

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
GRANTING UNOPPOSED MOTION
TO ALTER PROCEDURAL SCHEDULE
AND REQUEST FOR WAIVER OF RESPONSE TIME**

Mailed Date: November 27, 2019

I. BY THE COMMISSION

1. This Interim Decision grants the unopposed Motion to Alter Procedural Schedule and Request for Waiver of Response Time (Unopposed Motion) filed by Public Service Company of Colorado (Public Service or Company) on November 25, 2019, waives response time, and makes minor modifications to the dates in the adopted procedural schedule for filing Answer Testimony and Attachments, as well as for filing Rebuttal and Cross-answer Testimony and Attachments.

B. 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 (Manchief); and (2) the 82 MW Valmont generation facility (Valmont). 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 Manchief and Valmont facilities, for which Public Service seeks approval to acquire in this Application, were the 383 MW of existing gas generation assets approved in Phase II of the ERP.¹

4. 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.

5. The procedural history of this Proceeding is set forth in detail in Decisions previously issued herein and is repeated here as necessary to put this Decision into context.

6. Decision No. R19-0801-I (mailed on September 27, 2019) 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 unopposed motions for permissive intervention filed on August 26, 2019 by Southwest Generation Operating Company, LLC (SW Generation) and filed on the same date by Western Resource Advocates (WRA).

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.

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

8. After Public Service filed a Consensus Procedural Schedule on October 7, 2019, Decision No. R19-0827-I (mailed on October 8, 2019) adopted the negotiated procedural schedule and hearing dates, as follows:

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

9. On November 25, 2019, Public Service filed the Unopposed Motion, which states that Public Service and the other Parties are “in the midst of protracted good-faith settlement negotiations. Given the advanced stages of these negotiations, both Public Service and the parties believe a small extension of time and modification to the procedural schedule would be useful.”² Public Service requests short extensions of time for the dates to file Answer Testimony and Attachments and Rebuttal and Cross-answer Testimony and Attachments.

10. Rule 1408 of the Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1, sets forth the Commission’s policy to encourage the settlement of contested proceedings. When parties to contested proceedings are negotiating a settlement, it is a

² Unopposed Motion at page 3.

common practice for the parties to move to amend the adopted procedural schedule in order to focus on finalizing the settlement.³ When such a motion is unopposed and states good cause, modifications to the adopted procedural schedule are often granted in order to promote our policy of encouraging settlements in contested proceedings.

11. In the Unopposed Motion, Public Service states good cause to grant the requested modifications to the procedural schedule. Other than the two requested modifications, the dates in the procedural schedule will remain the same.

12. Because the Unopposed Motion has been agreed to by all Parties, response time will be waived.

13. The procedural schedule will be modified to extend the dates for filing Answer Testimony and Attachments as well as for filing Rebuttal and Cross-answer Testimony and Attachments, as requested and as set forth in Ordering Paragraph No. 3 of this Decision.

II. ORDER

A. It Is Ordered That:

1. The unopposed Motion to Alter Procedural Schedule and Request for Waiver of Response Time (Unopposed Motion) filed by Public Service Company of Colorado on November 25, 2019, is granted consistent with the discussion and findings in this Interim Decision.

2. Response time to the Unopposed Motion is waived.

³ See Rule 1502(e), 4 CCR 723-1, which states: “Nothing in this rule prohibits ... a motion to amend a procedural schedule set forth in an interim decision.”

3. The procedural schedule shall be modified as follows:

Procedural Activity	Dates
Answer Testimony and Attachments	December 16, 2019
Rebuttal and Cross-answer Testimony and Attachments	January 7, 2019
Stipulations and/or Settlement Agreements	January 15, 2020
Corrections to Pre-filed Testimony and Attachments	January 17, 2020
Evidentiary Hearing	January 22-23, 2020
Statements of Position (Filed Simultaneously)	February 6, 2020
Statutory Deadline for Commission Decision	May 11, 2020

4. 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

Doug Dean,
Director