

Decision No. R24-0238-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23A-0394E

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR AN ORDER APPROVING EXPENSES INCURRED FOR THE PERIOD JANUARY 2022 THROUGH DECEMBER 2022 THAT ARE RECOVERED THROUGH THE ELECTRIC COMMODITY ADJUSTMENT AND PURCHASED CAPACITY COSTS

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
ALENKA HAN
VACATING EVIDENTIARY HEARING,**

Mailed Date: April 16, 2024

I. STATEMENT AND PROCEDURAL BACKGROUND

1. On August 1, 2023, Public Service Company of Colorado (Public Service or the Company) filed its verified application seeking approval of the following: (1) the fuel, purchased energy, purchased wheeling, and other expenses incurred from January 1, 2022 through December 31, 2022, that have been reflected in the Company's Electric Commodity Adjustment (ECA); (2) the purchased capacity expenses incurred by the Company from January 1, 2022 through December 31, 2022 and, (3) the Company's calculation of the 2022 Short-Term Sales Margins that have been used to adjust the 2023 ECA Deferred Account Balance.

2. Contemporaneously with its Verified Application, the Company filed the direct testimony of several individuals, along with numerous exhibits.

3. On August 2, 2023, the Commission's Notice of Application Filed was sent to all interested persons and entities, inviting those interested to intervene. The Notice stated that Public

Service had filed direct testimony with its Verified Application and was seeking a Commission decision within 120 days of the Application being deemed complete.¹

4. On August 14, 2023, the Colorado Office of Utility Consumer Advocate (UCA) filed its Notice of Intervention of Right, Request for Hearing, and Entry of Appearances.

5. On September 1, 2023, the Trial Staff of the Colorado Public Utilities Commission (Staff) filed a Notice of Intervention as of Right, Entry of Appearance, Notice Pursuant to Rule 1007(a) and Rule 1401, and Request for Hearing.

6. On September 13, 2023, the Commission deemed the Application complete and referred it by minute entry to an Administrative Law Judge (ALJ) for disposition. Subsequently, this Proceeding was assigned to the undersigned ALJ.

7. On October 4, 2023, Public Service filed an Unopposed Motion to Approve Procedural Schedule And For Waiver of Response Time. In the motion, Public Service represented that the parties had agreed to a proposed procedural schedule and dates for an evidentiary hearing. However, the evidentiary hearing dates proposed by the parties would impose undue pressure on the Commission to issue a final decision before the statutory deadline set by § 40-6-109.5, C.R.S. The parties therefore proposed an extension of the statutory deadline by an additional 130 days pursuant to § 40-6-109.5(4), for a total statutory time period of 380 days from the date Public Service's Application was deemed complete until the Commission must issue its final decision.

8. After an October 12, 2023 prehearing conference to discuss the proposed further extension of the statutory deadline, the ALJ issued Decision No. R23-0697-I on October 24, 2023, finding that the parties had presented sufficient evidence to justify extending the statutory time

¹ Notice of Application Filed, filed Aug. 2, 2023.

period by an additional 130 days, for a total of 380 days from the date the Verified Application was deemed complete until the issuance of a final Commission decision. The ALJ therefore ordered the extension of the statutory deadline by an additional 130 days, or up to and including September 27, 2024.

9. Decision No. R23-0697-I also adopted the parties' proposed procedural schedule and set an evidentiary hearing for February 28 and 29, 2024.

10. On February 6, 2024, Public Service, along with Staff, filed a Motion to Approve Non-Unanimous Comprehensive Settlement Agreement and Recommended Hearing Procedures (Motion to Approve). Public Service represented that UCA had not joined in the settlement and proposed holding an evidentiary hearing on the Motion to Approve during which UCA could address any objections it had to the Non-Unanimous Comprehensive Settlement Agreement.

11. By Decision No. R24-0107-I, issued February 20, 2024, the ALJ scheduled an evidentiary hearing for April 18, 2024, on the Motion to Approve.

12. Late in the day on April 11, 2024, counsel for Public Service, Matthew Larson, contacted the undersigned ALJ informally by email to advise her that the Company, Staff, and UCA had continued their settlement discussions and had reached a comprehensive settlement agreement to which all three parties agreed. In particular, Mr. Larson indicated that UCA dropped its opposition to the settlement agreement after the parties amended two sections of the agreement. Further, Mr. Larson conveyed the parties' view that because they had reached a comprehensive settlement agreement, it was no longer necessary to hold an evidentiary hearing on April 18, 2024.

13. Subsequently, on April 12, 2024, Public Service and Staff filed an Unopposed Motion to Approve Comprehensive Revised Settlement Agreement, Motion to Vacate Evidentiary Hearing and Recommended Procedures, and Request for Waiver of Response Time

(Unopposed Motion to Approve). The parties' Unopposed Revised Comprehensive Settlement Agreement was attached to the Unopposed Motion to Approve.

II. VACATION OF EVIDENTIARY HEARING AND REMAINDER OF PROCEDURAL SCHEDULE

14. Having briefly reviewed the parties' Unopposed Revised Comprehensive Settlement Agreement, the ALJ agrees that an evidentiary hearing is unnecessary at this time. If the ALJ has any questions regarding the Unopposed Revised Comprehensive Settlement Agreement, the ALJ will address those by separate order.

15. Because the parties have reached a comprehensive settlement agreement, the ALJ finds and concludes that an evidentiary hearing on the Company's and Staff's initial Motion to Approve is unnecessary at this time. The evidentiary hearing scheduled for April 18, 2024, will therefore be vacated.

16. Likewise, any remaining procedural deadlines set by Decision Nos. R23-0697-I or R24-0107-I, including the May 9, 2024 deadline for Statements of Position, are also vacated.

III. WAIVER OF RESPONSE TIME

17. Pursuant to Rule 1400(b) of the Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1, a responding party "shall have 14 days after service of the motion . . . in which to file a response." Thus, under Rule 1400(b), any response to the parties' Joint Motion is currently due on or before April 26, 2024.

18. However, Rule 1308(b), 4 CCR 723-1, permits the Commission to "shorten or waive response time to a motion upon motion of a party or on its own motion upon a finding that time is of the essence. . . The Commission can act immediately where response time is waived and after expiration of the shortened response time."

19. An unopposed motion such as this may be granted before expiration of the time within which to respond to the motion. See Rule 1400(a)(II), 4 CCR 723-1. As the Unopposed Motion to Approve is unopposed, the ALJ finds that waiving the response time to the Unopposed Motion to Approve will not prejudice any party. The ALJ will therefore waive response time to the Unopposed Motion to Approve Comprehensive Revised Settlement Agreement, Motion to Vacate Evidentiary Hearing and Recommended Procedures, and Request for Waiver of Response Time.

IV. ORDER

A. It Is Ordered That:

1. The Unopposed Motion to Vacate Evidentiary Hearing and Recommended Procedures, filed by Public Service Company of Colorado and Trial Staff of the Public Utilities Commission on April 12, 2024, is granted.

2. The evidentiary hearing scheduled for April 18, 2024, is vacated.

3. The remainder of the procedural schedule, including the May 9, 2024, deadline to file Statements of Position, is also vacated.

4. Response time to the Unopposed Motion to Approve Comprehensive Revised Settlement Agreement, Motion to Motion to Vacate Evidentiary Hearing and Recommended Procedures, and Request for Waiver of Response Time, is waived.

5. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ALENKA HAN

Administrative Law Judge

ATTEST: A TRUE COPY

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

Rebecca E. White,
Director