

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

PROCEEDING NO. 20AL-0301E

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IN THE MATTER OF ADVICE LETTER NO. 1828 ELECTRIC OF PUBLIC SERVICE COMPANY OF COLORADO TO REVISE ITS COLORADO P.U.C. NO. 8 – ELECTRIC TARIFF TO IMPLEMENT AN ADVANCED GRID RIDER TO BE EFFECTIVE ON AUGUST 17, 2020.

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**INTERIM DECISION OF  
ADMINISTRATIVE LAW JUDGE  
ROBERT I. GARVEY  
SETTING PROCEDURAL SCHEDULE;  
FURTHER SUSPENDING EFFECTIVE  
DATE OF TARRIF SHEET; GRANTING  
INTERVENTIONS; AND SETTING PUBLIC HEARING**

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Mailed Date: September 30, 2020

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**I. STATEMENT**

1. On July 17, 2020, Public Service Company of Colorado (Public Service) filed Advice Letter No. 1828 with tariff sheets to implement an Advanced Grid Rider (AGR), which is designed to recover certain costs associated with implementation of Public Service's Advanced Grid Intelligence and Security (AGIS) Initiative. The proposed effective date of the tariffs filed with Advice Letter No. 1828 is August 17, 2020.

2. In the Advice Letter, Public Service proposes to implement a time-limited AGR in order to recover costs associated with the deployment of its AGIS Initiative, an effort to enhance the distribution system related to security, efficiency, reliability, and customer access. Proceeding No. 16A-0588E resulted in approval of a Settlement Agreement and a Certificate of Public Convenience and Necessity for foundational components of the AGIS Initiative, including advanced metering infrastructure (AMI), Integrated Volt-Var Optimization, and portions of the FAN communications network. Other aspects of the AGIS Initiative are being undertaken in the ordinary course of business, including the Advanced Distribution Management System and Geospatial Information System, a spatial load forecasting tool, Fault Location Isolation and Service Restoration, and private network portions of the Field Area Network (FAN). Public Service provides testimony describing distribution system and information technology integration work related to AGIS Initiative activities

3. Accompanying Advice Letter No. 1828 was a Motion for Extraordinary Protection of Highly Confidential Information.

4. On July 29, 2020, the Colorado Office of Consumer Counsel (OCC) filed its Protest and requested the matter be suspended and set for an evidentiary hearing.

5. On August 14, 2020, by Decision No. C20-0594, the effective date of Advice Letter No. 1828 was suspended and Proceeding No. 20AL-0301E was referred to an Administrative Law Judge (ALJ).

6. On August 14, 2020, the OCC filed its Notice of Intervention. The OCC listed numerous issues to be explored to determine if Advice Letter No. 1828 is in the public interest.

7. On August 18, 2020, by Decision No. R20-0604-I, a prehearing conference was scheduled for September 22, 2020.

8. On September 4, 2020, Colorado Public Utilities Commission Trial Staff (Staff) filed a Notice of Intervention as of Right, Entry of Appearance, Notice Pursuant to Rule 1007(a), and Request for Hearing.

9. On September 4, 2020, the OCC filed its Motion to Dismiss Pursuant to Rules 12(b)(5) and 56(b) and (h) of the Colorado Rules of Civil Procedure, Public Service Company of Colorado's Advice Letter No. 1828 to Revise its Colorado P.U.C. No. 8 – Electric Tariff to Implement an Advanced Grid Rider (Motion to Dismiss).

10. On September 10, 2020, the Colorado Energy Consumers (CEC) filed their Motion to Permissively Intervene. In its Motion to Permissively Intervene, CEC states that it was an active participant in prior Commission proceedings that are foundational to Advice Letter No. 1828. In addition, CEC states its members have pecuniary and tangible interests since any impact on electric rates or changes to electric service can result in a substantial impact to CEC members' continued ability to effectively operate their businesses.

11. On September 11, 2020, Mission:data Coalition, Inc. (Mission:data) filed its Motion to Intervene. In its Motion to Intervene, Mission:data states that it was an active participant in prior Commission proceedings that are foundational to Advice Letter No. 1828. In

addition, Mission:data states its members have pecuniary and tangible interests since fair, non-discriminatory, and reasonably-priced access to Public Service's AMI meters' energy usage data directly affects the bottom line of Mission:data's members.

12. On September 11, 2020, Energy Outreach Colorado (EOC) filed its Motion to Intervene. In its Motion to Intervene, EOC states that it was an active participant in prior Commission proceedings that are foundational to Advice Letter No. 1828. In addition, EOC states it has a tangible and pecuniary interest in ensuring that Public Service's AGR proposal does not result in rate increases and/or uncertainty in rates that unjustly, unreasonably, or disproportionately burden low-income customers and, as a result, impact the demand for EOC's services.

13. On September 11, 2020, Western Resource Advocates (WRA), filed its Motion to Intervene. In its Motion to Intervene, WRA states that it was an active participant in prior Commission proceedings that are foundational to Advice Letter No. 1828. In addition, WRA states it has a tangible and pecuniary interest in the above captioned proceeding.

## **II. FURTHER SUSPENSION OF EFFECTIVE DATE OF TARIFF SHEETS.**

14. The Commission has suspended the effective date of the tariffs that accompanied Advice Letter No. 1828 until December 15, 2020. By further order, the Commission may suspend for additional time, the effective date of the tariff sheets that accompanied the Advice Letter.

15. By this Decision and pursuant to § 40-6-111(1), C.R.S., and Rules 4 *Code of Colorado Regulations* (CCR) 723-1-1305(c) and 723-1-1305(e) of the Commission's Rules of Practice and Procedure, the ALJ will suspend for an additional 130 days (that is until, **April 24, 2021**), the effective date of the tariff sheets that accompanied the Advice Letter. If the

Commission does not establish new rates by that date, the tariff sheets filed with the Advice Letter may become effective.

### **III. INTERVENTIONS**

#### **A. Standard for Intervention**

16. Two classes of parties may intervene in proceedings such as this: parties with a legally protected right that may be impacted by the proceeding (intervention of right), and parties with pecuniary or tangible interests that may be substantially impacted by the proceeding (permissive intervention). Rule 1401(b) and (c), 4 CCR 723-1; *see* § 40-6-109(1), C.R.S., *RAM Broadcasting of Colo. Inc., v. Public Utilities Comm'n*, 702 P.2d 746, 749 (Colo. 1985).

#### **B. Interventions by Right**

17. Staff and the OCC are intervenors by right. They are parties in this proceeding.

#### **C. Permissive Interventions**

18. The following parties have moved to permissively intervene in this proceeding: CEC, Mission:data, EOC, and WRA.

19. Public Service has not objected to the intervention of any party.

20. All parties who have permissively intervened in the above captioned proceeding were granted an intervention in Proceeding No. 16A-0558E. The advice letter filing in the above captioned proceeding is a result of the settlement signed by each of the permissive intervenors in Proceeding No. 16A-0558E. The undersigned ALJ shall grant the interventions based upon the policy decisions made by the Commission in Proceeding No. 16A-0558E.

**IV. MOTION FOR PROPOSED PROCEDURAL SCHEDULE**

21. In their Unopposed Motion, Public Service states the parties have agreed to the following procedural schedule:

Public Hearing	October 21, 2020
Answer Testimony & Exhibits	December 9, 2020
Rebuttal/Cross Answer Testimony & Exhibits	January 8, 2021
Deadline for Corrected Testimony	January 20, 2021
Pre-hearing Motions	January 20, 2021
Witness Order & Estimated Cross Time	January 20, 2021
Stipulations & Settlement Agreements	January 20, 2021
Evidentiary Hearing	January 25-28, 2021
Statements of Position	February 10, 2021

22. The Parties agree that Rule 1405 of the Rules of Practice and Procedure in existence at the time of Public Service’s filing are applicable to this proceeding. Specifically, parties have ten calendar days to respond to direct and answer discovery and seven calendar days to respond to rebuttal discovery.

23. The parties also agree to the following discovery procedures:

- a) Service of all discovery requests after 3:00 p.m. Mountain Time on a Friday or the day before a Colorado State holiday, or all discovery requests served on Saturday, Sunday, or a Colorado State holiday, will be deemed served on the next business day. State holidays will be excluded from the calculation of discovery due dates;
- b) The discovery cut-off deadlines stated in Rule 1405(d) will apply to initial discovery requests and to requests that follow-up on information provided in response to an initial discovery request. That is, all initial and follow-up discovery requests related to Public Service’s direct testimony and

- attachments shall be served prior to the deadline for filing answer testimony. All initial and follow-up discovery requests related to an intervenor's answer testimony and attachments shall be served prior to the deadline for filing rebuttal and cross-answer testimony. All initial and follow-up discovery requests related to rebuttal and cross-answer testimony and attachments shall be served no later than five business days prior to the first day of the hearing;
- c) The Joint Movants agree to service of discovery through electronic mail. The Joint Movants also agree that Public Service's electronic mail service will provide access to a link to an external SharePoint site that will provide Public Service's electronic versions of discovery responses. This modification is appropriate because it maximizes the time Parties are allowed to respond to discovery and promotes efficiency and cost savings;
  - d) With the exception of any supplemental or corrected responses that may be subsequently filed, responses to an individual set of discovery requests, except for attachments, will be provided in a single, combined document. In the event that not all responses to an individual set of discovery requests are available on the due date, the available responses will be provided in a single document on the due date;
  - e) The parties will provide workpapers supporting their Answer, Rebuttal, or Cross-Answer Testimony within three business days of filing of the testimony; and
  - f) In compliance with Rules 1101(g) and 1101(h), all confidential and highly confidential documents and discovery responses (and any requests containing confidential or highly confidential information) will be served on counsel for the parties that have executed the appropriate nondisclosure agreements (this includes counsel's authorized administrative and para-professional staff who have executed the appropriate nondisclosure agreements) and, if authorized by counsel for the parties as permitted by Rule 1101(h), may also be disclosed to a party's experts or advisors. The manner of service of discovery requests and responses containing confidential and highly confidential documents and information will be filed electronically unless such requests and responses are too voluminous to use that method, in which event service will be at the discretion of the serving counsel.

24. The proposed procedural schedule and discovery procedures are acceptable and good cause is found for their adoption.

## V. PUBLIC HEARING

25. The ALJ finds that, given the uncertainty which the novel coronavirus (COVID-19) pandemic creates on future public gatherings, it is in the best interests of the parties

and Commission personnel to hold the public comment hearing remotely and that doing so is consistent with emergency declarations and public health advisories to prevent the spread of COVID-19. Therefore, the ALJ will order that the public comment hearing be held remotely by video conference.

26. The Commission prefers written comments over oral comments. As a result, interested persons are encouraged to submit written comments through either: (a) the Commission's Electronic Filing System at <https://www.dora.state.co.us/pls/efi/EFI.homepage> in this proceeding; or (b) the Commission's website at <https://puc.colorado.gov/> by clicking on the "FILE A COMMENT OR COMPLAINT" link. Both oral and written comments will be given the same weight in this proceeding.

27. For those individuals who want to provide oral comments, the Commission will use the web-hosted video conferencing service, GoToMeeting, to hold video conferences, and in this case, a remote public comment hearing. Video-conference participation allows for oral comments to be presented in a manner most similar to that which occurs during in-person hearings. Individuals who wish to provide oral comments during the public comment hearing can participate and provide their comments either by telephone or computer. Attachment A to this Decision sets forth general instructions and requirements for how to participate by telephone or by computer. These requirements are intended to ensure that the remote hearing proceeds efficiently without technical problems. Attachment A includes important requirements and technical information on participating in the hearing through GoToMeeting. Hence, it is vitally important that participants and counsel carefully review and follow all requirements in this Decision and Attachment A.

28. **To Participate by Telephone.** Any member of the public or party who wishes to provide comments by telephone during the remote public comment hearing must call +1 872-240-3412 when the hearing takes place. When prompted, input the pin 672-077-461. You will then be placed into the public comment hearing. Please note that your session and participation will be controlled by the ALJ/Commission Staff. When you are not speaking, please mute your telephone.

29. **To Participate by Computer.** Any member of the public or participant who wishes to participate in the public comment hearing by computer must use a computer that is connected to the internet and has a microphone and a speaker. At the time of the hearing, please go to <https://global.gotomeeting.com/join/672017461>. When you are not speaking, please mute your microphone. Attachment A contains detailed instructions for participating in the hearing using GoToMeeting.

30. The ALJ anticipates that the hearing will be webcast, consistent with Commission practice. This means that those persons wishing to observe the hearing may do so without needing to join the hearing online. Please use the audio or video connection for Hearing Room A found at <https://puc.colorado.gov/webcasts>.

## **VI. REMOTE HEARING**

31. On March 10, 2020, Colorado Governor Jared Polis declared a state of emergency over COVID-19. Since then, Colorado State government and the Commission have been working diligently to address how to safely and effectively manage the challenges presented by COVID-19. These efforts have focused on limiting the disruption to the services delivered by the Commission (and other State agencies), while attempting to mitigate the risks to State employees and the public. For example, the Commission has been conducting its Weekly

Meetings remotely, and the Commission has asked members of the public not to attend meetings in person, but to view them by webcast. Finally, public access to the building containing the Commission's offices and hearing rooms has been restricted and it is unclear when the restriction will be lifted.

32. Under these circumstances, the hearing scheduled for January 25 through 28, 2021 shall be converted into a remote hearing in which the participants will appear from remote locations, as provided below. The ALJ finds that holding a remote hearing 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 in this proceeding as a remote hearing.<sup>1</sup>

**A. Instructions for Participating in the Remote Hearing**

33. Attachment A to this Decision provides the requirements and information addressing how to use the GoToMeeting platform for participating in the hearing.

34. Parties must follow the procedures for exhibits contained in Attachment B to this Decision.

**VII. ORDER**

**A. It Is Ordered That:**

1. An evidentiary hearing in this matter is scheduled for the following dates, at the following time, and in the following location:

DATES: January 25 through January 28, 2021

TIME: 9:00 a.m.

PLACE: By video conference using GoToMeetings at link provided to parties by email

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<sup>1</sup> If conditions change and the restrictions are lifted, the hearing may revert back to an in person hearing.

2. A remote public comment hearing is scheduled for October 21, 2020. It shall take place from 4:00 p.m. until it is concluded. Members of the public who wish to participate in and/or to provide oral comments at the remote public comment hearing, must follow the instructions stated above in of this Interim Decision and in Attachment A.

3. The Motion to Intervene filed by the Colorado Energy Consumers on September 10, 2020, is granted and they are a party to the above captioned proceeding.

4. The Motion to Intervene filed by Mission:data Coalition, Inc. on September 11, 2020, is granted and they are a party to the above captioned proceeding.

5. The Petition for Leave to Intervene filed by Energy Outreach Colorado on September 11, 2020 is granted and they are a party to the above captioned proceeding.

6. The Motion for Leave to Intervene filed by Western Resource Advocates on September 11, 2020 is granted and they are a party to the above captioned proceeding.

7. The procedural schedule as stated above is adopted.

8. Attachment A is incorporated into this Decision.

9. Attachment B is incorporated into this Decision.

10. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

ROBERT I. GARVEY

Administrative Law Judge

ATTEST: A TRUE COPY

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

Doug Dean,  
Director