

Decision No. R14-0323-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14A-0147T

IN THE MATTER OF THE APPLICATION OF THE CHAFFEE COUNTY EMERGENCY TELEPHONE SERVICE AUTHORITY TO ASSESS AN EMERGENCY TELEPHONE SURGCHARGE RATE OF ONE DOLLAR AND FIFTY CENTS (\$1.50) PER SERVICE USER PER MONTH PURSUANT TO § 29-11-102(2)(B), C.R.S.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
MELODY MIRBABA
SETTING PREHEARING CONFERENCE**

Mailed Date: March 25, 2014

I. STATEMENT

1. On February 18, 2014, the Chafee County Emergency Telephone Service Authority (Applicant) filed an application to assess an emergency telephone surcharge rate of \$1.50 per service user per month pursuant to § 29-11-102(2)(b), C.R.S. The Application seeks to increase the Applicant's emergency telephone service surcharge rate by \$0.25 from \$1.25 to \$1.50 per service user per month. Applicant filed testimony and exhibits with its Application.

2. Also on February 18, 2014, Applicant filed a "Motion Requesting the Public Utilities Commission Shorten the Intervention/Response Period to the Application" and a "Motion for Waiver of Statutory Notice Provisions of §40-3-104, C.R.S. and for Authorization to Give an Alternative Form of Notice Pursuant to 4 CCR 723-1 PUC Rules of Practice and Procedure Rule 1003". On February 26, 2014, the Public Utilities Commission (Commission) granted both Motions. Decision No. C14-0213-I. That Decision shortened the intervention period, including for Commission Staff, to 5:00 p.m. on March 12, 2014.

3. On February 26, 2014, the Commission gave public notice of the Application and established a procedural schedule. This Decision will vacate that procedural schedule.

4. On March 7, 2014, Commission Staff (Staff) timely intervened of right.

5. On March 10, 2014, the Colorado Office of Consumer Counsel (the OCC) timely intervened of right.

6. Neither interventions plainly state that Staff or the OCC oppose the Application. However, both interventions identify specific issues and areas that the interveners intend to address in this matter. Both interventions request a hearing. The identified issues are sufficient to warrant a hearing.

7. The intervention period has expired. No other person or entity has filed an intervention.

8. The OCC and Staff, collectively, are the interveners. Applicant and interveners, collectively, are the parties.

9. On March 19, 2014, by Minute Order, the Commission referred this matter to an Administrative Law Judge (ALJ) for disposition.

A. Time for Commission Decision.

10. The Commission deemed the Application to be complete within the meaning of § 40-6-109.5, C.R.S., on March 19, 2014. Because Applicant filed testimony and exhibits with its Application, § 40-6-109.5(1), C.R.S., requires that a Commission decision be issued within 120 days of March 19, 2014, absent an order extending this deadline by 90 days. For the reasons stated below, the ALJ finds that more time is necessary; the ALJ will extend the deadline for a

Commission decision to issue by 90 days.¹ § 40-6-109.5(1), C.R.S. This extension is necessary to allow time to hold a hearing, allow the parties to file testimony and exhibits, statements of position, for a recommended decision, exceptions, responses to exceptions, and a Commission decision on exceptions.

11. Under the extended deadline, the Commission should issue its decision on the Application on or before **October 15, 2014**.

B. Prehearing Conference.

12. A prehearing conference is necessary to address the matters identified below. The ALJ will schedule a prehearing conference in this matter to be held on **April 8, 2014**.

13. *At the prehearing conference*, the parties must be prepared to discuss:

- date by which Applicant will file supplemental direct testimony and exhibits (if necessary);
- date by which each intervener will file their answer testimony and exhibits;
- date by which Applicant will file its rebuttal testimony and exhibits;
- date by which each intervener will file cross-answer testimony and exhibits²;
- date by which the parties will file their corrected testimony and exhibits;
- date by which the parties will file their prehearing motions;³
- date by which the parties will file dispositive motions (if necessary);
- whether a final prehearing conference is necessary and, if so, the date for that prehearing conference;
- date by which the parties will file any stipulation or settlement reached;⁴
- date(s) for the evidentiary hearing; and

¹ Pursuant to § 40-6-109.5(4), C.R.S., the Commission may extend the time for decision an additional 90 days upon a finding of extraordinary circumstances.

² Cross-answer testimony responds only to the answer testimony of another intervener.

³ This date **must** be at least seven days before the final prehearing conference or, if there is no final prehearing conference, **must** be at least ten days before commencement of the hearing.

⁴ This date **must** be at least three business days before the first day of hearing.

- date by which the parties will file post-hearing statement of position, to which no response will be permitted.

14. Applicant has already filed written testimony and exhibits. However, the ALJ recognizes that interveners may not wish to present written testimony. The ALJ will not require them to do so. If interveners do not wish to present written testimony, the parties should so indicate in the filing made prior to the prehearing conference. If that is the case, the parties should confer concerning disclosure deadlines for witness and exhibit lists and exhibits.

15. In considering hearing dates, the parties are reminded that, absent an enlargement of time or a waiver under § 40-6-109.5(4), C.R.S., the Commission decision in this matter should issue on or before October 15, 2014. To allow time for statements of position, recommended decision, exceptions, responses to exceptions, and a Commission decision on exceptions, the evidentiary hearing must be concluded no later than July 12, 2014.

16. The parties must confer with each other prior to the prehearing conference with respect to the matters identified in this Decision. The ALJ will order Applicant to coordinate the discussions and to file a proposed procedural schedule by 3:30 p.m. on April 7, 2014.

17. If the parties reach an agreement on a procedural schedule, they may file a joint or unopposed motion to vacate the prehearing conference. If the parties intend to make such a filing, the ALJ encourages them to do so by 5:00 p.m. on April 4, 2014.

C. Additional Advisements.

18. The parties are advised and on notice, that they must be familiar with, and abide by, the Rules of Practice and Procedure, 4 CCR 723 Part 1.⁵

⁵ These Rules are available on-line at dora.colorado.gov/puc.

19. The parties are advised and on notice, that timely filing with the Commission means *receipt* by the Commission by 5:00 p.m. MST, on the due date. Thus, if a document is placed in the mail on the date on which the document is to be filed, then the document is *not* filed timely with the Commission.

20. The parties are advised and on notice, that the Commission has an E-Filing System available. One may learn about, and may register to use, the E-Filing System at dora.colorado.gov/puc. Registering to use the E-Filing System is not mandatory.

II. ORDER

A. **It Is Ordered That:**

1. Consistent with the above discussion, the deadline for a Commission decision to issue is extended by 90 days, pursuant to § 40-6-109.5(1), C.R.S.

2. The procedural schedule established in the Notice of Application Filed dated February 26, 2014 is vacated.

3. A prehearing conference in this matter is scheduled as follows:

DATE: April 8, 2014
TIME: 11:00 a.m.
PLACE: Commission Hearing Room
1560 Broadway, Suite 250
Denver, Colorado

4. At the prehearing conference, the parties shall be prepared to discuss the matters set out above. Those attending the prehearing conference must be prepared to discuss the matters identified above and must have authority to agree to a procedural schedule and evidentiary hearing date.

5. The prehearing conference may be vacated in the event the parties file a motion that comports with ¶ 17, above.

6. Failure to attend or to participate in the prehearing conference shall be deemed a waiver of any objections to the decisions and rulings made during, the procedural schedule established during, and the hearing date(s) and the prehearing date scheduled at the prehearing conference.

7. The parties shall consult prior to the prehearing conference with respect to the matters discussed and identified above. Chafee County Emergency Telephone Service Authority (Applicant) shall coordinate the discussions.

8. Applicant shall file a proposed procedural schedule on or by 3:30 p.m. on April 7, 2014.

9. The parties shall be held to the advisements in this Decision.

10. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

MELODY MIRBABA

Administrative Law Judge

ATTEST: A TRUE COPY

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

Doug Dean,
Director