

Decision No. C23-0224-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 22A-0515E

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR APPROVAL OF ITS COST RECOVERY PROPOSAL ASSOCIATED WITH THE EARLY RETIREMENTS OF COAL GENERATION ASSETS CRAIG 2, HAYDEN 1, AND HAYDEN 2 AND THE RETIRING COAL PORTION OF PAWNEE.

**INTERIM COMMISSION DECISION ADDRESSING
UNOPPOSED MOTION TO APPROVE UNOPPOSED
COMPREHENSIVE SETTLEMENT AGREEMENT, TO
AMEND THE REMAINING PROCEDURAL SCHEDULE,
AND TO VACATE THE EVIDENTIARY HEARING**

Mailed Date: March 29, 2023
Adopted Date: March 29, 2023

I. BY THE COMMISSION

A. Statement

1. Through this Decision, we address the procedural aspects of the Unopposed Motion to Approve Unopposed Comprehensive Settlement Agreement, to Amend the Remaining Procedural Schedule, and to Vacate the Evidentiary Hearing (Unopposed Motion) that Public Service Company of Colorado (Public Service or the Company) filed on March 24, 2023. We grant the request to set April 4, 2023, as the deadline to file Settlement Testimony and grant the request to waive response time to the Unopposed Motion. However, we deny the request to vacate the remaining procedural schedule as well as the evidentiary hearing currently set for April 6-7, 2023. We defer ruling on the Unopposed Motion's request to approve the Settlement Agreement.

B. Discussion

2. In Decision No. C22-0812-I, issued December 15, 2022, the Commission scheduled an evidentiary hearing for March 20-22, 2023. In addition, the Commission scheduled alternative hearing dates for April 6-7, 2023. The Commission scheduled alternative hearing dates under the rationale that it might be infeasible to start the evidentiary hearing on March 20, 2023 if the parties file a settlement agreement.

3. On March 13, 2023, Public Service filed an Unopposed Motion to Establish Alternate Hearing Dates and to Modify the Remaining Procedural Schedule. To allow for more time for settlement negotiations, Public Service requested that the Commission extend the settlement deadline to March 24, 2023, and reschedule the evidentiary hearing to the alternative dates the Commission has reserved on April 6-7, 2023.

4. In Decision No. C23-0185-I, we granted the Company's Motion to Establish Alternative Hearing Dates, vacated the March 20-22, 2023, evidentiary hearing and rescheduled the evidentiary hearing for April 6-7, 2023. We further set March 27, 2023, as the deadline to file the cross-examination matrix and corrections to pre-filed testimony and exhibits.

5. On March 24, 2023, Public Service filed the Unopposed Motion along with the Unopposed Comprehensive Settlement Agreement. The Unopposed Motion states that the Settlement Agreement resolves all issues in this Proceeding between the Settling Parties and asks that the Commission approve the Settlement Agreement without modification.¹ In addition, in the Unopposed Motion the Settling Parties request that the Commission vacate the remainder of the

¹ The Settling Parties consist of the following: Public Service, Trial Staff of the Commission; the Colorado Office of the Utility Consumer Advocate; the Colorado Energy Consumers; the Natural Resources Defense Council and Sierra Club (collectively the Conservation Coalition); and Climax Molybdenum Company. Although Climax Molybdenum Company (Climax) is not a signatory to the Settlement Agreement, Climax does not oppose it.

procedural schedule, including the evidentiary hearing scheduled for April 6 and 7, 2023.² The Unopposed Motion states that, to the extent the Commission still wishes to hold an evidentiary hearing, the Settling Parties will coordinate with Climax to propose an updated hearing date.³

6. Regarding Settlement Testimony, the Unopposed Motion requests that the Commission set a deadline of April 4, 2023, for Public Service to file Settlement Testimony. The Company states that it will confer with the Settling Parties regarding its testimony before filing.

7. Finally, Public Service requests that the Commission waive response time to the Unopposed Motion pursuant to Rule 1308(c) of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* 723-1.

8. The Commission grants, in part, the request in the Unopposed Motion to set a deadline of April 4, 2023, for Public Service to file Settlement Testimony. Public Service must file its Settlement Testimony by 12:00 p.m. on April 4, 2023. No other parties are required to file Settlement Testimony, but Public Service must confer with the Settling Parties before filing the Settlement Testimony.

9. However, we deny the request to vacate the remaining procedural deadlines, including the evidentiary hearing on April 6 and 7, 2023. On March 13, 2023, Public Service requested that the Commission schedule the evidentiary hearing for April 6-7, 2023, and this request was unopposed. The Unopposed Motion fails to establish good cause for yet again rescheduling the evidentiary hearing, especially given how constrained the Commission's calendar currently is. Accordingly, we will hold the evidentiary hearing on April 6 and 7, 2023, as

² The only remaining procedural deadline is the March 27, 2023, deadline for filing the cross-examination matrix and corrections to pre-filed testimony and exhibits. There is no specified deadline for the filing of statements of position.

³ Unopposed Motion, pp. 12-13.

scheduled. The cross-examination matrix and corrections to pre-filed testimony and exhibits are due March 31, 2023.⁴ The deadline for filing statements of position will be set at the conclusion of the evidentiary hearing.

10. Finally, we grant the requested waiver of response time to the Unopposed Motion.

II. ORDER

A. The Commission Orders That:

1. The Unopposed Motion to Approve Unopposed Comprehensive Settlement Agreement, to Amend the Remaining Procedural Schedule, and to Vacate the Evidentiary Hearing (Unopposed Motion) that Public Service Company of Colorado filed on March 24, 2023, is granted, in part, denied, in part, and deferred, in part.

2. Consistent with the discussion above, the deadline to file Settlement Testimony is 12:00 p.m. on April 4, 2023.

3. The request to vacate the remaining procedural deadlines, including the evidentiary hearing on April 6 and 7, 2023, is denied.

4. Consistent with the discussion above, the cross-examination matrix/witness list and corrections to pre-filed testimony and exhibits are due March 31, 2023.

5. The deadline for filing statements of position will be set at the conclusion of the evidentiary hearing.

6. The request to waive response time to the Unopposed Motion is granted.

⁴ If the parties waive cross-examination, then instead of a cross-examination matrix the parties shall file a witness list on March 31, 2023, that specifies the suggested order that witnesses will be made available for Commissioner questions.

7. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
March 29, 2023.**

(S E A L)



ATTEST: A TRUE COPY

G. Harris Adams,
Interim Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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MEGAN M. GILMAN

TOM PLANT

Commissioners