

Decision No. R22-0489-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 22F-0263EG

OLSON’S GREENHOUSES OF COLORADO, LLC,

COMPLAINANT,

V.

PUBLIC SERVICE COMPANY OF COLORADO,

RESPONDENT.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
CONOR F. FARLEY
ESTABLISHING SCHEDULE AND VACATING
AND RESCHEDULING HEARING**

Mailed Date: August 17, 2022

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I. STATEMENT

A. Relevant Background

1. On June 10, 2022, Olson’s Greenhouses of Colorado, LLC (Olson’s) filed a Formal Complaint (Complaint) against Public Service Company of Colorado (Public Service).

2. On June 13, 2022, the Commission scheduled the Complaint for an evidentiary hearing to be held on August 29, 2022 starting at 9:00 a.m. On the same date, the Commission filed and served an Order Setting Hearing and Notice of Hearing and other documents on Public Service.

3. Also on June 13, 2022, the Commission served on Public Service the Complaint, the Order Setting Hearing and Notice of Hearing, and an Order to Satisfy or Answer.

4. On June 15, 2022, the Commission referred this proceeding to an Administrative Law Judge (ALJ). The proceeding was subsequently assigned to the undersigned ALJ.

5. On July 5, 2022, Public Service filed a Motion to Dismiss with Prejudice for Failure to State a Claim or, in the Alternative, Motion for Summary Judgment (Motion).

6. On July 18, 2022, Olson’s filed a Response to the Motion (Response).

7. On July 29, 2022, the ALJ issued Decision No. R22-0444-I that denied the Motion, scheduled a remote prehearing conference for August 11, 2022 at 1:00 p.m., and directed the parties to confer regarding a schedule for this proceeding and for Olson’s to file a Report of Conferral by August 9, 2022.

8. On August 9, 2022, Olson’s filed a Conferral Report (Report) in which the parties stated that the parties had agreed to: (a) a deadline for Olson’s to file its direct case; (b)

“adherence to the Commission’s rules governing discovery;” and (c) a two-day hearing.¹ However, the parties were waiting for “final client approval,” but anticipated “obtaining approval prior to the prehearing conference scheduled for August 11, 2022.”²

9. On August 10, 2022, counsel for Olson’s sent an email to the ALJ and copied counsel for Public Service informing the ALJ that the parties had agreed to the entire schedule for the proceeding and inquiring about the ALJ’s availability on certain proposed hearing dates. A series of emails ensued that led to the conclusion that the hearing would be held on February 29 through March 1, 2023.

10. On August 11, 2022, Olson’s filed a Notice of Consensus Procedural Schedule (Notice) stating that the parties agreed to the following schedule for this proceeding:

<u>Event</u>	<u>Deadline</u>
Direct Testimony	December 9, 2022
Answer Testimony	January 13, 2023
Rebuttal Testimony	February 10, 2023
Prehearing Motions	February 17, 2023
Settlement Agreements	February 21, 2023
Responses to Prehearing Motions	February 24, 2023
Hearing	February 28 through March 1, 2023
Statements of Position	March 24, 2023
Statutory Deadline	July 7, 2023

The parties also agreed in the Notice to “adhere to the Commission’s rules for discovery as well as any other procedural matters that arise.”³

¹ Report at 1.

² *Id.*

³ Notice at 2.

11. After reviewing the schedule proposed by the parties, the ALJ stated in an email to counsel for the parties that the schedule stated above is reasonable and shall be adopted. Based on that decision, the ALJ informed counsel for the parties that the remote prehearing conference would be vacated and an interim decision stating as much would issue as soon as reasonably possible.

B. Schedule

12. The parties have stated good cause in support of the proposed schedule. Accordingly, the proposed schedule shall be adopted.

C. Hearing

13. As noted above, the hearing in this proceeding currently scheduled for August 29, 2022 at 9:00 a.m. shall be vacated and rescheduled for February 28 through March 1, 2023. Based on the input of the parties, the hearing will be conducted as an in-person hearing. As stated in Decision No. R22-044-I, the parties are on notice that the ALJ will retain the discretion to change the method by which the hearing will be conducted (i.e., from in-person to remote or hybrid).

D. Remote Prehearing Conference

14. The Report and the email communications comprehensively addressed all of the issues the ALJ intended to address at the remote prehearing conference. Accordingly, the remote prehearing conference scheduled for August 11, 2022 was vacated.

E. Instructions for Electronic Exhibits

15. The presentation of evidence at the hearing shall be done through electronic exhibits to the fullest extent possible. Instructions for the electronic presentation of exhibits at the hearing (and for preparing prefiled testimony and attachments) are included in Attachment A.

16. It is very important that the parties carefully review and follow all requirements in this Decision and Attachment A.

II. ORDER

A. It is Ordered That:

1. An in-person evidentiary hearing currently scheduled for August 29, 2022 at 9:00 a.m. is vacated and rescheduled as follows:

DATE: February 28 through March 1, 2023

TIME: 9:00 a.m. to 5:00 p.m.

PLACE: Commission Hearing Room B
1560 Broadway, 2nd Floor
Denver, Colorado

WEBCAST: Hearing Room B

METHOD: In-person

2. The procedural schedule stated in paragraph 10 is adopted.

3. This Decision is effective immediately.

(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 'Doug Dean'.

Doug Dean,
Director