

Decision No. R24-0007-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23A-0471E

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO TO IMPLEMENT DELIVERY OF ONE-SECOND TIME-STAMPED ELECTRIC USAGE DATA.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
ALENKA HAN
SETTING PREHEARING CONFERENCE**

Mailed Date: January 4, 2024

I. STATEMENT AND PROCEDURAL BACKGROUND

1. On September 22, 2023, Public Service Company of Colorado (Public Service or the Company) filed its verified application seeking approval from the Colorado Public Utilities Commission (Commission or PUC) “to deliver one-second time-stamped data through the Software Development Kit (SDK) established as a result of the Amended Advanced Grid Intelligence and Security (AGIS) Certification of Public Convenience and Necessity (CPCN).”¹ Public Service further requested that it be allowed “to defer incremental costs necessary to maintain SDK and provide technical support to third parties in a regulatory asset without carrying costs.”²

¹ Verified Application of Public Service Company of Colorado, filed September 22, 2023, p. 1.

² *Id.*

2. Contemporaneously with its Verified Application, the Company filed the direct testimony of the following individuals, along with numerous exhibits:

- a) Michael Pascucci, Public Service's Director of Regulatory and Strategic Analysis; and,
- b) Joel Miller, Public Service's Director of Product Strategy and Development.

3. On September 25, 2023, the Commission's Notice of Application Filed was sent to all interested persons and entities. The Notice stated that Public Service had filed direct testimony with its Verified Application and was seeking a Commission decision within 120 days of the Application being deemed complete.³ In addition, the Notice set a 30-day window within which interested persons could intervene, and a 37-day window within which Commission Staff was to file its Intervention.

4. On October 17, 2023, the Colorado Office of the Utility Consumer Advocate (UCA) filed its Notice of Intervention of Right, Request for Hearing, and Entry of Appearances. UCA identified three primary issues it seeks to investigate in this Proceeding.

5. On October 25, 2023, the Trial Staff of the Colorado Public Utilities Commission (Staff) filed a Notice of Intervention as of Right, Entry of Appearance, Notice Pursuant to Rule 1007(a) and Rule 1401, and Request for Hearing. Staff identified five key issues it intends to raise and address in this proceeding.

6. Finally, also on October 25, 2023, Mission:data Coalition, Inc. (Mission:data) moved to permissively intervene in this Proceeding.

7. On November 1, 2023, the Commission deemed the Application complete by minute entry and referred it to an Administrative Law Judge (ALJ) for disposition. Subsequently, this Proceeding was assigned to the undersigned ALJ.

³ Notice of Application Filed, filed September 25, 2023.

8. Decision No. R23-0828-I, issued December 11, 2023, granted Mission:data's motion to permissively intervene and acknowledged the intervention as of right asserted by Trial Staff and the UCA. The parties to this Proceeding consequently are the Company, Trial Staff, UCA, and Mission:data.

9. Decision No. R23-0828-I also invited the parties to confer and propose a procedural schedule to govern this Proceeding as well as suggest dates for an evidentiary hearing.

10. On Friday, December 22, 2023, counsel for Public Service, Steven Denman, informally contacted the undersigned ALJ with the following proposed procedural schedule to which the parties had unanimously agreed:

Answer Testimony	March 8, 2024
Rebuttal Testimony and Cross-Answer Testimony	April 12, 2024
Prehearing Motions Deadline	April 17, 2024
Stipulations and Settlement Agreements	April 18, 2024
Settlement Testimony (if matter settles) OR Corrections to Pre-filed Testimony and Exhibits	April 25, 2024
Cross-Examination Matrix	April 30, 2024
Evidentiary Hearing	May 2-3, 2024
Statements of Position	May 24, 2024

11. As the undersigned ALJ explained by responsive email to Mr. Denman and the parties on December 28, 2023, the above proposed schedule does not allow sufficient time for the issuance of a final Commission decision within the 250-day statutory time period. The Application in this matter was deemed complete on November 1, 2023. Under § 40-6-109.5(1), a final Commission decision is due within 120 days of the Application being deemed complete, or by February 29, 2023. Section 40-6-109.5(1) permits the ALJ to extend the deadline by an additional

130 days, or up to and including July 8, 2024. However, extending the deadline to July 8, 2024, would only allow 45 days from the filing of Statements of Position until a final Commission decision is due. Forty-five days is insufficient. The ALJ therefore proposed that the parties either move up their proposed schedule by a several weeks or waive the statutory deadline.

12. On December 29, 2023, counsel for the Company responded on behalf of the parties, suggesting a third option: the further extension of the statutory timeline by an additional 30-40 days pursuant to § 40-6-109.5(4), C.R.S., as, the parties asserted, extraordinary conditions exist warranting a further extension.

13. The Commission is permitted to extend the statutory timeline up to an additional 130 days, for a total of 380 days from the deemed complete date until a final Commission decision is due, but only “after notice and a hearing at which the existence of extraordinary conditions is established.”⁴ If the time period for issuing a final Commission decision were extended by the full amount of 130 days allowed by section 40-6-109.5(4), the deadline for issuance of a final Commission decision would be extended to November 15, 2024.

14. To comply with the statutory mandate that a hearing be held before the deadline is further extended, the ALJ will hold a prehearing conference Friday, January 19, 2024, at 11 a.m. The parties are asked to appear at the prehearing conference prepared to offer bases establishing the existence of “extraordinary conditions” warranting the extension of the statutory timeline by at least 30-40 days and up to an additional 130 days, or up to and including November 15, 2024.

⁴ § 40-6-409.5(4), C.R.S.

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

1. A **fully remote** prehearing conference is scheduled as follows:

Date: **January 19, 2024**

Time: **11:00 a.m.**

METHOD: By videoconference using Zoom at the link to be provided to counsel and the parties via email prior to the hearing.

2. The parties and witnesses may not distribute the Zoom link and access code to anyone not participating in the remote hearing.

3. **Instructions for Remote Hearings Via Zoom:** Detailed instructions governing participation in and procedures for remote hearings conducted via Zoom are set out in Attachment A to this order, which is incorporated into and made part of this order.

4. This Decision is effective immediately.

(S E A L)



ATTEST: A TRUE COPY

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ALENKA HAN

Administrative Law Judge

Rebecca E. White,
Director