

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 19A-0409E

IN THE MATTER OF APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR APPROVAL OF CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY FOR THE ACQUISITION OF, AND APPROVAL OF COST RECOVERY FOR, THE MANCHIEF GENERATION FACILITY AND VALMONT 7 & 8.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
STEVEN H. DENMAN
VACATING PREHEARING CONFERENCE;
ESTABLISHING PROCEDURAL SCHEDULE;
SETTING HEARING DATES; AND NOTICE OF HEARING**

Mailed Date: October 8, 2019

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I. STATEMENT

1. This Interim Decision sets an evidentiary hearing in this Proceeding for January 22 and 23, 2020, commencing at 9:00 a.m., and adopts a consensus procedural schedule filed by Public Service Company of Colorado (Public Service or Company) on October 7, 2019.

A. Procedural History.

2. On July 23, 2019, Public Service filed with the Colorado Public Utilities Commission (Commission) a Verified Application (Application) for Certificates of Public Convenience and Necessity (CPCNs) for the acquisition of: (1) the 301 MW Manchief generation facility; and (2) the 82 MW Valmont generation facility. Public Service also seeks approval of the Company's cost recovery proposal relating to these two facilities. Along with the Application, Public Service filed the supporting testimony and attachments of three witnesses. This filing commenced the above-styled proceeding.

3. In Phase II of Public Service's 2016 Electric Resource Plan (ERP), the Commission approved the Company's Preferred Colorado Energy Plan Portfolio, which included *inter alia* 383 MW of existing gas generation assets. The 383 MW of existing gas generation assets are the subject of this Application.¹

4. On July 23, 2019, Public Service also filed a Motion for a Protective Order Affording Extraordinary Protection for Highly Confidential Information. That motion will be addressed in a separate Interim Decision.

5. During the Commission's weekly meeting on September 4, 2019, the Application was deemed complete for purposes of § 40-6-109.5, C.R.S., and was referred to an Administrative Law Judge (ALJ) for disposition. The undersigned ALJ was subsequently assigned to preside over this Proceeding.

¹ Application at pages 1-2. See Decision No. C18-0761 (mailed September 10, 2018). ¶¶ 103 – 108 and 119 – 121 at pages 31 – 33 and 36, in Proceeding No. 16A-0396E (Phase II ERP Decision). The Commission required Public Service to file a CPCN application to acquire the natural gas-fired resources and to address cost recovery requests for those resources in the required CPCN application filing. *Id.*, ¶¶ 119 – 121 at page 36 and Ordering Paragraph No. 4 at page 42.

6. The procedural history of this Proceeding is set forth in detail in Decision No. R19-0801-I (mailed on September 27, 2019) previously issued herein and is repeated here as necessary to put this Decision into context.

7. Decision No. R19-0801-I acknowledged the interventions as of right filed by the Colorado Office of Consumer Counsel (OCC) on August 20, 2019, and filed by Trial Staff of the Colorado Public Utilities Commission (Staff) on August 29, 2019. Decision No. R19-0801-I also granted the motions for permissive intervention filed on August 26, 2019 by Southwest Generation Operating Company, LLC (SW Generation) and filed on August 26, 2019 by Western Resource Advocates (WRA).

8. The Parties to this Proceeding are Public Service, Staff, OCC, SW Generation, and WRA.

9. Decision No. R19-0801-I scheduled a prehearing conference in this Proceeding for October 11, 2019 at 10:00 a.m. The Decision also directed the Parties to consult prior to the prehearing conference and encouraged them to present, if possible, a consensus procedural schedule and hearing date(s) that are acceptable to all Parties. The ALJ ordered Public Service to coordinate these discussions. The ALJ encouraged Public Service to make a filing no later than October 7, 2019, agreements on a consensus procedural schedule, hearing date(s), and the other procedural matters were reached.

10. On October 7, 2019, Public Service filed a Consensus Procedural Schedule pursuant to Decision No. R19-0801-I, which was agreed to by all the Parties. The ALJ has previewed the negotiated procedural schedule and hearing dates, and he finds them reasonable.

11. The Parties request that the ALJ vacate the prehearing conference. The ALJ agrees, and the prehearing conference scheduled for October 11, 2019 at 10:00 a.m. will be vacated.

B. Procedural Schedule and Evidentiary Hearing Dates.

12. The Parties agreed to the following procedural schedule, which the ALJ will adopt, as follows:

Procedural Activity	Date(s)
Answer Testimony & Attachments	December 6, 2019
Rebuttal and Cross-answer Testimony & Attachments	December 23, 2019
Stipulations &/or Settlement Agreements	January 15, 2020
Corrections to Pre-filed Testimony and Attachments	January 17, 2020
Evidentiary Hearing	January 22 and 23, 2020
Statements of Position (Filed Simultaneously)	February 6, 2020
Statutory Deadline for Commission Decision	May 11, 2020

C. Discovery-related Matters.

13. The Parties agreed that Rule 1405 of the Rules of Practice and Procedure, 4 *Code of Colorado Regulations* 723-1, will govern discovery procedures and timeframes in this proceeding.

14. Motions pertaining to discovery disputes may be filed at any time. The response time to a motion pertaining to a discovery dispute shall be five business days. All discovery motions and responses shall be filed and then served electronically by e-mail. If necessary, the

ALJ will hold a telephone hearing on a discovery-related motion, with notice to counsel for all Parties, as soon as practicable after the motion and response have been filed.

D. Electronic Hearing Exhibits.

15. All the Parties agreed that presentation of evidence at the hearing should be done through electronic exhibits to the fullest extent possible, with the exception of exhibits to be used for impeachment or rebuttal. A separate Interim Decision will be issued addressing the presentation of electronic exhibits at the hearing.

II. ORDER

A. It Is Ordered That:

1. An evidentiary hearing is scheduled in this matter as follows:

DATES: January 22 and 23, 2020

TIME: 9:00 a.m.

PLACE: Hearing Room
Colorado Public Utilities Commission
1560 Broadway, Suite 250
Denver, Colorado

2. The prehearing conference scheduled for October 11, 2019 at 10:00 a.m. is vacated.

3. Consistent with the discussion, findings, and conclusions in this Decision, the procedural schedule, as stated in Paragraph I.B.12 at page 4 of this Decision, is adopted and shall be followed by the Parties in this Proceeding.

4. The procedures and deadlines for discovery, set forth in ¶¶ I.C.13 and 14 at pages 4 and 5 of this Decision, are adopted and shall be followed by the Parties in this Proceeding.

5. The Parties shall comply with this Interim Decision, shall make the filings required by the procedural schedule, and shall abide by the procedural directives, adopted herein.

6. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

STEVEN H. DENMAN

Administrative Law Judge

ATTEST: A TRUE COPY

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

Doug Dean,
Director