

Decision No. C20-0536-I

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO**

PROCEEDING NO. 20A-0204E

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IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR APPROVAL OF ITS 2021-2023 TRANSPORTATION ELECTRIFICATION PLAN.

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**INTERIM DECISION ADOPTING PROPOSED PROCEDURAL SCHEDULE; SCHEDULING REMOTE HEARING; ADOPTING PROPOSED DISCOVERY PROCESS; REFERRING DISCOVERY DISPUTES AND MOTIONS FOR EXTRAORDINARY PROTECTION TO AN ADMINISTRATIVE LAW JUDGE; VACATING PREHEARING CONFERENCE**

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Mailed Date: July 23, 2020

Adopted Date: July 22, 2020

**I. BY THE COMMISSION**

**A. Statement**

1. Through this Decision we address the Joint Report Regarding the Procedural Schedule (Joint Report) that Public Service Company of Colorado (Public Service) filed on July 20, 2020, on behalf of the following parties to this proceeding.<sup>1</sup>

2. Consistent with the discussion below, we: (1) adopt the schedule that the parties propose in the Joint Report; (2) schedule a five-day hearing in the matter; (3) adopt the parties'

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<sup>1</sup> As established through Decision Nos. C20-0501-I and C20-0515-I, issued July 10 and 15, 2020, respectively, in addition to Public Service, parties to this proceeding include: Colorado Public Utilities Commission Trial Staff (Staff); the Colorado Office of Consumer Counsel (OCC); the Colorado Energy Office (CEO); the Regional Transportation District (RTD); Charge Point, Inc. (Charge Point); Tesla, Inc. (Tesla); Electrify America, LLC (Electrify America); EVgo; Enel X North America, Inc., Greenlots, North America, EVBox, Inc. (jointly, Joint EV Charging Providers); the City of Boulder (Boulder); the City and County of Denver (Denver); Colorado Energy Consumers (CEC); Western Resource Advocates, Sierra Club, and Natural Resource Defense Counsel (jointly, Environmental Organizations); Southwest Energy Efficiency Project (SWEEP); Vote Solar, GRID Alternatives, Inc., Colorado Latino Forum, and GreenLatinos (jointly, Environmental Justice Coalition); Energy Outreach Colorado (EOC); and Walmart, Inc. (Walmart).

proposed discovery process; (4) refer discovery disputes and motions for extraordinary protection to an administrative law judge; and (5) vacate the prehearing conference currently scheduled for July 27, 2020.

**B. Background**

3. On May 15, 2020, and as required by Senate Bill (SB) 19-077,<sup>2</sup> Public Service filed its Application for Approval of its 2021-2023 Transportation Electrification Plan (TEP).

4. Through Decision No. C20-0501-I<sup>3</sup> the Commission required the parties to confer and file a proposed procedural schedule no later than July 20, 2020. In addition, we scheduled a remote prehearing conference for July 27, 2020. In Decision No. C20-0501-I, we noted that the Commission may vacate the prehearing conference if it substantially approves the parties’ proposed procedural schedule.

5. In the Joint Report, Public Service states that parties agree to a procedural schedule, which includes the following:

Answer Testimony	September 28, 2020
Rebuttal/Cross-Answer Testimony	October 23, 2020
Prehearing Motions, Witness and Exhibit Lists, Exhibits, Corrected Testimony, and Settlement Agreements	November 6, 2020
Evidentiary Hearing	November 12-13, 16-18, 2020
Statements of Position	December 11, 2020

6. Public Service notes in the Joint Report that crafting a procedural schedule acceptable to the numerous parties in this proceeding “required a significant amount of

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<sup>2</sup> Senate Bill (SB) 19-077, which was signed into law on May 31, 2019, requires investor owned electric public utilities to file with the Commission by May 15, 2020, “an application for a program for regulated activities to support widespread transportation electrification” within its service territory. *See* § 40-5-107(1)(a), C.R.S.

<sup>3</sup> Issued July 10, 2020.

compromise, coordination, and flexibility.”<sup>4</sup> Public Service further notes that some parties have scheduling conflicts with certain dates of the evidentiary hearing but that the parties are willing to accommodate these challenges to make the proposed hearing dates work. While the parties currently wish to reserve five full days for the evidentiary hearing, they indicate that they may subsequently propose fewer days for the hearing depending on how the proceeding progresses.<sup>5</sup>

7. The Joint Report also sets out the discovery procedures upon which the parties agreed. Specifically, the parties propose that the Commission’s new Rule of Practice and Procedure will apply to this proceeding starting July 30, 2020.<sup>6</sup> Pursuant to these new Rules of Practice and Procedure, the response time for discovery requests regarding direct and answer testimony will be ten business days.<sup>7</sup> Conversely, the parties propose that the current Rules of Practice and Procedure continue to govern discovery requests regarding rebuttal and cross-answer testimony, such that the response time will be seven calendar days from the request.<sup>8</sup>

8. In addition, in the Joint Report the parties agree that whenever discovery response times are counted in calendar days, “service of discovery requests after 3 p.m. Mountain Time (MT) on a Friday or after 3 p.m. MT the day before a Colorado State holiday or on days on which the Commission is not open for business (i.e., Saturday, Sunday, or a Colorado holiday), will be deemed served the next business day.”<sup>9</sup> Moreover, the parties agree to serve discovery through email, which will provide access to an external SharePoint site with Public Service’s discovery

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<sup>4</sup> Joint Report at page 2.

<sup>5</sup> *Id.* at 3.

<sup>6</sup> *Id.* (citing Attachment A to Decision No. C20-0375, issued May 19, 2020, Proceeding No. 19R-0483ALL).

<sup>7</sup> The currently effective Rules of Practice and Procedure will continue to apply to discovery requests regarding direct testimony through 5:00 p.m. on July 29, i.e., the response time is ten calendar days. *Id.* at 4.

<sup>8</sup> *Id.* at 4.

<sup>9</sup> *Id.*

responses.<sup>10</sup> The parties agree to provide all responses to an individual set of discovery severed on a given day in a single, combined document.

9. Regarding Answer, Rebuttal, and Cross-Answer Testimony, the parties agree to provide workpapers in support within three business days of the filing.<sup>11</sup>

### **C. Findings and Conclusions**

10. The Commission appreciates the conferral efforts that resulted in an uncontested schedule and discovery proposal. The proposed procedural schedule is acceptable and good cause is found for its adoption.

11. The proposed response times and processes to conduct discovery are reasonable, particularly given the remote accommodations. The discovery proposal shall be adopted for this proceeding. Discovery requests or responses are not to be filed with the Commission unless accompanying a motion to compel or objection to discovery request.

12. An evidentiary hearing in this matter shall be scheduled November 12 and 13 and 15 through 18, 2020. Parties indicate that they reserve the right to request vacating certain hearing dates depending on how this proceeding progresses. We reserve all five proposed days for the evidentiary hearing, should they be necessary; however, parties are on notice that November 12 and 13, 2020, would likely be the first dates considered to vacate if fewer dates are required or requested.

13. Parties indicate that they are willing and able to hold the evidentiary hearing via remote processes outlined in Decision No. C20-0501-I. As discussed in the Commission's prior order, the evidentiary hearing shall therefore be conducted remotely via GoToMeeting. Parties are

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<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

encouraged to review Attachment A to Decision No. C20-0501-I providing information and direction on using GoToMeeting, and to test their ability to use GoToMeeting before the remote evidentiary hearing.

14. We refer discovery disputes and motions for extraordinary protection regarding discovery matters to an Administrative Law Judge.

15. Given these procedural determinations, we find the prehearing conference scheduled for Monday, July 27, 2020, through Decision No. C20-0501-I, is unnecessary and is therefore vacated.

**II. ORDER**

**A. It Is Ordered That:**

1. The filing deadlines proposed the Joint Report Regarding the Procedural Schedule (Joint Report) that Public Service Company of Colorado (Public Service) filed on July 20, 2020, on behalf of the following parties to this proceeding is adopted, consistent with the discussion below.

2. Discovery proposals set forth in the Joint Report are adopted, consistent with the discussion above.

3. Consistent with the above discussion, a remote evidentiary hearing is scheduled as follows:

DATE: November 12, 13, 16, 17, and 18, 2020

TIME: 9:00 a.m. until concluded, but no later than 5:00 p.m. November 12, 13, 16, and 17, 2020; and 11:00 a.m. until concluded, but no later than 5:00 p.m. November 18, 2020

METHOD: By video conference using GoToMeeting at link provided to parties by email.

- 4. The parties may not distribute the GoToMeeting link, and access or ID code to non-participants.
- 5. Discovery disputes are referred to an Administrative Law Judge.
- 6. Motions for extraordinary protection regarding discovery matters are referred to an Administrative Law Judge.
- 7. The prehearing conference scheduled for July 27, 2020, through Decision No. C20-0501-I, is vacated.
- 8. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONER’S WEEKLY MEETING  
July 22, 2020.**

( S E A L )



ATTEST: A TRUE COPY

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

Doug Dean,  
Director

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

JEFFREY P. ACKERMANN

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JOHN GAVAN

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MEGAN M. GILMAN

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Commissioners