

Decision No. R24-0584-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 22A-0382ST

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR APPROVAL OF ITS STEAM REGULATORY AND RESOURCE PLAN.

**INTERIM DECISION
MODIFYING PROCEDURAL SCHEDULE**

Issued Date: August 14, 2024

I. STATEMENT, SUMMARY AND PROCEDURAL HISTORY

A. Statement and Summary

1. This Decision grants the relief requested in the Notice of Comprehensive and Unanimous Settlement in Principle, Unopposed Joint Motion to Vacate Testimony Deadlines and For Waiver of Response Time filed August 8, 2024 (“Motion”); vacates the answer, rebuttal and cross-answer testimony deadlines; modifies the deadline to file settlement agreements to August 20, 2024; modifies the deadline to file settlement testimony to September 6, 2024; and clarifies that the scheduled evidentiary hearing will address whether the anticipated settlement agreement should be approved.

B. Procedural History¹

2. On September 1, 2022, Public Service (“Public Service” or “the Company”) filed the above-captioned Application for approval of its Regulatory and Resource Plan (“Plan”) concerning the investments in and operations of its district steam system through 2030.

¹ Only the procedural history necessary to understand this Decision is included.

3. In addition to the Company, the following entities are parties to this Proceeding: Public Utilities Commission Trial Staff (“Staff”), the Colorado Energy Office (“CEO”), and the City and County of Denver (“Denver”).² The Colorado Energy Consumers (“CEC”) was granted intervention status.³

4. On June 11, 2024, the Commission deemed the Application complete per § 40-6-109.5, C.R.S., and referred this matter to an administrative law judge (“ALJ”) for disposition.⁴ At the same time, the Commission required the Company to file additional supplemental direct testimony addressing additional items.⁵

5. On June 25, 2024, Public Service filed an Unopposed Joint Motion for Adoption of Procedural Schedule (“Motion to Adopt Schedule”).

6. On July 9, 2024, the ALJ addressed the Motion to Adopt Schedule by scheduling an evidentiary hearing for September 24, 2024 and adopting a procedural schedule relating to that hearing.⁶ At the same time, the ALJ extended the statutory deadline for a final Commission decision to issue and dismissed CEC as a party without further order if it fails to make a filing on or by July 17, 2024 establishing good cause to maintain its party status.⁷

7. On July 17, 2024, the Company filed Third Supplemental Direct Testimony with attachments in response to the Commission’s above-referenced directives.

8. CEC made no filing establishing good cause to maintain its party status.

9. On August 8, 2024, Public Service filed the Motion.

² Decision No. C22-0633-I at 9 (mailed Oct. 19, 2022).

³ *Id.* at 10.

⁴ Decision No. C24-0401-I at 5 and 7 (mailed June 11, 2024)

⁵ *Id.* at 6, citing Hearing Exhibit 101 at 28-29.

⁶ Decision No. R24-0479-I at 11-15 (issued July 9, 2024)

⁷ *Id.* at 10-11.

II. DISCUSSION AND FINDINGS

10. As noted above, Decision No. R24-0479-I ordered CEC to make a filing by July 17, 2024 establishing good cause to maintain its party status.⁸ Decision No. R24-0479-I advises CEC that if it does not object to being dismissed, it need not make this filing, and that if it does not make the filing, it will be automatically dismissed as a party without further order. Because CEC did not make a filing establishing good cause to maintain its party status, it was automatically dismissed by operation of Decision No. R24-0479-I.

11. The Motion states that after the Company filed its Third Supplemental Direct Testimony on July 17, 2024, the parties engaged in numerous settlement conferences, and ultimately reached a unanimous and comprehensive settlement in principle resolving all issues raised or that could have been raised in this Proceeding.⁹ The parties are working on reducing this agreement to writing, and plan to file their settlement agreement on August 20, 2024.¹⁰ The Motion requests that the August 9, 2024 answer testimony deadline and the August 30, 2024 rebuttal and cross-answer testimony deadline be vacated to allow them to focus their efforts on drafting their settlement agreement.¹¹ The Motion acknowledges that additional procedures or modifications to the procedural schedule may be necessary, and states that the parties will confer on this and propose any other necessary changes in a motion to approve the settlement agreement.¹²

⁸ Decision No. R24-0479-I's ordering paragraphs include a July 17, 2024 deadline for this filing, but in the Decision's discussion, a July 22, 2024 deadline is mistakenly referenced. In any event, because CEC made no filing whatever, this discrepancy is immaterial.

⁹ Motion at 2.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.* at 1, fn.1.

12. The Company, Staff, CEO and Denver join the Motion.¹³ Because the Motion is unopposed, it asks that the response time to it be waived.¹⁴ Given that CEC is no longer a party, and the remaining parties join the Motion, the ALJ finds that the Motion is unopposed, and as such, the ALJ waives the response time to it.¹⁵

13. Since the parties have reached a unanimous and comprehensive settlement in principle, the ALJ agrees that the parties' efforts are better focused on reducing that agreement to writing, rather than drafting unnecessary answer, rebuttal and cross-answer testimony. Indeed, such testimonies would only be necessary if the parties continued to have disputes. For the reasons discussed, the ALJ will vacate the deadlines to file answer, rebuttal, and cross-answer testimony.

14. Consistent with the parties' intent, the ALJ will modify the deadline to file their settlement agreement to August 20, 2024.¹⁶ The ALJ will maintain the September 24, 2024 hearing, but clarifies that hearing is intended to take evidence on whether the anticipated settlement agreement should be approved. The ALJ will vacate the hearing if she determines one is not necessary after reviewing the anticipated settlement agreement and settlement testimony. To this end and in the interests of administrative efficiency, the ALJ will modify the deadline to file settlement testimony to September 6, 2024. This will give the ALJ sufficient time to review the anticipated settlement agreement and settlement testimony, determine if an evidentiary hearing on the settlement is necessary, and if not, issue an order vacating the hearing before other hearing-related deadlines. As such, the modified deadline to file settlement testimony creates the opportunity for the parties to conserve their resources.

¹³ Motion at 1.

¹⁴ *Id.*

¹⁵ See Rule 1400(b) of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* ("CCR") 723-1.

¹⁶ See Motion at 2 (stating that the parties plan to file their settlement agreement by August 20, 2024).

III. ORDER

A. It Is Ordered That:

1. Consistent with the above discussion, the Colorado Energy Consumers (“CEC”) was dismissed as a party on July 17, 2024 by operation of Decision No. R24-0479-I (issued July 9, 2024).

2. The response time to Public Service Company of Colorado’s Notice of Comprehensive and Unanimous Settlement in Principle, Unopposed Joint Motion to Vacate Testimony Deadlines and For Waiver of Response Time filed August 8, 2024 (“Motion”) is waived and the Motion is granted consistent with the above discussion, and as set forth below.

3. During the fully remote evidentiary hearing scheduled for September 24, 2024, the parties will be expected to present evidence on whether the anticipated settlement agreement should be approved.

4. The deadlines to file answer, rebuttal and cross-answer testimony established by Decision No. R24-0479-I are vacated.

5. **Deadline for Stipulations and Settlement Agreements.** The deadline to file and serve stipulations and settlement agreements is modified to August 20, 2024, consistent with the above discussion.

6. **Deadline for Settlement Testimony.** The deadline to file and serve settlement testimony is modified to September 6, 2024.

7. Unless modified by this Decision, all other deadlines and requirements outlined in Decision No. R24-0479-I and Attachments A and B thereto remain in effect.

8. 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