

Decision No. R20-0489-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 20V-0159EG

IN THE MATTER OF THE JOINT PETITION OF ATMOS ENERGY CORPORATION, COLORADO NATURAL GAS, PUBLIC SERVICE COMPANY OF COLORADO, BLACK HILLS COLORADO GAS, INC., BLACK HILLS COLORADO ELECTRIC, LLC, AND ROCKY MOUNTAIN NATURAL GAS LLC FOR AUTHORIZATION TO TRACK EXPENSES RESULTING FROM THE EFFECTS OF COVID-19 AND RECORD AND DEFER SUCH EXPENSES INTO A REGULATORY ASSET.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
MELODY MIRBABA
GRANTING OUTSTANDING MOTIONS**

Mailed Date: July 7, 2020

I. STATEMENT

1. Only the procedural history necessary to understand this Decision is included. This matter concerns the above-captioned Joint Petition filed on April 7, 2020. Colorado Public Utilities Commission Trial Staff (Staff) and the Office of Consumer Counsel (the OCC) are the only interveners in this proceeding.

2. On June 2, 2020, the Administrative Law Judge (ALJ) established a procedural schedule and set an evidentiary hearing on the above-captioned matter. Decision No. R20-0414-I.

3. On June 23, 2020, Public Service Company of Colorado (Public Service) filed an Unopposed Motion to Approve an Amended Procedural Schedule to Extend Direct Testimony Deadline seeking to extend the deadline to file direct testimony from June 25, 2020 to July 9, 2020. The ALJ granted that Motion on June 23, 2020. Decision No. R20-0458-I. In so doing, the ALJ

did not modify any other aspects of the Decision establishing the procedural schedule and hearing dates (Decision No. R20-0414-I).

4. On June 26, 2020, Black Hills Colorado Gas, Inc., Black Hills Colorado Electric, LLC and Rocky Mountain Natural Gas LLC (collectively Black Hills Energy) filed an Unopposed Motion to Amend Caption (Motion) seeking to amend the caption to replace the reference to Black Hills Colorado Electric, Inc. with Black Hills Colorado Electric, LLC.

5. On July 2, 2020, Public Service filed a Notice of Settlement, Unopposed Joint Motion to Vacate Direct Testimony Deadline, and Request for Waiver of Response Time (Unopposed Motion or Unopposed Joint Motion to Vacate Direct Testimony Deadline).

A. Unopposed Motion to Amend Caption.

6. The Motion states that it is unopposed. Motion, ¶ 1. The Motion explains that in 2018, Black Hills Colorado Electric, Inc. was converted from a corporation to a limited liability company, and that its legal name changed to Black Hills Colorado Electric, LLC. *Id.* at ¶ 3. The Motion states that the Joint Petition inadvertently refers to the outdated name, Black Hills Colorado Electric, Inc., and that it should refer to the correct legal name, Black Hills Colorado Electric, LLC instead. *Id.* at ¶ 2 and 4. As such, the Motion seeks to amend the caption to reflect the correct legal name, Black Hills Colorado Electric, LLC.

7. Because the Motion is unopposed, the ALJ finds good cause to waive the response time to it, and will do so. Rule 1400(b) of the Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1. Black Hills Energy has established good cause to amend the caption as requested. In addition, because the Joint Petition refers to an incorrect and outdated legal name, all references in the Joint Petition to Black Hills Colorado Electric, Inc. will be construed as referring to Black Hills Colorado Electric, LLC.

B. Unopposed Joint Motion to Vacate Direct Testimony Deadline.

8. The Unopposed Joint Motion to Vacate Direct Testimony Deadline states that it is filed by Joint Petitioners, the OCC, and Staff, but it is only signed by counsel for Public Service Company of Colorado (Public Service).¹ The Unopposed Motion provides notice that the parties have reached a unanimous settlement in principle. For that reason, the Unopposed Motion seeks to vacate the deadline to file direct testimony, set new deadlines to file a settlement agreement and testimony in support thereof, and asks that the response time to it be waived. Unopposed Motion, ¶ 8.

9. As its title implies, the Unopposed Motion states that it is unopposed. *Id.* at ¶ 1. The Unopposed Motion asks for a July 16, 2020 deadline to file the settlement agreement and related motion and for a July 31, 2020 deadline to file testimony in support thereof. *Id.* at ¶ 9. It also states that after these deadlines are met, it may be appropriate to vacate the remaining deadlines in Decision No. R20-0414-I, and possibly to retain the hearing dates.

10. Because the Unopposed Motion is unopposed, the ALJ finds good cause to waive the response time to it, and will do so. Rule 1400(b), 4 CCR 723-1. The ALJ concludes that Public Service has provided good cause to vacate the deadline to file direct testimony and to establish the new deadlines referenced above. Indeed, it benefits all parties to direct their resources toward reducing their agreement to writing and providing written testimony in support of their agreement. This is also consistent with the Commission's policy of encouraging parties to reach agreements resolving their disputes. Rule 1408, 4 CCR 723-1. As such, the ALJ will grant the Unopposed Motion.

¹ Because the Unopposed Motion states that it is unopposed, it makes little difference that it is signed only by Public Service rather than all parties.

11. Vacating the deadline to file direct testimony has a cascading impact on all other types of written testimony for which deadlines have been established. Specifically, because answer testimony is responsive to direct testimony, there is no need for answer testimony. Likewise, because cross-answer testimony is responsive to answer testimony, there is no need for cross-answer testimony. Finally, because rebuttal testimony is responsive to answer and cross-answer testimony, there is no need for rebuttal testimony. As such, the ALJ will also vacate these deadlines. The parties are on notice that should they fail to file a unanimous settlement agreement by the required deadline, the ALJ may issue an order establishing deadlines to file direct, answer, cross-answer, and rebuttal testimony well in advance of the October 20, 21 and 23, 2020 hearing dates.

II. ORDER

A. It Is Ordered That:

1. The response time to the Unopposed Motion to Amend Caption (Motion) is waived and the Motion is granted. The caption is amended as reflected on page 1 of this Decision. All references in the above-captioned Joint Petition to Black Hills Colorado Electric, Inc. are construed as references to Black Hills Colorado Electric, LLC.

2. The response time to the Notice of Settlement, Unopposed Joint Motion to Vacate Direct Testimony Deadline, and Request for Waiver of Response Time (Unopposed Motion) is waived and the Unopposed Motion is granted.

3. Consistent with the above discussion, the deadline established in Decision No. R20-0485-I to file direct testimony is vacated, and the deadlines established in Decision No. R20-0414-I to file answer, cross-answer, and rebuttal testimony are vacated. No other aspects of either of those Decisions are modified.

4. The parties must file their settlement agreement and accompanying motion to approve settlement agreement by July 16, 2020.
5. The deadline to file testimony in support of the settlement agreement is July 31, 2020.
6. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

MELODY MIRBABA

Administrative Law Judge

ATTEST: A TRUE COPY

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

Doug Dean,
Director