

Decision No. C04-1537

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04S-164E

RE: THE INVESTIGATION AND SUSPENSION OF TARIFF SHEETS FILED BY PUBLIC SERVICE COMPANY WITH ADVICE LETTER NO. 1411.

**ORDER GRANTING MOTION, ESTABLISHING
ADDITIONAL PROCEDURAL DATES, AND
DIRECTING PUBLIC SERVICE TO
COORDINATE PREHEARING MATTERS**

Mailed Date: December 23, 2004
Adopted Date: December 21, 2004

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of a Motion for Leave to File Supplemental Direct Testimony (motion) filed by Public Service Company of Colorado (Public Service or Company) on December 13, 2004. In Decision No. C04-1498, we shortened response time to Public Service's motion to noon on December 20, 2004. Staff of the Commission (Staff) timely filed a Response to Public Service's Motion for Leave to File Supplemental Direct Testimony (response).

2. Further, this matter comes before the Commission upon its own motion for consideration of modifying the start time of the first day of hearing and of how to efficiently conduct the hearings in this case.

3. Now, being duly advised in the matter, we grant the motion and refine the procedural requirements consistent with the discussion below.

4. In its motion, Public Service requests that the Commission allow it to supplement its direct testimony to introduce modest changes to its proposed net metering and net billing tariff to be consistent with the requirements of § 40-2-124, C.R.S.,¹ which went into effect on December 1, 2004. Public Service contends that the new law impacts the net metering and net billing proposals that the Company made in its direct case.

5. The Company suggests that all Intervenors be given until January 3, 2005 to file any Supplemental Answer Testimony responding to the Company's Supplemental Direct Testimony. Public Service states that it would be willing to respond to discovery addressing its Supplemental Direct Testimony within the same seven calendar day timeframe that the Commission has established for discovery addressing Rebuttal Testimony. Public Service indicates that it would then seek leave to provide oral rebuttal limited to the issues raised in any Supplemental Answer Testimony that is filed.

6. Staff does not object to Public Service's motion including the suggested January 3, 2005 filing date for Supplemental Answer Testimony.

7. We find that Public Service has stated good cause to supplement its direct testimony and we therefore grant the motion. Supplemental Answer Testimony shall be filed on January 3, 2005. We require Intervenors to serve their Supplemental Answer Testimony on January 3, 2005 either electronically or by hand-delivery (rather than by mail) of hard copies according to the preference for service of testimony and exhibits originally selected by an

¹ Section 40-2-124(c), C.R.S., requires qualifying retail utilities to generate or acquire specific minimum amounts of energy from solar renewable energy resources. Section 40-2-124(e), C.R.S., in part, requires the Company to reimburse customers who install solar generation facilities for any excess electricity supplied to the utility system at a rate equal to the utility's average hourly incremental cost of electricity supplied over the prior 12-month period.

Intervenor in this case. Public Service shall be allowed to present oral rebuttal testimony limited to the issues raised in any Supplemental Answer Testimony during the hearing.

8. Responses to discovery on Supplemental Direct Testimony shall be served within seven calendar days. The cut-off date for discovery on Supplemental Direct Testimony shall be January 3, 2005. Responses to discovery on Supplemental Answer Testimony shall be served within three business days. The cut-off date for discovery on Supplemental Answer Testimony shall be January 10, 2005.

9. We further modify the start time to 10:00 a.m. for the first day of hearing, January 10, 2005.²

10. In order to conduct this proceeding efficiently, given the number of witnesses (33) and intervening parties (14), the breadth of issues, and the fact that there are only three weeks of hearing, we direct Public Service upon our own motion to prepare the following:

- a) An agreed-upon order of cross-examination list by party.
- b) An agreed-upon order of witnesses delineated by party. This list should reflect, to the extent possible, any limitations on availability of witnesses.
- c) An estimation of cross-examination times by witness, by party, and the total for the case.

11. We direct all parties to provide their cross-examination time estimates for each witness and availability of their own witnesses to Public Service by close of business on December 30, 2004. Public Service shall file the summarized list discussed above with the Commission by close of business on January 4, 2005.

² All other hearing days will start at 9:00 a.m.

12. We further direct the parties to arrange with the court reporters to have all pre-filed exhibits and any intended exhibits identified and marked prior to the 10:00 a.m. hearing commencement on January 10, 2005.

II. ORDER

A. The Commission Orders That:

1. The Motion for Leave to File Supplemental Direct Testimony filed by Public Service Company of Colorado on December 13, 2004 is granted.

2. Supplemental Answer Testimony shall be filed and served to other Intervenors on January 3, 2005.

3. The request of Public Service Company of Colorado to present oral rebuttal limited to issues raised in Supplemental Answer Testimony during the hearing is granted.

4. Discovery response times and cut-off dates are adopted as discussed above.

5. The hearing start time shall be 10:00 a.m. on January 10, 2005.

6. All parties shall provide their availability of witnesses and estimates of cross-examination time to Public Service Company of Colorado by close of business on December 30, 2004.

7. Public Service Company of Colorado shall file with the Commission the summary of cross-examination by witness, by party, and in total by close of business on January 4, 2005.

8. All prefiled testimony and exhibits shall be identified and marked prior to the 10:00 a.m. hearing commencement on January 10, 2005.

9. This Order is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
December 21, 2004.**

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners