

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 19A-0728E

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF
COLORADO FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR
THE VOLTAGE CONTROL FACILITIES ASSOCIATED WITH THE COLORADO ENERGY
PLAN.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
CONOR F. FARLEY
ESTABLISHING SCHEDULE, SCHEDULING HEARING,
AND ESTABLISHING ELECTRONIC PROCEDURES**

Mailed Date: March 5, 2020

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I. STATEMENT

1. On December 20, 2019, Public Service Company of Colorado (PSCo) filed the Application described in the caption of this Decision.

2. On the same day, the Commission issued notice of the Application (Notice).

3. On January 10, 2020, Trial Staff of the Commission (Staff) filed a notice of intervention by right and entry of appearance.

4. On January 21, 2020, the Office of Consumer Counsel filed a notice of intervention and entry of appearance.

5. On January 29, 2020, the Commission deemed the Application complete and referred this proceeding to an Administrative Law Judge (ALJ) for disposition. The proceeding was subsequently assigned to the undersigned ALJ.

6. On February 21, 2020, the ALJ issued Decision No. R20-0122-I that: (a) scheduled a prehearing conference for March 4, 2020 at 9:00 a.m.; (b) ordered the parties to confer in advance of the prehearing conference regarding a schedule for this proceeding; and (c) ordered PSCo to file a report of the results of the conferral by March 2, 2020.

7. On March 2, 2020, PSCo filed an Unopposed Motion to Adopt Consensus Procedural Schedule, Vacate Prehearing Conference, and for Leave to File Supplemental Direct Testimony (Unopposed Motion). In the Unopposed Motion, PSCo reported that the parties had reached agreement on a proposed procedural schedule. PSCo also stated it has agreed to a request by Staff to file supplemental testimony addressing PSCo's "cost estimates associated

with the” Greenwood to Denver Terminal 230 kV Transmission Project addressed in Proceeding No. 20A-0063E.¹ The schedule agreed to by the parties is as follows:²

| <u>Event:</u> | <u>Date/Deadline:</u> |
|---------------------------------------|------------------------------|
| Supplemental Direct Testimony | March 13, 2020 |
| Answer Testimony | April 17, 2020 |
| Rebuttal/Cross-Answer Testimony | May 6, 2020 |
| Stipulations/Settlement Agreement(s) | May 25, 2020 |
| Corrections to Testimony and Exhibits | May 26, 2020 |
| Evidentiary Hearing | June 1-2, 2020 |
| Statements of Position | June 19, 2020 |

8. As to discovery, the parties agree that:

the discovery timelines and procedures in Rule 1405(b) and Rule 1405(d) shall control, provided that for purposes of calculating due dates, any discovery served on a party at or after 3:00 p.m. on a Friday or the day before a holiday shall be deemed to be submitted [] on the next business day. In addition, state holidays will be excluded for the purpose of calculating due dates. Discovery responses, except attachments, shall be served in a single document (e.g., .doc, .docx, or .pdf) unless otherwise agreed to by the requesting and responding parties. All discovery requests and responses will be served upon each Party to the proceeding.³

A. Analysis

1. Extension of Deadline

9. As stated in the Notice, because PSCo filed testimony with the Application, the Commission is required by § 40-6-109.5(1), C.R.S., to issue its decision within 120 days of the

¹ Unopposed Motion at 3-4 (¶ 6).

² *Id.* at 3 (¶ 4).

³ *Id.* at 4 (¶ 7).

Application being deemed complete by the Commission. Thus, the Commission's decision in this proceeding must issue by May 28, 2020. However, § 40-6-109.5(1), C.R.S., also provides that the Commission may, in its discretion and by a separate decision, extend the time for a decision by an additional 130 days.

10. Here, considering 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, it is not feasible for a final Commission decision to issue by May 28, 2020. Accordingly, pursuant to § 40-6-109.5(1), C.R.S., it is necessary to extend the deadline for an additional 130 days to October 5, 2020.

2. Pre- and Post-Hearing Schedule

11. The pre- and post-hearing schedule proposed by the parties is acceptable. Accordingly, it shall be accepted with the additions for prehearing motions, and responses thereto included in the table below:

| <u>Event:</u> | <u>Date/Deadline:</u> |
|---|------------------------------|
| Supplemental Direct Testimony | March 13, 2020 |
| Answer Testimony | April 17, 2020 |
| Rebuttal/Cross-Answer Testimony | May 6, 2020 |
| Prehearing Motions | May 18, 2020 |
| Stipulations/Settlement Agreement(s) Responses to Prehearing Motions | May 25, 2020 |
| Corrections to Testimony and Exhibits | May 26, 2020 |
| Statements of Position | June 19, 2020 |

3. Hearing

12. As agreed to by the parties, the hearing shall be scheduled for June 1 and 2, 2020 at 9:00 a.m.

4. Presentation of Exhibits Filed Electronically During Evidentiary Hearing

13. 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).

14. 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.⁴

15. 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.⁵

⁴ 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.

⁵ 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.

16. 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 *Code of Colorado Regulations* (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.

17. 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.

a. Assignment of Hearing Exhibit Number Blocks

18. 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.

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

20. 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.

21. 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).

b. Identification and Filing Requirements for Hearing Exhibits

22. 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.⁶

23. 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

⁶ 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.

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.

24. 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."

25. 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 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.

26. 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.⁷ In such a circumstance, the party offering the document into evidence is responsible for ensuring that there

⁷ To be clear, the parties are not required to pre-file documents to be used solely for impeachment or rebuttal.

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.

c. Formatting of Hearing Exhibits

27. 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.

28. 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).

29. 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).

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

d. Filing of Executable Attachments to Hearing Exhibits

31. 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).

32. 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.

33. 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.

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

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

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

36. 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.

37. If the native executable electronic file format is **not** a spreadsheet, a complete revision including all changes in redline/strikeout format shall be filed.⁸ 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.

38. 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

⁸ Filing a “clean” version is not necessary and is discouraged.

redlined modifications to the original version.⁹ 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.

39. 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 most recent previous revision. Additionally, a complete revision of the executable spreadsheet, including all changes, shall be filed in accordance with Section 4.d above.

40. 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

⁹ “Rev.” stands for revision.

a revision is filed to such direct testimony so long as page 10, line 5 is in reasonable proximity to the referenced material.

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

41. 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.

42. 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.¹⁰ 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.

43. 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 4.d above.

44. 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

¹⁰ Filing a “clean” version is not necessary and is discouraged.

latter replacement pages superseding and prevailing to the extent of conflict in the previous revision.

45. 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.

g. Procedures Regarding Confidentiality

46. 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.

47. 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).

48. 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.

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

DATES: June 1 and 2, 2020

TIME: 9:00 a.m.

PLACE: Commission Hearing Room B
1560 Broadway, 2nd Floor
Denver, Colorado

2. The procedural schedule stated in paragraph 11 above is adopted.

3. For the reasons stated above, the deadline for a Commission decision on the Application filed in this proceeding is extended to October 5, 2020.

4. 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.¹¹ 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.¹²

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.

¹¹ 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.

¹² 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.

5. 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