

Decision No. R23-0453-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 22R-0491GPS

IN THE MATTER OF THE PROPOSED RULES REGULATING PIPELINE OPERATORS
AND GAS PIPELINE SAFETY, 4 CODE OF COLORADO REGULATIONS 723-11.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
CONOR F. FARLEY
SCHEDULING THIRD CONTINUED REMOTE
PUBLIC COMMENT HEARING AND ESTABLISHING
DEADLINE FOR FURTHER COMMENTS**

Mailed Date: July 13, 2023

I. STATEMENT

A. Background

1. On November 9, 2022, the Colorado Public Utilities Commission initiated this proceeding by issuing a Notice of Proposed Rulemaking (NOPR) to amend the Rules Regulating Pipeline Operators and Gas Pipeline Safety.¹ The NOPR proposed significant changes to the aforementioned rules, described those changes in detail and the justification therefor, attached the Rules in legislative (*i.e.*, ~~strikeout~~/underline) format and in a clean version, established deadlines of December 12, 2022 and January 3, 2023 for initial comments and response comments concerning the proposed rules, respectively, and scheduled a remote hearing for January 19, 2023 at 9:00 a.m. for oral comments regarding the proposed rules. The NOPR also

¹ Decision No. C22-0701.

referred this proceeding to an Administrative Law Judge (ALJ). The proceeding was subsequently assigned to the undersigned ALJ.

2. The American Petroleum Institute (API), Atmos Energy Corporation (Atmos), Black Hills Colorado Gas, Inc., doing business as Black Hills Energy, Colorado Natural Gas, Inc., Colorado Oil and Gas Association, Public Service Company of Colorado (Public Service), the Southern Ute Indian Tribe and Red Cedar Gathering Company, and the Office of the Utility Consumer Advocate (UCA) filed initial comments. API, Atmos, Public Service, and the UCA filed response comments.

3. At 9:00 a.m. on January 23, 2023, the ALJ held the hearing noticed in the NOPR. The ALJ discussed the proposed rules and the initial and response comments with the participants at the hearing. Based on the input of the participants at the hearing, the ALJ ordered another round of comments by February 9, 2023 addressing: (a) the current status of the Order Addressing the Designation of Sensitive Security Information issued by the Transportation Security Administration on November 12, 2008 (TSA's SSI Order); (b) whether the TSA's SSI Order applies to the Colorado Oil and Gas Conservation Committee (COGCC) and specifically to Rule 1101.e of the COGCC's Flowline Regulations; and (c) whether the TSA's SSI Order applies to the Commission and specifically its Rules Regulating Pipeline Operators and Gas Pipeline Safety. The ALJ also continued the remote public comment hearing to May 2, 2023 at 9:00 a.m.

4. At 9:00 a.m. on May 2, 2023, the ALJ held the continued hearing noticed in the NOPR. The ALJ discussed the proposed rules and the written and oral comments with the participants at the hearing. Based on the input of the participants at the hearing, the ALJ ordered another round of comments due by June 16, 2023 and response comments due by June 23, 2023

addressing: (a) the comments submitted by Mark and Julie Nygren on May 1, 2023; (b) the definitions of “advanced leak detection technology” proposed by the Pipeline Safety Trust and possibly the Pipeline and Hazardous Materials Safety Administration in its proposed rules; (c) if the Commission concludes that it must make publicly available a GIS mapping tool containing pipeline information at the 1:6,000 scale, what actions can be taken to mitigate or eliminate the risk that bad actors can use the provided information to undertake improper action; and (d) the other questions raised at the May 2, 2023 continued remote public comment hearing.

5. At 11:30 a.m. on June 29, 2023, the ALJ held the second continued hearing. The ALJ discussed the proposed rules and the written and oral comments with the participants at the hearing. Based on the input of the participants at the hearing, the ALJ ordered another round of comments due by July 13, 2023 and response comments due by July 27, 2023 focusing on rule amendments that CEO states it will propose in its July 13 comments, and any other issues raised in this proceeding.

B. Continued Remote Public Comment Hearing

6. During the second continued remote public comment hearing on June 29, 2023, the undersigned ALJ announced the continuation of the hearing. This Interim Decision memorializes the continuance of the proceeding to August 3, 2023 from 11:30 a.m. to 3:30 p.m. will continue until concluded, meaning, that the hearing will continue until all public comments are received, but will end no later than the designated end-time (3:30 p.m.). The hearing will not be held open for public comments after all those who have appeared have provided public comment and therefore may conclude before the scheduled end time (3:30 p.m.). For example, if all those who appear at the 11:30 a.m. remote public comment hearing have provided public comment by 1:00 p.m. or earlier, the remote public comment hearing will be adjourned. This

also means that anyone who chooses to join the public comment hearing session after the designated start time assumes the risk that the hearing will be concluded before they join. However, regardless of how early participants conclude their comments, the remote public comment hearing will continue at least into the lunch hour.

7. The public comment hearing will be held using the web-hosted video-conferencing service, Zoom. This means that members of the public who wish to participate in the public comment hearing should not appear in person at the Commission's offices but should instead appear remotely via Zoom.

C. Observing the Public Comment Hearing

8. Consistent with Commission practice, the public comment hearing will be webcast on the Commission's website. Persons wishing to observe, but not provide comments in the hearing may do so by observing the webcast of the hearing and need not access the hearing through Zoom. To observe the hearing by webcast, enter this link in the web browser <https://puc.colorado.gov/webcasts> and select the audio or video option for the assigned hearing room. The assigned hearing room will be identified on the Commission's public calendar for the date and time of the hearing, at the following link: <https://puc.colorado.gov/puccalendar>.

D. Participating in the Public Comment Hearing

9. Those interested in providing public comment during the remote hearing through the Zoom web conferencing platform must click on the link in the calendar of events on the Commission's website, available at <https://puc.colorado.gov/puccalendar> before or during the hearing.

10. Those planning to provide comment during the hearing are strongly encouraged to prepare in advance and familiarize themselves with how to use the Zoom meeting platform.

Attachment A to this Decision provides step-by-step technical instructions and requirements to participate by video-conference using a computer. This is intended to ensure that the remote hearing proceeds efficiently. Hence, it is important that video-conference participants carefully review and follow all requirements in this Decision and Attachment A.

11. For those who wish to provide oral comments during the hearing, video-conference participation is preferred and encouraged because it allows for the hearing to be held in a manner most similar to in-person hearings. Nevertheless, interested persons have the option to participate by telephone.

12. The Commission strives to accommodate all members of the public at its hearings by providing services for foreign language users and persons with disabilities upon receipt of a reasonable accommodation request. Registrants requesting an interpreter during the public comment hearing should complete the Language Access Form at <https://puc.colorado.gov/how-to-participate> at least one week prior to the event. Requests for accommodation can also be made directly by contacting Holly Bise at (303) 894-2024 or holly.bise@state.co.us.

E. Other Methods to Submit Public Comment

13. Interested persons wishing to provide public comment need not participate in the public comment hearing to do so. In addition to accepting comments during the public comment hearing, the Commission makes available other means by which interested persons may provide written or oral comments. The Commission prefers written comments over oral comments but gives written and oral comments the same weight.

14. Interested persons are encouraged to submit written comments through either: (a) the Commission's Electronic Filing System at <https://www.dora.state.co.us/pls/efi/EFI.homepage>

in this Proceeding; or (b) the Commission's website at <https://puc.colorado.gov/> by clicking on the "FILE A COMMENT OR COMPLAINT" link. Anyone using the latter option should ensure that their comments include this Proceeding number (Proceeding No. 22AL-0426G).

15. Oral comments will be accepted from any interested person who leaves a voice mail message at (303) 869-3490 or from commenters offering public comment during the scheduled public comment hearing. Those leaving voice mail public comments must include their name, the spelling of their name, and this Proceeding number (Proceeding No. 22R-0496GPS) in their message. Voice mail messages will be transcribed and placed in the record of this Proceeding.

16. The Commission will equally consider public comments, regardless of the format in which they are submitted (verbal or in writing).

II. ORDER

A. It Is Ordered That:

1. The third continued remote public comment hearing addressing proposed rules and related matters in this proceeding is scheduled as follows:

DATE: August 3, 2023

TIME: 11:30 a.m. to 3:30 p.m.

PLACE: By video conference: using the Zoom web conferencing platform at a link in the calendar of events on the Commission's website, available at <https://puc.colorado.gov/>.

2. All those who wish to provide comments in the public comment hearing must follow the requirements in Attachment A hereto, which is incorporated as if fully set forth herein.

3. Those wishing to observe but not provide comment in the above remote public comment hearing may do so by observing the Commission's webcast for the assigned hearing room at: <https://puc.colorado.gov/webcasts>.

4. Members of the public who wish to provide written or oral comments outside of the public comment hearing may do so by following the instructions set out in section I.E. of this Decision.

5. Participants who want an interpreter to participate in the remote public comment hearing must complete the Language Access Form at <https://puc.colorado.gov/how-to-participate> at least one week prior to the event. Requests for accommodation can also be made directly by contacting Holly Bise at (303) 894-2024 or holly.bise@state.co.us. The deadline for written comments addressing the issues identified above are July 13 and 27, 2023.

6. 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 "Rebecca E. White".

Rebecca E. White,
Director