramatically increased participation in IQ/DIC RES programs and remedied gaps in information regarding census block groups. We appreciate Staff’s attention to this matter

⁵ § 40-2-124(1)(g)(I)(D), C.R.S.

⁶ Proceeding No. 22M-0171ALL, which the Commission initiated to engage stakeholders—including those from DI Communities—to help create future rules to implement SB 21-272, recently closed and we intend to issue proposed rules in forthcoming months.

and expect that Black Hills will provide sufficiently detailed reporting on IQ/DIC program participation in its future compliance reports so that Staff does not have to obtain this required information by audit.

II. ORDER

A. The Commission Orders That:

1. The Motion for Approval of 2023 Renewable Energy Standard (“RES”) Compliance Report filed by Black Hills Colorado Electric, LLC (“Black Hills”) on May 31, 2024, is granted, consistent with the discussion above.

2. Consistent with the discussion above, Black Hills is in compliance with the RES, including its distributed generation requirements, for the 2023 compliance year. Therefore, no hearing is necessary.

3. Black Hills shall carry forward the renewable energy credits in excess of those used to demonstrate compliance with the RES in 2023, consistent with the discussion above.

4. This Decision is effective immediately upon its Issued Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
November 27, 2024.**

S E A L)



ATTEST: A TRUE COPY

Rebecca E. White,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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Commissioners