

Decision No. R23-0533-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23AL-0188E

IN THE MATTER OF ADVICE LETTER NO. 1921 - ELECTRIC FILED BY PUBLIC SERVICE COMPANY OF COLORADO TO REVISE ITS COLORADO P.U.C. NO. 8 - ELECTRIC TARIFF FILING TO IMPLEMENT INTERCONNECTION TARIFFS PURSUANT TO PARAGRAPH 3853(P) OF THE COMMISSION'S INTERCONNECTION RULES AND TO IMPLEMENT RELATED PERFORMANCE INCENTIVES IN ACCORDANCE WITH DECISION NO. C23-0143, TO BECOME EFFECTIVE JULY 31, 2023.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
AVIV SEGEV
ACKNOWLEDGING INTERVENTIONS, GRANTING
INTERVENTIONS, EXTENDING STATUTORY DEADLINE
FOR A COMMISSION DECISION, ADOPTING
PROCEDURAL SCHEDULE, SCHEDULING
EVIDENTIARY HEARING, AND PROVIDING
INSTRUCTIONS CONCERNING EXHIBITS AND
PARTICIPATING IN HYBRID EVIDENTIARY HEARING**

Mailed Date: August 9, 2023

I. STATEMENT

A. Procedural Background

1. On April 17, 2023, Public Service Company of Colorado (Public Service) filed with the Commission Advice Letter No. 1921 - Electric (Advice Letter) with accompanying tariff sheets (Tariff Sheet) for the interconnection of distributed energy resources (DERs) and other small generation facilities. The Advice Letter included a requested effective date of July 31, 2023.

2. On the same day, Public Service filed Notice wherein it noticed the filing of the Advice Letter with the Commission and a Motion for Approval of Alternative Forms of Notice (Motion for Alternative Forms of Notice).

3. On April 28, 2023, the Commission issued Decision No. C23-0284-I that granted Public Service's Motion for Alternative Forms of Notice.

4. On May 3, 2023, the Colorado Solar and Storage Association (COSSA) and the Solar Energy Industries Association (SEIA) (collectively, the Joint Parties) filed their Joint Protest, Request for Hearing, and Request to Suspend Implementation of Proposed Tariff by the Colorado Solar and Storage Association and the Solar Energy Industries Association (COSSA's and SEIA's Joint Protest) in opposition to the Advice Letter.

5. On June 16, 2023, Trial Staff of the Colorado Public Utilities Commission (Staff) filed its Protest Letter - Proceeding 23AL-0188E wherein Staff asserts that the revised interconnection tariffs, timelines, penalties, performance incentives and costs to ratepayers in the Advice Letter have not been deemed just, reasonable and in the public interest. Staff further requests that the Commission suspend Public Service's proposed tariff's effective date and set the matter for hearing.

6. By Decision No. C23-0415, issued June 22, 2023, the Commission suspended the effective date of the Tariff Sheet to November 28, 2023, referred this matter to an Administrative Law Judge (ALJ) for disposition, and set a July 21, 2023 intervention deadline.

7. On July 12, 2023, the Colorado Energy Office (CEO) filed its Notice of Intervention of Right of the Colorado Energy Office (CEO's Notice of Intervention).

8. On July 13, 2023, COSSA and SEIA filed their Joint Motion to Intervene and Entry of Appearance of Colorado Solar and Storage Association and the Solar Energy Industries Association (COSSA's and SEIA's Motion to Intervene).

9. On July 17, 2023, the Office of Utility Consumer Advocate (UCA) filed its Notice of Intervention as a Matter of Right, Request for Hearing, and Entry of Appearance of the Office of Utility Consumer Advocate (UCA's Notice of Intervention).

10. On July 17, 2023, the City and County of Denver, Colorado (Denver) filed its Motion to Intervene of the City and County of Denver (Denver's Motion to Intervene).

11. On July 20, 2023, Staff filed its Notice of Intervention of Right by Trial Staff of the Commission, Entry of Appearance, Notice Pursuant to Rule 1007(a) and Rule 1401, and Request for Hearing (Staff's Notice of Intervention).

12. On July 28, 2023, Public Service filed its Conferral Report (Conferral Report). The Conferral Report set forth the parties' proposed consensus procedural schedule in this matter, including requested evidentiary hearing dates of November 2-3, 2023.

13. After the filing of the Conferral Report, the undersigned ALJ informally conferred with the parties regarding the parties' availability to participate in an evidentiary hearing on October 31 and November 1, 2023 in lieu of the proposed dates of November 2, 2023 and November 3, 2023. The parties unanimously agreed to participate in a remote evidentiary hearing on October 31, 2023 and November 1, 2023, provided that the hearing on October 31, 2023 would conclude by 3:30 p.m. and no later than 4:00 p.m.

14. The parties unanimously agreed to the following procedural schedule (Consensus Procedural Schedule):

<u>Event</u>	<u>Proposed Deadline</u>
Direct Testimony	August 7, 2023
Answer Testimony	September 18, 2023
Rebuttal Testimony/Cross-Answer Testimony	October 13, 2023
Corrections to Pre-Filed Testimony & Exhibits, Pre-Hearing Motions, Stipulations/Settlement Agreements	October 19, 2023
Settlement Testimony	October 26, 2023
Remote Evidentiary Hearing	October 31 – November 1, 2023
Statements of Position	December 1, 2023

B. Interventions

15. Commission Rule of Practice and Procedure 4 *Code of Colorado Regulations* (CCR) 723-1-1401(a) requires that notice of intervention as of right or a motion to permissively intervene shall be filed within 30 days of the Commission notice, unless the Commission's notice provides otherwise. As noted above, Decision No. C23-0415 set a July 21, 2023 intervention deadline.

16. Rule 1401(b) requires that a notice of intervention as of right, "shall state the basis for the claimed legally protected right that may be affected by the proceeding."

17. Pursuant to Rule 1401(c), a motion to permissively intervene shall:

...state the specific grounds relied upon for intervention the claim or defense within the scope of the Commission's jurisdiction on which the requested intervention is based, including the specific interest that justifies intervention; and why the filer is positioned to represent that interest in a manner that will advance the just resolution of the proceeding. The motion must demonstrate that the subject proceeding may substantially affect the pecuniary or tangible interests of the movant (or those it may represent) and that the movant's interests would not otherwise be adequately represented...

18. CEO's Notice of Intervention, UCA's Notice of Intervention, and Staff's Notice of Intervention were timely-filed and are acknowledged by the ALJ.

19. In COSSA's and SEIA's Motion to Intervene, COSSA and SEIA assert that COSSA is a nonprofit trade association that serves energy professionals, solar companies, energy storage providers, and renewable energy consumers in Colorado, and SEIA represents member organizations that promote, manufacture, install and support the development of solar energy.¹ COSSA and SEIA further assert that the Advice Letter will have a direct impact on the pecuniary interests of COSSA's and SEIA's members due to the change in interconnection fees and timelines proposed by Public Service in the Advice Letter.² Lastly, COSSA and SEIA assert that they are well-positioned, and has the requisite experience, to represent the interests of their members in this Proceeding, and the interests of the members of COSSA and SEIA could not otherwise be adequately represented.³ The ALJ finds that COSSA and SEIA stated good cause for their requested intervention. Therefore, COSSA's and SEIA's Motion to Intervene will be granted, as ordered below.

20. In Denver's Motion to Intervene, Denver asserts that it is a legally and regularly created, established, organized, and existing home rule city and county, municipal corporation, and political subdivision under the provisions of Article XX of the Constitution of the State of Colorado and the Home Rule Charter of Denver.⁴ Denver further asserts that: Denver has a franchise agreement with Public Service relating to the provisioning of electricity within the City and County of Denver; Denver purchases electricity from Public Service; Denver's residents purchase

¹ COSSA's and SEIA's Motion to Intervene at 2.

² *Id.* at 4 and 6.

³ *Id.* at 5-6.

⁴ Denver's Motion to Intervene at 1.

electricity from Public Service; Denver and its residents regularly apply for interconnection of DER from Public Service; Denver has DER in-service at about two dozen City-owned buildings; Denver plans to install and interconnect another approximately dozen systems at Denver-owned buildings in the next two years; Denver also regularly bids on, applies for, and develops projects through the Public Service's Solar*Rewards Community program; and Denver offers several renewable energy programs to its community members in adopting and accessing DER.⁵ The ALJ finds that Denver stated good cause for its requested intervention. Therefore, Denver's Motion to Intervene will be granted, as ordered below.

C. Procedural Schedule and Unified Numbering System for Hearing Exhibits

21. The Consensus Procedural Schedule was agreed to by the parties, is reasonable, and will be adopted, as ordered below.

22. 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:

- Public Service is assigned hearing exhibit numbers 1 to 199;
- Staff is assigned hearing exhibit numbers 200 to 299;
- UCA is assigned hearing exhibit numbers 300 to 399;
- CEO is assigned hearing exhibit numbers 400 to 499;
- COSSA's and SEIA are assigned hearing exhibit numbers 500 to 599; and
- Denver is assigned hearing exhibit numbers 600 to 699.

⁵ *Id.*

D. Extension of Deadline for Commission Decision

23. As noted above, the Commission suspended the effective date of the tariff that is the subject of the Advice Letter for 120 days from the proposed effective date (July 31, 2023) to September 29, 2022.

24. If the Commission in its discretion finds that additional time is necessary for a Commission decision, the period of suspension may be extended an additional 130 days.⁶

25. In order to facilitate the procedural schedule to which the parties have agreed, it is necessary to extend the time for issuance of a Commission decision. The deadline for the Commission to issue its decision shall be extended by an additional 130 days up to and including April 6, 2024, as ordered below.

E. Remote Evidentiary Hearing

26. As agreed to by the parties, an evidentiary hearing shall be scheduled for October 31 – November 1, 2023. Based on the parties' agreement, the evidentiary hearing in this Proceeding will be conducted as a remote hearing. This Decision, Attachment A, and Attachment B provide critical information and instructions to facilitate holding the remote hearing, which all parties must follow.

27. To minimize the potential that the remote hearing may be disrupted by non-participants, the link, meeting ID code, and passcode to attend the hearing will be provided to the participants by email before the hearing, and the participants will be prohibited from distributing that information to anyone not participating in the hearing.

⁶ Section 40-6-111(1)(b), C.R.S.

28. Attachment A to this Decision provides the information addressing how to use the Zoom platform for remotely participating in the hearing. Attachment B outlines procedures and requirements for marking and formatting exhibits to facilitate the efficient and smooth electronic evidence presentations at the hybrid hearing. It is extremely important that the parties carefully review and follow all requirements in this Decision and Attachment A and Attachment B.

F. Additional Procedural Notice

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

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

II. ORDER

A. It Is Ordered That:

1. The interventions of right by the Colorado Energy Office, the Office of Utility Consumer Advocate, and the Trial Staff of the Colorado Public Utilities Commission, noticed July 12, 2023, July 17, 2023, and July 20, 2023, respectively, are acknowledged.

2. The Joint Motion to Intervene and Entry of Appearance of Colorado Solar and Storage Association and the Solar Energy Industries Association, filed July 13, 2023, is granted.

3. The Motion to Intervene of the City and County of Denver, filed July 17, 2023, is granted.

4. The effective date of the tariff sheets filed with Advice Letter No. 1921 - Electric is suspended for an additional 130 days pursuant to § 40-6-111(1), C.R.S., through April 6, 2024.

5. The following procedural schedule is adopted to govern this proceeding:

<u>Event</u>	<u>Deadline</u>
Direct Testimony	August 7, 2023
Answer Testimony	September 18, 2023
Rebuttal Testimony/Cross-Answer Testimony	October 13, 2023
Corrections to Pre-Filed Testimony & Exhibits, Pre-Hearing Motions, Stipulations/Settlement Agreements	October 19, 2023
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Statements of Position	December 1, 2023

6. The parties shall be held to, and shall comply with, the requirements in this Decision. In addition to other requirements of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* 723-1 (e.g., Rule 1202 regarding pre-filed testimony and Rule 1405 regarding discovery procedures), all pre-filed hearing exhibits shall be marked for identification and filed in accordance with this Decision, including Attachment B hereto.

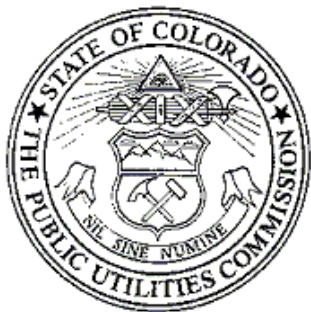
7. A hearing in this matter shall be conducted at the following dates, time, and place:

DATE: October 31 – November 1, 2023
 TIME: 9:00 a.m.
 PLACE: Join by video conference using Zoom at the link to be provided in an email from the Administrative Law Judge⁷

⁷ Additional information about the Zoom platform and how to use the platform are available at: <https://zoom.us/>. All are strongly encouraged to participate in a test meeting prior to the scheduled hearing. See <https://zoom.us/test>.

8. This decision shall be effective immediately.

(S E A L)



ATTEST: A TRUE COPY

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

Rebecca E. White,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

AVIV SEGEV

Administrative Law Judge