

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14A-0580E

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR AN ORDER APPROVING REGULATORY TREATMENT OF MARGINS EARNED FROM CERTAIN TYPES OF RENEWABLE ENERGY CREDIT AND ENERGY TRANSACTIONS.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
MANA L. JENNINGS-FADER
SCHEDULING PREHEARING CONFERENCE,
NOTING INTERVENTIONS BY RIGHT,
ADDRESSING REQUEST TO INTERVENE
BY PERMISSION, EXTENDING TIME
FOR COMMISSION DECISION, AND
CONTAINING ADDITIONAL ADVISEMENTS**

Mailed Date: July 15, 2014

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I. STATEMENT

1. On May 30, 2014, Public Service Company of Colorado (Public Service, PSCo, or Applicant) filed a Verified Application (Application) that seeks Commission approval of

PSCo's requested regulatory treatment for the margins that the Company expects to earn in connection with certain types of transactions involving the sale of Renewable Energy Credits. That filing commenced this Proceeding.

2. On June 3, 2014, the Commission issued its Notice of Application Filed (Notice). That Notice established an intervention period, which has expired.

3. On July 9, 2014, by Minute Order, the Commission referred this matter to an Administrative Law Judge (ALJ).

A. Interventions by Right and Request for Leave to Intervene.

4. On July 1, 2014, Trial Staff of the Commission (Staff) timely filed (in one document) its Notice of Intervention as of Right, Entry of Appearance, Notice Pursuant to Rule 1007(a) and Rule 1401, and Request for Hearing. In its filing, Staff identified both litigation Staff and advisory Staff. Staff is a party in this matter. In its filing, Staff does not state whether it opposes, contests, or takes no position with respect to the Application.

5. On July 2, 2014, the Colorado Office of Consumer Counsel (OCC) timely filed (in one document) its Notice of Intervention of Right, Entry of Appearance, and Request for Hearing. OCC is a party in this matter. In its filing, OCC does not state whether it opposes, contests, or takes no position with respect to the Application.

6. On July 2, 2014, Western Resource Advocates (WRA) timely filed its Petition for Leave to Intervene. WRA seeks leave to intervene pursuant to Rule 4 *Code of Colorado Regulations* (CCR) 723-1-1401(c).¹ The time for filing a response to the petition has not expired.

¹ This Rule is found in the Rules of Practice and Procedure, Part 1 of 4 *Code of Colorado Regulations* 723.

The ALJ notes that, in its petition, WRA does not state whether it opposes, contests, or takes no position with respect to the Application.

7. The following are parties in this Proceeding: Applicant, OCC, and Staff.

8. For purposes of this Interim Decision and unless the context indicates otherwise, reference to Intervenors is to OCC, Staff, and WRA, collectively. For purposes of this Interim Decision and unless the context indicates otherwise, reference to Parties is to Applicant and Intervenors, collectively.

B. Time for Commission Decision.

9. On July 9, 2014, by Minute Order, the Commission deemed the Application complete as of that date.

10. When it filed the Application, Public Service filed its direct testimony and exhibits in support of the Application.² Absent an Order enlarging the time for Commission decision, § 40-6-109.5(1), C.R.S., provides that the Commission decision in this matter should issue within 120 days of the date on which the Application is deemed complete.

11. The ALJ has reviewed the Application and the relief requested, the interventions of right, and the petition for leave to intervene. The ALJ has considered that the issues Intervenors seek to address in this Proceeding are varied and potentially complex.

12. Based on her review and her general experience with adjudicative proceedings, the ALJ finds that additional time for Commission decision is required in this matter. Accordingly and pursuant to § 40-6-109.5(1), C.R.S., the ALJ will extend the time for Commission decision in this matter an additional 90 days. Thus, absent a further enlargement of

² The Company filed the Direct Testimony of Eric W. Pierce and the Direct Testimony of Kari Chilcott Clark.

time by the Commission³ or Applicant's waiver of § 40-6-109.5, C.R.S., a Commission decision on the Application should issue not later than **March 4, 2015**, which is 210 days from the date on which the Commission deemed the Application to be complete.

C. Prehearing Conference.

13. A prehearing conference is necessary to discuss the matters identified below and to establish a procedural schedule and hearing dates in this matter. The ALJ will schedule a prehearing conference in this matter for **July 28, 2014**.

14. *At the prehearing conference*, if that the ALJ has not issued an Interim Decision addressing the petition, the Parties must be prepared to discuss the WRA petition for leave to intervene.

15. *At the prehearing conference*, OCC, Staff, and WRA⁴ each must be prepared to state whether it supports, contests, opposes, or takes no position with respect to the Application.

16. *At the prehearing conference*, assuming that a hearing will be necessary because at least one intervenor opposes or contests the Application, the Parties must be prepared to discuss: (a) the date by which each intervenor will file its answer testimony and exhibits; (b) the date by which Applicant will file its rebuttal testimony and exhibits; (c) the date by which each intervenor will file cross-answer testimony and exhibits;⁵ (d) the date by which each party will file its corrected testimony and exhibits; (e) the date by which each party will file its prehearing motions;⁶ (f) whether a final prehearing conference is necessary and, if it is, the date for that

³ Section 40-6-109.5(4), C.R.S., allows the Commission to extend the time for decision an additional 90 days upon a finding of extraordinary circumstances.

⁴ This assumes that WRA is permitted to intervene.

⁵ Cross-answer testimony may address and respond to only the answer testimony of other intervenors.

⁶ 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.

prehearing conference; (g) the date by which the Parties will file any stipulation or settlement reached;⁷ (h) the date(s) for the evidentiary hearing; and (i) the date by which each party will file its post-hearing statement of position,⁸ to which no response will be permitted absent further order.

17. In considering hearing dates, the Parties are reminded that, absent a further enlargement of time or waiver of § 40-6-109.5, C.R.S., the Commission decision in this matter should issue not later than **March 4, 2015**. To allow time for filing statements of position, issuance of a recommended decision, filing exceptions, filing responses to exceptions, and issuance of a Commission decision on exceptions, the **hearing in this matter must be concluded not later than the week of December 8, 2014**.

18. *At the prehearing conference*, the Parties must be prepared to discuss any matter pertaining to discovery if the procedures and timeframes contained in Rule 4 CCR 723-1-1405 are not sufficient.

19. *At the prehearing conference*, the Parties must be prepared to discuss any matter pertaining to the treatment of information claimed to be confidential if the procedures and timeframes contained in Rules 4 CCR 723-1-1100 and 723-1-1101 are not adequate. This discussion will include the treatment of information for which extraordinary protection may be sought.

20. *At the prehearing conference*, a party may raise any additional issue.

21. The ALJ expects the Parties to come to the prehearing conference with proposed dates for the procedural schedule and evidentiary hearing. The Parties must consult prior to the

⁷ This date **must** be at least three business days before the first day of hearing.

⁸ Statements of position should be filed not later than one week after the close of the evidentiary hearing.

prehearing conference with respect to the matters to be discussed at the prehearing conference. The ALJ encourages the Parties to present, if possible, a procedural schedule and hearing date(s) that are satisfactory to all Parties. The ALJ requests Public Service to coordinate the discussion.

22. **The Parties are advised, and are on notice, that** failure to attend or to participate in the prehearing conference will be a waiver of objection to the decisions made, the procedural schedule established, and the hearing date(s) established at the prehearing conference.

D. Additional Advisements.

23. **The Parties are advised, and are on notice, that** the Parties must be familiar with, and must abide by, the Rules of Practice and Procedure, 4 CCR 723 Part 1. These Rules are available on-line at dora.colorado.gov/puc.

24. The ALJ calls counsel's attention to Rule 4 CCR 723-1-1202(d), which requires that

[e]very pleading of a party represented by an attorney shall be signed by the attorney, and *shall state the attorney's* address, telephone number, *e-mail address*, and attorney registration number.

(Emphasis supplied.) **The Parties are advised, and are on notice, that** filings must comply with this requirement.⁹

25. **The Parties are advised, and are on notice, that** filing with the Commission occurs on the date that the Commission *receives* a document. Thus, if a document is placed in the mail on the date on which the document is to be filed, then the filing is *not* timely.

⁹ During the course of this Proceeding, the ALJ may have occasion to inform counsel, on short notice, of rulings. The ALJ will make such notifications by electronic mail and will rely solely on signature blocks for the appropriate addresses. Thus, if no electronic mail address is provided, counsel may not receive notice of rulings.

26. **The Parties are advised that** the Commission has an E-Filings System available. One may learn about, and -- if one chooses to do so -- may register to use, the E-Filings System at dora.colorado.gov/puc.

II. **ORDER**

A. **It Is Ordered That:**

1. Pursuant to § 40-6-109.5(1), C.R.S., the time for Commission decision in this Proceeding is extended to and including March 4, 2014.

2. The Colorado Office of Consumer Counsel is a party in this Proceeding.

3. Trial Staff of the Commission is a party in this Proceeding.

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

DATE: July 28, 2014

TIME: 10:00 a.m.

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

5. The matters identified above will be discussed at the prehearing conference. 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(s).

6. Failure to attend or to participate in the prehearing conference is a waiver of objection to the decisions made, the procedural schedule established, and the hearing date(s) established at the prehearing conference.

7. The Parties shall consult prior to the prehearing conference with respect to the matters identified above. The Administrative Law Judge requests that Public Service Company of Colorado coordinate the discussion.

8. The Parties are held to the advisements in this Interim Decision.
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