

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 20AL-0432E

IN THE MATTER OF ADVICE LETTER NO. 1835 – ELECTRIC FILED BY PUBLIC SERVICE COMPANY OF COLORADO TO REVISE ITS COLORADO P.U.C. NO. 8 - ELECTRIC TARIFF TO ELIMINATE THE CURRENTLY EFFECTIVE GENERAL RATE SCHEDULE ADJUSTMENTS ("GRSA") AND GENERAL RATE SCHEDULE ADJUSTMENT - ENERGY ("GRSA-E"), AND PLACE INTO EFFECT REVISED BASE RATES AND OTHER AFFECTED CHARGES FOR ALL ELECTRIC RATE SCHEDULES IN THE COMPANY'S ELECTRIC TARIFF, INCLUDING UPDATED ELECTRIC AFFORDABILITY PROGRAM ("EAP"), LOAD METER, AND PRODUCTION METER CHARGES TO BECOME EFFECTIVE NOVEMBER 19, 2020.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
STEVEN H. DENMAN
GRANTING VERIFIED MOTIONS
TO APPEAR *PRO HAC VICE***

Mailed Date: December 23, 2020

I. STATEMENT

1. This Interim Decision grants, consistent with the discussion below, the Out of State Counsel's Verified Motion Requesting *Pro Hac Vice* Admission of Patrick T. Zomer (Mr. Zomer's Motion) and the Verified Motion of Peter Meier Requesting Permission to Appear *Pro Hac Vice* on behalf of the Federal Executive Agencies (Mr. Meier's Motion).

A. Procedural History.

2. On October 19, 2020, Public Service Company of Colorado (Public Service) filed Advice Letter No. 1835-Electric along with tariff sheets. Through Advice Letter No. 1835-Electric, Public Service proposes to allocate its approved \$1,835,585,415 revenue requirement¹

¹ The amount of \$1,828,985,415 was approved in Proceeding No. 20AL-0268E and \$6,600,000 for the Electric Affordability Program was allowed in Proceeding No. 20AL-0090E.

across customer classes, based on a Class Cost of Service Study (CCOSS) using the 2019 Test Year approved by the Commission in Proceeding No. 19AL-0268E. Public Service states that this filing does not affect its annual revenue. This Proceeding is a Phase II Electric Rate Case.

3. The effective date of the tariff sheets filed with Advice Letter No. 1835-Electric have been suspended for a total of 250 days until July 27, 2021, pursuant to § 40-6-111(1)(b), C.R.S. (2019).²

4. The procedural history of this Proceeding is set forth in Decisions previously issued herein and will be repeated only as necessary to put this Decision into context.

5. At the prehearing conference held on December 22, 2020, the presiding Administrative Law Judge (ALJ) granted the Motion to Intervene filed by the Federal Executive Agencies (FEA) on December 10, 2020, which Public Service did not oppose. In due course, the Commission will issue an Interim Decision memorializing the grant of permissive intervention to FEA. FEA's permissive intervention was effective on December 22, 2020.

B. Motions to Appear *Pro Hac Vice*.

6. An attorney who is not licensed to practice law in Colorado must be granted permission to appear *pro hac vice* in a Commission proceeding. Rule 1201(a) of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1 (2020), governs the admission of out-of-state attorneys. Rule 1201(a) requires compliance with Colorado Rule of Civil Procedure (Colo.R.Civ.P.) 205.4, which itself expressly incorporates Colo.R.Civ.P. 205.3.

7. As pertinent here, Colo.R.Civ.P. 205.3(2)(a) details what an out-of-state attorney must do to be permitted to appear *pro hac vice* and includes these requirements:

² See Decision No. C20-0793 (issued on November 10, 2020) and Decision No. R20-0887-I (issued on December 11, 2020).

- a) File a verified motion with the administrative agency requesting permission to appear;
- b) Designate an associate attorney who is admitted and licensed to practice law in Colorado;
- c) File a copy of the verified motion with the Clerk of the Supreme Court Office of Attorney Registration at the same time the verified motion is filed with the administrative agency;
- d) Pay the required fee to the Clerk of the Supreme Court collected by the Office of Attorney Registration; and
- e) Obtain permission from the administrative agency for such appearance.

8. On October 19, 2020, Patrick T. Zomer of Moss & Barnett, P.A., moved for *pro hac vice* admission to practice before the Commission in the above-captioned Proceeding to represent Public Service. Mr. Zomer's Motion and his attached Affidavit attested to satisfaction of the requirements of Colo.R.Civ.P. 205.3(2)(a) summarized above. Mr. Zomer's Motion states that Mr. Zomer is a member in good standing of the Bar in Minnesota and that he has not previously sought *pro hac vice* admission in Colorado. Anne Zellner Sherwood, a member of the Colorado bar, signed Mr. Zomer's Motion and was designated as the associated attorney for Mr. Zomer.³

9. Mr. Zomer filed a copy of the Verified Motion with the Clerk of the Colorado Supreme Court. The Office of Attorney Registration of the Colorado Supreme Court (OAR) filed proof of Mr. Zomer's *Pro Hac Vice* registration with the Commission on October 20, 2020. The OAR assigned to Mr. Zomer *Pro Hac Vice* registration number 20PHV6293. The Proof of *Pro Hac Vice* Registration verified that Mr. Zomer has paid the \$300.00 filing fee, required by Colo. R. Civ. P. 205.3(1)(iii) and (iv), and that a disciplinary history obtained by the OAR reveals no adverse information.

³ Mr. Zomer's Motion at pages 1 –6; 7 and 8.

10. On December 7, 2020, Mr. Meier's Motion was filed, requesting permission for Mr. Meier to appear *pro hac vice* on behalf of the FEA in this Proceeding. The Meier Motion states that Mr. Meier is licensed to practice law and is in active status in the District of Columbia and the State of Maryland. Mr. Meier is also licensed to practice law and is in inactive status in the Commonwealth of Virginia and the Commonwealth of Massachusetts. Mr. Meier is a member in good standing of each of those jurisdictions. He was previously granted Colorado *pro hac vice* admission in Proceeding No. 19AL-0268E before this Commission. Mr. Meier's Motion attested to satisfaction of the requirements of Colo.R.Civ.P. 205.3(2)(a) summarized above. Ronald J. Klinefelter, a member of the Colorado bar, signed Mr. Meier's Motion and was designated as the associated attorney for Mr. Meier.⁴

11. FEA filed a copy of Mr. Meier's Motion with the Clerk of the Colorado Supreme Court. The OAR filed proof of Mr. Meier's *Pro Hac Vice* registration with the Commission on December 9, 2020. The OAR assigned to Mr. Meier *Pro Hac Vice* registration number 19PHV5823. The Proof of *Pro Hac Vice* Registration verified that Mr. Meier has paid the \$300.00 filing fee, required by Colo. R. Civ. P. 205.3(1)(iii) and (iv), and that a disciplinary history obtained by the OAR reveals no adverse information.

12. No responses either to Mr. Zomer's Motion or Mr. Meier's Motion have been filed in this Proceeding. Rule 1400(d) of the Rules of Practice and Procedure, 4 CCR 723-1, states: "The Commission may deem a failure to file a response as a confession of the motion."

13. The ALJ has considered Mr. Zomer's Motion or Mr. Meier's Motion and the Proofs of their *Pro Hac Vice* Registrations filed in this Proceeding.

⁴ Mr. Meier's Motion at pages 1 – 3; 5 and 6.

14. Mr. Zomer has satisfied the requirements of Colo.R.Civ.P. 205.4. Therefore, the ALJ will grant Mr. Zomer's Motion and will grant permission to Mr. Zomer to appear *pro hac vice* as an attorney in this Proceeding on behalf of Public Service.

15. Mr. Meier has satisfied the requirements of Colo.R.Civ.P. 205.4. Therefore, the ALJ will grant Mr. Meier's Motion and will grant permission to Mr. Meier to appear *pro hac vice* as attorneys in this Proceeding on behalf of FEA.

16. Colo.R.Civ.P. 205.3(4) states that, "A separate petition, fee, and order granting permission are required for each action in which the attorney appears as *pro hac vice* counsel in Colorado." Therefore, the grants of permission in this Decision for Mr. Zomer and Mr. Meier to appear *pro hac vice* on behalf of their respective clients apply only to this Proceeding.

II. **ORDER**

A. **It Is Ordered That:**

1. The Out of State Counsel's Verified Motion Requesting *Pro Hac Vice* Admission of Patrick T. Zomer, filed on October 19, 2020, is granted consistent with the discussion in this Interim Decision.

2. The Verified Motion of Peter Meier Requesting Permission to Appear *Pro Hac Vice* on behalf of the Federal Executive Agencies, filed on December 7, 2020, is granted consistent with the discussion in this Interim Decision.

3. This Interim Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

STEVEN H. DENMAN

Administrative Law Judge

ATTEST: A TRUE COPY

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

Doug Dean,
Director