

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDINGS NO. 19A-0225E

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR APPROVAL OF ITS COMMUNITY RESILIENCY INITIATIVE PURSUANT TO § 40-2-203(4), C.R.S.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
STEVEN H. DENMAN
GRANTING UNOPPOSED MOTION,
WAIVING RESPONSE TIME,
SUSPENDING CERTAIN PROCEDURAL DATES,
AND SCHEDULING SETTLEMENT HEARING**

Mailed Date: April 28, 2020

I. STATEMENT, FINDINGS, AND CONCLUSIONS.

1. This Interim Decision grants the Notice of Settlement in Principle and Unopposed Motion to Vacate Procedural Schedule and Request for Waiver of Response Time (Unopposed Motion) filed by Public Service Company of Colorado (Public Service or Company) on April 27, 2020; waives response time to the Unopposed Motion; vacates the deadlines in the adopted procedural schedule; modifies the date for filing written settlement agreements; vacates the evidentiary hearing on the merits set for June 24 and 25, 2020; and schedules a hearing on the written Settlement Agreement for June 23, 2020.

A. Procedural History.

2. On May 1, 2019, Public Service filed with the Colorado Public Utilities Commission (Commission), a Verified Application (Application) for Approval of its Community Resiliency Initiative (Initiative). Public Service stated that the Initiative is designed to provide up to 15 megawatts of Company-owned energy storage systems to enhance the safety and

security of designated community resiliency centers and select infrastructure. Public Service explained that the Application was filed in accordance with Colorado's Energy Storage Procurement Act (House Bill (HB) 18-1270). This filing commenced the above-styled proceeding.¹

3. On May 1, 2019, Public Service also filed a Motion for Leave to File Supplemental Direct Testimony on or before December 16, 2019, in order to provide details on the energy storage system projects and construction partners selected through a competitive solicitation process and, to the extent practicable, information on the cost and construction details of each project proposed under the Initiative. Public Service also waived the statutory deadline in § 40-6-109.5(3), C.R.S.²

4. By Decision No. C19-0426-I (mailed on May 16, 2019), the Commission acknowledged Public Service's waiver of the statutory deadline pursuant to § 40-6-109.5(3), C.R.S.³

5. By Decision No. C19-0499-I (mailed on June 12, 2019), the Commission granted the Motion for Leave to File Supplemental Direct Testimony. On December 16, 2019, Public Service filed the Supplemental Direct Testimony of two witnesses, Jack W. Ihle and Charles A. Gouin.⁴

6. The procedural history of this Proceeding is set forth in detail in Decisions previously issued herein and is repeated here as necessary to put this Decision into context.

¹ Application at pages 1-7. HB 18-1270 is codified at § 40-2-203(4), C.R.S. (2019).

² Motion for Leave to File the Supplemental Direct Testimony at pages 1-3.

³ In Decision No. C19-0426-I, the Commission also gave interested parties 14 days to file responses to the Motion for Leave to File Supplemental Direct Testimony. No responses were filed.

⁴ With the Application, Public Service had filed the supporting testimony and attachments of three witnesses. Public Service filed Mr. Gouin's Corrected Supplemental Direct Testimony on December 19, 2019.

7. During the Commission's weekly meeting on January 29, 2020, the Application was deemed complete for purposes of § 40-6-109.5, C.R.S., and was referred to an Administrative Law Judge (ALJ) for disposition. The undersigned ALJ was subsequently assigned to preside over this Proceeding.

8. Decision No. R20-0081-I (mailed on February 6, 2020) acknowledged the interventions as of right filed by the Colorado Office of Consumer Counsel (OCC) on January 17, 2020, and by Trial Staff of the Colorado Public Utilities Commission (Staff) on January 23, 2020. Decision No. R20-0081-I also granted the motions for permissive intervention filed on January 15, 2020 by Western Resource Advocates (WRA) and on January 16, 2020 by the Rocky Mountain Environmental Labor Coalition and the Colorado Building and Construction Trades Council, AFL-CIO (together RMELC/CBCTC). Only OCC requested a hearing on the Application.

9. The Parties to this Proceeding are Public Service, Staff, OCC, WRA, and RMELC/CBCTC.

10. Decision No. R20-0081-I scheduled a prehearing conference in this Proceeding for February 18, 2020 at 10:00 a.m. The Decision also directed the Parties to consult prior to the prehearing conference and encouraged Public Service to file, no later than February 13, 2020, any consensus procedural schedule and hearing date(s) that could be negotiated.

11. On February 12, 2020, Public Service filed a Consensus Procedural Schedule that was agreed to by all the Parties.

12. In Decision No. R20-0100-I (mailed on February 13, 2020), the ALJ vacated the prehearing conference scheduled for February 18, 2020 at 10:00 a.m., and adopted the proposed consensus procedural schedule and hearing dates, as follows:

Procedural Activity	Date(s)
Answer Testimony & Attachments	April 27, 2020
Rebuttal and Cross-answer Testimony & Attachments	May 29, 2020
Prehearing Motions (other than motions related to discovery)	June 2, 2020
Stipulations &/or Settlement Agreements	June 9, 2020
Corrections to Pre-filed Testimony and Attachments	June 19, 2020
Evidentiary Hearing	June 23, 24, and 25, 2020
Statements of Position (Filed Simultaneously)	July 15, 2020

Decision No. R20-0100-I also addressed other procedural matters, including discovery procedures and timeframes.

B. The Unopposed Motion.

13. On April 27, 2020, Public Service filed the Unopposed Motion. Public Service reports that it conferred with all Parties (Settling Parties) and that all support the Unopposed Motion.⁵ Public Service states that on April 23, 2020, the Settling Parties reached a settlement in principle resolving all issues in this Proceeding. Under the adopted procedural schedule, answer testimony and attachments are due today, April 27, 2020. In a request joined by all Parties, Public Service requests that the ALJ vacate the upcoming procedural deadlines, and order new

⁵ Unopposed Motion, ¶ 1 at page 1.

procedural deadlines for filing the Settlement Agreement and testimony in support of the Settlement Agreement. Public Service proposes due dates of May 1, 2020 and May 8, 2020, respectively. Public Service does not ask that the hearing dates be vacated.⁶

14. The ALJ finds and concludes that the Unopposed Motion states good cause, and it will be granted.

15. The remaining procedural schedule, set forth in Paragraph 12 at page 4 of this Decision will be vacated.

16. The written Settlement Agreement will be due no later than 5:00 p.m. MDT on May 1, 2020.

17. Written testimony in support of the written Settlement Agreement will be due no later than 5:00 p.m. MDT on May 8, 2020.

18. The evidentiary hearing on the merits set for June 24 and 25, 2020 at 9:00 a.m. MDT in Hearing Room B will be vacated.

19. June 23, 2020 at 9:00 a.m., either in Hearing Room B or by video conference, will be reserved for a hearing on the written Settlement Agreement. A separate interim decision will be issued to advise the Settling Parties if the settlement hearing is needed, or of hearing procedures if it will go forward.

20. For purposes of the hearing on the written Settlement Agreement, if held, a separate Interim Decision may be issued addressing the presentation of electronic exhibits at the settlement hearing to the fullest extent possible.

⁶ *Id.*, ¶¶ 3 through 7 at pages 2 and 3.

II. ORDER

A. It Is Ordered That:

1. The Notice of Settlement in Principle and Unopposed Motion to Vacate Procedural Schedule and Request for Waiver of Response Time (Unopposed Motion) filed by Public Service Company of Colorado on April 27, 2020, is granted, consistent with the findings and conclusions set forth in this Decision.

2. Response time to the Unopposed Motion is waived.

3. The remaining procedural schedule, set forth in Paragraph 12 at page 4 of this Decision, except for the hearing as noted below, is vacated.

4. A hearing on the settlement Agreement is reserved for:

DATE: June 23, 2020

TIME: 9:00 a.m.

PLACE: Hearing Room B. **or alternatively by remote video conference**
Colorado Public Utilities Commission
1560 Broadway, Suite 250
Denver, Colorado

5. The evidentiary hearings scheduled for June 24 and 25, 2020 at 9:00 a.m. MDT are vacated.

6. The written Settlement Agreement resolving all issues in this Proceeding shall be filed with the Commission no later than 5:00 p.m. MDT on May 1, 2020.

7. Testimony in support of the written Settlement Agreement by any of the Settling Parties shall be filed with the Commission no later than 5:00 p.m. MDT on May 8, 2020.

8. Other procedural matters may be addressed in future interim decisions.

9. This Decision is 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