

Decision No. R24-0234

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

PROCEEDING NO. 23F-0611G

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THE OFFICE OF UTILITY CONSUMER ADVOCATE,

COMPLAINANT,

V.

PUBLIC SERVICE COMPANY OF COLORADO,

RESPONDENT.

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**RECOMMENDED DECISION OF  
ADMINISTRATIVE LAW JUDGE  
CONOR F. FARLEY  
GRANTING MOTION TO DISMISS, VACATING  
EVIDENTIARY HEARING, AND CLOSING PROCEEDING**

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Mailed Date: April 15, 2024

**I. STATEMENT**

**A. Background**

1. On December 18, 2023, the Office of the Utility Consumer Advocate (UCA) filed a Formal Complaint (Complaint) against Public Service Company of Colorado (Public Service). In the Complaint, UCA alleges that Public Service is inappropriately: (a) “applying a combined federal and state income tax gross-up to its short-term debt-only cost recovery on its stored gas inventory;” and (b) “using an incorrect short-term debt by using a proxy rate instead of its own short-term debt.”<sup>1</sup> UCA requests the Commission to “order Public Service to immediately cease applying a combined federal and state income tax gross-up to its short-term debt-only cost

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<sup>1</sup> Complaint at 8.

recovery on its stored gas inventory and use its own short-term debt instead of using a proxy rate.”<sup>2</sup>

2. On December 28, 2023, the Commission issued an Order to Satisfy or Answer and an Order Setting Hearing for March 5, 2024 and served both orders on Public Service.

3. On January 17, 2024, the Commission referred the matter by minute entry to an Administrative Law Judge (ALJ). The proceeding was subsequently assigned to the undersigned ALJ.

4. Also on January 17, 2024, Public Service filed its Answer to the Complaint.

5. On January 26, 2024, UCA filed a Motion to Establish Procedural Schedule and to Shorten Response Time.

6. On January 30, 2024, the ALJ issued Decision No. R24-0071-I that granted UCA’s Motion to Shorten Response Time to its Motion to Establish a Procedural Schedule. Decision No. R24-0071-I shortened the response time to February 2, 2024.

7. On February 2, 2024, Public Service filed its Response to the Motion to Establish a Procedural Schedule (Response).

8. On February 14, 2024, the ALJ issued Decision No. R24-0096-I that denied the Motion to Establish Procedural Schedule, vacated the March 5, 2024 hearing date, and established the following procedural schedule:

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<sup>2</sup> *Id.*

| <u>Event</u>  | <u>Deadline</u>       |
|---|-----------------------|
| Amendment of Pleadings  | February 21, 2024     |
| Direct Testimony  | February 27, 2024     |
| Answer Testimony  | March 19, 2024        |
| Rebuttal Testimony  | April 9, 2024         |
| Prehearing Motions<br>Settlement Agreement<br>Stipulations                          | April 15, 2024        |
| Responses to Prehearing Motions<br>Settlement Testimony<br>Cross-Examination Matrix | April 19, 2024        |
| Evidentiary Hearing   | April 24-25, 2024     |
| Statements of Position  | May 15, 2024          |
| Statutory Deadline (§ 40-6-108(4), C.R.S.)  | September 18,<br>2024 |

Decision No. R24-0096-I also ordered UCA to confer with Public Service regarding whether to conduct the hearing in-person, remotely, or as a hybrid hearing and to file a conferral report by February 23, 2024.

9. On February 15, 2024, UCA filed the conferral report.

10. On February 21, 2024, Public Service filed an Amended Answer to the Complaint.

11. On March 5, 2024, UCA filed a Motion to Dismiss in which it stated that the parties “have entered into a settlement agreement resolving the issues raised in the complaint.” As a result, UCA requested that the Complaint be dismissed with prejudice.

**B. Analysis**

12. UCA has stated good cause to grant the Motion to Dismiss. Accordingly, the Motion to Dismiss shall be granted.

**II. ORDER**

**A. The Commission Orders That:**

1. The Motion to Dismiss filed by the Office of Utility Consumer Advocate (UCA) on March 5, 2024 is granted.

2. The Formal Complaint filed by the UCA on December 18, 2023 is dismissed with prejudice.

3. The evidentiary hearing scheduled for April 24-25, 2024 is vacated.

4. Proceeding No. 23F-0611G is closed.

5. This Recommended Decision shall be effective on the day it becomes the Decision of the Commission, if that is the case, and is entered as of the date above.

6. As provided by §40-6-109, C.R.S., copies of this Recommended Decision shall be served upon the parties, who may file exceptions to it.

- a) If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the decision is stayed by the Commission upon its own motion, the Recommended Decision shall become the decision of the Commission and subject to the provisions of §40-6-114, C.R.S.
- b) If a party seeks to amend, modify, annul, or reverse basic findings of fact in its exceptions, that party must request and pay for a transcript to be filed, or the parties may stipulate to portions of the transcript according to the procedure stated in § 40-6-113, C.R.S. If no transcript or stipulation is filed, the Commission is bound by the facts set out by the administrative law judge and the parties cannot challenge these facts. This will limit what the Commission can review if exceptions are filed.

7. If exceptions to this Decision are filed, they shall not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be exceeded.

(S E A L)



THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

CONOR F. FARLEY

Administrative Law Judge

ATTEST: A TRUE COPY

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

Rebecca E. White,  
Director