

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23A-0394E

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR AN ORDER APPROVING EXPENSES INCURRED FOR THE PERIOD JANUARY 2022 THROUGH DECEMBER 2022 THAT ARE RECOVERED THROUGH THE ELECTRIC COMMODITY ADJUSTMENT AND PURCHASED CAPACITY COSTS RECOVERED THROUGH THE PURCHASED CAPACITY COST ADJUSTMENT FOR THE SAME PERIOD AND APPROVING OF THE CALCULATION OF 2022 SHORT TERM SALES MARGINS.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
ALENKA HAN
SETTING PREHEARING CONFERENCE**

Mailed Date: October 12, 2023

I. STATEMENT AND PROCEDURAL BACKGROUND

1. On August 1, 2023, Public Service Company of Colorado (Public Service or the Company) filed its verified application seeking approval of the following: (1) the fuel, purchased energy, purchased wheeling, and other expenses incurred from January 1, 2022 through December 31, 2022, that have been reflected in the Company's Electric Commodity Adjustment (ECA); (2) the purchased capacity expenses incurred by the Company from January 1, 2022, through December 31, 2022 and, (3) the Company's calculation of the 2022 Short-Term Sales Margins that have been used to adjust the 2023 ECA Deferred Account Balance.

2. Contemporaneously with its Verified Application, the Company filed the direct testimony of several individuals, along with numerous exhibits.

3. On August 2, 2023, the Commission's Notice of Application Filed was sent to all interested persons and entities. The Notice stated that Public Service had filed direct testimony with its Verified Application and was seeking a Commission decision within 120 days of the Application being deemed complete.¹ A final Commission decision is therefore currently due by January 11, 2024.²

4. On August 14, 2023, the Colorado Office of Utility Consumer Advocate (UCA) filed its Notice of Intervention of Right, Request for Hearing, and Entry of Appearances. The UCA listed thirteen issues it seeks to investigate.

5. On September 1, 2023, the Trial Staff of the Colorado Public Utilities Commission (Staff) filed a Notice of Intervention as of Right, Entry of Appearance, Notice Pursuant to Rule 1007(a) and Rule 1401, and Request for Hearing. Staff identified eleven issues it intends to raise and address in this Proceeding.

6. On September 13, 2023, the Commission deemed the Application complete by minute entry and referred it to an Administrative Law Judge (ALJ) for disposition. Subsequently, this Proceeding was assigned to the undersigned ALJ.

7. The interventions by right of UCA and Staff are noted.

8. On October 4, 2023, the Company filed an Unopposed Motion to Approve Procedural Schedule and for Waiver of Response Time. In its Unopposed Motion, Public Service represents that it has conferred with Commission Staff and the UCA about proposing an unopposed procedural schedule to govern this Proceeding.

¹ Notice of Application Filed, filed Aug. 2, 2023.

² See, § 40-6-109.5(1). C.R.S.

9. Public Service, UCA, and Trial Staff unanimously agree to the following proposed procedural schedule:

Answer Testimony	December 15, 2023
Rebuttal Testimony and Cross-Answer Testimony	January 26, 2024
Stipulations and Settlement Agreements	February 6, 2024
Evidentiary Hearing	February 28-29, 2024
Statements of Position	March 13, 2024

10. Under the parties' proposed procedural schedule and evidentiary hearing dates, the statutory timeline will have to be extended by an additional 130 days, up to and including May 20, 2024. Section 40-6-109.5(1) permits the Commission to extend the deadline by 130 days if "additional time is required."

11. Upon receiving the Unopposed Motion, the undersigned ALJ contacted the parties informally on October 10, 2023, to address the proposed timeline. The ALJ pointed out that, although the timeline for a Commission final decision could be extended, their proposed schedule allowed only three weeks after the submission of Statements of Position for a recommended decision to be issued. Because Commission Staff was concerned that it would be difficult to meet such a deadline, the ALJ proposed that the parties either move up their proposed schedule by a few weeks or waive the statutory deadline.

12. On October 11, 2023, counsel for the Company responded on behalf of the parties, suggesting a third option: the further extension of the statutory timeline by an additional 130 days pursuant to § 40-6-109.5(4), C.R.S., up to and including

September 27, 2024. The parties have thus stipulated that a further extension of 130 days is warranted and necessary.

13. The Commission is permitted to extend the statutory timeline by an additional 130 days, but only “after notice and a hearing at which the existence of extraordinary conditions is established.”³

14. To meet this statutory mandate, the ALJ will therefore hold an urgent prehearing conference tomorrow, Friday, October 13, 2023, at 11 a.m. The parties are asked to appear at the prehearing conference prepared to offer bases establishing the existence of “extraordinary conditions” warranting the extension of the statutory timeline by at an additional 130 days, or up to and including September 27, 2024.

II. **ORDER**

A. **It Is Ordered That:**

1. A **fully remote** prehearing conference is scheduled as follows:

Date: **October 13, 2023**

Time: **11:00 a.m.**

METHOD: By videoconference using Zoom at the link to be provided to counsel and the parties via email prior to the hearing.

2. The parties and witnesses may not distribute the Zoom link and access code to anyone not participating in the remote hearing.

³ § 40-6-409.5(4), C.R.S.

3. **Instructions for Remote Hearings Via Zoom:** Detailed instructions governing participation in and procedures for remote hearings conducted via Zoom are set out in Attachment A to this order, which is incorporated into and made part of this order.

4. This Decision is effective immediately.

(S E A L)



ATTEST: A TRUE COPY

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ALENKA HAN

Administrative Law Judge

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

Rebecca E. White,
Director