

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 20AL-0432E

IN THE MATTER OF ADVICE LETTER NO. 1835 – ELECTRIC FILED BY PUBLIC SERVICE COMPANY OF COLORADO TO REVISE ITS COLORADO P.U.C. NO. 8 - ELECTRIC TARIFF TO ELIMINATE THE CURRENTLY EFFECTIVE GENERAL RATE SCHEDULE ADJUSTMENTS ("GRSA") AND GENERAL RATE SCHEDULE ADJUSTMENT - ENERGY ("GRSA-E"), AND PLACE INTO EFFECT REVISED BASE RATES AND OTHER AFFECTED CHARGES FOR ALL ELECTRIC RATE SCHEDULES IN THE COMPANY'S ELECTRIC TARIFF, INCLUDING UPDATED ELECTRIC AFFORDABILITY PROGRAM ("EAP"), LOAD METER, AND PRODUCTION METER CHARGES TO BECOME EFFECTIVE NOVEMBER 19, 2020.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
STEVEN H. DENMAN
GRANTING VERIFIED MOTION
FOR *PRO HAC VICE* ADMISSION**

Mailed Date: January 20, 2021

I. STATEMENT

1. This Interim Decision grants, consistent with the discussion below, the Verified Motion for Admission *Pro Hac Vice* of Kurt J. Boehm as Counsel for Intervenor, the Kroger Co. (Mr. Boehm's Motion).

A. Procedural History.

2. On October 19, 2020, Public Service Company of Colorado (Public Service) filed Advice Letter No. 1835-Electric along with tariff sheets. Through Advice Letter No. 1835-Electric, Public Service proposes to allocate its approved \$1,835,585,415 revenue requirement¹ across customer classes, based on a Class Cost of Service Study (CCOSS) using the 2019 Test

¹ The amount of \$1,828,985,415 was approved in Proceeding No. 20AL-0268E and \$6,600,000 for the Electric Affordability Program was allowed in Proceeding No. 20AL-0090E.

Year approved by the Commission in Proceeding No. 19AL-0268E. Public Service states that this filing does not affect its annual revenue. This Proceeding is a Phase II Electric Rate Case.

3. The procedural history of this Proceeding is set forth in Decisions previously issued herein and will be repeated only as necessary to put this Decision into context.

4. By Decision No. R20-0922-I (issued on December 29, 2020), the ALJ approved a proposed Consensus Procedural Schedule, contingent upon Public Service's filing of an amended advice letter and tariffs designed to extend the suspension deadline by a period of 45 days.

5. On January 8, 2021, Public Service filed Advice Letter No. 1835-Electric Amended and accompanying tariffs with an amended proposed effective date of January 3, 2021. The purpose of the amended advice letter and tariff filing was to allow the amended tariffs to be suspended for the maximum 250-days statutory suspension period, pursuant to § 40-6-111(1), C.R.S. (2019).

6. By Decision No. R21-0019-I (issued on January 11, 2021), the ALJ set the tariffs filed with Advice Letter No. 1835-Electric Amended for hearing and suspended the effective date of the amended tariffs for 120 days from the proposed new effective date, or until May 2, 2021. By Decision No. R21-0020-I (issued on January 12, 2021), the ALJ suspended the effective date of the amended tariff sheets for an additional 130 days; that is for a maximum period of 250 days or until September 9, 2021.

B. Motions to Appear *Pro Hac Vice*.

7. An attorney who is not licensed to practice law in Colorado must be granted permission to appear *pro hac vice* in a Commission proceeding. Rule 1201(a) of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1 (2020), governs

the admission of out-of-state attorneys. Rule 1201(a) requires compliance with Colorado Rule of Civil Procedure (Colo.R.Civ.P.) 205.4, which itself expressly incorporates Colo.R.Civ.P. 205.3.

8. As pertinent here, Colo.R.Civ.P. 205.3(2)(a) details what an out-of-state attorney must do to be permitted to appear *pro hac vice* and includes these requirements:

- a) File a verified motion with the administrative agency requesting permission to appear;
- b) Designate an associate attorney who is admitted and licensed to practice law in Colorado;
- c) File a copy of the verified motion with the Clerk of the Supreme Court Office of Attorney Registration at the same time the verified motion is filed with the administrative agency;
- d) Pay the required fee to the Clerk of the Supreme Court collected by the Office of Attorney Registration; and
- e) Obtain permission from the administrative agency for such appearance.

9. On December 31, 2020, Kurt J. Boehm of the law firm Boehm, Kurtz & Lowry, located in Cincinnati, Ohio, moved for *pro hac vice* admission to practice before the Commission in the above-captioned Proceeding to represent The Kroger Co. (Kroger). Mr. Boehm's Motion and the attached Affidavit attested to satisfaction of the requirements of Colo.R.Civ.P. 205.3(2)(a) summarized above. Mr. Boehm's Motion states that Mr. Boehm is a licensed attorney in good standing of the Bars in Ohio and Kentucky. In the past five years, he was previously granted *pro hac vice* admission in Colorado in Proceeding No. 17AL-0649E. Tom Nemann, a member in good standing of the Colorado bar, signed Mr. Boehm's Motion and was the sponsoring attorney for Mr. Boehm.²

10. Mr. Boehm filed a copy of the Verified Motion with the Clerk of the Colorado Supreme Court. The Office of Attorney Registration of the Colorado Supreme Court (OAR) filed

² Mr. Boehm's Motion at pages 1, 2, 4 and 5.

proof of Mr. Boehm's *Pro Hac Vice* registration with the Commission on January 12, 2021. The OAR assigned to Mr. Boehm *Pro Hac Vice* registration number 04PHV6293. The Proof of *Pro Hac Vice* Registration verified that Mr. Boehm has paid the \$300.00 filing fee, required by Colo. R. Civ. P. 205.3(1)(iii) and (iv), and that a disciplinary history obtained by the OAR revealed no adverse information.

11. No responses to Mr. Boehm's Motion has been filed in this Proceeding. Rule 1400(d) of the Rules of Practice and Procedure, 4 CCR 723-1, states: "The Commission may deem a failure to file a response as a confession of the motion."

12. The ALJ has considered Mr. Boehm's Motion the Proof of his *Pro Hac Vice* Registration filed in this Proceeding.

13. Mr. Boehm has satisfied the requirements of Colo.R.Civ.P. 205.4. Therefore, the ALJ will grant Boehm's Motion and will grant permission to Mr. Boehm to appear *pro hac vice* as an attorney in this Proceeding on behalf of Public Service.

14. Colo.R.Civ.P. 205.3(4) states that, "A separate petition, fee, and order granting permission are required for each action in which the attorney appears as *pro hac vice* counsel in Colorado." Therefore, the grants of permission in this Decision for Mr. Boehm to appear *pro hac vice* on behalf of Kroger applies only to this Proceeding.

II. ORDER

A. It Is Ordered That:

1. The Verified Motion for Admission *Pro Hac Vice* of Kurt J. Boehm as Counsel for Intervenor, the Kroger Co., filed on December 31, 2020, is granted consistent with the discussion in this Decision.

2. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

STEVEN H. DENMAN

Administrative Law Judge

ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean,
Director