

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 22AL-0270E

IN THE MATTER OF ADVICE LETTER NO. 1889 – ELECTRIC FILED BY PUBLIC SERVICE COMPANY OF COLORADO TO REVISE ITS COLORADO P.U.C. NO. 8-ELECTRIC FOR APPROVAL TO RECOVER COSTS ASSOCIATED WITH JOINING THE WESTERN ENERGY IMBALANCE SERVICES MARKET OPERATED BY THE SOUTHWEST POWER POOL AND TO CREDIT SPP WEIS MARKET SALE REVENUES TO CUSTOMERS THROUGH THE ELECTRIC COMMODITY ADJUSTMENT TARIFF, TO BECOME EFFECTIVE JULY 15, 2022.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
MELODY MIRBABA
GRANTING MOTION AND VACATING DEADLINES TO
FILE REBUTTAL AND CROSS-ANSWER TESTIMONY**

Mailed Date: November 7, 2022

I. STATEMENT, SUMMARY, AND PROCEDURAL HISTORY

A. Summary

1. This Decision grants the Notice of Near Comprehensive Settlement in Principle, Unopposed Motion to Amend Procedural Schedule, and Request for Waiver of Response Time and Expedited Decision (Motion) filed by Public Service Company of Colorado (Public Service or the Company) on November 4, 2022 and vacates the deadlines to file rebuttal and cross-answer testimony.

B. Procedural History¹

2. On June 14, 2022, Public Service filed the above-captioned Advice Letter.

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

3. On August 17, 2022, the Commission referred this proceeding to an administrative law judge (ALJ) for disposition by minute entry.

4. In addition to Public Service, the following entities are parties to this Proceeding: the Office of the Utility Consumer Advocate's (UCA), Trial Staff of the Colorado Public Utilities Commission Staff's (Staff), the Colorado Energy Office's (CEO); the Colorado Energy Consumers (CEC), Western Resource Advocates (WRA), and Climax Molybdenum Company (Climax).²

5. With the parties' input, on September 8, 2022, the ALJ scheduled a three-day evidentiary hearing starting on November 29, 2022 and established procedural deadlines that include a November 7, 2022 deadline to file rebuttal and cross-answer testimony.³

6. On November 4, 2022, Public Service filed the Motion. The Motion seeks to vacate the November 7, 2022 deadline to file rebuttal and cross-answer testimony so that the parties could continue to focus on finalizing a comprehensive settlement agreement.

II. FINDINGS AND CONCLUSIONS

7. Public Service states that the Motion is unopposed.⁴ For that reason, and because the deadlines the Motion seeks to vacate were closely approaching, the Company asks that the response time to the Motion be waived. Given that Motion is unopposed and the deadlines that the Motion seeks to vacate will pass by the time the response time lapses, the ALJ finds good cause to waive the response time to the Motion and does so.⁵

8. In support of the Motion, the Company explains that the parties have been diligently working toward a unanimous, comprehensive settlement in principle resolving all the

² Decision No. R22-0506-I at 8 (mailed August 29, 2022).

³ Decision No. R22-0529-I (mailed September 8, 2022).

⁴ Motion at 2.

⁵ See Rules 1308(c) and 1400(b) of the Commission's Rules of Practice and Procedure, *Code of Colorado Regulations* (CCR) 723-1.

issues in this Proceeding, and that in furtherance of this goal, the parties have agreed not to file rebuttal or cross-answer testimony.⁶

9. The Motion states that the parties commenced settlement negotiations after Staff and the UCA filed Answer Testimony, and that some of the parties have conducted remote settlement negotiations or meetings on October 14, 20, 25 and November 3, 2022.⁷ On November 4, 2022, Public Service circulated a revised settlement term sheet to all parties. The parties hope to reach an agreement on a settlement in principle resolving all issues the week of November 7, 2022, and plan to file a written settlement agreement by the November 16, 2022 settlement deadline.⁸ To allow the parties to focus their efforts on finalizing a settlement agreement, Public Service requests that the November 7, 2022 deadline to file rebuttal and cross-answer testimony be vacated.⁹

10. The Company submits that vacating these deadlines is consistent with Rule 1408, 4 CCR 723-1, which states the Commission's policy to encourage settlement of contested proceedings and would promote administrative efficiency by reducing the time and burden needed for the ALJ, counsel and the parties to prepare for and litigate a settlement hearing rather than a fully litigated adversarial hearing.¹⁰

11. Based on the foregoing, the ALJ finds that the Motion establishes good cause to vacate the referenced deadlines. As such, the Motion will be granted, and the deadlines to file rebuttal and cross-answer testimony will be vacated.

⁶ Motion at 1-2.

⁷ *Id.* at 4.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

12. The ALJ encourages the parties to focus their efforts on settlement, and to file their settlement agreement as soon as possible, but no later than the November 16, 2022 deadline.¹¹

III. ORDER

A. It Is Ordered That:

1. Consistent with the above discussion, the response time to Public Service Company of Colorado's (Public Service) Notice of Near Comprehensive Settlement in Principle, Unopposed Motion to Amend Procedural Schedule, and Request for Waiver of Response Time and Expedited Decision (Motion) filed on November 4, 2022 is waived, and the Motion is granted.

2. The deadlines to file rebuttal and cross-answer testimony established by Decision No. R22-0529-I are vacated.

¹¹ The ALJ will be out of the country from November 21 to 25, 2022 with little or no access to E-Filings or email. As such, the ALJ will not be in a position to access or evaluate a late-filed settlement agreement, including its impact on the evidentiary hearing until November 28, 2022. If the agreement is timely filed on November 16, 2022, the ALJ will immediately review it and will inform the parties informally or by written decision by Friday, November 18, 2022 to let the parties know whether the existing evidentiary hearing dates will be vacated or maintained in order to hold a hearing on the settlement agreement.

3. 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 "Doug Dean".

Doug Dean,
Director