

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 19AL-0309G

IN THE MATTER OF ADVICE LETTER NO. 949-GAS FILED BY PUBLIC SERVICE COMPANY OF COLORADO TO REQUEST APPROVAL TO ELIMINATE THE CURRENTLY EFFECTIVE 24.19 PERCENT GENERAL RATE SCHEDULE ADJUSTMENT (“GRSA”) AND PLACE INTO EFFECT REVISED BASE RATES FOR ALL GAS RATE SCHEDULES THAT WILL REPLACE AND SUPERSEDE THE CURRENTLY EFFECTIVE BASE RATES TO BECOME EFFECTIVE JULY 1, 2019.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
STEVEN H. DENMAN
ESTABLISHING PROCEDURES**

Mailed Date: July 24, 2019

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I. BY THE COMMISSION**A. Statement**

1. On May 31, 2019, Public Service Company of Colorado (Public Service or the Company) filed with the Colorado Public Utilities Commission (Commission) Advice Letter No. 949-Gas, accompanying tariff sheets, and supporting testimony and attachments. The proposed effective date on the filed tariffs was July 1, 2019. The Company also requested that the Commission set a hearing on the proposed rates and tariff changes and thereby suspend the effective date of the proposed tariffs. This filing commenced Public Service's 2019 Gas Phase II rate case.

2. On May 31, 2019, Public Service also filed a Motion for Alternative Form of Notice, seeking Commission approval of certain alternative forms of notice to apply to the Company's Advice Letter No. 949-Gas. In Decision No. C19-0484-I (mailed on June 11, 2019), the Commission approved Public Service's request to use the following alternative forms notice to affected customers by: (a) filing the proposed tariff changes with the Commission, and keeping them open for public inspection; (b) publishing a legal notice in *The Denver Post* for two consecutive Sundays (June 9 and 16, 2019); (c) posting a copy of the filing (Advice Letter, tariffs, testimony, and attachments) on the Company's website; and (d) providing the notice as a bill insert with all of the Company's gas bills.¹

3. The procedural history of the above captioned proceeding is recited in Decisions previously issued in this Proceeding and is repeated here as necessary to put this Decision into context.

¹ On June 18, 2019, Public Service filed an Affidavit of Completion of Notice, confirming that the legal notice approved by Decision No. C19-0484-I had been published in the Legal Classified Section of *The Denver Post* on June 9 and June 16, 2019.

4. By Decision No. C19-0541 (mailed on June 20, 2019), pursuant to § 40-6-111(1), C.R.S. (2019), the Commission set for hearing the tariffs filed with Advice Letter No. 949-Gas and thereby suspended their effective date for 120 days from the proposed effective date, or until October 29, 2019. The Decision also referred the matter to an Administrative Law Judge (ALJ) to set hearing dates, to rule on interventions, and to establish other procedures by separate decisions. Subsequently, the undersigned ALJ was assigned to preside over this Proceeding.

5. By Decision No. R19-0622-I (mailed on July 22, 2019), the ALJ, among other things, set a prehearing conference for August 1, 2019, at 1:30 p.m.

B. Presentation of Exhibits Electronically During Evidentiary Hearing

6. The presentation of evidence at the hearing shall be done through electronic exhibits to the fullest extent possible, with the exception of exhibits used to attempt impeachment or any other exhibits allowed by the ALJ and admitted in paper form during the hearing. If a pre-filed hearing exhibit marked for identification is admitted into evidence, the ALJ anticipates that the electronic copy in the Commission's file will be admitted by administrative notice, in lieu of receiving the identical paper copy (*e.g.*, the fact administratively noticed is that the copy on file is the content of the otherwise-admissible hearing exhibit).

7. To facilitate the presentation of electronic exhibits, all pre-marked and electronically filed exhibits will be available during the evidentiary hearing through a hyperlinked spreadsheet identifying filings in the Commission's E-Filings System. The spreadsheet will be made available to the parties prior to hearing and marked as a hearing exhibit. Commission administrative staff will display pre-filed electronic filings during hearing.²

² Exhibits will be displayed on large monitors in the hearing room. Should the parties have technical questions relating to the electronic presentation of exhibits, they may contact Ms. Christie Nicks at (303) 894-2010.

8. Final versions of all hearing exhibits must be filed in accordance with the filing deadlines in the procedural schedule and not less than three business days prior to hearing so that the spreadsheet may be timely prepared and distributed.³

9. Unless otherwise ordered, a sponsoring party shall bring one paper copy of each pre-filed hearing exhibit to the hearing for use by the witnesses during examination. Any paper copy provided at hearing shall reflect the same marking for identification appearing in the Commission's filed copy. The sponsoring party shall ensure that, when offered as an exhibit at hearing, the paper copy of the hearing exhibit is identical to the pre-filed electronic version.

C. Assignment of Hearing Exhibit Number Blocks

10. In order to efficiently organize the numbering and preparation of exhibits for hearing, all parties shall use a unified numbering system for all hearing exhibits. Parties should not duplicate hearing exhibits or attachments previously filed by another party because any filed hearing exhibit may be used by any party.

11. The party initiating the proceeding is assigned hearing exhibit numbers, from 100 to 299.

12. Public Service is assigned hearing exhibit numbers from 100 to 299. Each intervenor will be assigned a block of 100 hearing exhibit numbers. Persons granted intervention will receive blocks starting with 200, in the order that notices of intervention or motions to

³ The phrase "not less than three business days prior to hearing" means by 5:00 p.m. on the fourth full business day before the first day of hearing (*e.g.*, if the first day of the hearing falls on a Monday, then final versions of all hearing exhibits shall be filed by 5:00 p.m. on the preceding Tuesday). Any exhibit filed after this deadline will not be included in the spreadsheet of electronic exhibits and will not be admitted in electronic form by administrative notice pursuant to this rule. Rather, any such exhibit must be marked for identification during hearing and offered in paper form. The party offering the document for admission is responsible for ensuring that a sufficient number of paper copies is available. No confidential or highly confidential information will be included with the distribution of the spreadsheet.

intervene were filed, as reflected in the Commission’s E-Filing System. As of the mailed date of this Decision, the hearing exhibit numbers shall be distributed as follows:

100-299	Public Service
300-399	Office of Consumer Counsel
400-499	Trial Staff of the Commission
500-599	Energy Outreach Colorado

All interested persons granted intervention subsequent to the mailed date of this Decision will be assigned blocks of hearing exhibit numbers by a separate decision.

13. The next unassigned block of hearing exhibit numbers at the time of hearing will be used for all exhibits first presented at hearing.

D. Identification and Filing Requirements for Hearing Exhibits

14. In addition to other requirements of the Commission’s Rules of Practice and Procedure, 4 *Code of Colorado Regulations* 723-1 (e.g., Rule 1202 regarding pre-filed testimony), all pre-filed hearing exhibits shall be marked for identification in accordance with this Interim Decision.

15. Each type of a witness’s testimony, including any attachments, (e.g., direct, answer, rebuttal, and cross-answer) shall be marked as one hearing exhibit number. Even if comprised of multiple electronic documents, the testimony and attachments will be one hearing exhibit. The title of each pre-filed hearing exhibit shall match the title entered in the Commission’s E-Filings System and start with “Hearing Exhibit XXX.” Hearing exhibits shall be marked numerically and sequentially for identification by the filing parties within their respective blocks. At the hearing, any party may sponsor an exhibit that was pre-filed by another party.

16. The title of all pre-filed written testimony (*i.e.*, primary document) should include the type of testimony and the name of the witness. For example, if Hearing Exhibit 100 is the direct testimony of witness John J. Doe, the following title should be used: “Hearing Exhibit 100, Direct Testimony of John J. Doe.”

17. Anything accompanying pre-filed written testimony within a hearing exhibit (*e.g.*, traditionally exhibits, appendices, attachments, or attachments to filing) shall be referred to as an “attachment” to the testimony in the hearing exhibit and identified by the hearing exhibit number reference, the witness’s initials, and a number sequence. Again, attachments will be part of the hearing exhibit identifying each type of testimony. As an example, if the party assigned block 300 files answer testimony of Albert B. Cooke, that includes a table as Attachment ABC-1, then the title of the table will be “Hearing Exhibit 300, Attachment ABC-1.” The attachment should not be referred to as Exhibit ABC-1 or Appendix A.

18. Any party wishing to admit any document used to attempt impeachment, or for another purpose allowed by the ALJ, may do so by presenting a paper copy of the document at the time of the hearing.⁴ In such a circumstance, the party offering the document into evidence is responsible for ensuring that there are an appropriate number of paper copies available at the time of the hearing. In addition to an original, copies for counsel for the other parties, and a copy for the witness, the parties should bring a copy for the advisor(s) and the ALJ.

E. Formatting of Hearing Exhibits

19. Only one page number shall be shown on each page of all testimony. The first page of **all** page-numbered hearing exhibits shall be page 1, with each additional page numbered

⁴ To be clear, the parties are not required to pre-file documents to be used solely for impeachment or for another purpose allowed by the ALJ.

in succession (to best match page number references with electronic file page references). For example, the cover page shall be page 1, and all following pages shall be numbered sequentially, including executive summaries, tables of contents, and lists of attachments.

20. Page numbers should be included in the header of each page-numbered hearing exhibit. The top line of the header shall include the title of the document (*e.g.*, Hearing Exhibit 400, Answer Testimony of Albert B. Cooke or Hearing Exhibit 400, Attachment ABC-1).

21. A person may modify formatting options in revisions to filed documents in order to minimize the resulting impact to page and line references (*e.g.*, by widening a paragraph margin to insert a word).

22. Titles entered into the Commission's E-Filings System should be in title format (*i.e.*, not all capitals).

F. Modifying, Amending, Supplementing, or Correcting a Previously Filed Hearing Exhibit *Before* the Deadline for Corrections

23. Should a party need to modify, amend, supplement, or correct a previously identified hearing exhibit on or before the deadline for filing corrections as set forth in the procedural schedule and more than three business days prior to hearing, a complete revision including all changes in redline/strikeout format shall be filed.⁵ No modification, amendment, supplement, or correction shall be made to a filed hearing exhibit without indicating a new revision number. The same title shall be used for the title as the original, except that a revision number reference should be added to give notice of the change.

24. Illustratively, if Hearing Exhibit 100, Direct Testimony of John J. Doe changed, it would be filed as Hearing Exhibit 100, Direct Testimony of John J. Doe, Rev. 1, containing

⁵ Filing a "clean" version is not necessary and is discouraged.

redlined modifications to the original version.⁶ If an additional revision is later filed, it would be filed as Hearing Exhibit 100, Direct Testimony of John J. Doe, Rev. 2, and would contain all redlined modifications as compared to the original version (*i.e.*, not only as compared to Rev. 1). For Rev. 2 and all subsequent revisions, the filing shall also include a notice identifying changes in each revision from the most recent, previous revision. Further, the title of any revision should not contain the word “corrected” even if the revision corrects the prior filing.

25. The most recent revision of a hearing exhibit shall be the version utilized during the evidentiary hearing. References in testimony to obsolete versions of other testimonies will be construed to be amended to refer to the latest filed version of such testimony, unless otherwise specified. Although corresponding page and line references may reasonably be affected by such construction, corrected references will not be necessary (*e.g.*, no need to amend the references), as long as the reference remains in reasonable proximity to the referenced material. Thus, a reference in answer testimony to page 10, line 5 of someone else’s direct testimony need not be revised when a revision is filed to such direct testimony, as long as page 10, line 5 is in reasonable proximity to the referenced material.

G. Revising or Correcting a Previously Filed Hearing Exhibit *After* the Deadline for Corrections

26. Should a party need to revise or to correct a previously identified hearing exhibit after the deadline for corrections, or **less than three business days prior to the hearing or during the hearing**, all changes should be reflected only on replacement pages in redline/strikeout format that will be presented in paper form during hearing.⁷ The replacement pages shall collectively be marked for identification at the time of hearing as a separate hearing

⁶ “Rev.” means revision.

⁷ Filing a “clean” version is not necessary and is discouraged.

exhibit. The replacement pages shall also include an additional notice attachment (*i.e.*, as a secondary document if electronically filed) identifying changes in each revision from the most recent previous revision.

27. If the changes are permitted, and assuming the original filing is otherwise admissible, both hearing exhibits would be admitted into evidence during the hearing with the latter replacement pages superseding and prevailing to the extent of conflict with the next previous revision.

28. References to superseded portions of a hearing exhibit will be construed to be amended to refer to the replacement pages, unless otherwise specified. Although corresponding page and line references may reasonably be affected by such construction, corrected references will not be necessary (*e.g.*, no need to amend), as long as the reference remains in reasonable proximity to the referenced material. Thus, a reference in answer testimony to page 10, line 5 of someone else's direct testimony need not be revised when a replacement page 10 is filed, as long as page 10, line 5 is in reasonable proximity to the referenced material.

29. These procedures for allowing parties to revise or to correct a previously identified hearing exhibit, *after* the deadline for filing Corrected Testimony and Attachments or *during* hearing, are *not* intended to be used by the parties or their witnesses, in the guise of corrections, to make material or substantive changes, supplements, modifications, or amendments to the witness's position on an issue, when compared to the original pre-filed testimony and attachments. A party who wants to make material or substantive changes, supplements, modifications, or amendments to a witness's position on an issue, as stated in the pre-filed testimony and attachments, after the deadline for filing Corrected Testimony and Attachments will only be allowed to make such revisions after written notice to the ALJ and the

other parties (*e.g.*, by filing a motion), at least three business days prior to the first day of hearing and only after the ALJ finds that the party has shown good cause to make such revisions.

H. Procedures Regarding Confidential Information and Documents.

30. Any pre-filed hearing exhibit (including attachments) filed in accordance with the Standards of Conduct in the Commission's Rules of Practice and Procedure containing confidential information shall be pre-marked for identification with the same hearing exhibit number within the assigned block identifying the portion in the public record and shall be designated with a "C" following the number of the hearing exhibit or attachment.

31. For example, a witness's pre-filed written testimony might be identified as Hearing Exhibit 100, Direct Testimony of John J. Doe. If portions of the testimony in Hearing Exhibit 100, Direct Testimony of John J. Doe, are claimed to be confidential, those portions would be filed in accordance with the Standards of Conduct and identified as Hearing Exhibit 100C, Direct Testimony of John J. Doe. Hearing Exhibit 100, Direct Testimony of John J. Doe would remain in the public record (redacted to exclude all confidential material).

32. Further, if portions of Hearing Exhibit 100, Direct Testimony of John J. Doe, Attachment JJD-1 are claimed to be confidential, those portions would be filed in accordance with the Standards of Conduct and identified as Hearing Exhibit 100, Attachment JJD-1C. Hearing Exhibit 100, Attachment JJD-1 would remain in the public record (redacted to exclude all confidential material). Comparably, should any highly confidential protections be afforded, the hearing exhibit number would be designated in the same fashion, but with an "HC" following the hearing exhibit number.

33. A deadline will be established, as ordered below, for any objections to the admissibility of any pre-filed hearing exhibits marked for identification (*e.g.*, for authenticity).

II. ORDER

A. It Is Ordered That:

1. In addition to other requirements of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* 723-1 (e.g., Rule 1202 regarding pre-filed testimony), all pre-filed hearing exhibits shall be marked for identification in accordance with this Decision.

2. Each party shall file with the Commission, an electronic copy of its testimony and exhibits on a CD, DVD, or portable drive in both the underlying executable electronic format and Adobe PDF format. Any stipulations or settlement agreements, along with any associated testimony or exhibits, shall also be filed electronically. Testimony and exhibits may be submitted through the Commission's E-Filings System in the underlying executable electronic format in lieu of this requirement.⁸

3. To comply with this Decision, Public Service Company of Colorado shall file the hearing exhibits that it intends to offer into evidence (e.g., those previously filed), pre-marked for identification in accordance with the procedures and the discussion ordered above within 14 days of the date of this Decision, or no later than August 7, 2019. For purposes of this Decision, any such filings shall be treated as the original filing of the hearing exhibits.

4. To comply with this Decision, each Intervenor shall file the hearing exhibits that it intends to offer into evidence, pre-marked for identification in accordance with the procedures

⁸ For purposes of this Decision, executable electronic filings shall be made in the document's underlying file format (Excel, Word, or WordPerfect, for example). All spreadsheets should have the various cell formula or links left intact; *i.e.*, cell formulas should not be converted to values. To the extent exhibits cannot be provided in an executable electronic format, a listing of such exhibits should be provided identifying those exhibits that cannot be so provided. In order to minimize the size and to allow electronic text searches of the PDF files, all PDF files should be generated from the electronic base format when possible, but can be generated as a scanned image if the base document is not available electronically.

and the discussion ordered above, or which may be ordered in a separate decision, on the filing dates to be established in a subsequent procedural order.

5. All corrections to any pre-filed hearing exhibits marked for identification shall be filed on or before the deadline for “Corrected Testimony,” to be established in a procedural order to be issued at a later date.

6. Any objections to the admissibility of the form of any pre-filed hearing exhibits marked for identification (*e.g.*, for authenticity) shall be filed by the deadline for “Pre-hearing Motions,” to be established in a procedural order to be issued at a later date. Any response shall be filed by the deadline for “Responses to Prehearing Motions,” to be established in the same procedural order.

7. At the hearing, all parties shall bring one paper copy of the pre-marked hearing exhibits they intend to offer for use by the witnesses during examination.

8. This Decision shall be effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

STEVEN H. DENMAN

Administrative Law Judge

ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean,
Director