

Decision No. R23-0466-I

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO**

PROCEEDING NO. 23A-0215E

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IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR RECOVERY OF 2022 COAL DISPLACEMENT POWER COSTS AND OTHER 2022 ELECTRIC COMMODITY ADJUSTMENT DEFERRED COSTS PURSUANT TO DECISION NO. C22-0830-I.

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**INTERIM DECISION OF  
ADMINISTRATIVE LAW JUDGE  
CONOR F. FARLEY  
EXTENDING STATUTORY DEADLINE, ADOPTING  
PROCEDURAL SCHEDULE, SCHEDULING HYBRID  
HEARING, AND PROVIDING INSTRUCTIONS  
CONCERNING EXHIBITS AND FOR PARTICIPATING IN  
REMOTE HEARING**

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Mailed Date: July 19, 2023

**I. STATEMENT**

**A. Background**

1. On May 1, 2023, Public Service Company of Colorado (Public Service) filed a Verified Application (Application) seeking approval to recover its 2022 coal displacement power costs and other 2022 electric commodity adjustment deferred costs pursuant to Decision No. C22-0830-I issued on December 22, 2022 in Proceeding No. 22AL-0531E. With the Application, Public Service filed: (a) a Motion for Alternative Form of Notice; and (b) a Motion for Partial Variance from Decision No. C06-1379, which issued on December 1, 2006 in Proceeding No. 06S-234EG.

2. On May 3, 2023, the Commission issued a notice of the Application.

3. On May 4, 2023, the Commission issued Decision No. C23-0295-I that granted Public Service’s Motion for Alternative Form of Notice.

4. On May 18, 2023 and June 2, 2023, the Office of the Utility Consumer Advocate and Trial Staff of the Commission filed Notices of Intervention by Right, respectively.

5. On June 7, 2023, the Commission deemed the Application complete and referred the proceeding to an Administrative Law Judge (ALJ) by minute entry. The proceeding was subsequently assigned to the undersigned ALJ.

6. On July 5, 2023, the ALJ issued Decision No. R23-0441-I that scheduled a remote prehearing conference for July 19, 2023, and required the parties to confer about a procedural schedule and Public Service to file a report of the conferral by July 17, 2023.

7. On July 13, 2023, Public Service filed the Conferral Report. In it, Public Service reported that the parties had agreed to the following procedural schedule (Consensus Schedule):

<u>Event</u>	<u>Deadline</u>
Answer Testimony	August 25, 2023
Rebuttal/Cross-Answer Testimony	September 22, 2023
Stipulation(s) and Settlement Agreement(s) Hearing Witness Matrix Corrections to Pre-Filed Testimony and Exhibits Prehearing Motions	September 29, 2023
Hearing	October 12-13, 2023
Statements of Position	November 3, 2023

Public Service also reported that the parties agree that: (a) Commission Rule 1405 will govern discovery; and (b) the hearing should be conducted as a hybrid hearing.

**B. Extension of Deadline**

8. As stated in the Notice, because Public Service filed testimony with the Application, the Commission is required by § 40-6-109.5(1), C.R.S., to issue its decision within 120 days of the Application being deemed complete by the Commission. Thus, the Commission's decision in this proceeding must issue by October 5, 2023. However, § 40-6-109.5(1), C.R.S., also provides that the Commission may, in its discretion and by a separate decision, extend the time for a decision by an additional 130 days.

9. Here, considering the Consensus Schedule proposed by the parties, the time available, the time necessary to address other pending matters, and the need for the Commission to have adequate time to deliberate on the issues presented in this matter, it is not feasible for a final Commission decision to issue by October 5, 2023. Accordingly, pursuant to § 40-6-109.5(1), C.R.S., it is necessary to extend the deadline for an additional 130 days to February 12, 2024.

**C. Pre- and Post-Hearing Schedule**

10. The Consensus Schedule and the parties' proposal to shorten discovery response time as described above will be accepted. A deadline of October 6, 2023 for responses to prehearing motions shall be established. Accordingly, the schedule for the proceeding is as follows:

<u>Event</u>	<u>Deadline</u>
Answer Testimony	August 25, 2023
Rebuttal/Cross-Answer Testimony	September 22, 2023
Stipulation(s) and Settlement Agreement(s) Hearing Witness Matrix Corrections to Pre-Filed Testimony and Exhibits Prehearing Motions	September 29, 2023
Responses to Prehearing Motions	October 6, 2023
Hearing	October 12-13, 2023
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11. In order to efficiently organize the numbering and preparation of exhibits for the hearing, all parties must use a unified numbering system for all hearing exhibits. Blocks of hearing exhibit numbers are assigned as follows:

- Public Service is assigned hearing exhibit numbers 100 to 199;
- Staff is assigned hearing exhibit numbers 200 to 299; and
- UCA is assigned hearing exhibit numbers 300 to 399.

**D. Hybrid Evidentiary Hearing**

12. As agreed to by the parties, the evidentiary hearing shall be scheduled for October 12 and October 13, 2023. Based on the input of the parties, the hearing will be conducted as a hybrid hearing. This Decision and Attachments A and B provide critical information and instructions to facilitate holding the hybrid hearing, which all parties must follow.

13. To minimize the potential that the hybrid hearing may be disrupted by non-participants, the link, meeting ID code, and passcode to attend the hearing will be provided to the participants by email before the hearing, and the participants will be prohibited from distributing that information to anyone not participating in the hearing.

14. Attachment A to this Decision provides the information addressing how to use the Zoom platform for remotely participating in the hearing. Attachment B outlines procedures and requirements for marking and formatting exhibits to facilitate the efficient and smooth electronic evidence presentations at the hybrid hearing. It is extremely important that the parties carefully review and follow all requirements in this Decision and Attachments A and B.

#### **E. Remote Prehearing Conference**

15. The Conferral Report comprehensively addressed all of the issues the ALJ intended to address at the remote prehearing conference. Accordingly, the remote prehearing conference scheduled for July 19, 2023 will be vacated.

## **II. ORDER**

### **A. It Is Ordered That:**

1. For the reasons stated above, the deadline for a Commission decision on the Application filed in this proceeding is extended to February 12, 2024.

2. The pre-hearing and post-hearing schedule stated in paragraph 10 above is adopted.

3. A remote hearing in this proceeding is scheduled as follows:

DATE: October 12 and October 13, 2023

TIME: 9:00 a.m. to 5:00 p.m.

PLACE: In-person: Commission Hearing Room A, Suite 250, 1560  
Broadway, Denver, Colorado

By video conference: using the Zoom web conferencing  
platform at a link be provided to the participants by email.<sup>1</sup>

4. The remote prehearing conference scheduled for July 19, 2023 at 10:00 a.m. is vacated.
5. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

CONOR F. FARLEY

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Administrative Law Judge

ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Rebecca E. White".

Rebecca E. White,  
Director

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<sup>1</sup> Additional information about the Zoom platform and how to use the platform are available at: <https://zoom.us/>. All participants are strongly encouraged to participate in a test meeting prior to the scheduled hearing. See <https://zoom.us/test>.