

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 19AL-0290E

IN THE MATTER OF ADVICE LETTER NO. 1798 FILED BY PUBLIC SERVICE COMPANY OF COLORADO TO IMPLEMENT SECONDARY VOLTAGE TIME-OF-USE ELECTRIC VEHICLE SERVICE TO BECOME EFFECTIVE JUNE 24, 2019.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
ROBERT I. GARVEY
GRANTING MOTION TO STAY AND MODIFYING
PROCEDURAL SCHEDULE**

Mailed Date: August 26, 2019

I. STATEMENT

1. On May 24, 2019, Public Service Company of Colorado (Public Service) filed with the Colorado Public Utilities Commission (Commission) Advice Letter No. 1798-Electric with tariff sheets establishing a Secondary Voltage Time-of-Use Electric Vehicle Service (Schedule S-EV) with Direct Testimony of witnesses Jack Ihle and Steven Wishart. The proposed effective date of the tariff filed with Advice Letter No. 1798-Electric is June 24, 2019.

2. Schedule S-EV offers an optional service that would be available to large, non-residential customers for charging their own electric vehicles (EVs) or providing charging services to third parties for a fee. The tariff sheets set forth rates including a monthly service and facilities charge and a monthly demand charge, as well as per kilowatt hour charges for “On Period,” “Off Period,” and “Called Critical Peak Hours.” Public Service states that the creation of Schedule S-EV will not directly affect any other service or customer class.

3. On June 13, 2019, by Decision No. C19-0491, the effective date of the tariff sheets was suspended and Proceeding No. 19AL-0290E was referred to an Administrative Law Judge (ALJ).

4. On June 13, 2019, Trial Staff of the Commission (Staff) timely filed its Notice of Intervention as of Right, Entry of Appearance, Notice Pursuant to Rule 1007(a) and Rule 1403(b), and Request for Hearing. The intervention is of right, and Staff is a party in this matter.

5. On June 19, 2019, by Decision No. 19-0533-I, a prehearing conference was scheduled for July 16, 2019.

6. On June 26, 2019, ChargePoint Inc. (ChargePoint) timely filed its Motion to Intervene and Entry of Appearance. ChargePoint is an EV charging network with existing customers and prospective customers in Colorado. ChargePoint argues that their interests will not be adequately represented by other parties to the proceeding.

7. On June 27, 2019, the City and County of Denver (Denver) timely filed its Motion to Intervene. Denver states it is a legally and regularly created, established, organized and existing home rule city and county, municipal corporation, and political subdivision. Denver contends it should be allowed to intervene due to the rate impacts the tariff will have on its EV fleet and on public charging rates.

8. On July 3, 2019, the Colorado Office of Consumer Counsel (OCC) filed its Notice of Intervention of Right, Entry of Appearance, and Request for Hearing. The OCC is an intervenor as of right and a party in this proceeding. The OCC listed a series of issues they wish to investigate.

9. On July 5, 2019, Tesla Inc. (Tesla) filed its Motion to Intervene. Tesla owns and operates charging stations in Colorado. Tesla states it has a substantial, pecuniary, and tangible business interest in the proposed tariff.

10. On July 9, 2019, the City of Boulder (Boulder) timely filed its Petition for Leave to Intervene. Boulder states that it is a regularly created, established, organized, and existing home rule city and municipal corporation. Boulder contends it should be granted an intervention and describes how the subject matter of this proceeding will directly affect the pecuniary or other tangible interests of Boulder's EV fleet.

11. On July 11, 2019, Natural Resources Defense Council (NRDC) and Southwest Energy Efficiency Project (SWEET) timely filed their Petition for Leave to Intervene. NRDC is a national non-profit organization dedicated to protection of the environment. SWEET is a non-profit public interest group that works to advance energy efficiency. NRDC and SWEET contend they should be granted an intervention due to a tangible interest in reducing reliance on petroleum, accelerating transportation electrification, and helping the state capture the economic and environmental benefits of electrification.

12. On July 11, 2019, the Colorado Energy Office (CEO) timely filed its Notice of Intervention as of Right. The CEO is an intervenor as of right and a party in this proceeding.

13. On July 11, 2019, Western Resource Advocates (WRA) filed its Motion for Leave to Intervene. WRA states that the above captioned proceeding may substantially affect its pecuniary or tangible interests. WRA states the interests that may be "touched" are human health, air quality, and the health and beauty of Colorado's lands.

14. On July 11, 2019, the Regional Transportation District (RTD) filed its Entry of Appearance and Motion to Intervene. RTD states it has a substantial and direct interest in this proceeding due to operating a large fleet of electric buses.

15. On July 12, 2019, Electrify America LLC (Electrify America) filed its Motion to Intervene and Appearance of Counsel. Electrify America is an operator of an EV charging network in Colorado. Electrify America states that its interests cannot be represented adequately by any other party.

16. On July 12, 2019, Electrify America filed its Request for Telephonic Participation. Electrify America states that its counsel is located outside of the State of Colorado and requests to appear by telephone for the prehearing conference scheduled on July 16, 2019. Electrify America states that Public Service does not object to the request.

17. On July 12, 2019, Public Service filed its Motion for Proposed Procedural Schedule and Request to Vacate Prehearing Conference (Motion). The Motion states that the parties who have intervened in the proceeding as of the date of the filing of the Motion have agreed to a procedural schedule. If the procedural schedule is acceptable to the undersigned ALJ, the parties also request that the prehearing conference scheduled for July 16, 2019, be vacated.

18. On July 15, 2019, Colorado Energy Consumers (CEC) filed its request for permissive intervention. CEC asserts that this proceeding will have a direct and substantial impact on its interests since some of its members may be participating in the proposed optional rate schedule offering, and thus have an interest in how the rate is designed, its overall value relative to alternatives, and the related proposed terms of service.

19. On July 15, 2019, Vote Solar; Colorado Latino Forum (CLF); Elyria and Swansea Neighborhood Association Globeville (ESNA); Elyria-Swansea Coalition (GES Coalition); and Unite North Metro Denver (UNMD) (collectively, the Environmental Justice Coalition) filed their Motion to Intervene.

20. Vote Solar states it is a non-profit organization working to repower the United States with clean energy by making solar power more accessible and affordable through effective policy advocacy.

21. The CLF is a non-profit organization dedicated to increasing the political, social, educational, and economic strength of Latinas and Latinos.

22. The ESNA is a registered neighborhood organization recognized by Denver, with prescribed and registered boundaries. (North: County Line; South: 40th Avenue; East: Colorado Boulevard; and West: Platte River).

23. The Globeville, GES Coalition is a group of resident leaders, community organizers, and advocates that work to mitigate the impacts of rapid development and to protect community health and well-being in the Globeville, Elyria, and Swansea neighborhoods.

24. UNMD is a neighborhood association established to unite the northern part of Denver.

25. The Environmental Justice Coalition states that it has a direct and tangible interest in this proceeding, but does not state how each member of the coalition has a direct and tangible interest in this proceeding. Nor does the intervention state the direct and tangible interest of the

Environmental Justice Coalition. The intervention only states that it seeks to “spur the growth of EVs in Colorado.”¹²

26. On July 25, 2019, by Decision No. R19-0633-I, the proposed procedural schedule was adopted, the interventions by right of Staff, the OCC, and the CEO were noted, and the interventions of ChargePoint, Denver, Tesla, Boulder, RTD, Electrify America, and CEC were granted, resulting in a total of ten intervenors in this proceeding. Additionally, the interventions of NRDC, SWEEP, WRA, CLF, ESNA, GES Coalition, UNMD, and Vote Solar were denied for the failure to state a pecuniary or tangible interest in accordance with the requirements of Commission Rule 1401(c) of the Rules of Practice and Procedure 4 *Code of Colorado Regulations* (CCR) 723-1.

27. On July 29, 2019, NRDC, SWEEP, WRA, CLF, ESNA, GES Coalition, UNMD, and Vote Solar (collectively, the Environmental Groups), filed their Unopposed Motion Seeking Modification of Decision No. R19-0625-I (Motion Seeking Modification).

28. On August 15, 2019, by Decision No. R19-0689-I, the Motion Seeking Modification was denied and certified as immediately appealable to the Commission *en banc* pursuant to 4 *Code of Colorado Regulations* 723-1-1502(d).

29. On August 22, 2019, the Environmental Justice Coalition filed its Unopposed Motion Contesting Interim Decision Nos. R19-0625-I and R19-0689-I, and Request for Emergency Addendum Item for the August 28, 2019 Weekly Meeting, appealing Decision Nos. R19-0689-I to the Commission *en banc* and requesting that the Commission rule on this Motion during the August 28, 2019 Commissioners’ Weekly Meeting.

¹ Environmental Justice Coalition Intervention at ¶ 9.

² The ALJ found this statement in the intervention to be the closest to an interest in the proceeding.

30. On August 22, 2019, NRDC filed its Unopposed Motion Contesting Interim Decision Nos. R19-0625-I and R19-0689-I, and Request for Emergency Addendum Item for August 28, 2019 Weekly Meeting, appealing Decision No. R19-0689-I to the Commission *en banc* and requesting that the Commission rule on this Motion during the August 28, 2019 Commissioners' Weekly Meeting.

31. On August 22, 2019, Staff filed an Unopposed Motion to Stay the Deadline to File Answer Testimony and to Waive Response Time (Unopposed Motion to Stay). In the Unopposed Motion to Stay, Staff states that because Decision No. R19-0689-I has been appealed to the full Commission, a stay of the August 27, 2019 deadline to file answer testimony in this matter is warranted. Specifically, Staff asserts a stay is necessary to avoid the prejudice that would occur if some parties file their answer testimony on August 27, 2019, while other parties, if subsequently permitted to intervene, file their answer testimony on a future date "with the luxury of having read everyone else's answer testimony."³

32. On August 23, 2019, Staff filed a Correction to its Unopposed Motion to Stay.

33. Good cause is found to grant the Unopposed Motion to Stay and waive response time. Due to the existing procedural schedule, the deadline for filing Answer testimony shall be stayed until August 30, 2019. Based upon any decision made by the Commission at the August 28, 2019, the parties may file a motion to further modify the procedural schedule.

³ Unopposed Motion to Stay, p. 1.

II. ORDER

A. It Is Ordered That:

1. The Unopposed Motion to Stay the Deadline to File Answer Testimony and to Waive Response Time (Unopposed Motion to Stay), filed by Trial Staff of the Commission on August 22, 2019, is granted.

2. The August 27, 2019 deadline to file answer testimony in this proceeding is stayed until August 30, 2019.

3. Response time to the Unopposed Motion to Stay is waived.

4. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ROBERT I. GARVEY

Administrative Law Judge

ATTEST: A TRUE COPY

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

Doug Dean,
Director