

Decision No. C23-0801-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23A-0392EG

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR APPROVAL OF ITS 2024-2028 CLEAN HEAT PLAN.

**INTERIM COMMISSION DECISION
ESTABLISHING A PROCEDURAL SCHEDULE AND DISCOVERY
PROVISIONS, SCHEDULING AN EVIDENTIARY HEARING,
SCHEDULING A PUBLIC COMMENT HEARING, AND ESTABLISHING
A DEADLINE FOR RESPONSIVE COMMENTS REGARDING
HEARING VENUE**

Mailed Date: December 4, 2023
Adopted Date: November 22, 2023

I. BY THE COMMISSION

A. Statement

1. On August 1, 2023, Public Service Company of Colorado (Public Service or Company) filed its Clean Heat Plan Application (Application), which requests that the Commission approve the Company's proposed 2024-2028 Clean Heat Plan (Clean Heat Plan).

2. Through this Decision, we address the Notice of Filing of Proposed Procedural Schedule (Notice) filed by Public Service on November 13, 2023.¹ Consistent with the discussion below, we: (1) adopt the unopposed procedural schedule set forth in the Notice; (2) schedule an evidentiary hearing; (3) schedule a public comment hearing; (4) adopt the proposed discovery process; and (5) establish a deadline for responses on the evidentiary hearing venue.

¹ The Commission previously established the parties to this Proceeding through Decision No. C23-0626, issued September 19, 2023.

B. Notice

3. By Decision No. C23-0746-I, issued November 3, 2023, we set this matter for a hearing before the Commission *en banc*, required the parties to confer on a procedural schedule, and directed Public Service to file a proposed procedural schedule by 5:00 p.m., on November 13, 2023.

4. On November 13, 2023, Public Service filed the Notice. The Company states that it conferred with all parties and that the following proposed procedural schedule is unopposed:²

Procedural Activity	Date
Application filed	August 1, 2023
End of notice and intervention period	September 1, 2023
Application deemed complete	September 18, 2023
Amended Application	November 6, 2023
Amended Application Clarifications	December 8, 2023
Answer Testimony	January 22, 2024
Rebuttal & Cross-Answer Testimony	February 26, 2024
Stipulations & Settlement Agreements	March 1, 2024
Prehearing Motions	March 4, 2024
Responses to Prehearing Motions	March 6, 2024
Settlement Testimony (if applicable)	March 6, 2024
Corrections to Pre-Filed Testimony & Exhibits	March 8, 2024
Cross-Examination Matrix	March 8, 2024
Evidentiary Hearing	March 11-15, 2024 and March 18-19, 2024
Statements of Position	April 12, 2024
Deadline for Commission Decision	May 28, 2024

5. Additionally, Public Service notes that the Colorado Energy Office (CEO) and the Colorado Office of Utility Consumer Advocate (UCA) recommend that the Commission schedule an additional prehearing conference on March 4, 2023. They propose that this would provide opportunity for the Commission to provide feedback to the parties or raise questions about the

² Notice, p. 2.

record or any settlement that may have been filed. They add this would also allow the Commission to discuss any of the Commissioners' ideas or concerns regarding the case so that the parties can prepare and address those ideas during the hearing.³ The Company indicates that it opposes this idea, as does a number of other parties. The Company argues that the proposed additional prehearing conference could prejudice the due process rights of the Company and has the potential to introduce new, or materially modify, issues without a basis tied to the evidentiary record.

6. In the Notice, Public Service also states that discovery procedures will be governed by the Commission's existing rules.

7. The Company states that the parties believe a public comment hearing would be appropriate and leave it to the Commission's discretion when to hold one or more public comment hearings.

C. Findings and Conclusions Regarding Procedural Schedule and Procedures for Evidentiary Hearing and Discovery

8. The Commission appreciates the conferral efforts that resulted in an uncontested proposed procedural schedule and will adopt the proposed deadlines set forth above with a few limited exceptions. We note that the Commission actually deemed the Application complete on September 16, 2023, pursuant to Decision No. C23-0626, issued September 19, 2023.⁴ Therefore, we correct the above schedule to reflect the September 16, 2023, deem complete date as well as the anticipated date of the Commission's final decision, which is actually May 23, 2024. Further, we decline to set a deadline for statements of positions at this time. We will consider the appropriate deadline for statements of positions at or closer to the evidentiary hearing. Finally, we

³ SWEEP and Boulder also support this request. *Id.* at 3.

⁴ See Decision No. C23-0626, footnote 1.

find it necessary to set the settlement deadline to noon on March 1, 2024, to ensure that the Commission has adequate time to review any potential settlement.

9. Consistent with the unopposed procedural schedule, we schedule an *en banc* evidentiary hearing for March 11-15, 2024, and March 18-19, 2024 (if needed).

10. The Notice did not indicate whether it was the parties’ preference that the hearing be held remotely or in person. To that end, we request conferral comments no later than three weeks from the mail date of this Decision regarding party preference on holding the hearing remotely, in-person, or in some hybrid fashion. We will, through future decision, establish hearing procedures for the evidentiary hearing once the Commission determines the hearing venue.

11. We accept the discovery procedures set forth in the Notice, which do not request any changes from the Commission’s established rules. The discovery rules and procedures contained in Rule 1405 of the Commission’s Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (723-1), govern discovery in this Proceeding. We remind the parties to be judicious in their discovery requests. Parties should be mindful of the cost implications of discovery, especially where-as here-there are numerous intervenors.

12. Finally, we decline to set a prehearing conference as proposed by UCA and CEO at this time. We agree with the Company that following the Commission’s traditional approach to hearing adjudications is preferable.

13. The Commission therefore adopts the following procedural schedule:

Procedural Activity	Date
Amended Application Clarifications	December 8, 2023
Public Comment Hearing	January 8, 2024 from 4:00 p.m. to 6:00 p.m.
Answer Testimony	January 22, 2024
Rebuttal & Cross-Answer Testimony	February 26, 2024
Stipulations & Settlement Agreements	March 1, 2024 at noon

Prehearing Motions	March 4, 2024
Responses to Prehearing Motions	March 6, 2024
Settlement Testimony (if applicable)	March 6, 2024
Corrections to Pre-Filed Testimony & Exhibits	March 8, 2024
Cross-Examination Matrix	March 8, 2024
Evidentiary Hearing	March 11-15, 2024 and March 18-19, 2024

D. Findings and Conclusions Related to Scheduling a Public Comment Hearing

14. The Company states in the Notice that the parties believe a public comment hearing would be appropriate and leave it to the Commission’s discretion when to hold one or more public comment hearings.

15. We find it appropriate to schedule a public comment hearing for January 8, 2024, commencing at 4:00 p.m. and continuing until 6:00 p.m., or until concluded by the Commission.

16. The public comment hearing will be held using the web-based video conferencing Zoom platform. Members of the public cannot attend the remote public comment hearing in person. Additional information about participation in the public comment hearing, such as any sign-up sheet, and all relevant information on how to log on to the remote public comment hearing will be made available on the Commission’s calendar, at: <https://puc.colorado.gov/puccalendar>.

17. A court reporter will live transcribe the public comment hearing to create a written record of the comments received. Commenters should give their full name, and spell it, before they give their comments. In general, commenters will be called to speak in the order in which they sign up during the hearing. The presiding officer may adopt procedures and time limits for comments as necessary to ensure that all members of the public have opportunity to comment, and the transcribed record is clear and understandable. Typical time limits range from one to three minutes for each commenter. To ensure the hearing time is used efficiently, commenters are requested to avoid repetitive comments that re-state filed written comments or repeat oral

comments already provided at hearing. As discussed below, written public comment can be filed at any time in the proceeding and will be afforded the same weight as oral comments. Finally, the purpose of a public comment hearing is to provide opportunity for members of the public to provide oral comments. To that end, parties to the Proceeding and their representatives are not permitted to present comments. Individuals may present comments on their own behalf.

18. The Commission will publicize the remote public comment hearing by press release, announce it on the Commission's public calendar, and make it known by other avenues to the extent resources are available.

19. The remote public comment hearing will be webcast on the Commission's website. This means that those persons wishing to observe but not participate in the public comment hearing may do so by watching the webcast. To observe the public comment hearing, enter this link in the web browser <https://puc.colorado.gov/webcasts>. The Commission encourages interested persons who do not wish to provide comments at the remote public comment hearing to observe it through the webcast rather than joining the Zoom meeting. Doing so will help minimize background noise during the hearing and may assist in the orderly progression of the hearing.

20. Participating in the public comment hearing is not the only way to provide comments in this Proceeding. We encourage interested persons to provide written or oral public comments at any time this Proceeding is open. For reference, please include "Proceeding No. 23A-0392EG" in the written comments. Public comments can be provided by:

- Submitting written comments through the Commission's Electronic Filing System (E-Filings) at: <https://www.dora.state.co.us/pls/efi/EFI.homepage>
- Submitting written comments using the Commission's online form or through email at: dora_puc_website@state.co.us. These comments will be posted in E-Filings for this Proceeding.

- Mailing comments to the Commission’s offices at:
Colorado Public Utilities Commission,
1560 Broadway
Suite 250
Denver, CO 80202.
- Calling (303) 869-3490 to leave oral comments (English and Spanish options).

21. Finally, the Commission strives to accommodate all members of the public at its hearings and meetings by providing services for foreign language users and persons with disabilities upon receipt of a reasonable accommodation request. Requests for such accommodations should be made at least one week prior to the event by completing the Language Access Form. Requests can also be made directly by contacting Holly Bise at (303) 894-2024 or by emailing holly.bise@state.co.us.

II. ORDER

A. **It Is Ordered That:**

1. The uncontested procedural schedule and provisions for discovery set forth in the Notice of Filing of Proposed Procedural Schedule filed by Public Service Company of Colorado on November 13, 2023, are adopted consistent with the discussion above. The parties shall submit all testimony and pleadings no later than the dates set forth in the adopted procedural schedule.

2. An evidentiary hearing in this Proceeding is scheduled as follows:

DATE: March 11-15 and 18-19, 2024

TIME: 9:00 a.m. to 5:00 p.m., except for March 13, 2024, when the hearing shall take place from 1:00 p.m. to 5:00 p.m.

WEBCAST: Commission Hearing Room A

LOCATION: To Be Determined

3. A remote public comment hearing is scheduled as follows:

DATE: January 10, 2024

TIME: 4:00 p.m. until 6:00 p.m., or until concluded by the Commission

WEBCAST: Commission Hearing Room A

METHOD: Register to join by video conference using Zoom at:

<https://us06web.zoom.us/meeting/register/tZUod-GprjsuH9Az2eYoJ2o4gYeWBg0qV5zm>

4. Comments from parties regarding preferences as to a remote or in person evidentiary hearing shall be filed no later than three weeks from the Mail Date of this Decision.

5. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
November 22, 2023.**

(S E A L)



ATTEST: A TRUE COPY

Rebecca E. White,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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Commissioners