

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 24A-0380EG

IN THE MATTER OF THE VERIFIED APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR APPROVAL OF DEFERRED ACCOUNTING TREATMENT FOR COSTS ASSOCIATED WITH CHANGES IN PREMIUMS FOR EXCESS LIABILITY INSURANCE AND REQUEST FOR EXPEDITED TREATMENT.

**INTERIM COMMISSION DECISION DEEMING APPLICATION
COMPLETE, ESTABLISHING PARTIES, GRANTING MOTION FOR
EXPEDITED PROCEDURES, ESTABLISHING PROCEDURAL
SCHEDULE, SCHEDULING REMOTE EVIDENTIARY HEARING, AND
ESTABLISHING PROCEDURES FOR EVIDENTIARY HEARING**

Issued Date: October 4, 2024

Adopted Date: October 2, 2024

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I. BY THE COMMISSION**A. Statement**

1. On September 5, 2024, Public Service Company of Colorado (“Public Service” or the “Company”) filed an Application for Approval of Deferred Accounting Treatment for Costs Associated with Changes in Premiums for Excess Liability Insurance (“Application”). Public Service seeks to create a regulatory asset to track and defer above or below what is included in base rates for excess liability insurance premiums. The Company wants this general accounting order to become effective on October 18, 2024, the day upon which the Company’s renewed insurance policy takes effect. Public Service asks the Commission to approve the establishment of the regulatory asset before the end of the year.

2. Concurrently with the Application, Public Service filed a Motion for Expedited Treatment (“Expedited Procedures Motion”).

3. Through this Decision, we deem the Application complete and set the matter for hearing *en banc*. We also establish the parties to this Proceeding. Specifically, we grant the request for permissive intervention filed by Colorado Energy Consumers (“CEC”) and acknowledge the interventions as of right filed by the Colorado Office of Utility Consumer Advocate (“UCA”) and the Trial Staff of the Colorado Public Utilities Commission (“Trial Staff”).

4. We further grant the Expedited Procedures Motion and establish a proposed procedural schedule including a remote *en banc* evidentiary hearing.

B. Discussion, Findings, and Conclusions**1. Application**

5. In the Application, Public Service states that due to increasing wildfire risk, the Company anticipates its excess liability insurance premiums to increase dramatically.

The Company emphasizes that despite these increased premiums, it is still prudent for the Company to maintain excess liability insurance to limit the risk of catastrophic claims that cause the Company to incur financial stresses and ultimately increase costs. Public Service also asserts the deferral will provide needed support to facilitate the Company's obtaining of excess liability insurance and to support the Company as it faces evolving wildfire risks.

2. Completeness

6. The Commission finds the Application addresses all applicable Commission Rules and is therefore deemed complete for purposes of § 40-6-109.5, C.R.S.

3. Interventions

a. Intervenor as of Right

7. UCA timely filed a notice of intervention as of right and request for hearing. UCA states it seeks to examine: the need for the regulatory asset requested by Public Service; the cost of the insurance; and the potential impact on future rates from the Commission granting the Company's request. UCA filed no response to the Expedited Procedures Motion.

8. Trial Staff also timely filed a notice of intervention as of right and request for hearing. Trial Staff states that it plans to examine: the proposed mechanism of deferral; the Company's insurance products and covered liabilities; how such insurance coverage might impact other costs, such as those of financing; and the rate of return proposed on deferred costs. Staff filed no response to the Expedited Procedures Motion.

9. Pursuant to Rule 1401(b) of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* ("CCR") 723-1, no decision is required in response to appropriately filed notices of intervention of right. We acknowledge the notices of intervention of right, and that UCA and Trial Staff are parties to this Proceeding.

b. Permissive Intervenor CEC

10. CEC timely filed a motion to permissively intervene and a request for hearing. CEC states that it made reasonable, good faith efforts to confer with parties and putative intervenors and that Public Service, Trial Staff of, and UCA take no position on CEC's intervention.

11. CEC indicates that its participation in this case will focus on whether deferred accounting is appropriate ratemaking treatment for the excess liability insurance costs. CEC states that it may specifically examine: the percentage of the Company's costs that are treated "in piecemeal fashion," shielding the Company from risk unlike "a more risk-balanced approach of recovery through base rates"; the availability of any actuarial studies that lend credence to the rising excess liability insurance costs within Xcel Energy's respective operating companies, and what portion, if any, is attributable to Public Service's potential involvement in the Marshall Fire; and the criteria to protect ratepayers, such as a limit on the amounts to be deferred or sunset of the mechanism, if a deferred accounting mechanism is entertained. With respect to the Expedited Procedures Motion, CEC supports the request for *en banc* consideration of this matter. CEC objects to a decision on the application being rendered prior to October 18, 2024, but it does not otherwise address the Company's request for expedited procedures.

12. CEC states it is an unincorporated association of corporate entities. CEC states all of its members operate facilities within Public Service's service territory and purchase electricity and related energy services from the Company.

13. CEC contends its members have a direct, tangible, pecuniary interest in this Proceeding. CEC signals potential objections to Public Service's Application, arguing that the recovery of excess liability insurance costs "is not a simple matter of let's track costs now and seek recovery later," that "single-issue ratemaking should be avoided," and that evaluation of liability

insurance premium “will need scrutiny with the benefit of context of [the Company’s] overall costs and expenses.”

14. CEC further states its members are all large commercial and industrial electric customers with respectively unique service requirements. CEC states no other party or putative intervenor could adequately represent CEC’s interests due to the unique service requirements and characteristics of each CEC member, and of CEC as a group.

15. No party filed a response objecting to CEC’s request for permissive intervention.

16. Rule 1401(c) sets forth the following standard for permissive intervention:

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.

17. Under this standard, the test for adequate representation is whether there is an identity of interests, rather than a disagreement over the discretionary litigation strategy of the representative.

18. In addition, Rule 1401(c) requires that a movant who is a residential consumer, agricultural consumer, or small business consumer discuss whether the distinct interest of the consumer is either not adequately represented by UCA or inconsistent with other classes of consumers represented by UCA. As set forth in § 40-6.5-104, C.R.S., UCA has a statutory mandate to represent the public interest and, to the extent consistent therewith, the specific interests of residential consumers, agricultural consumers, and small business consumers by appearing in proceedings before the Commission.

19. We find that, as required by Rule 1401(c), 4 CCR 723-1, CEC has sufficiently demonstrated that this Proceeding may substantially affect its pecuniary or tangible interests and its interests would not otherwise be adequately represented. Therefore, we grant CEC's request for permissive intervention.

c. Parties to Proceeding

20. The following are parties to this Proceeding: Public Service, UCA, Trial Staff, and CEC.

4. Establishment of Expedited Procedural Schedule

21. Public Service requests expedited consideration of its Application in its Expedited Procedures Motion. Public Service asks the Commission to hear the matter *en banc* to assist the expedited consideration of the Application. The motion proposes no hearing dates or filing deadlines and is silent on discovery parameters.

22. The Company states that it will begin incurring the significant new cost associated with increased premiums for its excess liability policy on October 18, 2024. The Company argues that it is necessary for the Commission to rule on its Application before December 31, 2024, to promote certainty that the Company may in fact defer and track the incremental costs associated with the higher premiums from its requested effective date of October 18, 2024. Public Service states that such clarity will further assist the Company's year-end accounting close process.

23. In its motion to intervene, CEC supports the Company's request for *en banc* consideration of this matter. CEC objects to a decision on the application being rendered prior to October 18, 2024, but it does not otherwise address the Company's request for expedited procedures.

24. We find good cause to grant the Expedited Procedures Motion and will hear this matter *en banc*.

25. Due to the press of business and the Commissioners' limited availability, we establish a full procedural schedule by this Decision. We schedule a half-day remote *en banc* evidentiary hearing on November 21, 2024, from 9:00 a.m. to no later than 1:00 p.m. Consistent with that hearing date, we further establish the following deadlines:

Date	Deadline/Action
October 18, 2024	Answer Testimony due
November 1, 2024	Rebuttal Testimony due
November 12, 2024	Settlements, Stipulations, and Pre-Hearing Motions due
November 18, 2024	Corrections to pre-filed testimony and exhibits, and the witness list and cross examination matrix due
November 21, 2024, 9:00 a.m. to 1:00 p.m.	Remote Evidentiary Hearing
December 11, 2024	Statements of Position due

26. In accordance with the procedural schedule above, we set response time to discovery requests to five calendar days. Otherwise, the provisions for discovery in the Commission's Rules of Practice and Procedure will apply.

27. The evidentiary hearing scheduled for November 21, 2024, will be conducted using the Zoom platform. To minimize the potential that the remote hearing may be disrupted by non-participants, Commission staff will distribute the link and meeting ID, or access code, to attend the hearing to the parties by email approximately one week before the hearing, and the parties and witnesses are prohibited from distributing that information to anyone not participating in the hearing.

5. Procedures for Evidentiary Hearing

a. Instructions Provided in Attachments

28. Attachment A to this Decision provides the information addressing how to use the Zoom platform for participating in the remote evidentiary hearing scheduled for November 21, 2024. Attachment B provides detailed instructions governing the preparation and presentation of exhibits at hearing. The parties shall review and follow all requirements in this Decision and Attachments A and B, which are incorporated into and made part of this Decision.

b. Assignment of Hearing Exhibit Number Blocks

29. Hearing exhibits shall be marked numerically and sequentially for identification by the filing parties within their respective blocks of numbers. In order to efficiently organize the numbering and preparation of exhibits for the hearing, all parties shall use a unified numbering system for all hearing exhibits. Parties should not duplicate hearing exhibits or attachments previously filed by another party.

30. The party initiating the proceeding is assigned hearing exhibit numbers 100 to 299.

31. Each intervening person or entity is assigned a block of 100 hearing exhibit numbers (*e.g.*, 300-399, 400-499, etc.) in the chronological order that notices of intervention by right and petitions for permissive intervention are filed, as reflected in the Commission's E-Filings System. As a result, the first person or entity noticing an intervention by right or requesting permissive intervention is assigned hearing exhibit numbers from 300 to 399, the second person or entity is assigned hearing exhibit numbers from 400 to 499, etc. Parties shall rely upon the Commission's E-Filings system to determine sequencing of requests for intervention (*i.e.*, without regard to whether or when the interventions were granted). To determine the sequencing and avoid duplicative use of blocks, parties are encouraged to confer as needed.

II. ORDER**A. It Is Ordered That:**

1. The Application for Approval of Deferred Accounting Treatment for Costs Associated with Changes in Premiums for Excess Liability Insurance filed by Public Service Company of Colorado (“Public Service”) on September 5, 2024, is deemed complete for purposes of § 40-6-109.5, C.R.S.

2. The Notice of Intervention filed by the Colorado Office of Utility Consumer Advocate (“UCA”) on September 25, 2024, is acknowledged.

3. The Notice of Intervention filed by the Trial Staff of the Colorado Public Utilities Commission (“Trial Staff”) on September 27, 2024, is acknowledged.

4. The Motion to Intervene filed by the Colorado Energy Consumers (“CEC”) on September 27, 2024, is granted.

5. The parties to this Proceeding are Public Service, UCA, Trial Staff, and CEC.

6. The Motion for Expedited Treatment Expedited Notice filed by Public Service on September 5, 2024, is granted, consistent with the above discussion.

7. The rules governing discovery at 4 CCR 723-1-1405 shall apply, except that response time to discovery requests shall be five calendar days.

8. The procedural schedule set forth in ¶ 25 of this Decision is adopted.

9. A remote evidentiary hearing is scheduled in this Proceeding as follows:

DATE: November 21, 2024

TIME: 9:00 a.m. to 1:00 p.m.

METHOD: Join by videoconference using Zoom at the link to be provided to parties by e-mail.

10. All participants must comply with the requirements in Attachments A and B to this Decision, which are incorporated into this Decision.

11. The parties and witnesses are required to participate in the evidentiary hearing by video conference using Zoom. The parties must ensure that they and their witnesses are ready and able to participate in the evidentiary hearing by video conference, including presenting evidence electronically during the hearing using Zoom.

12. The parties are responsible for sharing the Zoom link, meeting ID code, and passcode to witnesses and others participating in the hearing. Participants in the hearing may not distribute the link, meeting ID code, and passcode to anyone not participating in the hearing.

13. This Decision is effective on its Issued Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
October 2, 2024**



ATTEST: A TRUE COPY

Rebecca E. White,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ERIC BLANK

MEGAN M. GILMAN

TOM PLANT

Commissioners