

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

Proceeding No. 14V-\_\_\_\_\_EG

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**IN THE MATTER OF THE PETITION OF BLACK HILLS/COLORADO ELECTRIC UTILITY COMPANY, LP, AND BLACK HILLS/COLORADO GAS UTILITY COMPANY, LP FOR A WAIVER OF RULES REGARDING PHASE-IN OF THE LOW-INCOME ENERGY ASSISTANCE PROGRAM ADOPTED IN DOCKET NO. 11R-110EG.**

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**PETITION FOR WAIVER OF RULES 3412(c)(II)(B)(iii) AND 4412(c)(II)(B)(iii)  
AND FOR WAIVER OF THE NOTICE PERIOD**

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Pursuant to Rule 1003, Black Hills/Colorado Electric Utility Company, LP, and Black Hills/Colorado Gas Utility Company, LP (collectively “Black Hills”), by its undersigned attorney, request a full waiver of Rules 3412(c)(II)(B)(iii) and 4412(c)(II)(B)(iii) which require that, for Phase III of the energy assistance programs, Black Hills provide energy assistance to eligible participants with a household income at or below one hundred eighty-five percent of the current federal poverty level during the third and subsequent years of operation of the program. Pursuant to Rules 3412(c)(II)(A) and 4412(c)(II)(A), Black Hills is due to file tariffs for Phase III by July 1, and therefore will be revising its low-income program tariffs consistent with the Phase III income eligibility threshold noted above. In addition to a waiver of the Phase III 185% maximum threshold requirement, Black Hills requests a waiver of the Rule 1206(a) notice period.

In support Black Hills states as follows:

1. Black Hills/Colorado Electric Utility Company, LP, and Black Hills/Colorado Gas Utility Company, LP, are public utilities subject to the jurisdiction of the Commission

pursuant to C.R.S. § 40-1-103 *et seq.*, including the rules and regulations of the Commission pertaining to electric service and gas service low-income programs.

2. Black Hills seeks this waiver to decrease the 185% of the federal poverty level maximum household income threshold to 150% of the federal poverty level for Phase III of its electric and gas energy assistance programs.

3. Black Hills relies on the Colorado Department of Human Services Low-Income Energy Assistance Program (“LEAP”) Office for household income information to verify each applicant’s eligibility for its electric and gas energy assistance programs. Black Hills has an existing written agreement with LEAP and electronic data-transfer process which governs confidential use of the LEAP household income information. The income criterion used by LEAP to determine LEAP eligibility is currently at or below 150% of the federal poverty level. Black Hills does not have the personnel or systems to collect the additional information necessary to determine customer eligibility up to the 185% threshold level as required by Rules 3412(c)(II)(B)(iii) and 4412(c)(II)(B)(iii), and using outside resources would be a significant expense to the program. However, if the LEAP threshold level is extended in future years, to those at or below 185% of the federal poverty level, Black Hills would also extend low-income energy assistance to eligible electric and gas customers at the same level as LEAP by amending its tariff sheets in an Advice Letter filing.

4. Rule 1003 provides that the Commission may grant waivers or variances “from tariffs, Commission rules, and substantive requirements contained in Commission decisions and orders for good cause.” Based on the foregoing, good cause exists for the Commission to grant Black Hills a waiver from Rule 3412(c)(II)(B)(iii) and Rule 4412(c)(II)(B)(iii). The duration of

the requested waiver is permanent for Phase III of Black Hills' electric service and gas service energy assistance programs.

5. Black Hills is also requesting a waiver of the Rule 1206(a) notice period. Because the requested relief from the Phase III 185% maximum threshold would align the eligibility threshold for Phase III of Black Hills' programs with the 150% threshold level currently used by LEAP, Black Hills requests that the notice period for this Petition be waived for good cause shown. .

WHEREFORE, Black Hills respectfully request that the Commission grant this Petition to reduce the maximum household income threshold of 185% of the federal poverty level for Phase III to 150% of the federal poverty level in determining customers' eligibility for Black Hills' energy assistance programs, and for waiver of the notice period for good cause shown.

Date: May 29, 2014

Respectfully submitted,

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