

Decision No. R14-0609-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14A-0287E

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO (A) FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR THE PAWNEE TO DANIELS PARK 345 KV TRANSMISSION PROJECT, AND (B) FOR SPECIFIC FINDINGS WITH RESPECT TO EMF AND NOISE.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
G. HARRIS ADAMS
EXTENDING THE APPLICABLE STATUTORY
PERIOD, SCHEDULING HEARING, AND
ESTABLISHING PROCEDURES**

Mailed Date: June 5, 2014

I. STATEMENT

1. On April 20, 20124, Public Medicare Transportation (Applicant or Public Service) filed its Application for a Certificate of Public Convenience and Necessity for the Pawnee to Daniels Park 345kV Transmission Project and for Specific Finding with Respect to EMF and Noise.

2. By Decision No. C14-0553-I issued May 23, 2014, the matter was referred to an administrative law judge to conduct a public comment hearing and for preparation of a recommended decision.

3. The Commission gave notice of the application on April 23, 20124. Requests for permissive intervention were due within 30 days thereafter. An Intervention by Staff of the Public Utilities Commission was due within 37 days thereafter.

4. The Colorado Office of Consumer Counsel (OCC) and Staff of the Public Utilities Commission (Staff) timely intervened of right.

5. By Decision No. R14-0556-I issued May 23, 2014, the Colorado Energy Consumers were granted intervenor status in this proceeding.

6. By Decision No. R14-0599-I issued June 4, 2014, the request for permissive intervention filed by the Rowley Downs Homeowners Association was stricken without prejudice for failing to comply with Commission rules and to respond to an order to show cause. *See also* Decision No. R14-0557-I issued May 23, 2014.

7. By Decision No. R14-0555-I issued May 23, 2014, a prehearing conference was scheduled for June 3, 2014. At the scheduled time and place, the conference was convened. Public Service, the OCC, and Staff appeared and participated in the conference. The parties jointly proposed a procedural schedule that was not opposed. The proposal is reasonable and will be incorporated below with modification.

8. **All parties are advised** that this proceeding is governed by the Rules of Practice and Procedure found at 4 *Code of Colorado Regulations* (CCR) 723-1, Part 1. The ALJ expects the parties to comply with these rules. The rules are available on the Commission's website (www.dora.state.co.us/puc) and in hard copy from the Commission.

9. Each party is specifically reminded that all filings with the Commission must also be served upon all other parties in accordance with *Rule 1205 of the Rules of Practice and Procedure*, 4 CCR 723-1.

A. Applicable Statutory Period.

10. Pursuant to § 40-6-109.5(1), C.R.S., the Commission must issue its decision on Public Service's application within 120 days of the date the application is deemed complete.

If the Commission finds that additional time is required, it may extend the time for decision 90 days.

11. The Commission deemed the application complete in this matter on May 14, 2014. Therefore, the Commission must issue its decision on or before September 11, 2014. If the Commission determines an additional 90 days is warranted, the Commission must issue its decision on or before December 10, 2014.

12. The parties' proposed procedural schedule will not permit timely issuance of a decision on or before September 11, 2014. In light of time available, other pending matters, and the need for the Commission to have adequate time to deliberate the issues presented in this matter, it simply is not feasible that a final Commission decision issue within the applicable statutory period found in § 40-6-109.5, C.R.S. Therefore, it is necessary that the applicable statutory period be extended pursuant to § 40-6-109.5(1), C.R.S., to accommodate the procedural schedule.

B. Miscellaneous Matters Pertaining to Hearing Exhibits.

13. In order to efficiently organize the numbering and preparation of exhibits during the hearing, we will use a unified numbering system for all hearing exhibits.

14. In addition to other requirements of the Commission's Rules of Practice and Procedure, 4 CCR 723-1 (*e.g.*, Rule 1202 regarding pre-filed testimony), all pre-filed hearing exhibits shall be marked for identification in accordance with this interim decision.

15. Each person requesting intervention is assigned a block of 100 hearing exhibit numbers. The applicant shall receive the block numbered 200 through 299. Persons requesting intervention receive blocks starting with 300, in the order that requests or notices of intervention are filed, as reflected in the Commission's E-Filing System. Thus, in absence of further order, a

block will go unused if a person's request for intervention is denied. Parties may rely upon the Commission's E-Filing System to determine sequencing of requests for intervention (*i.e.*, without regard to when the intervention was granted).

16. The next unassigned block at the time of hearing will be used for exhibits first presented at hearing by all parties.

17. Each type of a witness's testimony, including attachments (*e.g.*, direct, answer, rebuttal, and cross-answer), will be one hearing exhibit. Anything accompanying pre-filed written testimony within a hearing exhibit (*e.g.*, traditionally exhibits, appendices, attachments, or attachments to filing) shall be referred to as attachments to that hearing exhibit.¹

18. The title of each pre-filed hearing exhibit, **including** attachments, shall start with "Hearing Exhibit XXX." Hearing exhibits shall be marked numerically and sequentially for identification within their respective blocks by the filing party, irrespective of the sponsoring party (*i.e.*, a party may sponsor an exhibit that was pre-filed by another party). As an example, if the party assigned block 300 files answer testimony that includes a table as Attachment ABC-1, then the exhibit will begin with "Hearing Exhibit 300" and the attached table will be "Hearing Exhibit 300, Attachment ABC-1".

19. Some practices are encouraged to maximize efficiency in the presentation of evidence at hearing:

- a) Slip sheets referred to in Rule 1202(g) shall be blank pieces of paper.
- b) The first page of any page-numbered document shall be page 1, with each additional page numbered in succession (to best coincide with page number references with electronic file page references).
- c) Pages numbers should be included in the header of each page-numbered document.

¹ For example, it should not be referred to as Exhibit ABC-1 or Appendix A.

- d) Attachments included in pre-filed written testimony shall continue to be identified by the hearing exhibit number reference, the witness's initials, and a number sequence. Attachments will be part of the hearing exhibit identifying each type of testimony. For example, Attachment No. JED-1 to Hearing Exhibit No. 1 John E. Doe Direct Testimony should be titled Hearing Exhibit No. 1 John E. Doe Direct Testimony, Attachment No. JED-1.
- e) A person may modify formatting options in revisions to filed documents in order to minimize the resulting impact to page and line references (*e.g.*, widen a paragraph margin to insert a word).

20. Should a party need to modify, amend, supplement, or correct a previously identified hearing exhibit or attachment, a new revision including all changes in redline/strikeout format shall be filed.² No modification, amendment, supplement, or correction shall be made to a filed hearing exhibit without indicating a new revision number. The same hearing exhibit or attachment title shall be used for the title as the original, except that a revision number reference should be added to give notice of the change. Illustratively, if Hearing Exhibit 200 Direct Testimony changed, it would be filed as Hearing Exhibit 200 Direct Testimony Rev 1 containing redlined modifications to the original version. If an additional revision is later filed, it would be filed as Hearing Exhibit 200 Direct Testimony Rev 2 and would contain all redlined modifications as compared to the original version (*i.e.*, not only as compared to Rev 1). Further, the title of any revision should not contain the word "corrected" even if the revision corrects the prior filing.

21. References in testimony to obsolete versions of other testimonies will be construed to refer to the latest filed version of such testimony, unless otherwise specified. Although corresponding page and line references may reasonably be affected by such construction, corrected references will not be necessary so long as the reference remains in

² Filing a "clean" version is not necessary.

reasonable proximity to the referenced material. Thus, the witness's answer testimony referring to page 10, line 5 of someone else's direct testimony need not revise their answer testimony when a revision is filed to such direct testimony so long as page 10, line 5 is still an approximate reference.

22. Parties should not duplicate hearing exhibits or attachments previously filed by another party because any hearing exhibit filed may be used by any parties.

23. Any pre-filed hearing exhibit or attachment to a pre-filed hearing exhibit filed in accordance with the Standards of Conduct in the Commission's Rules of Practice and Procedure containing confidential information, shall be premarked for identification by the same hearing exhibit number within the assigned block identifying the portion in the public record, and shall be designated with a "C" following the number of the hearing exhibit or attachment. For example, a witness's pre-filed written testimony might be identified as Hearing Exhibit 500. If portions of the testimony in Hearing Exhibit 500 are claimed to be confidential, those portions would be filed in accordance with the Standards of Conduct and identified as Hearing Exhibit 500C. Hearing Exhibit 500 would remain in the public record. Further, if portions of Attachment ABC-1 to Hearing Exhibit 500 are claimed to be confidential, those portions would be filed in accordance with the Standards of Conduct and identified as Attachment ABC-1C. Attachment ABC-1 would remain in the public record. Comparably, should any highly confidential protections be afforded, the hearing exhibit number would be designated with a "D" following the number.

24. A deadline will be established, as ordered below, for any objections to the admissibility of any pre-filed hearing exhibits marked for identification (*e.g.*, authenticity).

25. Unless otherwise ordered, a sponsoring party shall ensure that one paper copy of the pre-filed hearing exhibit is available at hearing. Any paper copy provided at hearing shall be marked with the identification appearing in the Commission's file.

26. The sponsoring party shall assure that, when offered as an exhibit at hearing, the paper copy of the hearing exhibit is identical to the pre-filed electronic version.

27. Pre-filed electronic records will be utilized at hearing to the fullest extent practicable. If a pre-filed hearing exhibit marked for identification is admitted into evidence, it is anticipated that the electronic copy of the Commission's file will be admitted by administrative notice, in lieu of receiving the identical paper copy (*e.g.*, the fact administratively noticed is that the copy on file is the content of the otherwise-admissible hearing exhibit).

28. Initially, it is necessary for Public Service to mark any previously-filed documents that it intends to offer into evidence as hearing exhibits, in accordance with ordered procedures.³ To facilitate appropriate references in subsequent testimony, Public Service will be ordered to file any proposed hearing exhibits. However, to the extent Public Service files a hearing exhibit identified in accordance with this Decision that was previously filed, any references in the body thereof to exhibits to testimony shall be stricken and references replaced to refer to attachments (*i.e.*, replacing Exhibit No. XXX -1 throughout with Attachment XXX-1). While replacing references throughout is intended and preferable, filing the ordered hearing exhibit number and attachment references for identification need not be revised throughout the document if a party finds replacement burdensome or technically unfeasible.

³ Because this will be the original filing of the hearing exhibit identified in accordance with this Decision, it will be treated as an original document rather than a revision.

II. ORDER

A. It Is Ordered That:

1. On or before June 17, 2014, Public Service Company of Colorado (Public Service) shall file pre-marked hearing exhibits that it intends to offer into evidence (e.g., those previously filed) for identification in accordance with ordered procedures and the discussion above.

2. All parties shall comply with the procedures described above.

3. To the extent Public Service files a document that was previously filed as a hearing exhibit identified in accordance with this Decision, any references in the body thereof to exhibits to testimony are stricken and replaced with references to attachments (*i.e.*, replacing Exhibit No. XXX -1 throughout with Attachment XXX-1).

4. Any party having any objection to the admissibility or authenticity of pre-filed hearing exhibits marked for identification must be filed by August 27, 2014. Response time to any motion so filed is shortened to five calendar days.

5. All corrections to any pre-filed hearing exhibits marked for identification shall be filed on or before August 27, 2014.

6. A hearing in this matter shall be conducted at the following date, time, and place:

DATE: September 6, 2012

TIME: 9:00 a.m.

DATE: September 6, 2012

TIME: 10:00 a.m.

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

7. The applicable statutory period in this matter is extended pursuant to § 40-6-109.5(1), C.R.S., for an additional 90 days in order to accommodate the procedural schedule ordered.

8. Each party shall file with the Commission, an electronic copy of its testimony and exhibits on a CD, DVD, or portable drive in both the underlying executable electronic format and Adobe PDF format. Any stipulations or settlement agreements, along with any associated testimony or exhibits, shall also be filed electronically. Testimony and exhibits may be submitted through the Commission's E-Filing System in the underlying executable electronic format in lieu of this requirement.⁴

9. Any party desiring to file Answer Testimony in this proceeding shall file the same on or before July 29, 2014.

10. Any party desiring to file Rebuttal or Cross-Answer Testimony in this proceeding shall file the same on or before August 22, 2014.

11. Any party desiring to file a Statement of Position shall file the same on or before September 19, 2014.

⁴ For purposes of this Decision, executable electronic filings shall be made in the document's underlying file format (Excel, Word, or WordPerfect, for example). All spreadsheets should have the various cell formula or links left intact; *i.e.*, cell formulas should not be converted to values. To the extent exhibits cannot be provided in an executable electronic format, a listing of such exhibits should be provided identifying those that cannot be so provided. In order to minimize the size and allow electronic text searches of the PDF files, all PDF files should be generated from the electronic base format where possible, but can be generated as a scanned image if the base document is not available electronically.

12. This Decision shall be effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

G. HARRIS ADAMS

Administrative Law Judge

ATTEST: A TRUE COPY

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

Doug Dean,
Director