

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 19AL-0687E

IN THE MATTER OF ADVICE LETTER NO. 1814 FILED BY PUBLIC SERVICE COMPANY OF COLORADO TO IMPLEMENT THE MODIFIED RESIDENTIAL ENERGY TIME-OF-USE SCHEDULE TO BECOME EFFECTIVE JANUARY 2, 2020.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
CONOR F. FARLEY
VACATING AND RESCHEDULING HEARING,
ESTABLISHING DEADLINE AND PROCEDURES FOR
THE FILING OF TESTIMONY ADDRESSING THE
SETTLEMENT AGREEMENT, AND ACKNOWLEDGING
THE WITHDRAWAL OF THE MOTION TO STRIKE**

Mailed Date: June 15, 2020

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I. STATEMENT

A. Background

1. A more comprehensive summary of the background of this proceeding is included in Decision Nos. C19-1015 and R20-0202-I. The facts relevant to this Decision are stated below.

2. On December 2, 2019, Public Service Company of Colorado (PSCo) filed the Advice Letter No. 1814-Electric with tariff sheets and the Direct Testimony of witnesses Brook Trammell, Steven Wishart, Stacey Simms, and Jennifer Wozniak in support thereof, and a Motion for Commission Approval of an Alternative Form of Notice. The effective date of the tariff sheets was January 2, 2020.

3. By Decision No. C19-1015 issued on December 18, 2019, the Commission set the tariff sheets for hearing, which suspended the effective date for 120 days from the proposed effective date (January 2, 2020) through May 1, 2020. The Commission also referred this proceeding to an Administrative Law Judge (ALJ) for disposition. The proceeding was subsequently assigned to the undersigned ALJ. Finally, Decision No. C19-1015 also established a deadline for interested parties or individuals to intervene in the proceeding.

4. The following entities filed Notices of Interventions as of Right before the deadline established in Decision No. C19-1015: Trial Staff of the Commission (Staff) and the Office of Consumer Counsel (OCC) on December 18, 2019, and Colorado Energy Office (CEO) on January 16, 2020 (Notices).

5. In addition, the following entities filed Motions or Petitions to Intervene in this proceeding before the deadline: Energy Outreach Colorado (EOC) on January 15, 2020; the City of Boulder (Boulder), Southwest Energy Efficiency Project (SWEEP), and Vote Solar on January 16, 2020; and Colorado Solar and Storage Association (COSSA), the Solar Energy Industries Association (SEIA), and Western Resource Advocates (WRA) on January 17, 2020 (Motions).¹

¹ Staff, OCC, CEO, EOC, Boulder, SWEEP, Vote Solar, COSSA, SEIA, and WRA are referred to as Intervenors in this decision.

6. On January 28, 2020, the ALJ issued Decision No. R20-0062-I that, among other things, scheduled a prehearing conference in this proceeding for February 11, 2020.

7. On February 11, 2020, the prehearing conference took place. PSCo and the entities that filed Notices and Motions or Petitions to Intervene appeared at the prehearing conference.

8. On February 21, 2020, the ALJ issued Decision No. R20-0121-I that, among other things, granted the Motions to Intervene, adopted the prehearing schedule and dates for the hearing (June 16-19, 2020) agreed to by the parties, and extended the deadline pursuant to § 40-6-111(1) for an additional 130 days, or through September 8, 2020. The prehearing schedule adopted in Decision No. R20-0121-I included public comment hearings on April 8, 2020 in Grand Junction and April 16, 2020 in Denver, Colorado. Decision No. R20-0121-I established June 8, 2020 as the deadline for the filing of any settlement documents with the Commission, as agreed to by the parties.

9. On March 27, 2020, the ALJ issued Decision No. R20-0202-I that consolidated the public comment hearings, converted the consolidated public comment hearing into a remote public comment hearing scheduled on April 16, 2020, and provided instructions for participating in that remote public comment hearing. The actions taken in Decision No. R20-0202-I were taken in light of the COVID-19 pandemic.

10. The parties filed extensive answer and rebuttal testimony on April 24, 2020 and May 21, 2020, which were the deadlines established in Decision No. R20-0121-I.

11. On May 21, 2020, EOC filed a Motion to Strike certain portions of the answer testimony of Staff.

12. On June 3, 2020, Staff filed a Response to EOC's Motion to Strike.

13. On June 8, 2020, counsel for PSCo sent an email to the ALJ stating that the parties had reached a settlement. Counsel for the rest of the parties were copied on the email. Counsel for PSCo stated in the email that a notice of settlement in principle would be filed in the proceeding on June 9, 2020. In subsequent email exchanges between the ALJ and the parties, the ALJ stated that the prehearing conference on June 12, 2020 would go forward as planned and counsel for PSCo stated that the parties were working to file the settlement agreement and a motion to approve the settlement agreement before the prehearing conference.

14. On June 9, 2020, PSCo filed a Notice of Unanimous Settlement in Principle.

15. On June 11, 2020, PSCo filed an Unopposed Joint Motion to Approve Unanimous and Comprehensive Settlement Agreement and Modify Procedural Schedule and Request for Waiver of Response Time (Joint Motion). While the Joint Motion referenced the Settlement Agreement as Attachment 1, the Settlement Agreement was not filed until June 12, 2020. Nevertheless, counsel for PSCo provided a copy of the Settlement Agreement by email to the ALJ in the evening of June 11, 2020. Counsel for the other parties were copied on the email.

16. On June 12, 2020, the prehearing conference took place as scheduled at 10:30 a.m. All of the parties appeared and participated.

B. Prehearing Conference

17. In the Joint Motion, the parties requested that the procedural schedule be modified to establish a deadline of June 16, 2020 for testimony in support of the Settlement Agreement and June 19, 2020 for the hearing addressing the Joint Motion. At the outset of the prehearing conference, PSCo reiterated the request for this procedural schedule concerning the Settlement Agreement.

18. The Settlement Agreement is 24 pages long and purports to settle every issue in this complicated proceeding. At the prehearing conference, the ALJ asked several preliminary questions seeking clarification of a few provisions in the Settlement Agreement. Based on that colloquy, the parties requested more time than initially requested in the Joint Motion to develop and file more comprehensive testimony in support of the Settlement Agreement.

19. Based on the foregoing, and the resulting schedule proposed by the parties, testimony supporting the Settlement Agreement will be due on June 18, 2020 and the hearing on the Settlement Agreement will be on June 26, 2020.

20. Attachment A to this Decision provides the requirements and information addressing how to use the GoToMeeting platform for participating in the hearing.

21. Parties must follow the procedures for exhibits contained in Attachment B to this Decision.

II. **ORDER**

A. **It Is Ordered That:**

1. The hearing scheduled for June 16 through 19, 2020 is vacated and rescheduled as follows:

DATE: June 26, 2020

TIME: 9:00 a.m.

FOR WEBCASTS: Hearing Room A

METHOD: Join by video conference at the link to be provided by the email from the Administrative Law Judge, **OR**

Join by telephone: Dial the telephone number provided in the email, and when prompted, enter the PIN (or Meeting ID) in the email.

2. The deadline to file testimony in support of the Settlement Agreement is June 18, 2020.
3. The withdrawal of the Motion to Strike filed by Energy Outreach Colorado stated on the record at the June 12, 2020 prehearing conference is acknowledged.
4. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

CONOR F. FARLEY

Administrative Law Judge

ATTEST: A TRUE COPY

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

Doug Dean,
Director