

Decision No. C14-1184-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14AL-0660E

IN THE MATTER OF ADVICE LETTER NO. 1672 - ELECTRIC OF PUBLIC SERVICE COMPANY OF COLORADO TO REVISE THE GENERAL RATE SCHEDULE ADJUSTMENT (GRSA) RIDER APPLICABLE TO ALL ELECTRIC BASE RATE SCHEDULES AND REVISE THE TRANSMISSION COST ADJUSTMENT (TCA) TO REMOVE COSTS THAT HAVE BEEN SHIFTED TO BASE RATES TO BECOME EFFECTIVE JULY 18, 2014.

PROCEEDING NO. 14A-0680E

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR APPROVAL OF ITS ARAPAHOE DECOMMISSIONING AND DISMANTLING PLAN.

**INTERIM DECISION WAIVING RESPONSE
TIME AND DENYING MOTIONS
TO MODIFY DECISION NO. C14-1043**

Mailed Date: September 26, 2014

Adopted Date: September 17, 2014

I. BY THE COMMISSION

A. Statement

1. By Decision No. C14-1043 (Decision) issued August 28, 2014, the Commission granted intervention to The Alliance for Solar Choice (TASC), Western Resource Advocates (WRA), and Clean Energy Action (CEA). TASC, WRA, and CEA each filed motions requesting

the Commission modify the Decision and allow them to participate in the case “without limitations.”¹ Each company also requested the Commission shorten response time to its motion.

2. TASC, WRA, and CEA claim that the Decision limited their interventions. They argue that limiting intervention in Commission proceedings is contrary to Colorado law and creates numerous administrative and practical problems, including disputes over permissible areas of discovery and filed testimony. TASC, WRA, and CEA cite a prior Commission decision,² which denied a motion to limit the participation of an intervenor, and *RAM Broadcasting of Co. Inc. v. PUC*, 702 P.2d 746 (Colo. 1985), for the proposition that any party granted intervention may address any and all issues in a proceeding. WRA also argues that: limiting parties’ participation will deprive the Commission of necessary evidence; is contrary to the broad scope of Commission Rule 1401(c) of the Commission’s Rules of Practice and Procedure, 4 *Code of Colorado Regulations* 723-1, in allowing permissive intervention; and, creates a requirement for parties to describe fully in a motion for permissive intervention all evidence they intend to present at hearing.

3. On September 15, 2014, Public Service Company of Colorado (Public Service) filed a reply to the requests for shortened response time and a request to file a response to the motions to modify by September 18, 2014.

4. By this decision, we waive response time to the motions to modify the Decision. Because this Interim Decision clarifies the scope of intervention granted in our prior Decision, and because the motions assume that the Decision limited their intervention, we do not believe a response to the motions to modify would be pertinent.

¹ TASC and CEA each filed its motion on September 10, 2014; WRA filed its motion on September 11, 2014.

² Decision No. R01-0016-I, Proceeding No. 00A-524CP issued January 5, 2001.

5. We deny the Motions to Modify the Decision as discussed below.

B. Findings and Conclusions

6. The Commission has authority to limit intervention. Section 24-4-105(2)(c), C.R.S., states that an agency is not prevented “from admitting any person ... as a party to any agency proceeding *for limited purposes*.” (Emphasis added). In addition, the Commission has broad discretion to grant or deny permissive intervention under Rule 1401(c), and in how to conduct its proceedings “in such manner as will best conduce the proper dispatch of business and the ends of justice” pursuant to § 40-6-101(1), C.R.S.

7. The case cited by WRA, TASC, and CEA, *RAM Broadcasting of Colo., Inc. v. PUC*, 702 P.2d 746 (Colo. 1985), does not foreclose the Commission from limiting intervention. *RAM Broadcasting* addresses an intervenor’s standing to adjudicate all issues raised by an application after the Commission granted unlimited intervention. The case does not address the Commission’s ability to limit a party’s intervention pursuant to § 24-4-105(2)(c), C.R.S., and § 40-6-101, C.R.S.³

8. We do not revise the Decision. Consistent with § 40-6-101, C.R.S., the Decision sets forth important direction to promote efficiency and avoid duplication. The movants are to address their interests, consistent with statements set forth in their interventions. Despite objection from Public Service to deny TASC and CEA’s interventions in the proceeding, the Commission granted permissive interventions, in addition to granting party status of WRA and Southwest Energy Efficiency Project. The Commission permitted the interventions

³ While the Commission is not bound to prior decisions, we note that the Administrative Law Judge was correct that to delineate areas of participation and non-participation in every application would be complex. Decision No. R01-0016-I, at 2. However, the Commission has found it necessary to limit intervention in specific instances. *See* Decision No. C12-0138, Proceeding No. 11A-869E, at ¶ 3 (limiting Ms. Leslie Glustrom’s intervention to address coal price and coal supply issues).

cognizant of the standards of permissive intervention in Rule 1401(c) as stated in paragraph no. 18 of the Decision, in addition to the administrative interests of promoting efficiency. The Decision intended to avoid inefficiency and placing unreasonable burdens upon parties responding to discovery and preparing for hearing.

9. In addition to identifying the intervenors' areas of interest, the Decision identified certain issues raised by TASC, CEA, and WRA that these parties should not address. For example, the Commission stated that TASC may not conduct discovery in this rate case to gather information in support of its position that installations of distributed solar resources lower the need for transmission investments.

10. The Commission also emphasized in the Decision that other parties may be better suited to address particular issues. For instance, the Commission determined that CEA failed to show why other parties in this proceeding will not represent its interests concerning base rate issues, such as depreciation and amortization policies, or the proposed Clean Air Clean Jobs Act rate adjustment mechanism. Pursuant to § 40-6-101, C.R.S., the Commission directs the parties to conduct discovery and present their positions in a manner that will be efficient and non-duplicative.

11. The Commission recognizes the complexity of this case and the parties' discovery and evidentiary burdens. The parties, including TASC, CEA, and WRA, may conduct discovery within the standards of Rule 26(b)(1) of the Colorado Rules of Civil Procedure, and shall do so efficiently, with an effort to avoid requests that are duplicative or unnecessary. The parties are not restricted in developing their case. The Commission also recognizes that facts may develop during the proceeding that may necessitate TASC, CEA, and WRA requesting expansion of the

scope of their participation. Discovery dispute shall be addressed as set forth in Commission Rules and Decision No. C14-1043.

II. ORDER

A. It Is Ordered That:

1. The Motion to Modify Decision No. C14-1043 and Request for Shortened Response Time filed by Clean Energy Action on September 10, 2014, is denied consistent with the discussion above, and response time is waived.

2. The Motion to Modify Decision No. C14-1043 and Request for Shortened Response Time filed by The Alliance for Solar Choice on September 10, 2014, is denied consistent with the discussion above, and response time is waived.

3. The Motion to Modify Decision No. C14-1043 and Request for Shortened Response Time filed by Western Resource Advocates on September 11, 2014, is denied consistent with the discussion above, and response time is waived.

4. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
September 17, 2014.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JOSHUA B. EPEL

PAMELA J. PATTON

GLENN A. VAAD

Commissioners