

Decision No. C23-0380-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 22AL-0530E

IN THE MATTER OF ADVICE LETTER NO. 1906 - ELECTRIC FILED BY PUBLIC SERVICE COMPANY OF COLORADO TO REVISE ITS COLORADO P.U.C. NO. 8 - ELECTRIC TARIFF TO INCREASE BASE RATE REVENUES, IMPLEMENT NEW BASE RATES FOR ALL ELECTRIC RATE SCHEDULES, AND MAKE OTHER TARIFF CHANGES, TO BECOME EFFECTIVE DECEMBER 31, 2022.

PROCEEDING NO. 22AL-0478E

IN THE MATTER OF ADVICE LETTER NO. 1902 - ELECTRIC FILED BY PUBLIC SERVICE COMPANY OF COLORADO TO REVISE ITS COLORADO P.U.C. NO. 8 - ELECTRIC TARIFF TO INCREASE THE TRANSMISSION COST ADJUSTMENT RIDER, TO BECOME EFFECTIVE JANUARY 1, 2023.

**INTERIM COMMISSION DECISION
GRANTING MOTION FOR LATE INTERVENTION**

Mailed Date: June 7, 2023
Adopted Date: May 31, 2023

I. BY THE COMMISSION

A. Statement

1. Through this Decision, we grant the motion for late intervention (Motion) filed by the Board of Water Works of Pueblo, Colorado (BoWW or the Board) on May 23, 2023.

B. Discussion, Findings, and Conclusions

2. The deadline for permissive intervention in this proceeding was in January.¹ In May, the BoWW filed a motion seeking late intervention. The Board points to answer testimony filed by Witness Erin O'Neill on behalf of Commission Trial Staff as the reason it seeks to intervene. In particular, the Board seeks to address Ms. O'Neill's testimony suggesting that the Commission order Public Service Company of Colorado (Public Service or PSCo) to renegotiate its water contract with the BoWW.² Ms. O'Neill argues that the take-or-pay contract is costly now and will become more costly for ratepayers in the future as generating units at Comanche retire.

3. The Board indicates in its Motion that besides Trial Staff, no other party to the proceeding opposes its intervention. It recognizes that its Motion comes well after the notice and intervention period for this proceeding but asserts that good cause exists for the late intervention because the treatment of the water contract was introduced in answer testimony and therefore was not at issue earlier in the proceeding. The Board indicates that no other party will be prejudiced by its late intervention, that it will abide by the established procedural schedule, and that its intervention will not broaden the issues raised in this proceeding. It also contends that no other party has standing to address the water contract issue from the Board's perspective.

4. On May 30, 2023, Trial Staff filed a response in opposition to the Motion. It argues that renegotiating the contract is outside the PUC's jurisdiction and that in any event PSCo can represent the BoWW's interest with respect to the contract. Trial Staff also contends that the intervention will unnecessarily broaden the issues in the rate case, that Pueblo BoWW

¹ See Decision No. C22-0833.

² Hearing Exhibit 800, pp. 65-66.

should have known this issue would arise in this case because the contract was discussed in the ERP and the last rate case, and asserts that it will not have an opportunity to respond to the BoWW's testimony until the hearing. It suggests that this is an attempt by PSCo to shoehorn additional supporting testimony by having BoWW intervene.

5. We are unpersuaded by Trial Staff's arguments against the Board's late intervention. For one, Trial Staff is the party that injected the issue of renegotiating the contract into this proceeding. Therefore, Trial Staff should know that allowing the Board to file testimony addressing this issue will not unduly broaden the issues in this proceeding and that the issue falls under the Commission's considerable jurisdiction. We also agree with the Board that its interests with respect to the continuation of the contract cannot be represented by Public Service or the other parties to this proceeding. Ms. O'Neill's position is that the contract is costly, and that Public Service should try to limit its exposure by renegotiating the contract. As such, we do not see how the Board's counterparty can adequately represent the Board's interest on this issue. Finally, we reject the argument that the BoWW should have intervened in this case earlier because the water contract had been discussed in previous proceedings. That a related issue has been raised in past proceedings does not undercut the good cause for late intervention shown by the BoWW here.

6. We agree with the arguments put forth by the Board that good cause exists to grant the late intervention and that the Board's intervention is otherwise proper. Therefore, we grant the Motion. Because no other party opposes the intervention, we waive any remaining response time to the Motion.

II. ORDER

A. It Is Ordered That:

1. The Motion for Late-Filed Intervention and for Shortened Response Time filed on May 23, 2023, by the Board of Water Works of Pueblo is granted.

2. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
May 31, 2023.**

(S E A L)



ATTEST: A TRUE COPY

Rebecca E. White,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ERIC BLANK

MEGAN M. GILMAN

TOM PLANT

Commissioners