

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 25V-0264E

IN THE MATTER OF THE PETITION OF BLACK HILLS COLORADO ELECTRIC, LLC
DOING BUSINESS AS BLACK HILLS ENERGY, FOR AN ORDER GRANTING A
PERMANENT VARIANCE OF COMMISSION RULE 3412 (G)(II)(B).

**COMMISSION DECISION GRANTING, IN PART,
PETITION FOR A VARIANCE OF COMMISSION
RULE 3412(G)(II)(B) AND WAIVING REMAINING
NOTICE AND INTERVENTION PERIOD**

Issued Date: July 17, 2025

Adopted Date: July 16, 2025

I. BY THE COMMISSION

A. Statement

1. On June 16, 2025, Black Hills Colorado Electric, LLC doing business as Black Hills Energy (“Black Hills” or the “Company”) filed a petition for a permanent variance of Rule 3412(g)(II)(B) of the Commission’s Rules of Practice and Procedure (“Petition”).

2. Through this Decision, we grant the Petition in part and grant a variance for the shorter of twenty-four (24) months, or until the waitlist is cleared, to Rule 3412(g)(II)(B), 4 *Code of Colorado Regulations* (“CCR”) 723-1. We also require Black Hills to provide periodic reporting as discussed below. We also waive the remainder of the notice and intervention period.

B. Discussion

3. In its Petition, Black Hills states that the Petition is necessary to effectuate the directives found in paragraph 342 in Decision No. C25-0183 that directs the Company to file within 60 days of a final decision in Proceeding No. 24AL-0275E “an advice letter with terms that

will sufficiently address the current Black Hills Energy Assistance (“BHEAP”) waitlist and request for variance pursuant to Commission Rule 4 CCR 723-1-1103 of the \$1.00 cost recovery cap under Rule 4 CCR 723-3-3412(g)(II)(B).” The Company also requests a shortened notice and intervention period of ten days.

4. Also on June 16, 2025, Black Hills filed Advice Letter No. 892 in Proceeding No. 25AL-0263E to increase the BHEAP rates for all customer classes in compliance with Decision No. C25-0183, as modified by Decision C25-0351. The filing of Advice Letter No. 892 satisfies the requirement for the Company to file to sufficiently address the BHEAP waitlist within 60 days of a final decision in Proceeding No. 24AL-00275E (May 6, 2025).

5. In Decision No. C25-0183, the Commission highlighted testimony from parties to that proceeding which raised the issue of the current waitlist for BHEAP assistance. The Commission directed Black Hills to present a filing that addressed this issue.

6. In its Petition, the Company argues that good cause for the variance exists because: “(1) the Commission requested this action of Black Hills in Proceeding No. 24AL-0275E; and (2) an increase to the monthly residential energy assistance rate is necessary to sufficiently address the current number of participants who are on the BHEAP waitlist but cannot be enrolled into the program due to the current lack of funding.”¹ The Company states that it has experienced a BHEAP waitlist since the implementation of an energy assistance program in 2013; therefore, Black Hills requests this variance to be permanent in order to comply with the Commission’s directive to clear the BHEAP waitlist.

7. The Commission noticed this Petition on June 17, 2025, and set a 30-day notice and intervention deadline.

¹ Petition, p. 2.

8. The Commission received no requests for intervention in this Proceeding.

C. Findings and Conclusions

9. Paragraph 1403 (a) of Rule 4 CCR 723-1-1403 of the Commission's Rules of Practice and Procedure states that the Commission may determine any petition without a hearing and without further notice if the petition is uncontested or unopposed. The Commission did not receive any interventions or oppositions to this Petition and therefore it is considered unopposed.

10. Commission Rule 1003, 4 CCR 723-1 addresses requests for waivers or variances, providing that, for good cause shown, the Commission may grant a waiver or variance from its tariffs. Black Hills has shown good cause to grant the variance in this instance. The requested revision will allow Black Hills to clear out the BHEAP waiting list as intended by Decision No. C25-0183 in Proceeding No. 24AL-0275E. However, we grant this variance from Commission Rule 4 CCR 723-3-3412(g)(II)(B) on a limited basis.

11. We find that a variance for 24 months, or until the waitlist is cleared, is more appropriate than a permanent variance and will ensure that the Commission can have continual oversight on the appropriateness of exceeding the cap set forth in rule. Also to that end, we order Black Hills to file periodic reports in this Proceeding on the progress of the reduction of the BHEAP program wait list, and the funding needed to continue to clear the waitlist. In addition, the Company shall report on the amount of new applications for the BHEAP program, and the number of denials for the program. If the need for a variance of Rule 4 CCR 723-3-3412(g)(II)(B) continues to exist after 24 months, another appropriate pleading may be brought to the Commission at that time.

12. We likewise find good cause to waive the remaining one day of the notice and intervention period for the Petition so that the timing of this Decision aligns with the advice letter filing in Proceeding No. 25AL-0263E.

II. ORDER

A. The Commission Orders That:

1. The Petition filed on June 16, 2025, by Black Hills Colorado Electric, LLC doing business as Black Hills Energy (“Black Hills”) for a permanent variance of Commission Rule 3412(g)(II)(B), is granted, in part, consistent with the discussion above.

2. Black Hills shall file in this Proceeding, the progress updates described herein beginning six months after the Issued Date of this Decision, consistent with the discussion above.

3. The 20-day period provided for in § 40-6-114, C.R.S., within which to file an Application for Rehearing, Reargument, or Reconsideration, begins on the first day following the effective date of this Decision.

4. This Decision is effective upon its Issued Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
July 16, 2025.**

(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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MEGAN M. GILMAN

TOM PLANT

Commissioners