

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 19AL-0687E

IN THE MATTER OF ADVICE LETTER NO. 1814 FILED BY PUBLIC SERVICE COMPANY OF COLORADO TO IMPLEMENT THE MODIFIED RESIDENTIAL ENERGY TIME-OF-USE SCHEDULE TO BECOME EFFECTIVE JANUARY 2, 2020.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
CONOR F. FARLEY
GRANTING MOTIONS TO INTERVENE, ESTABLISHING
SCHEDULE, SCHEDULING PUBLIC COMMENT
HEARING AND HEARING ON THE MERITS, GRANTING
MOTION FOR EXTRAORDINARY PROTECTION, AND
ESTABLISHING ELECTRONIC PROCEDURES**

Mailed Date: February 21, 2020

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A. It Is Ordered That:20

I. STATEMENT

A. Background

1. On December 2, 2019, Public Service Company of Colorado (PSCo or the Company) filed Advice Letter No. 1814-Electric with tariff sheets (Advice Letter and Tariff Sheets) implementing a Modified Residential Energy Time-of-Use Schedule and related tariff changes. PSCo states that the filing of the Advice Letter and Tariff Sheets is made pursuant to the Non-Unanimous Comprehensive Settlement Agreement (Three Case Settlement¹) approved by Decision No. C16-1075. The Three Case Settlement required PSCo to file the Advice Letter and Tariff Sheets by December 2, 2019.

2. PSCo proposes an effective date of January 2, 2020 for the Advice Letter and Tariff Sheets, as required by the Three Case Settlement. PSCo further requests that the Commission suspend the tariffs, and set the tariffs for hearing, with an effective date of January 1, 2021.

3. By Decision No. C19-1015 issued December 18, 2019, the Commission referred this proceeding to an Administrative Law Judge (ALJ) for disposition. The proceeding was subsequently assigned to the undersigned ALJ.

¹ The Three Case Settlement was filed in Consolidated Proceeding Nos. 16AL-0048E, 16A-0139E, and 16A-0055E and approved by Decision No. C16-1075 on November 23, 2016.

4. The following entities filed Notices of Interventions as of Right before the deadline established in Decision No. C19-1015: Trial Staff of the Commission (Staff) and the Office of Consumer Counsel (OCC) on December 18, 2019, and Colorado Energy Office (CEO) on January 16, 2020.

5. In addition, the following entities filed Motions or Petitions to Intervene in this proceeding before the deadline: Energy Outreach Colorado (EOC) on January 15, 2020; the City of Boulder (Boulder), Southwest Energy Efficiency Project (SWEEP), and Vote Solar on January 16, 2020; and Colorado Solar and Storage Association (COSSA), the Solar Energy Industries Association (SEIA), and Western Resource Advocates (WRA) on January 17, 2020.²

6. On December 27, 2019, PSCo filed a Motion for Extraordinary Protection seeking highly confidential protection for “proprietary system hourly marginal costs information.”³ PSCo seeks to limit disclosure of this information to Staff, OCC, the Commission (Commissioners, advisors, and the ALJ), and a “reasonable number” of attorneys and subject-matter experts.⁴ The Motion for Extraordinary Protection is unopposed.

7. On January 28, 2020, Decision No. R20-0062-I scheduled a prehearing conference in this proceeding for February 11, 2020, required the parties to confer regarding a schedule for the proceeding, and, required PSCo to file a report stating the results of the conferral.

8. On February 11, 2020, the prehearing conference took place. PSCo and all of the entities that filed Motions or Petitions to Intervene appeared at the prehearing conference.

² Staff, OCC, CEO, EOC, Boulder, SWEEP, Vote Solar, COSSA, SEIA, and WRA are referred to as Interveners in this Decision.

³ Motion for Extraordinary Protection at 1.

⁴ *Id.* at 5.

Among the topics discussed at the prehearing conference were the Motions and Petitions to Intervene, the Motion for Extraordinary Protection, suspension of the effective date of the Advice Letter and Tariff Sheets, a procedural schedule, the scheduling of the hearing in this proceeding, and the scheduling of public comment hearings.

B. Motions/Petitions to Intervene

9. At the outset of the prehearing conference, the ALJ addressed the Motions and Petitions to Intervene. Neither PSCo nor any of the other Intervenors objected to any of the Motions or Petitions to Intervene. Accordingly, the ALJ granted the Motions and Petitions to Intervene at the prehearing conference.

C. Extension of Time for a Commission Decision

10. In Decision No. C19-1015, the Commission set the tariff pages for hearing, which suspended the effective date for 120 days from the proposed effective date (January 2, 2020) through May 1, 2020. Section 40-6-111(1), C.R.S., provides that the Commission may, in its discretion, by a separate decision, suspend the effective date of the tariff page(s) for an additional 130 days. Thus, the Commission has the power and authority to suspend the effective date of the tariff pages for a maximum of 250 days, or through September 8, 2020.

11. The Advice Letter states in relevant part: “The Company [] requests, that in lieu of going into effect on January 2, 2020, that the tariffs be suspended by the Commission and that the Commission set a hearing on the proposed rates and tariff changes, with a requested effective date of January 1, 2021, after suspension.”⁵ At the prehearing conference, the ALJ noted that the Commission can only suspend the effective date of the Tariff Sheets through September 8, 2020. The ALJ then asked whether PSCo planned to file an amended advice letter and amended tariff

⁵ Advice Letter at 2.

sheets with a new effective date that, after suspensions totaling 250 days, would result in the end of the suspension period coinciding with the requested effective date of January 1, 2021. PSCo responded that it was willing to file an amended advice letter and amended tariff sheets with a new effective date that would result in the end of the suspension period falling somewhere between September 8, 2020 and the requested effective date of January 1, 2021. As justification, PSCo stated that it wants the Commission's final decision before January 1, 2021 so that it has time to educate ratepayers about the changes in rates and rate structure approved by the Commission, and implement those changes in PSCo's billing system, before they go into effect on January 1, 2021. However, the Advice Letter and Tariff Sheets state that the new proposed time-of-use (TOU) rates will go into effect on January 1, 2021 *only* for the volunteers participating in PSCo's TOU trial that commenced in 2017. As to the remainder of PSCo's ratepayers, the new proposed TOU rates will be implemented in waves starting on June 1, 2021 at the earliest. The reason is that the new proposed TOU rates cannot be implemented until advanced meters and its infrastructure (AMI) is deployed. Once AMI deployment is completed in a geographic area, PSCo proposes to implement the TOU rates for the ratepayers in that area. PSCo estimates that the deployment of AMI in the first geographic area will not be completed until approximately June 1, 2021.

12. PSCo ultimately stated that it is unnecessary for it to file an amended advice letter and tariff sheets with a new effective date that, after suspensions totaling 250 days, would synchronize the end of the suspension period with the requested effective date of January 1, 2021. As justification, PSCo cited statements in the Advice Letter and Tariff Sheets that PSCo contends state that it will not put into effect the new proposed rates until January 1, 2021. PSCo stated that it is thus legally prohibited from putting the proposed rates into effect before

January 1, 2021. Based on this representation upon which the ALJ relies, the ALJ withdrew the request for PSCo to file an amended advice letter and tariff sheets that would synchronize the effective date of the Tariff Sheets with the January 1, 2021 effective date of the rates requested in the Advice Letter and Tariff Sheets.

13. Based on the foregoing and a review of the Advice Letter and Tariff Sheets, the ALJ finds and concludes that it is not feasible for a final Commission decision to issue by May 1, 2020 due to the time available, the time necessary to address other pending matters, and the need for the Commission to have adequate time to deliberate the issues presented in this matter. Accordingly, the ALJ finds and concludes that it is necessary to extend the effective date of the tariff sheets filed with the Advice Letter for an additional 130 days pursuant to § 40-6-111(1), C.R.S., or through September 8, 2020. Based on the language of the Advice Letter and Tariff Sheets and the representation made at the prehearing conference, PSCo shall not put the proposed rates and rate structure into effect before January 1, 2021.

D. Schedule

14. Decision No. R20-0062-I ordered: (a) PSCo and all individuals or entities who intervene as of right or who seek to permissively intervene to confer in advance of the prehearing conference regarding a schedule for this proceeding; and (b) PSCo to file a report of the results of the conferral by February 7, 2020.

15. On February 7, 2020, PSCo filed the report stating that the parties had not reached agreement concerning a procedural schedule. PSCo, Staff, and the OCC proposed a procedural schedule culminating in a hearing from May 12 to 15, 2020 and Statements of Position (SOPs) due on May 29, 2020. The remaining Intervenors proposed a schedule with a hearing taking place from July 7 to 10, 2020 and SOPs due on July 31, 2020. After extended discussion on the

record and a recess to allow the parties to converse off the record, the parties agreed to the following schedule:

| <u>Event</u> | <u>Deadline</u> |
|--|------------------|
| Answer Testimony & Last Day to Serve Discovery Regarding Direct Testimony | April 24, 2020 |
| Rebuttal Testimony and Cross-Answer Testimony & Last Day to Serve Discovery Regarding Answer Testimony | May 21, 2020 |
| Prehearing Motions | June 3, 2020 |
| Corrections to Testimony | June 5, 2020 |
| Settlement or Stipulations | June 8, 2020 |
| Responses to Prehearing Motions | June 9, 2020 |
| Evidentiary Hearing | June 16-19, 2020 |
| SOPS | July 9, 2020 |

16. As stated at the prehearing conference, the schedule stated above is the most reasonable under the circumstances and shall be adopted.

E. Public Comment Hearings

17. Public comment hearings allow ratepayers to make statements that will inform the decision in this proceeding. Based on input from the parties at the prehearing conference and in informal electronic mail communications between the ALJ and the parties subsequent thereto, the following public comment hearings will be held at the dates and times specified below:

- a) April 8, 2020 in Grand Junction, Colorado; and
- b) April 16, 2020, in Denver, Colorado.

18. The following are the procedures for the public comment hearings:

- a) An individual who is a party or who is a representative of a party will not be permitted to present comments at the public comment hearings. Parties will present their positions and will make their comments through testimony at the evidentiary hearing.
- b) The public comment hearings will be transcribed.
- c) The public comment hearing will begin at 4:00 p.m. and will continue until concluded, but in no event later than 6:00 p.m.
- d) There will be a sign-in sheet. Individuals who wish to make a comment will sign up to speak and will be heard in the order in which they sign up to speak. Generally, the ALJ will permit each individual to speak for five minutes; but the length of time allotted to each speaker will depend on the number of persons who wish to speak.
- e) The ALJ may ask clarifying questions of an individual who makes a comment at the public comment hearings.

19. Members of the public can also submit written comments by filing them in this proceeding via the Commission's electronic filing system or by mailing them to the Commission.

F. Motion for Extraordinary Protection

20. In the Motion for Extraordinary Protection, PSCo seeks highly confidential protection for "proprietary system hourly marginal costs information" (Hourly Marginal Costs Information).⁶ PSCo explains that this information is contained in workpapers, including "a voluminous highly confidential workpaper of [PSCo] witness Mr. Steven W. Wishart."⁷ PSCo also anticipates that this information "may be provided in the course of this proceeding through discovery, subsequent testimony, or otherwise."⁸

21. PSCo states that the Hourly Marginal Costs Information is "commercially sensitive information that, if disclosed, could cause irreparable harm to the Company's trading

⁶ Motion for Extraordinary Protection at 1.

⁷ *Id.* at 1-3.

⁸ *Id.* at 2.

operations, the Company's ability to solicit cost-effective resources and, ultimately, the Company's customers."⁹ PSCo further states that if released, disclosure of the Hourly Marginal Costs Information "could seriously harm [PSCo's] traders who buy and sell energy in short term markets to reduce our energy costs."¹⁰ PSCo asserts that "[s]imilar information has been afforded highly confidential treatment in the Company's annual Qualifying Facilities ('QF') advice letter filings" and "in the Company's Electric Resource Plan ('ERP') proceedings."¹¹

22. PSCo specifically requests that access to the Hourly Marginal Costs Information be limited as follows:

[E]xcept for the Commissioners, the Administrative Law Judge ("ALJ") presiding over this proceeding, the Commission's advisors and advisory counsel, Staff and its attorneys, and the OCC and OCC's attorneys, [PSCo] seeks an order limiting party access to the Highly Confidential Information to a "reasonable number of attorneys" and a "reasonable number of subject matter experts" representing a party to this proceeding.¹²

23. Under Rule 1100(n) of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1, the information referenced above is presumed to be a public record. Rule 1101 provides the procedure and requirements for filing and seeking a document to be designated as highly confidential. Rule 1101(c) governs records that are presumed to be public under Rule 1100(n) and allows an entity or person to file a motion requesting highly confidential protection for records in accordance with Rule 1101(b). Rule 1100(d) specifies that the party requesting highly confidential protection carries the burden of proof to establish the need for highly confidential protection.

⁹ *Id.* at 5.

¹⁰ *Id.*

¹¹ *Id.* at 4.

¹² *Id.* at 5.

24. Under Rule 1101(b), 4 CCR 723-1, a motion seeking highly confidential treatment:

- (I) shall include a detailed description and/or representative sample of the information for which highly confidential protection is sought;
- (II) shall state the specific relief requested and the grounds for seeking the relief;
- (III) shall advise all other parties of the request and the subject matter of the information at issue;
- (IV) shall include a showing that the information for which highly confidential protection is sought is highly confidential; that the protection afforded by the Commission's rules for furnishing confidential information provides insufficient protection for the highly confidential information; and that, if adopted, the highly confidential protections proposed by the movant will afford sufficient protection for the highly confidential information;
- (V) shall be accompanied by a specific form of nondisclosure agreement requested;
- (VI) shall be accompanied by an affidavit containing the names of all persons with access to the information and the period of time for which the information must remain subject to highly confidential protection, if known; and
- (VII) shall include an exhibit, filed in accordance with the procedures established in paragraph (a), containing the information for which highly confidential protection is requested. Alternatively, the movant may show why providing the subject information would be overly burdensome, impractical, or too sensitive for disclosure.

25. Here, as summarized above, PSCo provides a detailed description of the information for which it seeks protection and a showing that it deserves and needs highly confidential protection. The Motion for Extraordinary Protection also includes a proposed form of nondisclosure agreement, an affidavit identifying the individuals that have access to the

information and stating that extraordinary protection sought for the information must remain in place “indefinitely,” and both a public version of the subject information with the allegedly highly confidential information redacted, and an unredacted highly confidential version of those documents. Finally, no party opposes the Motion for Extraordinary Protection.

26. PSCo has satisfied each of the requirements of Rule 1101(b) and has shown good cause for highly confidential protection of the identified information. Accordingly, PSCo’s Motion for Extraordinary Protection shall be granted.

G. Presentation of Exhibits Electronically Submitted During the Evidentiary Hearing

27. As discussed at the prehearing conference held on February 11, 2020, the presentation of evidence at the hearing shall be done through electronic exhibits to the fullest extent possible, with the exception of exhibits used for impeachment or rebuttal, or any other exhibits admitted in paper form during the hearing. If a pre-filed hearing exhibit marked for identification is admitted into evidence, it is anticipated that the electronic copy in the Commission’s file will be admitted by administrative notice, in lieu of receiving the identical paper copy (*e.g.*, the fact administratively noticed is that the copy on file is the content of the otherwise-admissible hearing exhibit).

28. To facilitate the presentation of exhibits electronically during the evidentiary hearing, the Commission will provide a spreadsheet identifying each hearing exhibit as it exists in the administrative record. The spreadsheet will include hyperlinks to the filings in the administrative record. The spreadsheet will be made available to the parties prior to the hearing

and marked as a hearing exhibit. Commission Staff will display pre-filed electronic filings during the hearing.¹³

29. Final versions of all hearing exhibits must be filed **on or before** the fourth business day prior to the hearing, unless otherwise ordered, so that the spreadsheet may be timely prepared and distributed during the three business days prior to the hearing. Hyperlinks will not be included for confidential or highly confidential information.¹⁴

30. After this deadline, any exhibit that is intended to be offered into evidence: (a) may be filed for the limited purpose of disclosure and shall not be marked for identification; (b) shall be marked for identification during the hearing and offered in paper form, and in such a circumstance, the party offering the document for admission is responsible for ensuring that a sufficient number of paper copies is available pursuant to Commission Rule 1501(b) of the Commission's Rules of Practice and Procedure, 4 CCR 723-1; and (c) will neither be included in the spreadsheet of electronic exhibits nor admitted in electronic form by administrative notice pursuant to this Decision.

31. Unless otherwise ordered, any party offering for admission any prefiled exhibit during the hearing shall ensure that one paper copy of each such prefiled hearing exhibit is available for use by the witnesses during the hearing. The paper copy made available at the hearing shall be marked for identification identically to the electronic version in the administrative record. The sponsoring party shall assure that the paper copy of the exhibit is identical to the electronic version.

¹³ Exhibits will be displayed on large monitors in the hearing room. Should the parties have technical questions relating to the electronic presentation of exhibits, they may contact Ms. Christie Nicks at (303) 894-2010.

¹⁴ A calculation of the fourth business day prior to hearing shall exclude the first day of the hearing and include each of the four business days preceding the hearing. For example, if the first day of the hearing falls on a Monday, then the fourth business day prior to hearing is Tuesday of the preceding week.

1. Assignment of Hearing Exhibit Number Blocks

32. Hearing exhibits shall be marked numerically and sequentially for identification by the filing parties within their respective blocks of numbers. In order to efficiently organize the numbering and preparation of exhibits for the hearing, all parties shall use a unified numbering system for all hearing exhibits. Parties should not duplicate hearing exhibits or attachments previously filed by another party.

33. The party initiating the proceeding is assigned hearing exhibit numbers 100 to 299.

34. Each intervening person or entity is assigned a block of 100 hearing exhibit numbers (*e.g.*, 300-399, 400-499, etc.) in the chronological order that notices of intervention by right and petitions for permissive intervention are filed, as reflected in the Commission's E-Filings System. As a result, the first person or entity noticing an intervention by right or requesting permissive intervention is assigned hearing exhibit numbers from 300 to 399, the second person or entity is assigned hearing exhibit numbers from 400 to 499, etc. Parties shall rely upon the Commission's E-Filings System to determine sequencing of requests for intervention (*i.e.*, without regard to whether or when the interventions were granted). To determine the sequencing and avoid duplicative use of blocks, parties are encouraged to confer as needed.

35. All exhibits first presented at the hearing will be marked for identification during the hearing using the next available sequential block of numbers. This includes any document used for impeachment or rebuttal that has not been prefiled as a hearing exhibit. If the exhibit is a document, the party offering it for admission shall ensure that a sufficient number of paper copies is available pursuant to Commission Rule 1501(b).

2. Identification and Filing Requirements for Hearing Exhibits

36. In addition to other requirements of the Commission's Rules of Practice and Procedure, 4 CCR 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 Interim Decision.¹⁵

37. Each type of a witness's testimony, including any attachments, (*e.g.*, direct, answer, rebuttal, cross-answer, and supplemental) shall be marked as one hearing exhibit number. Even if comprised of multiple electronic documents, the testimony and attachments will be one hearing exhibit. The title of each pre-filed hearing exhibit shall match the title entered in the Commission's E-Filings System and start with "Hearing Exhibit XXX." Hearing exhibits shall be marked numerically and sequentially for identification by the filing parties within their respective blocks. At the hearing, any party may sponsor an exhibit that was pre-filed by another party.

38. The title of all pre-filed written testimony should include the type of testimony and the name of the witness. For example, if Hearing Exhibit 100 is the direct testimony of witness John J. Doe, the following title should be used: "Hearing Exhibit 100, Direct Testimony of John J. Doe."

39. Anything accompanying pre-filed written testimony within a hearing exhibit (*e.g.*, exhibits, appendices, attachments, or attachments to filing) shall be referred to as an "attachment" to the testimony in the hearing exhibit and identified by the hearing exhibit number reference, the witness's initials, and a number sequence. Again, attachments will be part of the

¹⁵ In order to minimize the size and allow electronic text searches of the PDF files, versions filed in PDF format should be generated from the native executable electronic file format when possible.

hearing exhibit identifying each type of testimony. For example, if the party assigned block 300 files answer testimony of Albert B. Cooke, that includes a table as Attachment ABC-1, then the title of the table will be “Hearing Exhibit 300, Attachment ABC-1.” The attachment should not be referred to as Exhibit ABC-1 or Appendix A.

40. Any party wishing to admit any document used for impeachment or rebuttal, may do so by presenting a paper copy of the document at the time of the hearing.¹⁶ In such a circumstance, the party offering the document into evidence is responsible for ensuring that there are an appropriate number of paper copies available at the time of the hearing. In addition to an original, copies for the other parties, and a copy for the witness, the parties should bring a copy for the advisor(s) and the ALJ.

3. Formatting of Hearing Exhibits

41. The first page of **all** hearing exhibits shall be page 1, with each additional page numbered in succession. This will match the page numbers to the electronic file page numbers, which will facilitate electronic navigation during the hearing. For example, the cover page shall be page 1, and all following pages shall be numbered sequentially, including executive summaries, tables of contents, and lists of attachments.

42. There shall be only one page number shown on each page of hearing exhibits. Page numbers should be included in the header of each page-numbered hearing exhibit. The top line of the header shall include the title of the document (*e.g.*, Hearing Exhibit 400, Answer Testimony of Albert B. Cooke or Hearing Exhibit 400, Attachment ABC-1).

¹⁶ To be clear, the parties are not required to pre-file documents to be used solely for impeachment or rebuttal.

43. A person may modify formatting options in revisions to filed documents in order to minimize the resulting impact to page and line references (*e.g.*, widen a paragraph margin to insert a word).

44. Titles entered into the Commission's E-Filings System should be in title format (*i.e.*, not all capitals).

4. Filing of Executable Attachments to Hearing Exhibits

45. Any spreadsheet filed as, or that is the basis for, an attachment to a hearing exhibit shall be filed in both .pdf format and in the native executable electronic file format (*e.g.*, .xlsx, .ods, .gsheet).

46. The title of the executable version filed shall mirror the title identifying the pre-filed version and include the word "Executable" after the hearing exhibit number. For example: Hrg. Ex. 300, Executable Attachment ABC-1C.

47. The executable version is not required to be marked for identification as a hearing exhibit and paginated in the same manner as the PDF version.

48. All executable versions shall have the various cell formulae or links left intact. Cell formulae shall not be converted to values.

49. The executable version shall be filed on the same day as the pre-filed PDF version.

5. Modifying, Amending, or Correcting a Previously Filed Hearing Exhibit on or Before the Deadline for Corrections

50. Should a party need to modify, amend, or correct a previously identified hearing exhibit **on or before the** ordered deadline for such changes before the hearing, the following procedures shall be followed.

51. If the native executable electronic file format is **not** a spreadsheet, a complete revision including all changes in redline/strikeout format shall be filed.¹⁷ No modification, amendment, or correction shall be made to a filed hearing exhibit without indicating a new revision number, as described below. The same title shall be used for the title as the original, except that a revision number reference should be added to give notice of the change.

52. For example, if Hearing Exhibit 100, Direct Testimony of John J. Doe changed, it would be filed as Hearing Exhibit 100, Direct Testimony of John J. Doe, Rev. 1 containing redlined modifications to the original version.¹⁸ If an additional revision is later filed, it would be filed as Hearing Exhibit 100, Direct Testimony of John J. Doe, Rev. 2 and would contain all redlined modifications as compared to the original version (*i.e.*, not only as compared to Rev. 1). For Rev. 2 and all subsequent revisions, the filing shall also include a notice identifying changes in each revision from the most recent previous revision. Further, the title of any revision should not contain the word “corrected” even if the revision corrects the prior filing.

53. If the native executable electronic file format **is** a spreadsheet (*e.g.*, .xlsx, .uos, .gsheet), a complete revision including all changes shall be filed. The changes do *not* need to be in redline/strikeout format. No modification, amendment, or correction shall be made to a filed hearing exhibit without indicating a new revision number (*e.g.*, Rev. 1). The same title shall be used for the title as the original, except that a revision number reference should be added to give notice of the change. The revision pages shall also include an additional notice attachment (*i.e.*, as a secondary document if electronically filed) identifying changes in each revision from the

¹⁷ Filing a “clean” version is not necessary and is discouraged.

¹⁸ “Rev.” stands for revision.

most recent previous revision. Additionally, a complete revision of the executable spreadsheet, including all changes, shall be filed in accordance with Section F above.

54. The most recent revision of a hearing exhibit shall be the version utilized during the evidentiary hearing. References in testimony to obsolete versions of other testimonies will be construed to be amended to refer to the latest filed version of such testimony, unless otherwise specified. Although corresponding page and line references may reasonably be affected by such construction, corrected references will not be necessary (*i.e.*, no need to amend) so long as the reference remains in reasonable proximity to the referenced material. Thus, a reference in answer testimony to page 10, line 5 of someone else's direct testimony need not be revised when a revision is filed to such direct testimony so long as page 10, line 5 is in reasonable proximity to the referenced material.

6. Modifying, Amending, or Correcting a Previously Filed Hearing Exhibit After the Deadline for Corrections

55. Should a party need to modify, amend, or correct a previously identified hearing exhibit **after the** ordered deadline for such changes, or during the hearing, the following procedures shall be followed.

56. If the native executable electronic file format is **not** a spreadsheet, all changes should be reflected on replacement pages only in redline/strikeout format that will be presented in paper form during the hearing.¹⁹ The replacement pages shall collectively be marked for identification at the time of the hearing as a separate hearing exhibit. The replacement pages shall also include an additional notice attachment (*i.e.*, as a secondary document if electronically filed) identifying changes in each revision from the most recent previous revision.

¹⁹ Filing a "clean" version is not necessary and is discouraged.

57. If the native executable electronic file format is a spreadsheet (*e.g.*, .xlsx, .uos, .gsheet), all changes should be reflected on replacement pages only that will be presented in paper form during the hearing. The changes do *not* need to be in redline/strikeout format. The revision pages shall also include an additional notice attachment (*i.e.*, as a secondary document if electronically filed) identifying changes in each revision from the most recent previous revision. Additionally, a complete revision of the executable spreadsheet, including all changes, shall be filed in accordance with Section F above.

58. If the changes are permitted, and assuming the original filing otherwise admissible, both hearing exhibits would be admitted into evidence during the hearing with the latter replacement pages superseding and prevailing to the extent of conflict in the previous revision.

59. References to superseded portions of a hearing exhibit will be construed to be amended to refer to the replacement pages, unless otherwise specified. Although corresponding page and line references may reasonably be affected by such construction, corrected references will not be necessary (*e.g.*, no need to amend) so long as the reference remains in reasonable proximity to the referenced material. Thus, a reference in answer testimony to page 10, line 5 of someone else's direct testimony need not be revised when a replacement page 10 is filed so long as page 10, line 5 is in reasonable proximity to the referenced material.

7. Procedures Regarding Confidentiality

60. Any pre-filed hearing exhibit (including attachments) filed in accordance with the Standards of Conduct in the Commission's Rules of Practice and Procedure containing confidential information shall be pre-marked for identification by the same hearing exhibit

number within the assigned block identifying the portion in the public record and shall be designated with a “C” following the number of the hearing exhibit or attachment.

61. For example, a witness’s pre-filed written testimony might be identified as Hearing Exhibit 100, Direct Testimony of John J. Doe. If portions of the testimony in Hearing Exhibit 100, Direct Testimony of John J. Doe are claimed to be confidential, those portions would be filed in accordance with the Standards of Conduct and identified as Hearing Exhibit 100C, Direct Testimony of John J. Doe. Hearing Exhibit 100, Direct Testimony of John J. Doe would remain in the public record (redacted to exclude confidential material).

62. Further, if portions of Hearing Exhibit 100, Direct Testimony of John J. Doe, Attachment JJD-1 are claimed to be confidential, those portions would be filed in accordance with the Standards of Conduct and identified as Hearing Exhibit 100, Attachment JJD-1C. Hearing Exhibit 100, Attachment JJD-1 would remain in the public record (redacted to exclude confidential material). Comparably, should any highly confidential protections be afforded, the hearing exhibit number would be designated with an “HC” following the number.

63. A deadline will be established, as ordered below, for any objections to the admissibility of any pre-filed hearing exhibits marked for identification (*e.g.*, authenticity).

II. ORDER

A. It Is Ordered That:

1. The following Motions and Petitions to Intervene are granted and the filing entities are parties to this proceeding:

- a) The Motion to Intervene filed by Energy Outreach Colorado on January 15, 2020;
- b) The Petition for Leave to Intervene filed by City of Boulder on January 16, 2020;

- c) The Joint Motion to Intervene filed by Southwest Energy Efficiency Project and Vote Solar on January 16, 2020;
- d) The Joint Motion to Intervene filed by the Colorado Solar and Storage Association on January 17, 2020; and
- e) The Petition for Leave to Intervene filed by Western Resource Advocates on January 17, 2020.

2. Public Service Company of Colorado (PSCo), the Office of Consumer Counsel, and Trial Staff of the Public Utilities Commission are also parties to this proceeding.

3. The Motion for Extraordinary Protection filed by PSCo on December 27, 2019 is granted consistent with the discussion above.

4. The schedule specified in paragraph 15 above is adopted.

5. An evidentiary hearing in this proceeding is scheduled as follows:

DATES: June 16 through 19, 2020
TIMES: June 16, 18 through 19, 2020 – 9:00 a.m.; June 17, 2020 – to be determined²⁰
PLACE: Commission Hearing Room A
1560 Broadway, 2nd Floor
Denver, Colorado

6. Public comment hearings are scheduled as follows:

DATE: April 8, 2020
TIME: 4:00 p.m. until concluded, but not later than 6:00 p.m.
PLACE: Gary Konzak Training Room
Grand Junction Police Department
555 Ute Avenue
Grand Junction, Colorado 81501

²⁰ The hearing on June 17, 2020 shall commence after the completion of the Commissioners' Weekly Meeting.

DATE: April 16, 2020
TIME: 4:00 p.m. until concluded, but not later than 6:00 p.m.
PLACE: Commission Hearing Room A
1560 Broadway, 2nd Floor
Denver, Colorado

7. 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.²¹ Among other things:

- a) Any spreadsheet filed as, or that is the basis for, an attachment to a hearing exhibit shall be filed in both .pdf format and in the native executable electronic file format (e.g., .xlsx, .ods, .gsheet).
- b) To comply with this Decision, Public Service Company of Colorado shall revise and re-file the testimony it filed with its Application in accordance with ordered procedures and the discussion above within 14 days of the date of this Decision. For purposes of this Decision, any such filings shall be treated as the original filing of hearing exhibits.²²
- c) All corrections to any pre-filed hearing exhibits marked for identification shall be filed on or before the deadline for "Corrected Testimony" established in the procedural schedule.
- d) Any objections to the admissibility of any pre-filed hearing exhibits marked for identification (e.g., authenticity) shall be filed by the deadline for "Pre-hearing Motions" established in the procedural schedule.
- e) At the hearing, all parties shall provide one paper copy of each pre-marked hearing exhibit they intend to offer for use by the witnesses during examination.

²¹ If the Commission's E-Filings System does not accept the electronic format of any pre-filed hearing exhibit, an electronic copy must be filed with the Commission on a CD, DVD, or portable drive. If any such hearing exhibit is created from a spreadsheet, the native executable electronic file format must be filed simultaneously on the same CD, DVD, or portable drive.

²² Compliance with this Decision may result in a change to pagination of prior versions of hearing exhibits. References in discovery requests and responses to prior versions of hearing exhibits will be construed to be amended to refer to the latest filed version of such testimony, unless otherwise specified. Although corresponding page and line references may reasonably be affected by such construction, corrected references will not be necessary (*i.e.*, no need to amend) so long as the reference remains in reasonable proximity to the referenced material.

8. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

CONOR F. FARLEY

Administrative Law Judge

ATTEST: A TRUE COPY

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

Doug Dean,
Director