

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
ESTABLISHING ELECTRONIC HEARING
PROCEDURES AND SETTING ADDITIONAL DEADLINES**

Mailed Date: February 22, 2021

I. STATEMENT, SUMMARY, BACKGROUND, FINDINGS AND CONCLUSIONS

A. Statement and Summary.

1. Through this Decision, the Administrative Law Judge (ALJ) establishes procedures to facilitate holding the evidentiary hearing in this proceeding remotely. This Decision does not modify any existing deadline or hearing date, but instead adds new filing deadlines. This Decision also clarifies existing exhibit filing requirements, and establishes requirements for identifying, filing, and formatting exhibits. Attachments A and B to this Decision provide detailed direction and technical information to facilitate participation in the evidentiary hearing and are incorporated into this Decision as if fully set forth.

2. The procedural history of this Proceeding is set forth in previously issued decisions and is repeated here only as necessary to put this Decision into context.

B. Background.

3. On October 19, 2020, Public Service Company of Colorado (Public Service) filed Advice Letter No.1835-Electric (AL-1835) with tariff sheets. Through AL-1835, 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 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.

4. By Decision No. C20-0793 (issued on November 10, 2020) and, pursuant to § 40-6-111(1), C.R.S. (2019), the Commission set for hearing the tariffs filed with AL-1835 and thereby suspended their effective date for 120 days from the proposed effective date, or until March 19, 2021. Decision No. C20-0793 also referred the matter to an ALJ. Subsequently, the undersigned ALJ was assigned to preside over this Proceeding.

5. The effective date of the tariff sheets filed with AL-1835 was further suspended to July 27, 2021 by Decision No. R20-0887-I (issued on December 11, 2020).

6. On January 8, 2021, Public Service filed Advice Letter No. 1835-Electric Amended (AL-1835 Amended) and accompanying tariffs with an amended proposed effective date of January 3, 2021. By Decision No. R21-0019-I (issued on January 11, 2021), the ALJ set the amended tariffs for hearing and suspended their effective date for 120 days from the proposed new effective date, or until May 2, 2021. The effective date of the amended tariffs was suspended once again, this time to September 9, 2021, by Decision No. R21-0020-I (issued January 12, 2021).

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.

7. Decision No. R20-0922-I (issued on December 29, 2020) adopted the following procedural schedule:

Procedural Activity	Due Date(s)
Answer Testimony & Attachments	Monday, March 8, 2021
Rebuttal & Cross-Answer Testimony & Attachments	Wednesday, April 7, 2021
Prehearing Motions	Monday, April 12, 2021
Stipulations &/or Settlement Agreements	Monday, April 19, 2021
Corrections to Pre-filed Testimony & Attachments	Wednesday, April 21, 2021
Evidentiary Hearing	Monday, May 3 – Friday, May 7, 2021 and Monday, May 10 – Friday, May 14, 2021
Statements of Position (Filed Simultaneously)	The earlier of 14-days after the last day of hearing or May 28, 2021

8. Although the parties to this Proceeding were willing and able to participate in the evidentiary hearing by remote video conference, at the remote Prehearing Conference held on December 22, 2020, the ALJ took under advisement a request to preserve the opportunity for an in-person hearing if the Commission were able to hold in-person hearings in May 2021. At that time, and in Decision No. R20-0922-I that memorialized rulings at the Prehearing Conference, the ALJ advised parties that a separate decision would be issued in adequate time before the scheduled hearing advising parties whether an in-person hearing would be possible.

9. Due to the COVID-19 pandemic, it remains unclear as to whether in-person hearings at the Commission's offices will be permitted by the time of the evidentiary hearing in this Proceeding. Given the ongoing uncertainty regarding the reopening of the Commission's offices to the public, and the Colorado State government and the Commission's continued commitment to manage the challenges of the COVID-19 pandemic safely and effectively, the ALJ

finds that this hearing will be held remotely by video conference. The ALJ also finds that holding this hearing remotely is consistent with public health advisories to prevent the spread of COVID-19 and is in the public interest.

C. Procedures to Facilitate Remote Evidentiary Hearing.

10. Based on the above findings, the evidentiary hearing will be held remotely. The Commission will use the web-hosted video conferencing service GoToMeeting to hold the remote evidentiary hearing. The presentation of evidence at the hearing shall be done through electronic exhibits to the fullest extent possible, with the exception of exhibits used for impeachment or any other exhibits admitted into evidence for the first time during the hearing. This Decision and Attachments A and B hereto include requirements to facilitate holding the hearing remotely using electronic exhibits and are intended to ensure that the remote evidentiary hearing proceeds efficiently without technical problems.

11. Attachment A includes important requirements and technical information on participating in the evidentiary hearing through the GoToMeeting platform.

12. Attachment B includes uniform requirements relating to exhibits to ensure that electronic exhibits can be presented and navigated at the hearing without issues. For example, among other matters, Attachment B directs the parties to format, mark for identification, and file exhibits and attachments thereto in a manner that facilitates the efficient and clear presentation of electronic exhibits during the hearing. Attachment B also explains the way evidence will be presented and accepted at hearing, and identifies additional requirements relating to certain types of exhibits (*e.g.*, excel spreadsheets) and to correcting, modifying, or amending an exhibit.

13. As such, it is vitally important that the parties carefully review and follow all requirements in this Decision and in Attachments A and B.

14. To minimize the potential that the video-conference hearing may be disrupted by non-participants, the GoToMeeting link and meeting ID or access code will be provided to the parties by email before the hearing, and the parties and witnesses will be prohibited from distributing that information to anyone not participating in the hearing.²

D. Deadlines and Filing Requirements.

15. The deadlines and hearing dates established by Decision No. R20-0922-I are unaffected by this Decision. Given the additional requirements necessitated by the evidentiary hearing being scheduled as a remote electronic hearing, however, this Decision aims to provide additional clarity and direction as to existing exhibit filing requirements. Decision No. R20-0922-I requires the parties to file corrections to pre-filed testimony and attachments on or by April 21, 2021. This deadline will be treated as the deadline to file final electronic versions of hearing exhibits and attachments.

16. By the April 21, 2021 deadline, the parties must file all exhibits not already filed³, which they intend to introduce into evidence during the hearing. This deadline *explicitly includes* filing exhibits that parties intend to use on cross-examination, except as discussed in Paragraph 16 below. Because the hearing will be presented using electronic exhibits only, it is vitally important that the parties pre-file all exhibits that they intend to offer into evidence during the hearing. Failing to do so will cause unnecessary delay and expenditure of resources.

17. The parties are not required to pre-file documents or exhibits intended *solely* to impeach a witness or to refresh a witness' recollection. Parties seeking to use documents or to

² The ALJ anticipates that the hearing will be webcast, consistent with Commission practice; this means that those wishing to observe the hearing may do so without the need to join the hearing as a participant.

³ Any party that has already filed properly labeled, numbered hearing exhibits does not need to refile these exhibits, provided such exhibits are fully in compliance with this Decision and Attachment B.

admit exhibits that are not to be used for impeachment or to refresh recollection, if challenged, *must establish* that the documents or exhibits are being used solely for those purposes.

18. Next, the ALJ finds that in order to minimize confusion and the unnecessary expenditure of resources, it is appropriate to set parameters on filing corrected, modified, or amended exhibits. Those are laid out below and in Attachment B to this decision.

19. Finally, a deadline will be established for the parties to file a joint witness testimony matrix identifying the order of witnesses, the order of cross-examination, and the amount of time each party anticipates for their cross-examination of each witness who will testify in the hearing.

II. ORDER

A. It Is Ordered That:

1. All parties must comply with the requirements in Attachments A and B to this Decision, which are incorporated into this Decision as if fully set forth.

2. The remote evidentiary hearing scheduled by Decision No. R20-0922-I will be held using the GoToMeeting platform. The parties are responsible for sharing the GoToMeeting Link, access, and ID code to witnesses and others participating in the hearing. Participants in the hearing may not distribute the GoToMeeting link, access, or ID code to anyone not participating in the hearing. Unless otherwise ordered, the parties, counsel, and witnesses may not appear in person at the Commission for the evidentiary hearing in this matter. Instead, parties, counsel, and witnesses will participate in the hearing from remote locations, consistent with the requirements of this Decision.

3. **Video-Conference Participation.** The parties, counsel, and witnesses are required to participate in the evidentiary hearing by video conference using GoToMeeting. The parties must ensure that they and their witnesses are ready and able to participate in the evidentiary hearing

by video conference, including presenting evidence electronically during the hearing using GoToMeeting.

4. **Electronic Evidence Presentation.** Because the hearing will be held remotely by video conference, all evidence must be presented electronically. Attachment B outlines detailed requirements to facilitate electronic evidence presentation.

5. Consistent with the above discussion, the parties must file all exhibits they intend to introduce into evidence during the evidentiary hearing, including exhibits to be used for cross-examination, by the deadline established in Decision No. R20-0922-I for corrections to pre-filed exhibits, **April 21, 2021**. The parties are not required to re-file any exhibits they have already filed before that date. The parties are also not required to pre-file exhibits that may be used *solely* for impeachment or to refresh recollection. Any party may use any other party's hearing exhibits during the course of the hearing and should not file them separately.

6. As discussed, the parties must file final electronic versions of exhibits and attachments thereto on or by **April 21, 2021**.

7. **Joint Witness Testimony Matrix.** On or by **April 26, 2021**, the parties must submit a joint witness testimony matrix listing all the witnesses the parties anticipate will testify at the hearing, and the anticipated amount of time each party will use to examine the witnesses. To the extent practicable, the witnesses should be listed in the order in which they will be called.

8. **Corrections, Modifications, and Amendments to Exhibits.** The parties may make corrections to exhibits, including written testimony and attachments, without filing a motion seeking leave to do so. Corrections include minor changes, such as fixing typographical or grammatical errors. Corrections do not include material or substantive changes. Material or substantive changes to a hearing exhibit or attachment amount to amending or modifying such

documents. Any party wishing to amend or to modify an exhibit or attachment thereto must file a motion establishing good cause; such a motion must be filed as soon as the party becomes aware of the need to amend or to modify the hearing exhibit or attachment. The parties must confer with each other prior to filing such a motion. Unreasonable delay in filing such a motion may be grounds to deny the motion. Attachment B includes additional requirements relating to corrected, modified, or amended exhibits or attachments.

9. This Decision is effective immediately.

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

STEVEN H. DENMAN

Administrative Law Judge