

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO**

PROCEEDING NO. 24A-0157E

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IN THE MATTER OF THE VERIFIED APPLICATION OF BLACK HILLS COLORADO ELECTRIC, LLC DOING BUSINESS AS BLACK HILLS ENERGY FOR APPROVAL OF ITS ELECTRIC DEMAND SIDE MANAGEMENT AND BENEFICIAL ELECTRIFICATION PLAN FOR PROGRAM YEARS 2025-2027 AND FOR APPROVAL OF CHANGES TO ITS ELECTRIC DSM COST ADJUSTMENT TARIFF.

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**INTERIM DECISION  
ADOPTING PROCEDURAL SCHEDULE; SETTING  
EVIDENTIARY HEARING AND PUBLIC HEARING**

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Issued Date: June 28, 2024

**I. STATEMENT**

1. On April 1, 2024, Black Hills Colorado Electric, LLC (“Black Hills” or “Company”) filed its Verified Application (“Application”) of the Black Hills Colorado Electric, LLC Demand Side Management and Beneficial Electrification Plan (“DSM-BE”) for program years 2025 through 2027 and for changes to its DSM cost adjustment tariff. Attached to the Application were the direct testimonies of two witnesses.

2. Black Hills requested that the Commission issue an order: (1) approving the Company’s proposed 2025-2027 DSM-BE Plan, including the Company’s proposed programs, goals, reporting structure, and 60- and 90-Day Notice process; (2) approving the Company’s proposal to recover costs of 2025-2027 DSM-BE Plan through the Demand Side Management Cost Adjustment; (3) approving the Company’s proposed BE incentive mechanism; (4) approving any and all other relief set forth in the Company’s Direct Case (including any waivers, variances or other relief necessary to implement the Company’s 2025-27 DSM-BE Plan); and (5) authorizing

Black Hills to file the necessary tariffs to implement the approved 2025-2027 DSM-BE Plan through a compliance advice letter filing on not less than two business days' notice

3. On April 29, 2024, the Utility Consumer Advocate ("UCA") filed its Notice of Intervention as a Matter of Right, request for hearing and Entry of Appearance. UCA listed several issues that they believe require review.

4. On May 9, 2024, the Colorado Energy Office ("CEO") filed its intervention by right and entry of appearance. CEO listed several issues that they believe require review.

5. On May 9, 2024, Southwest Energy Efficiency Project ("SWEEP") filed its Motion to Intervene and Entry of Appearance. SWEEP is a regional public interest non-profit organization whose mission is to advance energy efficiency and clean transportation, and to expand the economic and environmental benefits that energy efficiency and electric vehicles provide.

6. On May 9, 2024, Energy Outreach Colorado ("EOC") filed its Motion to Intervene and Entry of Appearance. EOC is a Colorado nonprofit corporation in good standing whose mission is to ensure that income-qualified ("IQ") Colorado households can meet their home energy needs.

7. On May 15, 2024, Trial Staff of the Public Utility Commission ("Trial Staff") filed its Notice of Intervention as of Right, Entry of Appearance and Notice Pursuant to rule 1007(a) and Rule 1401, and Request for Hearing.

8. On May 17, 2024, Black Hills filed its Amendment to Verified Application of the Black Hills Colorado Electric, LLC Demand Side Management and Beneficial Electrification Plan.

9. On June 4, 2024, by Decision No. R24-0386-I a prehearing conference was scheduled for June 27, 2024.

10. On June 24, 2024, Black Hills filed its Unopposed Motion to Approve Procedural Schedule and Vacate Prehearing Conference and Request for Waiver of Response Time (“Unopposed Motion”).

## **II. UNOPPOSED MOTION**

### **A. Proposed Procedural Schedule and Discovery**

11. In the Unopposed Motion the Parties propose the following procedural schedule which shall be adopted.

<b>Answer Testimony</b>	August 16, 2024
<b>Rebuttal/Cross Answer</b>	September 6, 2024
<b>Prehearing Disposition, Corrections, Settlement Agreement</b>	September 17, 2024
<b>Settlement Testimony or Witness Order &amp; Estimated Cross Time</b>	September 24, 2024
<b>Evidentiary Hearing</b>	October 1-3, 2024
<b>Statement of Position</b>	October 17, 2024

12. The Parties have also agreed that the discovery procedures contained in Commission Rule 1405 shall govern this proceeding.

13. The proposed procedural schedule and discovery procedures are acceptable and shall be adopted.

## **III. EVIDENTIARY HEARING**

14. The Parties have not come to a consensus on the manner in which the evidentiary hearing should be conducted, in-person, remote or hybrid.

15. The Unopposed Motion lists the preferences of each of the Parties. Based upon the preferences listed it appears that a hybrid hearing would be appropriate in this matter.

16. A hybrid hearing is one in which at least one party chooses to appear in person, while others choose to appear remotely. A webcast of proceedings will be available to the public through the Commission's website.

17. The evidentiary hearing scheduled below will be held as a hybrid hearing. This Decision, Attachment A, and Attachment B provide important information and instructions to facilitate holding the remote hearing, which all parties must follow.

18. The procedures developed for the hybrid evidentiary hearing are intended to replicate, as practicable, evidence presentation as it occurs when parties and witnesses are present in the hearing room. For example, participating by video conference allows parties and witnesses to view exhibits on the video conference screen while the exhibits are being offered into evidence and witnesses testify about them.

19. The hybrid evidentiary hearing will be conducted via video conference using the Zoom platform. Attachment A to this Decision provides information about the Zoom platform and how to use Zoom to participate in the remote hearing. To minimize the potential that the hybrid hearing may be disrupted by non-participants, the link and meeting ID, or access code to attend the hearing will be provided to the parties by email approximately one week before the hearing and the parties and witnesses will be prohibited from distributing that information to anyone not participating in the hearing.

20. At the hearing, the parties may call witnesses, present evidence, and make arguments in support of their position. Evidence includes documentary exhibits, testimony, and other tangible items that a party wishes the ALJ to consider in reaching a decision as to the allegations in this proceeding. Given that the hearing will accommodate remote participation by video conference, exhibits must be presented electronically.

21. The Public Utilities Commission Administrative Hearings Section uses box.com to receive and manage exhibits that are first presented in this type of hybrid evidentiary hearing.

22. As such, it is essential that the parties ensure they are able to access and use box.com prior to the evidentiary hearing. To this end, the parties will be provided box.com links and instructions to: (a) upload exhibits for use during the hearing; and (b) download exhibits once they are presented during the hearing.

23. Each party must (a) pre-mark all hearing exhibits with a hearing exhibit number within their assigned number block before uploading the exhibits to the party's designated box.com folder; (b) sequentially page-number each page of exhibits longer than two pages, with the first page number as page 1, regardless of content, before uploading the exhibits to the party's designated box.com folder; and (c) upload all pre-marked exhibits into each party's respective designated box.com folder prior to the presenting them during the hearing.

24. Attachment B outlines procedures and requirements for marking and formatting exhibits aimed at facilitating efficient and smooth electronic evidence presentations at the remote hearing. It is very important that the parties carefully review and follow all requirements in this Decision and Attachments A and B.

25. In order to efficiently organize the numbering and preparation of exhibits for the hearing, the parties shall use a unified numbering system for all hearing exhibits. Blocks of hearing exhibit numbers are assigned as follows:

- Black Hills is assigned hearing exhibit numbers 100 to 299;
- Staff is assigned hearing exhibit numbers 300 to 399;
- UCA is assigned hearing exhibit numbers 400 to 499;
- CEO is assigned hearing exhibit numbers 500 to 599;
- SWEEP is assigned hearing exhibit numbers 600 to 699; and

- EOC is assigned hearing exhibit numbers 700 to 799.

26. The parties are on notice that the ALJ will retain the discretion to change the method by which the hearing will be conducted.

27. Additional procedural requirements may be addressed in future Interim Decisions.

#### **IV. PUBLIC HEARING**

28. In the Unopposed Motion, the Parties state that they believe that a public hearing is necessary and recommend the public hearing be held close to the Answer or Rebuttal Testimony deadlines.

29. The undersigned ALJ agrees and shall schedule a virtual public hearing on August 22, 2024, from 1:00 p.m. to 4:00 p.m. to best accommodate interested persons appearing from different locations throughout Black Hill's service territory and throughout the State.

30. The public comment hearing session will continue until concluded, meaning that the sessions will continue until all public comments are received, but will end no later than the designated end-time (4:00 p.m.). The hearing sessions will not be held open for public comments after all those who have appeared have provided public comment and therefore may conclude before the scheduled end time (4:00 p.m.). For example, if all those who appear at the session have provided public comment before 4:00 pm, the hearing session will be adjourned. This also means that anyone who chooses to join the public comment hearing sessions after the designated start times assumes the risk that the hearing will be concluded before they join. However, regardless of how early registered participants conclude their comments, the session will continue until at least 2:00 p.m.

31. The public comment hearing will be held using the web-hosted video-conferencing service, Zoom. This means that members of the public who wish to participate in the public

comment hearing should not appear in person at the Commission's offices but should instead appear remotely via Zoom.

**A. Observing the Public Comment Hearing**

32. Consistent with Commission practice, the public comment hearing will be webcast on the Commission's website. Persons wishing to observe but not provide comments in the hearing may do so by observing the webcast of the hearing and need not register through Zoom. To observe the hearing by webcast, enter this link in the web browser <https://puc.colorado.gov/webcasts> and select the audio or video option for the assigned hearing room. The assigned hearing room will be identified on the Commission's public calendar for the date and time of the hearing, at the following link: <https://puc.colorado.gov/puccalendar>.

**B. Participating in the Public Comment Hearing**

33. Those interested in providing public comment during the hearing must register in advance using a link posted on the calendar of events on the PUC's website at <https://puc.colorado.gov/puccalendar>. Registrants will receive an email with a link to provide comment during the Zoom session. If an interested person cannot obtain the link and register, they can contact the PUC for assistance at 303-894-2000.

34. Those registered to provide comment during the hearing are strongly encouraged to prepare in advance and familiarize themselves with how to use the Zoom meeting platform. Attachment A to this Decision provides step-by-step technical instructions and requirements to participate by video-conference using a computer. This is intended to ensure that the remote hearing proceeds efficiently. It is important that registered video-conference participants carefully review and follow all requirements in this Decision and Attachment A.

35. For those who wish to provide oral comments during the hearing, video-conference participation is preferred and encouraged because it allows for the hearing to be held in a manner most similar to in-person hearings. Nevertheless, interested persons have the option to participate by telephone.

36. The Commission strives to accommodate all members of the public at its hearings by providing services for foreign language users and persons with disabilities upon receipt of a reasonable accommodation request. Registrants requesting an interpreter during the public comment hearing should complete the Language Access Form at <https://puc.colorado.gov/how-to-participate> at least one week prior to the event. Requests for accommodation can also be made directly by contacting Holly Bise at 303-894-2024 or [holly.bise@state.co.us](mailto:holly.bise@state.co.us).

### **C. Other Methods to Submit Public Comment**

37. Interested persons wishing to provide public comment need not participate in the public comment hearing to do so. In addition to accepting comments during the public comment hearing, the Commission makes available other means by which interested persons may provide written or oral comments. The Commission prefers written comments over oral comments but gives written and oral comments the same weight.

38. Interested persons are encouraged to submit written comments through either: (a) the Commission's Electronic Filing System at <https://www.dora.state.co.us/pls/efi/EFI.homepage> in this Proceeding; or (b) the Commission's website at <https://puc.colorado.gov/> by clicking on the "FILE A COMMENT OR COMPLAINT" link. Anyone using the latter option should ensure that their comments include this Proceeding number (Proceeding No. 24A-0157E).

39. Oral comments will be accepted from any interested person who leaves a voice mail message at 303-869-3490 or from registered commenters offering public comment during the



scheduled public comment hearing. Those leaving voice mail public comments must include their name, the spelling of their name, and this Proceeding number (Proceeding No. 24A-0157E) in their message. Voice mail messages will be transcribed and placed in the record of this Proceeding.

40. The Commission will equally consider public comments, regardless of the format in which they are submitted (verbal or in writing).

## **V. ORDER**

### **A. It is Ordered That:**

1. The Unopposed Motion to Approve Procedural Schedule and Vacate Prehearing Conference (“Unopposed Motion”) filed by Black Hills Colorado Electric, LLC is granted.

2. The procedural schedule as stated in the Unopposed Motion and contained above is adopted.

3. The prehearing conference scheduled for June 27, 2024, is vacated.

4. Response time to the Unopposed Motion is waived.

5. A hearing in this matter shall be conducted at the following date, time and place:

DATE: October 1-3, 2024

TIME: 9:00 a.m. each day.

PLACE: Commission Hearing Room  
1560 Broadway, Suite 250  
Denver, CO 80202

WEBCAST: Commission Hearing Room B

METHOD: In-person and by video conference using  
Zoom at the link to be provided to counsel and the parties via  
email prior to the hearing.

**Optionally**, any party may participate remotely by joining a video conference using Zoom at the link provided as to the established parties in an email prior to the scheduled hearing, as addressed above.<sup>1</sup>

6. The parties and witnesses may not distribute the Zoom link and access code to anyone not participating in the remote hearing.

7. All participants in the hearing must comply with the requirements in Attachments A and B to this Decision, which are incorporated herein and, in the discussion above.

8. **Video Conference Participation.** Counsel for the parties, parties, and witnesses may attend in person or participate in the evidentiary hearing by video conference using the Zoom platform.

9. **Evidence Presentation at the Evidentiary Hearing.** Because the hearing may accommodate remote participation by video conference, all evidence must be presented electronically. Each party is responsible for ensuring that they and their respective witnesses: (a) have access to all pre-filed exhibits; and (b) can download and view documents available from box.com during the hearing.

10. A Public Comment Hearing is scheduled as follows:

DATE:	August 22, 2024
TIME:	1:00 p.m. to 4:00 p.m. (or until concluded).
PLACE:	By video conference or telephone using the Zoom web conferencing platform at a link emailed to all those who register to participate in the public comment hearing.
WEBCAST:	Commission Hearing Room B

11. All those who wish to provide comments in the public comment hearing must register for the hearing in order to receive the Zoom information to join the public comment hearing. Interested persons must register to participate in the public comment hearing by clicking

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<sup>1</sup> Instructions for using the Zoom video conferencing platform are provided in Attachment A to this Decision.

on a link available on the Commission's calendar of events on its website for the date and time(s) of the hearing at <https://puc.colorado.gov/puccalendar> and following the requirements in Attachment A hereto, which is incorporated as if fully set forth herein.

12. Participants may not appear in person at the Commission for the above-scheduled public comment hearings. Instead, they must participate in the hearing from remote locations, consistent with the requirements of this Decision.

13. Those wishing to observe but not provide comment in the above public comment hearing may do so by observing the Commission's webcast for the assigned hearing room at <https://puc.colorado.gov/webcasts>.

14. Members of the public who wish to provide written or oral comments outside of the public comment hearing may do so by following the instructions set out above.

15. The Parties shall be held to the advisements in this Decision.

16. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

ROBERT I. GARVEY

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Administrative Law Judge

ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Rebecca E. White".

Rebecca E. White,  
Director