

Decision No. C14-1130

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14AL-0660E

IN THE MATTER OF ADVICE LETTER NO. 1672 - ELECTRIC OF PUBLIC SERVICE COMPANY OF COLORADO TO REVISE THE GENERAL RATE SCHEDULE ADJUSTMENT (GRSA) RIDER APPLICABLE TO ALL ELECTRIC BASE RATE SCHEDULES AND REVISE THE TRANSMISSION COST ADJUSTMENT (TCA) TO REMOVE COSTS THAT HAVE BEEN SHIFTED TO BASE RATES TO BECOME EFFECTIVE JULY 18, 2014.

PROCEEDING NO. 14A-0680E

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR APPROVAL OF ITS ARAPAHOE DECOMMISSIONING AND DISMANTLING PLAN.

**DECISION ESTABLISHING PROCEDURAL
SCHEDULE AND REQUIRING FILINGS**

Mailed Date: September 16, 2014
Adopted Date: September 3, 2014

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I. **BY THE COMMISSION**

A. **Statement**

1. On June 17, 2014, Public Service Company of Colorado (Public Service or Company) filed Advice Letter No. 1672 in Proceeding No. 14AL-0660E. By Decision No. C14-0807, issued July 15, 2014, we set the tariff sheets filed under Advice Letter No. 1672 for hearing and suspended their effective date for 120 days under § 40-6-111(1), C.R.S.

2. On June 23, 2014, Public Service filed an Application for Approval of Arapahoe Decommissioning and Dismantling Plan (Application) in Proceeding No. 14A-0680E and a Motion to Consolidate Proceedings.¹ By Decision No. C14-1043 issued August 28, 2014, we set the Application for hearing, granted the Motion to Consolidate Proceedings, and scheduled a prehearing conference for September 3, 2014 for the purpose of establishing a procedural schedule.

3. As instructed in Decision No. C14-1043, on September 2, 2014, Public Service filed a Procedural Schedule Proposal, which included proposed deadlines for the filing of written testimony, deadlines related to discovery, dates for an evidentiary hearing, deadlines for the filing of prehearing motions and response times, and a deadline for the filing of any stipulations and settlement agreements.² Parties were also instructed to provide suggested dates by which the Commission will schedule at least one public comment hearing.

¹ A Motion to Consolidate Proceedings was also filed in Proceeding No. 14AL-0660E, June 24, 2014.

² On September 11, 2014, Public Service filed a supplement to its September 2, 2014 Procedural Schedule Proposal detailing the refund mechanism associated with rates that take effect prior to the Commission’s issuance of a final decision in this matter.

4. By this Decision, we adopt the proposed procedural schedule consistent with the discussion below. We also schedule a public comment hearing, require additional filings, and set forth instructions for the evidentiary hearing.

B. Proposed Procedural Schedule

5. In its September 2, 2014 filing, Public Service proposes a procedural schedule that included the following dates and deadlines:

Answer Testimony and Exhibits	November 7, 2014
Rebuttal and Cross-Answer Testimony and Exhibits	December 17, 2014
Corrections to Testimony and Exhibits.....	January 14, 2015
Stipulations and Settlement Agreements	January 14, 2015
Prehearing and Dispositive Motions	January 14, 2015
Prehearing Conference	January 21, 2015
Evidentiary Hearing (8 days).....	January 26, 2015 – February 4, 2015
Statements of Position.....	March 6, 2015

6. With the exception of a few provisions set forth in the Procedural Schedule Proposal or discussed at the September 3, 2014, prehearing conference, the parties are not seeking approval of any waivers from the general rules for discovery set forth in 4 *Code of Colorado Regulations* 723-1, the Commission’s Rules of Practice and Procedure. Public Service proposes October 17, 2014, at 3:00 p.m. as the cut-off date for discovery directed at the Company’s Direct Testimony. After that date, each party may submit up to five additional questions, counting subparts as individual questions, until November 7, 2014. The cut-off date for discovery directed to Answer Testimony is December 17, 2014, and the cut-off date for discovery directed to Rebuttal and Cross-Answer Testimony is January 16, 2015 at 3:00 p.m.

7. Public Service stated at the prehearing conference that its agreement to the proposed schedule is conditioned upon the rates filed on June 17, 2014, taking effect by operation of law on February 13, 2015, the end of the suspension period established by Decision No. C14-1043. Such rates would be implemented subject to refund, as discussed below.

8. Public Service represented that the following parties find the proposal “fully acceptable”: Staff of the Colorado Public Utilities Commission (Staff); the Office of Consumer Counsel; the Colorado Energy Consumers Group; the Colorado Healthcare Electric Coordinating Council; CF&I Steel, LP, doing business as Evraz Rocky Mountain Steel; Climax Molybdenum Company; Western Resource Advocates; the City of Boulder; the Southwest Energy Efficiency Project; Energy Outreach Colorado; and the Federal Executive Agency (FEA). Public Service further represents that it is unaware of any party that opposes the proposed schedule.

9. On September 2, 2014, the Kroger Company (Kroger) filed a notification letter in this proceeding indicating that counsel for Kroger was unable to attend the prehearing conference and that it will accept the schedule determined by the Commission. FEA also filed a notification letter September 3, 2014, indicating that its counsel was also unable to attend the prehearing conference and that FEA will accept the schedule determined by the Commission.

10. Public Service indicates in its filing that parties do not express preference as to a date for any public comment hearing but suggests that it be scheduled at the Commission’s convenience the week prior to the evidentiary hearing.

11. No party objected to the proposed procedural schedule at the prehearing conference.

12. With respect to the proposed deadlines, hearing dates, and discovery procedures described above, we find the proposal reasonable and adopt the schedule with the additions, clarifications, and directions provided by this Decision.

C. Rates Subject to Refund

13. In its September 2, 2014, filing, Public Service notes that the proposed schedule requires extension of the statutory timeframe for Commission action provided in § 40-6-111(1)(b), C.R.S. Public Service states it will waive this deadline to allow for the adoption of the Procedural Schedule Proposal, provided that the rates filed under Advice Letter No. 1672 go into effect on February 13, 2015,³ subject to refund. Public Service further states in the Procedural Schedule Proposal that such refund is subject to interest consistent with the approved terms in the Company's recent gas base rate case, Proceeding No. 12AL-1268G.⁴

14. On September 11, 2014, Public Service filed a supplement to its Procedural Schedule Proposal detailing the refund mechanism. Public Service offered to submit this written explanation of these provisions at the prehearing conference.

15. With the exception of an adjustment to reflect Public Service's Transmission Cost Adjustment (TCA),⁵ the entirety of Public Service's rate filing under Advice Letter No. 1672,

³ The Procedural Schedule Proposal incorrectly references February 13, 2014, as this date. The correct date these rates would go into effect is February 13, 2015, which shall be the date calculations for necessary refunds shall be made.

⁴ See Decision No. R13-0279-I issued March 5, 2013.

⁵ Public Service included in its Advice Letter No. 1672 filing a revised TCA tariff to reflect the Company's proposal to shift \$19,947,918 recovered through the TCA to base rates. Public Service explains the Company is required to update its TCA on an annual basis, and by November 1, 2014, it will make a TCA filing to go into effect on January 1, 2015 for the 2015 calendar year. Because this rate case will not be resolved in 2014, the \$19,947,918 will be reflected in the TCA in effect beginning January 1, 2015. To avoid a double recovery of TCA-related costs, the Company will file a revised TCA on February 13, 2015, based on the TCA effective January 1, 2015, adjusted to remove the \$19,947,918 that is presently reflected in the Company's proposed test-year revenue requirements. Accordingly, the TCA as filed under Advice Letter No. 1672 in this proceeding on June 17, 2014, will not go into effect by operation of law.

including proposed mechanisms and riders, will go into effect on February 13, 2015, pursuant to § 40-6-111(1)(b), C.R.S. That date will be the first day of the Refund Period. The Refund Period will continue until revised general rate schedule adjustment (GRSA) riders established by the Commission are placed into effect based on a final decision in this proceeding and § 40-6-111(2)(a)(1), C.R.S., after an appropriate compliance advice letter filing.

16. Within 45 days of the implementation of the revised GRSA, Public Service will file to return to customers on their utility bills through a negative rate rider the Refund Amount defined as the difference between the total amount that would have been collected under the final approved rates, adjusted to exclude the portion of base rate cost recovery finally approved by the Commission in this proceeding attributable to the transfer of costs from the TCA to base rates, and the amount collected during the Refund Period under the GRSA riders placed into effect on February 13, 2015, also adjusted to exclude the requested amount of test-year costs resulting from the Company's proposed shift of costs from the current TCA to base rates.

17. The Refund Amount will include interest from the first day of the Refund Period through the date that the Company submits its refund filing (*i.e.*, within 45 days of the implementation of the revised GRSA). Such interest will be calculated at the average bank loan prime rate reported by the Federal Reserve for the Refund Period that is in effect at the time interest is calculated.

18. We find good cause to approve the refund condition, because it provides the Commission reasonable time to establish rates following the scheduled evidentiary hearing without harm to either Public Service or ratepayers.

D. Briefing and Additional Filings**1. Revenue Decoupling Mechanism**

19. In Proceeding No. 13A-0686EG, the Commission established new electric energy savings goals and a new financial incentive mechanism for Public Service's energy efficiency and demand side management (DSM) programs. As stated in Decision No. C14-0731 issued July 1, 2014, one purpose of the approved financial incentive is to provide the Company with an opportunity for its DSM activities to be more profitable than other utility investments not subject to special incentives.⁶

20. In this proceeding, Public Service has proposed through the pre-filed Direct Testimony of witness Scott Brockett, a revenue decoupling mechanism, arguing that its purpose is to "meet the objective set in statute by the Colorado General Assembly that the utility have an opportunity to profit from the provision of demand-side management programs."⁷ Public Service points out the Company previously sought the direct recovery of identifiable impacts of DSM on its net revenue through the DSM financial incentive mechanism, which the Commission denied. Public Service states that it "believes that the more general revenue decoupling mechanism [it] propose[s] in this proceeding can accomplish a similar goal without requiring the tracking and direct recovery of financial losses due to the utility-sponsored programs only."⁸

21. We find additional information regarding the proposed decoupling mechanism is necessary in light of our recent decisions in Proceeding No. 13A-0686EG. Parties shall file briefs on the following questions:

⁶ See Decision No. C14-0731, ¶ 30.

⁷ Brockett Testimony, at 18.

⁸ *Id.*, at 19.

a) Is the proposed decoupling mechanism relevant to the rate case at issue in this proceeding, or is it a separate issue?

b) If the proposed decoupling mechanism is relevant, to what extent would granting a decoupling mechanism as proposed by Public Service constitute collateral attack on the Commission's recent decisions issued in Proceeding No. 13A-0686EG?

c) Would acceptance of the decoupling mechanism proposed by Public Service affect the mechanics or strength of the financial incentive mechanism adopted in those recent decisions, and to what extent could it affect future DSM-related proceedings?

22. Initial briefs shall be filed no later than September 26, 2014. Reply briefs shall be filed no later than October 3, 2014.

2. Generation Performance Mechanism

23. On September 4, 2013, Staff filed a report in Proceeding No. 13I-0215E concerning the historic and expected operation of Public Service's existing generation resources. The Commission ordered this report in the context of Public Service's most recent Electric Resource Plan in Proceeding No. 11A-869E. Upon review of capacity factors of certain plants on the Company's system, the Commission was concerned that the actual operation of certain plants had deviated far from projections.

24. Public Service has not filed a response to Staff's report.

25. In this proceeding, Public Service proposes a performance metric and incentive associated with the availability of its coal-fired and natural gas combined cycle generation facilities. Public Service explains that the proposed mechanism will benchmark the performance

of the Company's Comanche, Hayden, Pawnee, Fort St. Vrain, Rocky Mountain Energy Center, and Cherokee Unit 4 generating units against historic performance levels.

26. At the prehearing conference, we inquired why Public Service had not filed a response to Staff's report and whether the generation performance mechanism proposed in this proceeding addresses the operation of the plants analyzed in Staff's report.

27. Staff indicated that it intends to address its report in its Answer Testimony. In response, Public Service offered to file Staff's report in this proceeding as part of Supplemental Direct Testimony addressing our questions posed at the prehearing conference.

28. We agree with this approach. Public Service shall file Supplemental Direct Testimony including Staff's report as an exhibit no later than October 17, 2014. Intervening parties may address Staff's report and Public Service's additional testimony and in Answer Testimony.

E. Public Comment Hearing

29. We find that a public comment hearing is necessary in advance of the filing of Rebuttal and Cross Answer Testimony, which is due no later than December 17, 2014. A public comment hearing in advance of these filings will provide parties the opportunity to respond more fully to public concerns.

30. We schedule the public comment hearing at the Commission's offices on November 20, 2014 beginning at 5:00 p.m. and continuing to completion but no later than 7:00 p.m.

31. Written public comment is encouraged and may be submitted during the course of this proceeding.

F. Prehearing Matters and Evidentiary Hearing

32. Public Service shall file, upon consultation with the parties, a witness list with estimated cross-examinations times for the hearing on or before 12:00 p.m. January 20, 2015. Parties shall assume they will collectively have no more than six hours per day for direct and cross-examination of witnesses. This assumption takes into account Commissioner question time, short breaks, and a lunch recess each day. Parties shall focus their cross-examination on only those witnesses that are most important to them.

33. If the parties fail to reach agreement on the allocation of cross-examination time, the Commission will determine the allocation of time at the pre-hearing conference on January 21, 2015.

34. As set forth in the Procedural Schedule Proposal, prehearing and dispositive motions, including challenges to pre-filed testimony, are to be filed on or before January 14, 2015. Responses to these motions shall be filed no later than 12:00 p.m. on January 20, 2015.

35. Should any prehearing and dispositive motions be filed, the parties shall plan for up to two hours on January 26, 2015, to be devoted to our deliberations on these matters. Such time shall not cause an extension in the hearing beyond the allotted eight days. In the event the parties also request time to present argument at the start of hearing (*e.g.*, in reply to responses to prehearing motions filed on January 20, 2015), such time also shall not cause an extension in the hearing beyond the allotted eight days.

36. In order to make the hearings more administratively efficient the following procedures will be adhered to: First, parties are directed to arrive at the hearing room by 8:00 a.m., January 26, 2015 to mark the hearing exhibits corresponding to witnesses' pre-filed testimony and exhibits. Such testimony shall include all necessary corrections.

37. Second, as a preliminary matter at the start of hearing on January 26, 2015, we expect the parties to stipulate into the evidentiary record all pre-filed testimony. To this end, we direct the parties to resolve any differences regarding the admission of testimony prior to the pre-hearing conference scheduled for January 21, 2015.

38. Third, witnesses will be sworn in *en masse* as a preliminary matter each day of hearing, as necessary. In combination with any other measures discussed above, we expect that cross-examination should begin for most witnesses immediately when they take the stand.

II. ORDER

A. The Commission Orders That:

1. The proposed procedural schedule filed by Public Service Company of Colorado (Public Service) on September 2, 2014 is adopted, consistent with the discussion above. In accordance with this schedule, responses to prehearing motions and dispositive motions shall be filed no later than 12:00 p.m. on January 20, 2015.

2. Parties shall file initial briefs on Public Service's proposed revenue decoupling mechanism no later than September 26, 2014, consistent with the discussion above. Reply briefs shall be filed no later than October 3, 2014.

3. Consistent with the discussion above, Public Service shall file Supplemental Direct Testimony no later than October 17, 2014, responding to the report filed by the Staff of the Colorado Public Utilities Commission on September 4, 2013, in Proceeding No. 13I-0215E. Public Service shall explain whether the generation performance mechanism proposed in this proceeding addresses the operation of the generation facilities analyzed in Staff's report.

4. A public comment hearing in this matter is scheduled on the following date and time:

DATE: November 20, 2014
TIME: 5:00 p.m. – no later than 7:00 p.m.
PLACE: Commission Hearing Room
1560 Broadway, Suite 250
Denver, Colorado

5. Public Service shall confer with the parties and shall file a proposed schedule for the evidentiary hearing no later than 12:00 p.m., January 20, 2015, consistent with the discussion above.

6. A prehearing conference is scheduled on the following date and time:

DATE: January 21, 2015
TIME: 1:00 p.m.
PLACE: Commission Hearing Room
1560 Broadway, Suite 250
Denver, Colorado

7. An evidentiary hearing in this matter is scheduled on the following dates and times:

DATES: January 26 through 30, and February 2 through 4, 2015
TIME: 9:00 a.m. – no later than 5:00 p.m.⁹
PLACE: Commission Hearing Room
1560 Broadway, Suite 250
Denver, Colorado

⁹ Hearings on Wednesday, January 28, 2015 and Wednesday, February 4, 2015 shall commence at 11:00 a.m. following the Commissioners' Weekly Meetings.

8. In the event the tariff sheets filed by Public Service under Advice Letter No. 1672 take effect on or after February 13, 2015 as a matter of law, prior to the issuance of any decision permanently suspending the tariff sheets and establishing new rates, such rates shall be subject to refund, consistent with the discussion above.

9. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' PREHEARING CONFERENCE
September 3, 2014.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JOSHUA B. EPEL

PAMELA J. PATTON

GLENN A. VAAD

Commissioners