

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 20A-0327E

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR AN ORDER APPROVING EXPENSES INCURRED FOR THE PERIOD JANUARY 2019 THROUGH DECEMBER 2019 THAT ARE RECOVERED THROUGH THE ELECTRIC COMMODITY ADJUSTMENT AND APPROVING THE CALCULATION OF 2019 SHORT TERM SALES MARGINS.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
CONOR F. FARLEY
EXTENDING STATUTORY DEADLINE,
ESTABLISHING PRE-HEARING AND POST-HEARING
SCHEDULE, SETTING REMOTE HEARING, ADDRESSING
ELECTRONIC EXHIBITS,
AND VACATING PRE-HEARING CONFERENCE**

Mailed Date: October 20, 2020

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I. BY THE COMMISSION**A. Background**

1. A more complete summary of the procedural background of this proceeding is included in Decision No. R20-0691-I that issued on September 28, 2020. The background that is most relevant to this Decision is recited below.

2. Decision No. R20-0691-I established the parties to this proceeding, scheduled a pre-hearing conference for October 21, 2020, and ordered those parties to confer concerning a procedural schedule for the proceeding and file a report of the conferral by October 16, 2020.

3. On October 14, 2020, Public Service Company of Colorado (PSCo) filed an Unopposed Motion to Approve Procedural Schedule, Vacate Prehearing Conference, and Request for Waiver of Response Time (Unopposed Motion). In the Unopposed Motion, PSCo reports that the parties have reached agreement on a proposed procedural schedule as follows:

<u>Event:</u>	<u>Date/Deadline:</u>
Answer Testimony	November 20, 2020
Rebuttal/Cross-Answer Testimony	December 14, 2020
Prehearing Motions	December 30, 2020
Corrections to Testimony and Exhibits Stipulations and Settlement Agreement(s)	January 5, 2021
Witness Cross-Examination Matrix	January 6, 2021 (noon)
Remote Evidentiary Hearing	January 7-8, 2021
Statements of Position	January 25, 2021

4. As to discovery, the parties agree that the discovery timelines and procedures in Rule 1405(b) and Rule 1405(d) of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1, shall control except that discovery requests shall be served

electronically, responses to an individual set of discovery requests shall be served (or provided) in a single combined document to all parties, and all confidential or highly confidential documents and discovery responses shall be served only on parties that have executed the appropriate non-disclosure agreements.

5. Finally, PSCo requests in the Unopposed Motion that the Administrative Law Judge (ALJ) adopt the foregoing procedural schedule, agreements regarding discovery and confidentiality procedures, and vacate the pre-hearing conference.

B. Analysis

1. Extension of Deadline

6. As stated in the Commission's Notice of Application Filed,¹ because PSCo filed testimony with the Application, the Commission is required by § 40-6-109.5(1), C.R.S., to issue its decision within 120 days of the Application being deemed complete by the Commission. Thus, the Commission's decision in this proceeding must issue by January 7, 2021. However, § 40-6-109.5(1), C.R.S., also provides that the Commission may, in its discretion and by a separate decision, extend the time for a decision by an additional 130 days.

7. Here, considering the time available, the time necessary to address other pending matters, and the need for the Commission to have adequate time to deliberate the issues presented in this matter, it is not feasible for a final Commission decision to issue by January 7, 2021. Accordingly, pursuant to § 40-6-109.5(1), C.R.S., it is necessary to extend the deadline for an additional 130 days to May 17, 2021.

¹ The Notice of Application Filed was issued by Commission Staff on August 5, 2020.

2. Unopposed Motion

a. Pre- and Post-Hearing Schedule

8. The pre- and post-hearing schedule proposed by the parties is acceptable with modifications to the deadlines for pre-hearing motions, corrections to testimony and exhibits, stipulations and settlement agreements, the dates for the hearing,² and the addition of a deadline for responses to pre-hearing motions. The modified schedule is as follows:

<u>Event:</u>	<u>Date/Deadline:</u>
Answer Testimony	November 20, 2020
Rebuttal/Cross-Answer Testimony	December 14, 2020
Prehearing Motions	December 23, 2020
Corrections to Testimony and Exhibits	December 29, 2020
Responses to Prehearing Motions	December 30, 2020
Stipulations and Settlement Agreements	January 4, 2021
Witness Cross-Examination Matrix	January 5, 2021 (noon)
Evidentiary Hearing	January 6-7, 2021
Statements of Position	January 25, 2021

9. The schedule proposed by the parties, with the modifications noted above, shall be adopted. In addition, the modifications to Rule 1405, 4 CCR 723-1 proposed by the parties for the purpose of this proceeding are adopted.

b. Remote Hearing

10. As agreed to by the parties, the hearing shall be scheduled for January 6 and 7, 2021. However, the hearing shall be held remotely, meaning that the participants will appear from remote locations, as provided below. Since early March 2020, Colorado State government

² The ALJ communicated with the parties via email regarding the change to the dates for the hearing and the parties reported that the change is acceptable.

and the Commission have been working diligently to address how to safely and effectively manage the challenges presented by the novel coronavirus pandemic (COVID-19). These efforts have focused on limiting the disruption to the services delivered by the Commission (and other State agencies), while attempting to mitigate the risks to State employees and the public. For example, the Commission has been conducting its Weekly Meetings remotely, and the Commission has asked members of the public not to attend meetings in person, but to view them by webcast. Under these circumstances, the ALJ finds that holding a remote hearing is consistent with current public health advisories to prevent the spread of COVID-19. The ALJ concludes that it is in the parties' and the public interest to hold the hearing in this proceeding as a remote hearing.

c. Pre-hearing Conference

11. Finally, in the Unopposed Motion, PSCo's request to vacate the pre-hearing conference scheduled for October 21, 2020 shall be granted.

C. Instructions for Participating in, and Observing, the Remote Hearing

12. Attachment A to this Decision provides the information addressing how to use the GoToMeeting platform for participating in the remote hearing.

D. Instructions for Presenting Exhibits Electronically at the Remote Hearing

13. Attachment B to this Decision provides instructions for the presentation of exhibits electronically during the evidentiary hearing.

II. ORDER

A. It Is Ordered That:

1. For the reasons stated above, the deadline for a Commission decision on the Application filed in this proceeding is extended to May 17, 2021.

2. The Unopposed Motion to Approve Procedural Schedule, Vacate Prehearing Conference, and Request for Waiver of Response Time filed by Public Service Company of Colorado on October 14, 2020 is granted consistent with the discussion above.

3. The pre-hearing and post-hearing schedule stated in paragraph 8 above is adopted.

4. The pre-hearing conference scheduled for October 21, 2020 is vacated.

5. A remote hearing in this proceeding is scheduled as follows:

DATES: January 6 and 7, 2021

TIME: 9:00 a.m. to 4:30 p.m.

FOR WEBCASTS: Hearing Room B

METHOD: Join by video conference at the link to be provided by an email from the Administrative Law Judge

6. Nobody should attend the remote hearing in-person.

7. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

CONOR F. FARLEY

Administrative Law Judge

ATTEST: A TRUE COPY

Doug Dean

Doug Dean,
Director