

Decision No. R23-0748-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23F-0483E

TOM JUBIN AND LIZ ZERGA,

COMPLAINANTS,

V.

PUBLIC SERVICE COMPANY OF COLORADO,

RESPONDENT.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
MELODY MIRBABA
DENYING MOTION TO DISMISS, CORRECTING
CAPTION, RESCHEDULING HEARING, AND
ORDERING PARTIES TO MAKE FILING**

Mailed Date: November 6, 2023

I. STATEMENT, SUMMARY, AND PROCEDURAL HISTORY

A. Summary

1. This Decision denies Public Service Company of Colorado's (Public Service or the Company) Motion to Dismiss Formal Complaint with Prejudice filed on October 18, 2023 (Motion to Dismiss); corrects the caption for this Proceeding; reschedules the evidentiary hearing in this Proceeding; and requires the parties to make a filing indicating the manner in which they prefer the hearing to be held (fully in-person, fully remotely, or a combination of the two) on or by November 15, 2023.

B. Procedural History

2. On September 28, 2023, Tom Jubin and Liz Zerga (Complainants) filed a Complaint with the Colorado Public Utilities Commission (Commission) against Xcel Energy.

3. On September 29, 2023, the Commission Director issued an Order to Answer or Satisfy and scheduled the Complaint for an evidentiary hearing before an Administrative Law Judge (ALJ) for December 12, 2023.

4. On October 11, 2023, the Commission referred this matter to an ALJ for disposition.

5. On October 18, 2023, Public Service filed its Motion to Dismiss.

6. On November 1, 2023, Complainants filed a response to the Motion to Dismiss, titled Customer's Opposition to Xcel's Motion to Dismiss (Response to Motion to Dismiss).

II. FINDINGS AND CONCLUSIONS

7. The ALJ has reviewed the Motion to Dismiss and the response thereto and is fully advised on the issues presented therein. For many of the reasons stated in Complainants' Response, the ALJ denies the Motion to Dismiss.

8. As noted in the Motion to Dismiss, Public Service is Complainants' regulated electric utility provider, and thus, the Complaint is properly directed at Public Service. The caption in this Proceeding is corrected to identify Public Service Company of Colorado as the Respondent, and the parties are directed to use this corrected caption in their filings moving forward.

9. Due to scheduling conflicts, the ALJ is unable to hold the hearing on December 12, 2023, and as such, reschedules the hearing for January 18, 2023 at 9:00 a.m. The ALJ will require the parties to confer with each other and submit a filing indicating their preference for the manner in which the hearing will be held. The parties may choose from the following

options: fully in-person hearing, where all parties and witnesses appear in person at a Commission hearing room in downtown Denver; a fully remote hearing, where all parties and witnesses appear via video-conference using Zoom from remote locations; or a hybrid hearing, where at least one party appears in person at a Commission hearing room in downtown Denver, and other parties and witnesses may appear remotely. The parties are on notice that selecting a remote option (whether fully remote or hybrid) will require the parties to present their documentary evidence electronically during the hearing, and that parties and witnesses must have access to such evidence during the hearing, which includes having internet access that can be used to download electronic evidence.

III. ORDER

A. It Is Ordered That:

1. Public Service Company of Colorado's (Public Service or the Company) Motion to Dismiss Formal Complaint with Prejudice filed on October 18, 2023, is denied.

2. The evidentiary hearing scheduled by the Order Setting Hearing and Notice of Hearing for December 12, 2023 is vacated. No hearing will take place on that date.

3. An evidentiary hearing on the above-captioned Complaint is scheduled as set forth below:

DATE: January 18, 2023

TIME: 9:00 a.m.

PLACE: To be determined

4. The parties must confer with each other as to whether the hearing should be fully in-person, fully remote, or hybrid (remote and in-person) consistent with the above discussion. On or by the close of business on November 15, 2023, the parties must make a filing indicating their preference for whether the hearing should be fully in-person, fully remote, or hybrid. The

Administrative Law Judge will issue a decision addressing the manner in which the hearing will be held, and any other related procedural matter after the parties make this filing.

5. The caption for this Proceeding is corrected to reflect the above caption and the parties are directed to use the corrected caption on all filings moving forward.
6. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

MELODY MIRBABA

Administrative Law Judge

ATTEST: A TRUE COPY

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

Rebecca E. White,
Director