

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23A-0589EG

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR APPROVAL OF ITS COMBINED ELECTRIC AND NATURAL GAS DEMAND-SIDE MANAGEMENT AND BENEFICIAL ELECTRIFICATION PLAN FOR CALENDAR YEARS 2024-2026.

**INTERIM DECISION
SCHEDULING EVIDENTIARY HEARING AND
ESTABLISHING DEADLINES**

Issue Date: July 16, 2024

I. STATEMENT, SUMMARY AND BACKGROUND

A. Statement and Summary

1. This Decision schedules a fully remote evidentiary hearing for August 8, 2024; establishes a July 25, 2024 deadline by which Public Service Company of Colorado (“Public Service” or “the Company”) must make filing(s) addressing questions outlined in Decision No. R24-0465-I (issued June 27, 2024) (“Decision No. R24-0465-I”); establishes a July 31, 2024 deadline for Settling Parties to file settlement testimony under the conditions outlined; modifies and establishes other deadlines and procedures; and confirms that the July 15 and 16, 2024 hearing was automatically vacated by operation of Decision No. R24-0465-I, among other matters.

B. Procedural History¹

2. On December 1, 2023, Public Service initiated this Proceeding by filing the above-captioned Application.

¹ Only the procedural history necessary to understand this Decision is included.

3. Since then, the Commission referred this matter for disposition to an administrative law judge (“ALJ”), who has managed the forward movement of this Proceeding.² As a part of that, the ALJ established a May 30, 2024 deadline to file settlement agreements and a June 28, 2024 deadline to file exhibits; and set the matter for a two-day evidentiary hearing on such agreements for July 15 and 16, 2024.³

4. On May 30, 2024, the Company filed an Unopposed Comprehensive Settlement Agreement (Settlement Agreement or Agreement) with attachments.

5. In addition to the Company, the following entities are parties to this Proceeding: Colorado Public Utilities Commission Trial Staff (“Staff”); Colorado Energy Office (“CEO”); Colorado Office of the Utility Consumer Advocate (“UCA”); the City of Boulder (“Boulder”); Western Resource Advocates (“WRA”); Natural Resources Defense Council and the Sierra Club (collectively, “the Conservation Coalition”); Southwest Energy Efficiency Projects (“SWEEP”); the City and County of Denver (“Denver”); Energy Outreach Colorado (“EOC”); Energy Efficiency Business Coalition (“EEBC”); Clean Energy Economy for the Region (“CLEER”); Climax Molybdenum Company (“Climax”); Colorado Energy Consumers (“CEC”), and Iconergy LTD., (“Iconergy”).⁴

6. The Company, Staff, CEO, UCA, Boulder, WRA, the Conservation Coalition, SWEEP, Denver, EOC, EEBC, CLEER, Climax and CEC (“Settling Parties”) join the Settlement Agreement.⁵ Iconergy takes no position on the Agreement.⁶

² Decision No. C24-0054-I (mailed January 23, 2024). *See e.g.* Decision Nos. R24-0086-I (mailed February 12, 2024); R24-0323-I (mailed May 9, 2024); R24-0330-I (mailed May 14, 2024); R24-0347-I (mailed May 23, 2024).

³ Decision No. R24-0347-I.

⁴ Decision No. R24-0086-1 at 23.

⁵ Settlement Agreement at 3.

⁶ *Id.*

7. On June 27, 2024, by Decision No. R24-0465-I, the ALJ ordered the Company to make a filing addressing numerous questions relating to the Settlement Agreement and attachments thereto (“required filing”) by July 8, 2024.⁷ The Decision requires the Company to confer with the Settling Parties on the required filing, and incorporate the Settling Parties’ positions on the same in the required filing, including whether they agree that the information in the required filing is consistent with the Settlement Agreement.⁸ The Decision acknowledges that the Company may have difficulty meeting the July 8, 2024 deadline due to numerous factors, and as a result, ordered that if the Company requires more time, it file a motion on or by July 8, 2024 requesting additional time.⁹ The Decision explains that if the Company files such a motion, the July 8, 2024 deadline to make the required filing and the July 15 and 16, 2024 hearing would automatically be vacated, and that a new deadline and hearing dates would be established by a separate order.¹⁰ The Decision also requires the Company to confer with the parties and include a proposed hearing date to which the parties agree in the Company’s motion seeking more time, should it file one.¹¹

8. On July 3, 2024, the Company filed a “Notice of Conferral and Unopposed Motion for Additional Time to Make Supplemental Filing and Request for Waiver of Response Time” (Motion).

II. FINDINGS AND DISCUSSION

9. The Motion states that it is unopposed, and as a result, requests that the response time to it be waived.¹² The Motion states that the Company is working diligently to compile the

⁷ Decision No. R24-0465-I at 4-6 (issued June 27, 2024).

⁸ *Id.* at 5.

⁹ *Id.* at 5-6.

¹⁰ *Id.* at 6.

¹¹ *Id.*

¹² Motion at 2 and 6.

information required by Decision No. R24-0465-I, but that because the Company's Demand Side Management ("DSM") and Beneficial Electrification ("BE") Plans are incredibly voluminous and complex, this will require several weeks to complete, at minimum.¹³ As a result, the Company requests a July 25, 2024 deadline to make the required filing.¹⁴ The Company is uncertain as to whether Decision No. R24-0465-I's requirement to confer with the Settling Parties on the required filing may create problems with meeting a July 25, 2024 deadline, but plans to proceed in good faith with an expectation that the conferral process will not create delay.¹⁵ The Motion also proposes that the hearing be rescheduled for August 2, 2024 and the July 15 and 16, 2024 hearing be vacated.¹⁶

10. The ALJ finds that because the Motion is unopposed, the Company has established good cause to waive the response time to the Motion and does so.¹⁷

11. To start, when the Company filed the Motion, by operation of Decision No. R24-0465-I, the July 8, 2024 deadline to make the required filing and the July 15 and 16, 2024 hearing dates were automatically vacated. The ordering paragraphs below confirm this.

12. The ALJ agrees that the Company's DSM and BE Plan are incredibly voluminous and complex. As a result, the ALJ finds that the Company's proposed July 25, 2024 deadline to make the required filing is reasonable, and as such, approves that proposed deadline.

13. The ALJ is unable to schedule the hearing for August 2, 2024 due to an unavoidable conflict. The parties were informally contacted with other potential hearing dates, and agreed to

¹³ *Id.* at 5.

¹⁴ *Id.* at 6.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ See Rule 1400(b) of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1.

an August 8, 2024 hearing date. As such, the ALJ will schedule the hearing for August 8, 2024. Based on the parties' prior requests, the ALJ will schedule that as a fully remote hearing.

14. The required filing should accurately reflect many Settlement Agreement terms, which is why it is important for the record to clearly indicate the Settling Parties' position on it. If conferring with the Settling Parties on the Company's required filing prevents the Company from meeting the July 25, 2024 deadline, the Company may make its filing without incorporating all Settling Parties' positions on it. In this circumstance, the required filing must provide detailed information on the Company's conferral efforts and any positions that the Settling Parties have taken on the filing. Any Settling Party whose position is not reflected in the Company's required filing must file settlement testimony on or by August 1, 2024 clearly stating their position on the Company's required filing, including whether it accurately reflects the Agreement's terms. Settlement testimony will make a clearer record and may result in hearing efficiencies, such as eliminating the need for all the Settling Parties' witnesses to testify.¹⁸ Settlement testimony must be identified with exhibit numbers within the parties' assigned exhibit number block and meet all other requirements for marking and filing exhibits in Attachment B to Decision No. R24-0086-I.

15. The parties will be permitted to provide live testimony addressing or supplementing anything in the Company's required filing or settlement testimony. Parties wishing to do so must provide notice of their intent to provide such live testimony by identifying an estimated amount of time for direct examination in the Joint Witness Examination Matrix (Matrix) required by this

¹⁸ The more information that Settling Parties can provide on their positions, (particularly if they believe the required filing is inconsistent with the Agreement), the more likely it will be that the ALJ will not have questions for the Settling Parties' witnesses during the hearing. But, if, for example, settlement testimony states that the Settling Party believes that certain information in the Company's required filing is not consistent with the Settlement Agreement but does not explain why or offer solutions to the potential problem that this may create, the ALJ will most likely have to question such witnesses during the hearing.

Decision. Similarly, the parties should *only* include time for a witness's cross examination if they plan to cross examine such witness. If a witness is listed without estimated direct or cross examination time, this will be construed to mean that the witness will be made available should the ALJ have questions, but that no party seeks to examine the witness, either on direct or cross examination. These procedures will better enable the ALJ to determine whether any witnesses may be excused from attending the hearing.

16. The ALJ modifies or establishes other deadlines as set forth below to accommodate the new hearing date and other deadlines.

III. ORDER

A. It Is Ordered That:

1. The July 8, 2024 deadline established in Decision No. R24-0465-I (issued June 27, 2024) ("Decision No. R24-0465-I") for Public Service Company of Colorado ("Public Service" or "the Company") to make a filing(s) addressing the items discussed in Decision No. R24-0465-I ("required filing") and the July 15 and 16, 2024 hearing dates were automatically vacated by operation of Decision No. R24-0465-I.

2. A remote evidentiary hearing in this matter is scheduled as follows:

DATE: August 8, 2024

TIME: 9:00 a.m.

PLACE: By video conference using Zoom.

3. The parties are responsible for sharing the link, meeting ID code, and passcode with witnesses and others participating in the evidentiary hearing, which will be provided to the parties

prior to the hearing. Participants in the hearing may not distribute the link, meeting ID code, and passcode to anyone not participating in the hearing.

4. Non-participants in the evidentiary hearing may observe the hearing live through the Commission's webcast for the Hearing Room assigned for each of the above hearing dates, accessible at: <https://puc.colorado.gov/webcasts>.

5. The response time to the Public Service's "Notice of Conferral and Unopposed Motion for Additional Time to Make Supplemental Filing and Request for Waiver of Response Time" filed July 3, 2024 (Motion) is waived and the Motion is partially granted, consistent with the above discussion and the below ordering paragraphs.

6. **Deadline for Public Service's Required Filing.** On or by July 25, 2024, the Company must make a filing(s) addressing the items discussed in Decision No. R24-0465-I. The filing must meet this Decision's and Decision No. R24-0465-I's requirements.

7. **Deadline for Settling Parties to File Settlement Testimony.** If Public Service's required filing does not incorporate all the Settling Parties' positions on it, any Settling Party whose position is not reflected in the Company's required filing must file settlement testimony on or by July 31, 2024 clearly stating their position on the Company's required filing, including whether it accurately reflects the terms of the Unopposed Comprehensive Settlement Agreement and attachments thereto, filed on May 30, 2024.

8. **Deadline for Additional Exhibits.** Should the Company's required filing or settlement testimony prompt the parties to offer into evidence any exhibits not previously filed and served, the parties must file and serve such exhibits on or by August 1, 2024. This is the deadline to file final exhibits as contemplated by Decision No. R24-0086-I and Attachment B thereto.

9. **Deadline for Joint Witness Examination Matrix.** By August 5, 2024, the parties must file a joint witness examination matrix consistent with the above discussion listing all the witnesses the parties anticipate will testify at the hearing and the anticipated amount of time each party will use to examine the witnesses on direct and cross examination. To the extent practicable, the witnesses should be listed in the order in which they will be called.

10. **Deadline for Statements of Position.** The deadline to file statements of position is modified from July 30, 2024 to August 22, 2024.

11. **Hearing Procedures.** Unless explicitly modified, or rendered moot by the passage of time, the requirements in Decision No. R24-0086-I and Attachments A and B thereto remain in full force and effect and are unaffected by this Decision. As that Decision requires, the parties are still obligated to review the hearing spreadsheet that will be distributed to them prior to the hearing and confirm that it includes all the exhibits they intend to offer into evidence during the evidentiary hearing. If it does not, the parties must take action to correct this.

12. This Decision is 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

MELODY MIRBABA

Administrative Law Judge