

Decision No. R20-0595-I

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO**

PROCEEDING NO. 20F-0243E

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UTILITIES BOARD OF THE CITY OF LAMAR,

COMPLAINANT,

V.

SOUTHEAST COLORADO POWER ASSOCIATION,

RESPONDENT.

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**INTERIM DECISION OF  
ADMINISTRATIVE LAW JUDGE  
CONOR F. FARLEY  
ESTABLISHING SCHEDULE AND SCHEDULING  
REMOTE EVIDENTIARY HEARING**

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Mailed Date: August 13, 2020

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**I. STATEMENT****A. Relevant Background**

1. On June 2, 2020, Utilities Board of the City of Lamar (LUB) filed a formal complaint (Complaint) against Southeast Colorado Power Association (SECPA).

2. On June 4, 2020, the Commission scheduled the Complaint for an evidentiary hearing on August 17, 2020 starting at 9:00 a.m. On the same date, the Commission served the Order Setting Hearing and Notice of Hearing and other documents on LUB.

3. Also on June 4, 2020, the Commission served on SECPA the Complaint, the Order Setting Hearing and Notice of Hearing, and an Order to Satisfy or Answer.

4. On June 10, 2020, the Commission referred this proceeding to an Administrative Law Judge (ALJ). The proceeding was subsequently assigned to the undersigned ALJ.

5. On June 24, 2020, SECPA filed its Answer and Counterclaims.

6. On July 14, 2020, LUB filed its Reply to SECPA's Counterclaims.

7. On July 17, 2020, the ALJ issued Decision No. R20-0528-I that converted the in-person hearing into a remote hearing and provided instructions.

8. On July 22, 2020, LUB and SECPA filed a Joint Request to Vacate the Hearing and Schedule a Prehearing Conference (Joint Request).

9. On July 29, 2020, the ALJ issued Decision No. R20-0547-I that granted the Joint Request by vacating the remote hearing scheduled for August 17, 2020, and setting a remote prehearing conference for August 7, 2020.

10. On August 7, 2020, the ALJ held the prehearing conference scheduled in Decision No. R20-0547-I. This Interim Decision memorializes the decisions made at that hearing.

**B. Schedule**

11. In the Joint Request and again at the remote prehearing conference, the parties proposed the following schedule for this proceeding:

<b><u>Event</u></b>	<b><u>Deadline</u></b>
Direct Testimony by LUB regarding its Complaint and by SECPA regarding its Counterclaims	August 24, 2020
Answer Testimony by SECPA regarding LUB's Complaint and by LUB regarding SECPA's Counterclaims	September 21, 2020
Rebuttal Testimony by LUB regarding its Complaint and by SECPA regarding its Counterclaims	October 12, 2020
Deadline for Settlement, Stipulations, and Prehearing Motions	October 19, 2020
Deadline for Responses to Prehearing Motions, and Corrections to Testimony	October 26, 2020
Evidentiary Hearing	November 9-10, 2020
Deadline for Post-Hearing Statements of Position	December 2, 2020
Statutory Deadline	March 19, 2020 <sup>1</sup>

12. As stated at the prehearing conference, the schedule stated above is reasonable and shall be adopted.

13. LUB and SECPA also propose that: "(a) Commission Rule 1405 will apply to the discovery procedures in this proceeding with one modification: discovery served after 3:00 p.m.

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<sup>1</sup> Joint Request at 2-3 (¶ 3).

on a Friday or before a holiday will be considered as served the next business day for purposes of calculating the due date for responses;”<sup>2</sup> and (b) “[t]o the extent the procedural schedule and discovery procedures are adopted prior to July 30, 2020, the parties agree that the provisions of the Commission’s recently amended Rules of Practice and Procedure shall apply to this proceeding prior to and after July 30, 2020.”<sup>3</sup> As stated at the prehearing conference, the parties’ agreed-upon modification to Rule 1405, 4 *Colorado Code Regulations* 723-1, for purposes of this proceeding is adopted, and it is acknowledged that the Commission’s recently amended Rules of Practice and Procedure apply to this proceeding.

**C. Remote Hearing**

14. As noted above, a remote evidentiary hearing shall be scheduled for November 9 and 10, 2020. The ALJ finds that holding the hearing remotely, in which the parties, witnesses, and Commission Staff participate from remote and discrete locations, is consistent with current public health advisories to prevent the spread of COVID-19. The ALJ concludes that it is in the parties’ and the public interest to hold the hearing remotely.

**D. Instructions for Participating in, and Observing, the Remote Hearing**

15. Attachment A to this Decision provides instructions on how to use the GoToMeeting platform for participating in the remote hearing.

**E. Electronic Exhibits**

16. The presentation of evidence at the hearing shall be done through electronic exhibits to the fullest extent possible. Instructions for the electronic presentation of exhibits at the hearing (and for preparing prefiled testimony) are included in Attachment B.

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<sup>2</sup> *Id.* at 3 (¶ 4).

<sup>3</sup> *Id.* at 3 n. 4.

## II. ORDER

### A. It Is Ordered That:

1. A remote evidentiary hearing is scheduled as follows:

DATES: November 9 and 10, 2020

TIME: 9:00 a.m.

FOR WEBCASTS: Hearing Room A

METHOD: Join by video conference at the link to be provided by an email from the Administrative Law Judge

2. Nobody should attend the remote evidentiary hearing in-person.

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

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 Attachment B hereto.

5. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

CONOR F. FARLEY

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Administrative Law Judge

ATTEST: A TRUE COPY

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

Doug Dean,  
Director