

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 22A-0408E

IN THE MATTER OF THE VERIFIED APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR APPROVAL OF ITS CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR THE DECOMMISSIONING OF THE COMANCHE UNIT 1.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
AVIV SEGEV
GRANTING INTERVENTION,
ESTABLISHING PROCEDURES,
AND SCHEDULING EVIDENTIARY HEARING**

Mailed Date: November 10, 2022

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 A. It Is Ordered That:6

STATEMENT

A. Procedural Background

1. On September 22, 2022, Public Service Company of Colorado (Public Service Company or Applicant) filed with the Commission a Verified Application (Application). This filing commenced Proceeding No. 22A-0408E.

2. On September 23, 2022, the Commission issued a Notice of Applications Filed (Notice). The notice established a 30-day intervention period for intervenors to file appropriate pleadings to become parties in this proceeding.
3. On October 20, 2022, Sierra Club timely filed its Motion to Intervene.
4. On October 21, 2022, the Colorado Office of the Utility Consumer Advocate (Consumer Advocate) timely filed its Notice of Intervention of Right.
5. On October 31, 2022, the trial staff of the Colorado Public Utilities Commission (Staff) timely filed its Notice of intervention of right.
6. On November 2, 2022, the Commission deemed the Application complete and referred this matter to an Administrative Law Judge (ALJ) by minute entry.

B. Permissive Intervention

7. Rule 1401(c) of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1 provides, in pertinent part, regarding permissive intervention:

A motion to permissively intervene shall state the specific grounds relied upon for intervention; the claim or defense within the scope of the Commission's jurisdiction on which the requested intervention is based, including the specific interest that justifies intervention; and why the filer is positioned to represent that interest in a manner that will advance the just resolution of the proceeding. The motion must demonstrate that the subject proceeding may substantially affect the pecuniary or tangible interests of the movant (or those it may represent) and that the movant's interests would not otherwise be adequately represented. If a motion to permissively intervene is filed in a natural gas or electric proceeding by a residential consumer, agricultural consumer, or small business consumer, the motion must discuss whether the distinct interest of the consumer is either not adequately represented by the UCA or inconsistent with other classes of consumers represented by the UCA. The Commission will consider these factors in determining whether permissive intervention should be granted. Subjective, policy, or academic interest in a proceeding is not a sufficient basis to intervene.

8. No response was filed to Sierra Club’s pending request for permissive intervention. Based upon good cause shown for Sierra Club’s unopposed request, it is found that Sierra Club made a sufficient showing that it has a right to participate in this proceeding, or that its pecuniary or tangible interests, which would not otherwise be adequately represented, may be substantially affected. Sierra Club’s request for permissive intervention will be granted.

C. Procedural Schedule and Evidentiary Hearing

9. The undersigned informally invited the parties to propose a consensus procedural schedule. On November 8, 2022, the parties informally proposed a consensus procedural schedule that is reasonable and will be adopted.

10. The parties also unanimously agreed on both the date of the evidentiary hearing and that the evidentiary hearing would be held in hybrid format. The proposed evidentiary hearing date and format are acceptable and will be adopted. The evidentiary hearing will be scheduled to be held Commission’s hearing room in Denver, with at least one party and/or witness participating from one or more remote locations using the Zoom web conferencing platform, as ordered below. The parties are on notice that the ALJ will retain the discretion to change the method by which the hearing will be conducted.

11. The parties agreed to the following pre- and post-hearing schedule:

Event	Proposed Date
Answer Testimony	January 10, 2022
Rebuttal & Cross-Answer Testimony	February 3, 2023
Stipulations & Settlement Agreements	March 10, 2023

Prehearing Motions	March 14, 2023
Cross-Examination Matrix	March 17, 2023
Corrections to Pre-Filed Testimony and Exhibits	March 3, 2023
Evidentiary Hearing	March 23, 2023
Statements of Position	April 20, 2023

12. To facilitate the presentation of electronic exhibits, all pre-marked and electronically filed exhibits will be available during the evidentiary hearing through a hyperlinked spreadsheet identifying filings in the Commission’s E-Filings System. The spreadsheet will be made available to the parties prior to hearing and marked as a hearing exhibit. Commission Staff will display pre-filed electronic filings during hearing.¹

13. The parties are advised and on notice that final versions of all hearing exhibits must be filed in accordance with the filing deadlines in the procedural schedule and, in no event, less than three business days prior to hearing so that the spreadsheet may be timely prepared and distributed.²

14. Unless otherwise ordered, a sponsoring party shall ensure that one paper copy of each pre-filed hearing exhibit is available at hearing. Any paper copy provided at hearing shall reflect the same marking for identification appearing in the Commission’s filed copy. The sponsoring party shall assure that, when offered as an exhibit at hearing, the paper copy of the hearing exhibit is identical to the pre-filed electronic version.

¹ Exhibits will be displayed on large monitors in the hearing room, as well as on the hearing’s Zoom web conferencing session screen.

² No confidential information will be included with this distribution.

15. The evidentiary hearing will be conducted via videoconference using the Zoom platform. Attachment A to this Decision provides information about the Zoom platform and how to use Zoom to participate in the remote hearing. To minimize the potential that the remote hearing may be disrupted by non-participants, the link and meeting ID, or access code, to attend the hearing 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.

16. Attachment B outlines procedures and requirements for marking and formatting exhibits aimed at facilitating efficient and smooth electronic evidence presentations at the remote hearing. It is extremely important that the parties **carefully review and follow** all requirements in this Decision and Attachments A and B.

17. Additional procedural requirements may be addressed in future Interim Decisions.

D. Hearing Exhibit Number Block Assignments

18. In order to efficiently organize the numbering and preparation of exhibits for the hearing, all parties must use a unified numbering system for all hearing exhibits. Blocks of hearing exhibit numbers are assigned as follows:

- Public Service Company is assigned hearing exhibit numbers 100 to 199;
- Sierra Club is assigned hearing exhibit numbers 200 to 299;
- Consumer Advocate is assigned hearing exhibit numbers 300 to 399; and
- Staff is assigned hearing exhibit numbers 400 to 499.

E. Shortened of Response Time

19. The parties' proposed deadline for filing prehearing motions (March 14, 2023) is near the proposed hearing date (March 23, 2023). To allow sufficient time for the ALJ to consider prehearing motions (including any responses to the same), responses to any prehearing motion filed on, or after, March 9, 2023, will be shortened to 5 days.

F. Further Extension of the Decision Deadline

20. As noted above, Public Service filed supporting direct testimony and attachments with its Application. Pursuant to § 40-6-109.5(1), C.R.S., when supporting testimony is filed with an application, the Commission's initial decision is due within 120 days after the application is deemed complete. Further, the Commission may extend that period by separate order upon a finding that additional time is required for a decision.

21. In order to accommodate the proposed procedural schedule and allow the full litigation of the Application before the ALJ and the Commission, it is not feasible for the Commission to issue a final decision on the Application within the 120-day period. Therefore, pursuant to § 40-6-109.5(1), C.R.S., the undersigned finds additional time is required to reach a decision and the decision deadline will be extended for an additional 130 days.

II. ORDER**A. It Is Ordered That:**

1. The Notices of Intervention as of Right, filed by the Colorado Office of the Utility Consumer Advocate and Trial Staff of the Colorado Public Utilities Commission on October 21, 2023, and October 31, 2023, respectively, are acknowledged.

2. Sierra Club's Motion to Intervene, filed on October 20, 2023, is granted.

3. The following procedural schedule is adopted to govern this proceeding:

Event	Proposed Date
Answer Testimony	January 10, 2022
Rebuttal & Cross-Answer Testimony	February 3, 2023
Stipulations & Settlement Agreements	March 10, 2023
Prehearing Motions	March 14, 2023
Cross-Examination Matrix	March 17, 2023
Corrections to Pre-Filed Testimony and Exhibits	March 3, 2023
Evidentiary Hearing	March 23, 2023
Statements of Position	April 20, 2023

4. The parties shall be held to and shall comply with the requirements in this Decision. In addition to other requirements of the Commission’s Rules of Practice and Procedure, 4 *Code of Colorado Regulations* 723-1 (e.g., Rule 1202 regarding pre-filed testimony), all pre-filed hearing exhibits shall be marked for identification and filed in accordance with this Decision, including Attachment B hereto.

5. A hearing in this matter shall be conducted at the following date, time, and place:

DATE: March 23, 2023

TIME: 9:00 a.m.

PLACE: In-person: Commission Hearing Room, Suite 250, 1560
Broadway, Denver, Colorado

By video conference: using the Zoom web conferencing
platform at a link in the calendar of events on the
Commission's website, available at
<https://puc.colorado.gov/>.

6. The response time to any motions filed on, after, March 9, 2023 is shortened to 5 days.
7. Pursuant to § 40-6-109.5(1), C.R.S., the time for issuance of the Commission's decision in this Proceeding shall be extended by an additional period of 130 days.
8. This Decision shall be effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

AVIV SEGEV

Administrative Law Judge

ATTEST: A TRUE COPY

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

Doug Dean,
Director