

Decision No. C23-0382-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23A-0046E

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR APPROVAL OF A SHORT-TERM POWER PURCHASE AGREEMENT, AND AMENDMENTS TO OTHER SUCH AGREEMENTS, EXTENDING EXISTING GENERATION RESOURCES INCLUDING RIDGE CREST WIND, ARAPAHOE, BRUSH 2, AND BRUSH 4.

**INTERIM COMMISSION DECISION GRANTING, IN
PART, AND DENYING, IN PART, THE NOTICE OF
SETTLEMENT IN PRINCIPLE, UNOPPOSED MOTION TO
AMEND PROCEDURAL SCHEDULE, AND REQUEST FOR
WAIVER OF RESPONSE TIME**

Mailed Date: June 8, 2023

Adopted Date: June 7, 2023

I. BY THE COMMISSION

A. Statement

1. Through this Decision, we grant, in part, and deny, in part, the Notice of Settlement in Principle, Unopposed Motion to Amend Procedural Schedule, and Request for Waiver of Response Time (Unopposed Motion) filed by Public Service Company of Colorado (Public Service or the Company) on June 1, 2023. We vacate the June 2, 2023, deadline for Answer Testimony and several other prehearing dates, establish a deadline of June 9, 2023, to file the settlement agreement, and establish June 23, 2023, as the deadline for settlement testimony. We also grant the Unopposed Motion's request for waiver of response time.

B. Discussion

2. On January 26, 2023, Public Service filed an application for approval of a short-term power purchase agreement (PPA) and for approval of amendments to three other PPAs.

3. By Decision No. C23-0174-I, issued March 10, 2023, the Commission set the Application for hearing and established the following parties: the Company; Staff of the Colorado Public Utilities Commission; the Colorado Office of the Utility Consumer Advocate; the Colorado Energy Office; Sierra Club; Onward Energy Management LLC; and the Colorado Independent Energy Association.

4. By Decision No. C23-0201-I, issued March 24, 2023, the Commission adopted the parties' proposed procedural schedule. Among other deadlines, the procedural schedule includes a June 2, 2023, deadline for the filing of Answer Testimony; a July 21, 2023, deadline for the cross-examination matrix and corrections to pre-filed testimony and exhibits; and a two-day evidentiary hearing on August 3 and 4, 2023.

5. On June 1, 2023, Public Service filed the Unopposed Motion, notifying the Commission that "all parties to this Proceeding have agreed in principle to an unopposed and comprehensive settlement."¹ The Unopposed Motion states that the parties are currently reducing the settlement terms to writing and asks that the Commission vacate all pre-hearing requirements, including the June 2, 2023, deadline for Answer Testimony. In addition, the Company suggests that the Commission require the filing of the settlement agreement by June 9, 2023, and that after reviewing the settlement agreement, "the Commission may decide to require written answers to questions set forth in a subsequent decision by the Commission in lieu of a hearing."² Public

¹ Unopposed Motion, p. 1.

² *Id.* at 2.

Service and the parties recognize that the Commission will want to review the settlement agreement before deciding on issues such as vacating hearing dates.

6. Finally, the Company asks that the Commission waive response time to the Unopposed Motion pursuant to Rule 1308(c).³

7. Given the representations that all parties have agreed in principle to an unopposed and comprehensive settlement, we find it appropriate to grant the Unopposed Motion's request to vacate the June 2, 2023, deadline for Answer Testimony. Likewise, we will vacate the deadlines for Rebuttal and Cross-Answer Testimony and Stipulations and Settlement Agreements. We do not, however, vacate the July 21, 2023, deadline for the cross-examination matrix and corrections to pre-filed testimony and exhibits. Having the corrections to pre-filed testimony and exhibits (including the settlement agreement and settlement testimony) by July 21, 2023, will help ensure the efficient administration of the evidentiary hearing.⁴

8. In addition, we grant the Unopposed Motion's request to establish a deadline of June 9, 2023, to file the settlement agreement. Moreover, while not expressly addressed in the Unopposed Motion, we also establish a deadline for the filing of settlement testimony. Public Service must file settlement testimony by June 23, 2023. No other parties are required to file Settlement Testimony, but Public Service must confer with the settling parties before filing the Settlement Testimony.

9. At this point in time, we will refrain from vacating the evidentiary hearing set for August 3, 2023 and 4, 2023, or the deadline for statements of position. As the Unopposed Motion

³ *Id.* at 4.

⁴ If the parties waive cross-examination, then instead of a cross-examination matrix the parties shall file a witness list on July 21, 2023, that specifies the suggested order that witnesses will be made available for Commissioner questions.

recognizes, after reviewing the settlement agreement and settlement testimony, the Commission may revisit whether to vacate one or both days of the evidentiary hearing and the deadline for statements of position.

10. Finally, we grant the requested waiver of response time to the Unopposed Motion.

II. ORDER

A. It Is Ordered That:

1. The Notice of Settlement in Principle, Unopposed Motion to Amend Procedural Schedule, and Request for Waiver of Response Time filed by Public Service Company of Colorado (Public Service) on June 1, 2023, is granted, in part, and denied, in part, consistent with the discussion above.

2. The deadlines to file Answer Testimony, Rebuttal and Cross-Answer Testimony, and Stipulations and Settlement Agreements are vacated, but the request to vacate the July 21, 2023, deadline for the cross-examination matrix and corrections to pre-filed testimony and exhibits is denied.

3. Public Service shall file the settlement agreement by June 9, 2023.

4. Public Service shall file settlement testimony by June 23, 2023, after conferring with all settling parties.

5. The request to waive response time to the Unopposed Motion is granted.

6. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
June 7, 2023.**

(S E A L)



ATTEST: A TRUE COPY

Rebecca E. White,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ERIC BLANK

TOM PLANT

Commissioners

COMMISSIONER MEGAN M. GILMAN
ABSENT