

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 13AL-0958E

IN THE MATTER OF ADVICE LETTER NO. 1649 - ELECTRIC FILED BY PUBLIC SERVICE COMPANY OF COLORADO TO IMPLEMENT A NEW METHODOLOGY TO DERIVE PAYMENT RATES APPLICABLE TO QUALIFYING FACILITIES (“QFS”) WITH A DESIGN CAPACITY BETWEEN 10 AND 100KW, TO BECOME EFFECTIVE SEPTEMBER 27, 2013.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
MANA L. JENNINGS-FADER
GRANTING REQUEST FOR STATUS
CONFERENCE; SCHEDULING STATUS
CONFERENCE, *NUNC PRO TUNC*; RESCHEDULING
EVIDENTIARY HEARING; MODIFYING PROCEDURAL
SCHEDULE; AND ADDRESSING DISCOVERY**

Mailed Date: April 4, 2014

I. STATEMENT

1. On August 27, 2013, Public Service Company of Colorado (Public Service, PSCo, or Company), filed Advice Letter No. 1649-Electric (Advice Letter) to implement a new method to derive payment rates for Qualifying Facilities (QFs) with a design capacity between 10 and 100 kilowatts in Public Service’s Electric Purchase - Small Power Production and Cogeneration Facility Policy Section of PSCo’s P.U.C. No. 7 - Electric tariff. Accompanying the Advice Letter are proposed tariff sheets that, if in effect, would implement the new method.

2. On September 25, 2013, by Decision No. C13-1196, the Commission established an intervention period and set this matter for hearing, thus suspending for 120 days the effective date of the proposed tariff sheets that accompanied the Advice Letter. On October 30, 2013, Decision No. R13-1367-I further suspended the effective date of those proposed tariff sheets.

3. The following intervened as of right or were granted permission to intervene: Trial Staff of the Commission (Staff); the Vote Solar Initiative (Vote Solar); and Western Colorado Power Company, LLC (WCPC).

4. Staff, Vote Solar, and WCPC, collectively, are the Intervenors. The Company and the Intervenors, collectively, are the Parties. All Parties are represented by legal counsel.

5. In Decision No. C13-1196, the Commission referred this Proceeding to an Administrative Law Judge (ALJ).

6. The procedural history of this Proceeding is set out in Interim Decisions previously issued in this matter. The ALJ repeats the procedural history as necessary to put this Interim Decision in context.

7. On January 16, 2014, Public Service filed its Advice Letter No. 1649 - Electric Amended (Amended Advice Letter). Appended to the Amended Advice Letter are proposed tariff sheets that contain an effective date of February 15, 2014. On January 17, 2014, by Decision No. R14-0071-I, the ALJ suspended for 120 days (*i.e.*, through and including June 15, 2014), the effective date of the proposed tariff sheets appended to the Amended Advice Letter. On March 4, 2014, by Decision No. R14-0231-I, the ALJ further suspended, to and including September 13, 2014, the effective date of those proposed tariff sheets. If the Commission does not establish new rates by September 13, 2014, the tariff sheets that accompanied the Amended Advice Letter may become effective.

A. Evidentiary Hearing Dates and Procedural Schedule.

8. On January 14, 2014, by Decision No. R14-0046-I, among other things, the ALJ scheduled the evidentiary hearing in this Proceeding for February 20 and 21, 2014 and established a procedural schedule.

9. By Decision No. R14-0231-I and at the Parties' request, the ALJ vacated the February 20 and 21, 2014 evidentiary hearing; scheduled the evidentiary hearing in this matter for April 4 and 7, 2014; and modified the procedural schedule.

10. On March 31, 2014, WCPC filed a Request for a Forthwith Telephone Status Conference. The ALJ granted the request for a forthwith status conference¹ and, on April 1, 2014, held a status conference. All Parties participated.

11. At the status conference and as pertinent here, the ALJ vacated the April 4 and 7, 2014 hearing dates and approved the evidentiary hearing dates and modified procedural schedule proposed by the Parties.² The following procedural schedule will be adopted: (a) if WCPC wishes to file second supplemental answer testimony and exhibits that go beyond the method for determination of QF payments proposed by WCPC witness Jacobson in his answer testimony, then, not later than **noon on April 9, 2014**, WCPC will file a motion for leave to file that testimony;³ (b) not later than **April 16, 2014**, WCPC will file second supplemental answer testimony and exhibits with respect to the method for determination of QF payments proposed by WCPC witness Jacobson in his answer testimony and any other testimony that the ALJ permits WCPC to file; (c) assuming that WCPC's second supplemental answer testimony and exhibits are limited to the method for determination of QF payments proposed by WCPC witness

¹ By electronic mail dated March 31, 2014, the ALJ informed the Parties that the Request for a Forthwith Telephone Status Conference was granted, in part; that the status conference would be held on April 1, 2014; that the counsel in Colorado would be required to appear in person for the status conference; and that counsel for VSI would be permitted to participate by telephone. This Interim Decision memorializes that ruling and schedules the status conference *nunc pro tunc*.

² This Interim Decision memorializes that ruling.

³ Response to the motion will be made orally, and the ALJ will hear argument on the motion as soon as practicable.

Jacobson in his answer testimony,⁴ then, not later than **April 18, 2014**, Public Service will file its second supplemental rebuttal testimony and exhibits addressed to WCPC's second supplemental answer testimony and exhibits; (d) assuming that WCPC's second supplemental answer testimony and exhibits are limited to the method for determination of QF payments proposed by WCPC witness Jacobson in his answer testimony, then, not later than **April 18, 2014**, each intervenor will file its second supplemental cross-answer testimony and exhibits addressed to WCPC's second supplemental answer testimony and exhibits; (e) the evidentiary hearing will be held on **April 21 through 23, 2014**; and (f) not later than two weeks following the close of the evidentiary hearing, each party will file its post-hearing statement of position, to which (absent further order) no response will be permitted.

12. As adopted, the procedural schedule permits the Commission to issue its decision in this Proceeding by September 13, 2014, which is the expiration of the 210-day suspension period of the proposed tariff sheets' effective date.

13. In advance of the hearing, Public Service will provide an order of witnesses and estimates of cross-examination.⁵ Given that some testimony and exhibits will not be filed until April 18, 2015 and the hearing begins on April 21, 2014, each party must be prepared to provide (as a preliminary matter on April 21, 2014) its final estimate of cross-examination time for each witness that party will cross-examine.

⁴ If WCPC files a motion for leave to file additional second supplemental answer testimony and exhibits and that motion is granted, the remainder of the procedural schedule and the evidentiary hearing dates likely will need to be adjusted.

⁵ Public Service may provide this information by electronic mail sent to the ALJ and the Parties.

14. **The Parties are advised, and are on notice, that** (absent further order) the hearing will be completed in the scheduled three days and that, if necessary to assure the hearing is completed within the allotted time, the ALJ will impose time limits on cross-examination.

15. The presentation of witnesses at the hearing will accommodate witness availability. To that end, PSCo witness Brockett will testify on April 21, 2014; and WCPC witness Jacobson will testify on April 22, 2014. The list of witnesses provided by Public Service will identify each witness whose availability to testify is limited and will state the date(s) on which the witness is available to testify.

B. Discovery.

16. During the status conference, the Parties proposed, and the ALJ approved, discovery and response time.⁶

17. Not later than **April 4, 2014**, Public Service will serve its responses to WCPC's Third Set of Discovery.

18. Not later than **April 7, 2014**, Public Service will serve its responses to WCPC's Sixth Set of Discovery.

19. It may be that, on April 1 or 2, 2014, Vote Solar or WCPC (or both) propounded discovery addressed to Public Service's supplemental rebuttal testimony and exhibits. Response time to that discovery is seven calendar days from the date of service.

20. With respect to discovery directed to the second supplemental answer testimony and exhibits, directed to the second rebuttal testimony and exhibits, or directed to the

⁶ This Interim Decision memorializes that ruling. To accommodate the discovery response times proposed by the Parties, the ALJ will order the agreed-upon response times.

second cross-answer testimony and exhibits, the Parties have agreed to handle the response time informally and to work cooperatively in order to meet the scheduled hearing dates.

C. Additional Matters.

21. Except as modified by Decision No. R14-0009-I, Decision No. R14-0046-I, Decision No. R14-0231-I, and this Interim Decision, the provisions of Decision No. R13-1443-I remain in effect and govern this Proceeding.

II. ORDER

A. It Is Ordered That:

1. The Request for a Forthwith Telephone Status Conference filed by Western Colorado Power Company, LLC, is granted.

2. A status conference in this matter is scheduled, *nunc pro tunc*, for the following date, at the following time, and in the following location:

DATE: April 1, 2014

TIME: 1:00 p.m.

PLACE: Commission Hearing Room
1560 Broadway, Suite 250
Denver, Colorado

3. The evidentiary hearing in this matter scheduled for April 4 and 7, 2014 is vacated.

4. The evidentiary hearing in this matter is scheduled for the following dates, at the following times, and in the following location:

DATES: April 21 through 23, 2014

TIME: 9:00 a.m. each day

PLACE: Commission Hearing Room
1560 Broadway, Suite 250
Denver, Colorado

5. Consistent with the discussion above, the following procedural schedule is adopted: (a) if Western Colorado Power Company (WCPC) wishes to file second supplemental answer testimony and exhibits that go beyond the method for determination of Qualifying Facilities (QF) payments proposed by WCPC witness Jacobson in his answer testimony, then, not later than noon on April 9, 2014, WCPC shall file a motion for leave to file that testimony; (b) not later than April 16, 2014, WCPC shall file second supplemental answer testimony and exhibits with respect to the method for determination of QF payments proposed by WCPC witness Jacobson in his answer testimony and any other testimony that the Administrative Law Judge permits WCPC to file; (c) assuming that WCPC's second supplemental answer testimony and exhibits are limited to the method for determination of QF payments proposed by WCPC witness Jacobson in his answer testimony, then, not later than April 18, 2014, Public Service Company shall file its second supplemental rebuttal testimony and exhibits addressed to WCPC's second supplemental answer testimony and exhibits; (d) assuming that WCPC's second supplemental answer testimony and exhibits are limited to the method for determination of QF payments proposed by WCPC witness Jacobson in his answer testimony, then, not later than April 18, 2014, each intervenor shall file its second supplemental cross-answer testimony and exhibits addressed to WCPC's second supplemental answer testimony and exhibits; and (e) not

later than two weeks following the close of the evidentiary hearing, each party will file its statement of position, to which (absent further order) no response will be permitted.

6. Consistent with the discussion above, the Parties will handle discovery, and response time to discovery is, as set out in ¶¶ 17-20.

7. Except as modified by Decision No. R14-0009-I, Decision No. R14-0046-I, Decision No. R14-0231-I, and this Interim Decision, the provisions of Decision No. R13-1443-I remain in effect and govern this Proceeding.

8. Parties are held to the advisements in the Interim Decisions issued in this Proceeding.

9. This Interim Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

MANA L. JENNINGS-FADER

Administrative Law Judge

ATTEST: A TRUE COPY

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

Doug Dean,
Director