

Decision No. R24-0747-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 24F-0204E

HOWARD KIYOTA,

COMPLAINANT,

V.

UNITED POWER INC.,

RESPONDENT.

**INTERIM DECISION
SCHEDULING REMOTE HEARING, ADDRESSING EXHIBITS,
AND PROVIDING OTHER ADVISEMENTS**

Issued Date: October 17, 2024

I. STATEMENT

A. Procedural Background

1. On May 7, 2024, Complainant Howard Kiyota filed a Complaint against United Power Inc. (“United Power”). Mr. Kiyota generally alleges that United Power changed his service lateral in 2022 and this has resulted in numerous electrical issues.

2. On May 8, 2024, the Commission issued its Order Setting Hearing and Notice of Hearing (“Notice”), which set this matter for an evidentiary hearing on July 22, 2024, before an Administrative Law Judge (“ALJ”).

3. On May 15, 2024, the above captioned proceeding was referred by minute entry to an ALJ.
4. On May 23, 2024, United Power filed its Motion to Dismiss.
5. On June 21, 2024, by Decision No. R24-0441-I, the evidentiary hearing was vacated.
6. On June 24, 2024, Mr. Kiyota filed his Response to Interim Decision of Administrative Law Judge Robert I. Garvey Vacating Evidentiary Hearing.
7. On June 27, 2024, Mr. Kiyota filed a document titled Extension August, 1 2024 to reply to United Power's Motion to Dismiss.
8. On July 29, 2024, Mr. Kiyota filed Attachments for Howard Kiyota Formal Complaint.
9. On August 1, 2024, Mr. Kiyota filed an amendment to his Response to United Power's Motion to Dismiss.
10. On September 17, 2024, by Decision No. R24-0651-I, the Motion to Dismiss was denied and a prehearing conference was scheduled for October 15, 2024.

I. PROCEDURAL SCHEDULE AND REMOTE HEARING

11. At the prehearing conference the parties agreed to the following procedural schedule:

On or before **November 15, 2024**, Mr. Kiyota is ordered to file and serve on United Power: (a) a list that identifies the witnesses Mr. Kiyota intends to call at the hearing, the last known address and telephone number of each witness, and a summary of the anticipated testimony of each witness; and (b) copies of the exhibits Mr. Kiyota will present at the hearing.

On or before **December 6, 2024**, United Power may file a report concerning the issues in the above captioned proceeding.

On or before **December 20, 2024**, United Power is ordered to file and serve on Mr. Kiyota: (a) a list that identifies the witnesses United Power intends to call at the hearing, the last known address and telephone number of each witness, and a summary of the anticipated testimony of each witness; and (b) copies of the exhibits United Power will present at the hearing.

An evidentiary hearing shall be held on January 28, 2025, commencing at 9:00 am.

12. The Parties will consider mediation prior to the scheduled hearing.

13. The undersigned ALJ will decide after any evidentiary hearing if statements of position shall be necessary.

14. As referenced in this Decision, serving a party with any document (“*e.g.*, witness and exhibit lists and exhibits”) means that the party is required to give the document to the other party or parties to the proceeding. Service must be accomplished pursuant to Rule 1205 of the Commission’s Rules of Practice and Procedure.¹ The Commission’s Rules (“including Rule 1205”) are available on the Commission’s website and in hard copy from the Commission.

15. All parties must establish through a certificate of service that they have served a filed document on all other parties in the proceeding. A certificate of service is a statement indicating how and when a document was served on the other party (“*e.g.*, the filing was served by placing the document in the United States mail, first class postage-prepaid to an identified address on an identified date”).²

B. Unified Numbering System for Hearing Exhibits

16. Each party must (a) pre-mark all hearing exhibits with a hearing exhibit number within their assigned number block before uploading the exhibits to the party’s designated box.com folder; (b) sequentially page-number each page of exhibits longer than two pages, with the first page number as page 1.

17. Attachment B outlines procedures and requirements for marking and formatting exhibits aimed at facilitating efficient and smooth electronic evidence presentations at the remote hearing. It is

¹ 4 CCR 723-1.

² See Rule 1205(e), 4 CCR 723-1.

very important that the parties carefully review and follow all requirements in this Decision and Attachments A and B.

18. 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:

- Mr. Kiyota is assigned hearing exhibit numbers 100 to 199; and
- United Power is assigned hearing exhibit numbers 200 to 299.

A. Additional Procedural Notices and Advisements

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

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

21. The parties are advised that this proceeding is governed by the Rules of Practice and Procedure found at 4 CCR 723-1. The ALJ expects the parties comply with these rules. The rules are available on the Commission's website (<http://puc.colorado.gov/pucrules>), and in hard copy from the Commission.

22. The Parties are also on notice that failure to appear at the scheduled evidentiary hearing may result in decisions adverse to their interest.

23. The filing of an exhibit with the Commission does not, by itself, admit an exhibit into the evidentiary record of the hearing.

24. The parties are on notice that: (a) any witness may be prohibited from testifying, except in rebuttal, unless that witness is identified on the list of witnesses filed and served as required; (b) failure to provide an accurate description of the anticipated testimony of a witness may also result

in an order prohibiting such witness from testifying; and (c) any exhibit may not be received in evidence, except in rebuttal, unless filed and served as required.

B. Informational Video Conference Practice Session

25. The ALJ will hold an informal practice video conference session if requested by any Party to give the Parties an additional opportunity to practice using Zoom.

26. The Parties may contact the Commission Legal Assistants by email at casey.federico@state.co.us or stephanie.kunkel@state.co.us to schedule an informal practice video conference session.

27. If the Parties request a practice video conference, they will receive information and a link to participate in the informal practice session by email.

C. Additional Advisements

28. The Parties are advised and are on notice that this proceeding is governed by the Rules of Practice and Procedure found at 4 CCR 723-1. The ALJ expects the Parties to be familiar with and to comply with these rules. The rules are available on the Commission's website (<https://puc.colorado.gov/pucrules>) and in hard copy from the Commission.

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

1. A remote evidentiary hearing is scheduled as follows:

DATE: January 28, 2025

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 Judge³

2. No one should appear in-person for the evidentiary hearing.

3. 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.

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

5. The Parties shall be held to the advisements in this Decision.

³ Additional information about the Zoom platform and how to use the platform are available at: <https://zoom.us/>. The parties are strongly encouraged to participate in a test meeting prior to the scheduled hearing. See <https://zoom.us/test>.

6. This Decision shall be effective immediately.

(S E A L)



ATTEST: A TRUE COPY

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ROBERT I. GARVEY

Administrative Law Judge

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

Rebecca E. White,
Director