

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 24A-0299E

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR AN ORDER FINDING THAT THE CABIN CREEK FACILITY PROJECT WAS PRUDENT WITH UPGRADES TO BOTH GENERATING UNITS ALONG WITH AN EXPANSION OF THE FACILITY'S UPPER RESERVOIR.

**INTERIM DECISION
ACKNOWLEDGING INTERVENTIONS OF RIGHT,
EXTENDING STATUTORY TIME PERIOD, AND
SCHEDULING PREHEARING CONFERENCE**

Issued Date: September 6, 2024

I. STATEMENT

1. This Decision acknowledges the interventions of right filed by Trial Staff ("Staff") of the Colorado Public Utilities Commission ("PUC" or "Commission") and the Office of the Utility Consumer Advocate ("UCA"), extends the statutory time period, and schedules a prehearing conference for Friday, September 20, 2024, at 11:00 a.m.

A. Procedural History and Background

2. Public Service Company of Colorado ("Public Service" or "the Company"), initiated this matter on July 1, 2024, by filing its Verified Application with the PUC seeking an order finding that its Cabin Creek Facility Project ("Cabin Creek") was prudent.¹ The Application explains that the Cabin Creek Facility is a pumped storage hydroelectric plant in operation since 1967, which was in need of "major refurbishment and repairs" after 50 years of service.² The

¹ Verified Application of Public Service Company of Colorado, filed July 1, 2024, p. 1.

² *Id.* at p. 1, ¶ 1.

Company obtained a Certificate of Public Convenience and Necessity (“CPCN”) in 2015 approving of the work.³ The repairs are “now substantially complete” and the plant is back in operation.⁴ Cabin Creek cost approximately \$109 million — an increase of \$21 million from the original 2015 cost estimate — “primarily due to the increased scope of work that was necessary to complete the project as additional issues were uncovered and due to regulatory requirements.”⁵

This Proceeding examines whether the Company acted prudently in completing Cabin Creek.

3. Contemporaneously with its Application, Public Service filed the following prefiled testimony and documents:

- Hearing Exhibit 101: Direct testimony of Jason J. Peuquet, Director of Regulatory Administration for Public Service, with one attached exhibit;
- Hearing Exhibit 102: Direct testimony of Darin W. Schottler, Director of Capital Projects for Xcel Energy Services Inc. (“XES”) and interim leader of the Energy Supply Strategic Capital Projects organization, along with seven attached exhibits, three of which were filed in both public and confidential versions;
- Hearing Exhibit 103: Direct testimony of Nicholas J. Detmer, Director of Market Operations and Analytics for XES; and,
- Hearing Exhibit 104: Direct testimony of Arthur P. Freitas, Director, Revenue Analysis for XES, along with two attached exhibits.

4. On July 3, 2024, the Commission sent out a Notice of Application Filed (Notice) to interested persons. The Notice stated that Public Service “**has** filed testimony and is seeking a Commission decision within 120 days.”⁶ In addition, the Commission ordered that any person or

³ *Id.*

⁴ *Id.* at p. 2 ¶ 2.

⁵ *Id.* at pp. 2-3, ¶ 4.

⁶ Notice of Application Filed, filed July 3, 2024, p. 1.

entity seeking to intervene in this Proceeding do so within 30 days of the Notice, and noted that Staff may file its intervention “within seven (7) days after this Notice expires.”⁷

5. After the Commission’s issuance of the Notice, the following entities filed Interventions as of right in this Proceeding:

- UCA filed its Intervention of Right, Request for Hearing and Entry of Appearances on July 18, 2024, pursuant to § 40-6.5-104(1), C.R.S.; and
- Staff filed its Notice of Intervention of Right, Entry of Appearance, Notice Pursuant to Rule 1007(a) and Rule 1401, and Request for Hearing on August 9, 2024.

6. No other entities have intervened in this Proceeding.

7. The Commission deemed the Application complete by minute entry on August 7, 2024, 2024, in accordance with § 40-6-109.5, C.R.S., and referred the matter to an Administrative Law Judge (ALJ) for disposition. The Proceeding was subsequently assigned to the undersigned ALJ.

II. INTERVENTIONS

8. The ALJ acknowledges the interventions of right filed by the UCA under § 40-6.5-104(1), C.R.S. and by Staff pursuant to Rule 1401(e) of the Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (“CCR”) 723-1. UCA and Staff are parties to this proceeding.

III. TIME FOR A COMMISSION DECISION

9. Public Service’s Application was accompanied by the direct, supporting testimony of four witnesses. As the Commission noted in its Notice of Application, Public Service is

⁷ *Id.*

therefore seeking a Commission decision within 120 days of the date on which its Application is deemed complete.

10. As noted above, the Commission deemed Public Service's Application complete on August 7, 2024. Pursuant to § 40-6-109.5, C.R.S., a Commission decision is therefore due on or before December 5, 2024.

11. However, if the Commission in its discretion finds that additional time is required for a decision, the time period within which a Commission decision shall issue may be extended an additional 130 days.⁸

12. For a final Commission decision to issue before expiration of the December 5, 2024 statutory time period, a hearing in this Proceeding would ideally have had to have been held by the end of August 2024. The press of other Commission business made meeting that timeframe impossible.

13. Therefore, to ensure the parties and the undersigned ALJ have sufficient time to consider, address, and hold a hearing about the important issues raised by this Proceeding, it is found necessary to extend the time for issuance of a Commission decision. Pursuant to § 40-6-109.5(1), C.R.S., the applicable statutory period shall be extended by an additional 130 days up to and including April 14, 2025.

IV. PREHEARING CONFERENCE

14. To ensure this matter moves forward, and in anticipation of a hearing on Public Service's Application, the ALJ is scheduling a fully-remote prehearing conference per Rule 1409(a), 4 CCR 723-1, for **Friday, September 20, 2024, at 11:00 a.m.** Participants will appear at the prehearing conference from remote locations by videoconference and may not appear

⁸ See § 40-6-109.5(1), C.R.S.

in person for the prehearing conference. The remote prehearing conference will be held using the web-hosted service, Zoom. Attachment A hereto includes important technical information and requirements to facilitate holding the prehearing conference remotely. All those participating in the hearing must carefully review and follow all requirements in this Decision and Attachment A.

15. To minimize the potential that the videoconference hearing may be disrupted by non-participants, the link and meeting ID or access code 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.

16. At the prehearing conference, an evidentiary hearing will be scheduled, and related procedural deadlines will be established. The ALJ anticipates scheduling a fully remote evidentiary hearing to be held via Zoom. Alternatively, the parties may choose to hold a hybrid evidentiary hearing which accommodates both in person and remote participation in the evidentiary hearing or a fully in person at the Commission's offices in Denver, Colorado.

17. The ALJ notes that the Commission can conduct in-person, remote, or hybrid hearings. A remote hearing is one in which all of the participants appear and participate from remote locations over the Zoom web conferencing platform. A hybrid hearing involves the ALJ and at least one party and/or witness participating from one of the Commission's hearing rooms in Denver, and the remaining party(ies) and witness(es) participating from one or more remote locations using the Zoom web conferencing platform. An in-person hearing is one in which the ALJ and all parties and witnesses participate in the hearing at the same location.

18. A final Commission decision is due within 250 days of Public Service's Application being deemed complete. Public Service's Application was deemed complete August 7, 2024. Therefore, a final Commission decision is due on or before April 14, 2024.

To ensure a final Commission decision can be issued within that timeframe, the ALJ anticipates that an evidentiary hearing in this matter must be held before the end of December 2024. The participants should keep this in mind when preparing for the prehearing conference.

19. Other issues relevant to this proceeding may be raised or addressed at the prehearing conference, including whether the parties have met the requirements of this Decision and relevant Commission rules.

20. All parties are on notice that failure to appear at the prehearing conference may result in decisions adverse to their interests, including granting the complete relief opposing parties seek, dismissing interventions, and dismissing or granting the Application. The ALJ will deem any party's failure to appear at the prehearing conference to be a waiver of that party's objection to the rulings made during the prehearing conference.

21. In the alternative, if the parties reach a consensus procedural schedule, hearing format, and proposed evidentiary hearing date(s), the parties are encouraged to contact the undersigned ALJ informally by email (alenka.han@state.co.us) with their proposed procedural schedule. If the parties' proposed procedural schedule can be accommodated by the Commission, the undersigned ALJ will vacate the prehearing conference and may adopt the parties' proposed procedural schedule and hearing date(s).

V. ORDER

A. It Is Ordered That:

1. Pursuant to § 40-6-109.5(1), C.R.S., the applicable period for issuance of a Commission decision is extended by an additional 130 days, up to and including April 14, 2025.

2. The interventions of right filed by Trial Staff of the Colorado Public Utilities Commission (Staff) and the Office of the Utility Consumer Advocate (UCA) are acknowledged. Staff and UCA are parties to this proceeding.

3. A fully-remote prehearing conference in this Proceeding is scheduled as follows:

DATE: Friday, September 20, 2024

TIME: 11:00 a.m.

PLACE: Join by video conference using Zoom

4. Participants in the hearing may not distribute the hearing link, access, or ID code to anyone not participating in the hearing. Participants may not appear in person at the Commission for the above-scheduled hearing. Instead, they must participate in the hearing from remote locations, consistent with the requirements of this Decision.

5. All participants must comply with the requirements in Attachment A to this Decision, which is incorporated into this Decision.

6. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ALENKA HAN

Administrative Law Judge

ATTEST: A TRUE COPY

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

Rebecca E. White,
Director