

Decision No. C23-0717

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23A-0392EG

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR APPROVAL OF ITS 2024-2028 CLEAN HEAT PLAN.

**INTERIM COMMISSION DECISION ESTABLISHING AN
EXPEDITED PROCEDURAL SCHEDULE TO ADDRESS
CERTIFIED NATURAL GAS AND OFFSETS**

Mailed Date: October 20, 2023

Adopted Date: October 18, 2023

I. BY THE COMMISSION

A. Statement

1. On August 1, 2023, Public Service Company of Colorado (Public Service or the Company) filed an application for Commission approval of the Company’s 2024-2028 Clean Heat Plan (Application). Public Service specifically seeks approval of its preferred “Clean Heat Plus” portfolio for its Clean Heat Plan.

2. By Decision No. C23-0626, the Commission granted requests for permissive intervention filed by the City and County of Denver (Denver), the City of Boulder (Boulder), City of Pueblo, County of Pueblo, Project Canary, PBC (Project Canary), the Colorado Energy Consumers (CEC), Holy Cross Electric Association, Inc. (Holy Cross), Black Hills Colorado Gas, Inc. (Black Hills), Natural Resources Defense Council and Sierra Club (collectively, the Conservation Coalition), the Colorado Renewable Energy Society (CRES) and Physicians for Social Responsibility (PSR-CO), Western Resource Advocates (WRA), the Southwest Energy

Efficiency Project (SWEEP), Energy Outreach Colorado (EOC), the Colorado Solar and Storage Association (COSSA) and the Solar Energy Industries Association (jointly, COSSA/SEIA), Chevron, Occidental Petroleum, and Williams (collectively, the Decarbonization Coalition), Denver Pipefitters, Local 208 (Pipefitters), and Laborers' International Union of North America, Local 720 (Local 720). The Commission acknowledged the notices of intervention of right filed by Trial Staff of the Commission (Staff), the Office of the Utility Consumer Advocate (UCA), and the Colorado Energy Office (CEO). The Commission also granted the Air Pollution Control Division (APCD or the Division) amicus curiae status through Decision No. C23-0685-I on October 12, 2023.

3. Also by Decision No. C23-0626, the Commission ordered Public Service to address numerous topics through Supplemental Direct Testimony. Public Service filed Supplemental Direct Testimony as required by Decision No. C23-0626 on October 17, 2023.

4. On September 6, 2023, Boulder CRES, COSSA/SEIA, the Conservation Coalition, PSR-CO, SWEEP, UCA, and WRA (Joint Movants) filed a Joint Motion for Partial Summary Judgment (Partial Summary Judgment Motion).

5. On September 27, 2023, responses to the Partial Summary Judgment Motion were filed by Public Service; Colorado Decarbonization Coalition, the City of Pueblo, the County of Pueblo, Pipefitters, Local 208, and Project Canary, jointly; Denver; and CEO and APCD, jointly.

6. On October 3, 2023, the Joint Movants filed their Motion for Leave to Reply (Motion for Leave to Reply).

7. On October 10, 2023, Project Canary, City of Pueblo, and the Decarbonization Coalition filed a memorandum in opposition to the Motion for Leave to Reply.

8. On October 13, 2023, Public Service filed a response in opposition to the Motion for Leave to Reply.

9. At the October 18, 2023 Commissioners' Weekly Meeting (CWM), the Commission addressed the Motion for Leave to Reply and the Partial Summary Judgment Motion. The findings on these motions will be addressed by separate order.

10. Through this Decision we adopt a procedural schedule for the next steps in this Proceeding and establish procedures culminating in an expedited evidentiary hearing to address the inclusion of certified natural gas (CNG) and offsets in Public Service's Clean Heat Plan as proposed in the Company's Application.

B. Prehearing Conference and Procedural Schedule

11. In Decision No. C23-0626 issued September 19, 2023, we set this matter for a hearing before the Commission *en banc*, however, we did not set a procedural schedule. The Commission indicated that it would address a procedural schedule after ruling on the Partial Summary Judgment Motion.

12. At the October 18, 2023 CWM, the Commission denied the Partial Summary Judgment Motion.¹ In addition, we expressed our desire to resolve the issue related to the Company's inclusion in its preferred portfolio of certified natural gas (CNG) and offsets as proposed in the Company's Application. We indicated that deciding this threshold question sooner than later in the Proceeding would be beneficial for several reasons, including (1) that it would ensure the full Application, including the issues unrelated to CNG and offsets, are litigated thoroughly; (2) that it is consistent with the request of the Joint Movants and the Company;² and

¹ Separate written decision forthcoming.

² See Company Response to Partial Summary Judgment Motion, p. 7.

(3) because it would provide guidance to other clean heat plan filings coming before the Commission in early 2024. In light of these motivations, we find that holding an initial evidentiary hearing on this single issue will move the Proceeding along in a preferable fashion, rather than waiting until late spring to address this issue at final deliberations.

13. We therefore order an initial evidentiary hearing³ on the limited issue of whether CNG and offsets are appropriately part of the Company’s Clean Heat Plan. We intend for this hearing to address testimony related to the disputed issues of fact, as well as the significance of certain undisputed facts and issues including: (a) whether CNG and offsets proposed by the Company do in fact reduce emissions from gas distribution utilities; (b) whether Public Service’s emission accounting approach comports with § 40-3.2-108(3)(c)(I)(a)-(c), C.R.S.; and (c) others related topics that the parties believe limited testimony on will aid the Commission.

14. We schedule a prehearing conference on October 26, 2023, to discuss with Public Service and the parties the following expedited procedural schedule leading to an evidentiary hearing on CNG and offsets on December 5 and 6, 2023:

Additional Direct Testimony, if necessary	One week from Mail Date of this Decision
Answer Testimony	Two weeks from Direct Testimony deadline
Rebuttal and Cross-Answer Testimony	One week from Direct Testimony Deadline
Witness List and Cross Examination Matrix	November 30, 2023
Hearing (remote)	December 5-6, 2023

³ The Commission has previously utilized this bifurcated approach to addressing threshold issues in a proceeding. *See e.g.*, Proceeding No. 03F-285R (The ALJ scheduled a preliminary hearing to resolve issues regarding Commission jurisdiction prior to the evidentiary hearing in Decision No. R03-0833I); Proceeding No. 13A-0829CP (The parties proposed a bifurcated proceeding approved in Decision No. R14-0215I); and Proceeding No. 13M-0422T (ALJ set four evidentiary hearings by Decision No. R13-1156I).

15. The *en banc* evidentiary hearing scheduled on December 5 and 6, 2023 shall be held remotely. Attachment A to this Decision provides the information addressing how to use the Zoom platform for remotely participating in the hearing. Attachment B outlines procedures and requirements for marking and formatting exhibits to facilitate the efficient and smooth electronic evidence presentation at the hearing, including guidance regarding: (1) the assignment of hearing exhibit number blocks; (2) identification of filing requirements for hearing exhibits; (3) formatting of hearing exhibits; (4) filing of executable attachments to hearing exhibits; (5) modifying, amending, or correcting a previously filed hearing exhibit before the deadline for correction; (6) modifying, amending, or correcting a previously filed hearing exhibit after the deadline for correction; and (7) procedures for confidentiality. It is important that the parties review and follow all requirements in this Decision and Attachments A and B.

16. Commission staff will provide the parties with a Zoom links closer to the start of the hearings.

17. Procedures for our consideration of the remainder of the Company's Application will be established through separate decision at a later date.

II. **ORDER**

A. **It Is Ordered That:**

1. A remote prehearing conference is scheduled as follows:

DATE: October 26, 2023

TIME: 2:00 p.m. until no later than 5:00 p.m.

PLACE: By video conference using Zoom at a link to be provided to parties by email and webcast to the public from Hearing Room A.

2. Consistent with the discussion above, a remote evidentiary hearing on the limited issue of whether Certified Natural Gas and offsets are appropriately part of the Public Service Company of Colorado’s Clean Heat Plan is scheduled as follows:

- DATE: December 5-6, 2023
- TIME: 9:00 a.m. to 5:00 p.m., except for December 6, 2023, when the hearing shall take place from 1:00 p.m. to 5:00 p.m.
- WEBCAST: Hearing Room A
- METHOD: Join by videoconference using Zoom at the link to be provided to parties by e-mail.

3. The parties are responsible for sharing the link, meeting ID code, and passcode to witnesses and others participating in the hearing. Participants in the hearing may not distribute the link, meeting ID code, and passcode to anyone not participating in the hearing.

4. The parties and witnesses are required to participate in the evidentiary hearing by video conference using Zoom. The parties must ensure that they and their witnesses are ready and able to participate in the evidentiary hearing by video conference, including presenting evidence electronically during the hearing using Zoom. All participants must comply with the requirements in Attachments A and B to this Decision, which are incorporated into this Decision.

5. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
October 18, 2023.**

(S E A L)



ATTEST: A TRUE COPY

Rebecca E. White,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

MEGAN M. GILMAN

TOM PLANT

Commissioners

COMMISSIONER ERIC BLANK
DISSENTED

III. COMMISSIONER ERIC BLANK DISSENT

1. After conferring with advisors and counsel, I support the additional interim process adopted by the majority at the October 18, 2023 Commissioners' Weekly Meeting (CWM) as the approach most likely to lead to a balanced and appropriate final Clean Heat Plan. Given all the issues currently pending before the Commission, and based on the concerns expressed by the Commissioners at the October 18, 2023 CWM about the appropriateness of the inclusion of certified natural gas and offsets proposed by the Company, my hope is that the parties can come to a mutually agreeable path forward by the October 26, 2023 prehearing conference that can potentially avoid the need for a two-day hearing in December 2023.