

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23D-0591E

IN THE MATTER OF THE COLORADO COMMUNICATION AND UTILITIES ALLIANCE, THE TOWN OF MORRISON, AND THE CITIES OF ARVADA, AURORA, CENTENNIAL, NORTHGLENN, AND WHEAT RIDGE'S PETITION FOR A DECLARATORY ORDER REGARDING PUBLIC SERVICE COMPANY OF COLORADO'S CUSTOMER OWNED LIGHTING TARIFF AND PAYMENT RESPONSIBILITY FOR STATE AND INTERSTATE HIGHWAY STREETLIGHTING.

**INTERIM DECISION GRANTING JOINT MOTION TO
AMEND BRIEFING ON THE MERITS SCHEDULE**

Issued Date: November 22, 2024

I. PROCEDURAL BACKGROUND¹

1. On December 4, 2023, the Colorado Communication and Utilities Alliance, the Town of Morrison, and the Cities of Arvada, Aurora, Centennial, Northglenn, and Wheat Ridge (“Local Governments”) filed a Petition for Declaratory Order (“Petition”) initiating this Proceeding. In the Petition, the Local Governments request that the Colorado Public Utilities Commission (“Commission” or “PUC”) clarify certain provisions relating to the payment responsibility for interstate and state highway streetlighting.

2. On December 21, 2023, the Public Service Company of Colorado’s Notice of Intervention as of Right, Unopposed Alternative Motion for Permissive Intervention, and Request for Waiver of Response Time was filed by Public Service Company of Colorado (“Public Service” or “the Company”).

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

3. On December 29, 2023, the Colorado Department of Transportation's Notice of Intervention as of Right and Alternative Motion for Permissive Intervention was filed by the Colorado Department of Transportation ("CDOT").

4. By Decision No. C24-0079-I, mailed February 7, 2024, the Commission, among other things, established a 30-day notice and intervention period for Local Governments' Petition, acknowledged the Company's intervention as of right, granted CDOT's permissive intervention, and assigned this matter to an Administrative Law Judge ("ALJ").

5. By Decision No. R24-0585-I, issued August 14, 2024, an ALJ, among other things, set briefing schedules for two issues: (1) subject matter jurisdiction; and (2) the merits of the Petition.

6. On September 13, 2024, the Colorado Department of Transportation's Renewed Motion for Partial Dismissal for Lack of Subject Matter Jurisdiction ("Motion to Dismiss for Lack of Subject Matter Jurisdiction") was filed by CDOT.

7. On September 27, 2024, Public Service Company of Colorado's Response to the Colorado Department of Transportation's Renewed Motion for Partial Dismissal for Lack of Subject Matter Jurisdiction was filed by Public Service.

8. On October 11, 2024, the Colorado Department of Transportation's Reply in Support of Its Renewed Motion for Partial Dismissal for Lack of Subject Matter Jurisdiction was filed by CDOT.

9. On October 23, 2024, CDOT, the Local Governments and Public Service (collectively, the "Parties"), filed their Joint Motion to Amend Briefing on the Merits Schedule ("Motion to Amend Briefing Schedule").

II. MOTION TO AMEND BRIEFING SCHEDULE

10. In the Motion to Amend Briefing Schedule, the Parties state that “[t]he Commission’s subject matter jurisdiction determination will either eliminate the need for briefing on the merits in whole or in part”² and request that the Commission grant the following proposed briefing schedule (“Proposed Briefing Schedule”):

- a. CDOT and Public Service must file any responsive brief to the Petition/opening brief within 35 days from the service of the Commission’s Order re: subject matter jurisdiction; and
- b. Local Governments may file a reply brief in support of their Petition/opening brief within 30 days from service of CDOT and Public Service’s responsive briefs.³

The Parties state that no party will be prejudiced by the adoption of the Proposed Briefing Schedule and request that response time to the Motion to Amend Briefing Schedule be waived pursuant to Rule 1308, 4 *Code of Colorado Regulations* (“CCR”) 723-1.⁴

11. The undersigned ALJ finds and concludes that the Proposed Schedule is reasonable, and the Parties stated good cause of their requested relief. Therefore, the Motion to Amend Briefing Schedule will be granted as ordered below.

12. Because the Motion to Amend Briefing Schedule is unopposed and response the response period to the same has expired,⁵ the request to waive response time will be denied as moot, as ordered below.

III. MOTION TO DISMISS FOR LACK OF SUBJECT MATTER JURISDICTION

13. The Motion to Dismiss for Lack of Subject Matter Jurisdiction will be addressed by a separate Decision.

² Motion to Amend Briefing Schedule at ¶ 4.

³ *Id.* at ¶ 5.

⁴ *Id.* at ¶ 6-7.

⁵ See Rule 1400(b), 4 CCR 723-1.

IV. ORDER**It is Ordered That:**

1. The Joint Motion to Amend Briefing on the Merits Schedule (“Motion to Amend Briefing Schedule”) filed on October 23, 2024 by the Colorado Communication and Utilities Alliance, the Town of Morrison, and the Cities of Arvada, Aurora, Centennial, Northglenn, and Wheat Ridge (“Local Governments”), the Colorado Department of Transportation (“CDOT”), and Public Service Company of Colorado (“Public Service”) (collectively, the “Parties”) is granted, as to the parties request to amend the briefing schedule in this Proceeding.

2. The Parties shall comply with the following briefing schedule:

- a. Within 35 days from the date of service of a decision addressing the substance of the Colorado Department of Transportation’s Renewed Motion for Partial Dismissal for Lack of Subject Matter Jurisdiction that was filed by CDOT on September 13, 2024 (“Motion to Dismiss for Lack of Subject Matter Jurisdiction”), CDOT shall file any responsive brief to the Local Government’s Petition for Declaratory Order that was filed by the Local Governments on December 4, 2023 (“Petition”).
- b. Within 35 days from the service of a decision addressing the substance of the Motion to Dismiss for Lack of Subject Matter Jurisdiction, Public Service shall file any responsive brief to the Petition.
- c. Within 30 days from the latter date of service of CDOT’s or Public Service’s responsive briefs identified in ¶ 2 of this Order Section, the Local Governments shall file any reply brief in support of the Petition.

3. The Parties’ request to waive response time to the Motion to Amend Briefing Schedule is denied as moot.

4. This Decision is effective immediately.

(S E A L)



ATTEST: A TRUE COPY

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

AVIV SEGEV

Administrative Law Judge

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

Rebecca E. White,
Director