

Decision No. R16-0487-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 16A-0139E

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF
COLORADO FOR APPROVAL OF ITS 2017-2019 RENEWABLE ENERGY COMPLIANCE
PLAN.

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

Mailed Date: June 8, 2016

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I. STATEMENT

1. On February 29, 2016, Public Service Company of Colorado (Public Service) filed its Application for Approval of its 2017-2019 Renewable Energy Standard Compliance Plan. By Decision No. C16-0369-I issued May 3, 2016, the matter was referred to an Administrative Law Judge (ALJ) for disposition.

2. The Commission gave notice of the application on March 1, 2016. Requests for permissive intervention were due within 30 days after the date of the Notice. Intervention by Commission Staff was due within seven days after the Notice expired.

3. Public Service, the City of Boulder, Clean Energy Collective, LLC, Climax Molybdenum Company, City and County of Denver, Colorado Solar Energy Industries Association, Energy Outreach Colorado, Energy Freedom Coalition of America, Grid Alternatives Colorado, Inc., Interwest Energy Alliance, Ormat Nevada, Inc., Sunrun, Inc., SunShare, LLC, Western Resource Advocates, the Colorado Energy Office, the Colorado Office of Consumer Counsel, and Staff of the Public Utilities Commission are parties in this matter.

4. By Decision No. R16-0427-I issued May 19, 2016, a prehearing conference was scheduled to be held on June 7, 2016. At the scheduled time and place, the prehearing conference was convened. All parties appeared and participated through counsel.

5. During the course of the prehearing conference, Public Service waived the applicable statutory period governing this proceeding pursuant to § 40-6-109.5, C.R.S., in order to accommodate the schedule proposed. The unopposed procedural schedule is reasonable and will be adopted as ordered below.

6. **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 (<http://www.dora.colorado.gov/puc>) and in hard copy from the Commission.

7. 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. Presentation of Exhibits Electronically During Evidentiary Hearing.

8. The presentation of evidence at the hearing shall be done through electronic exhibits to the fullest extent possible, with the exception of exhibits used for impeachment or rebuttal. If a pre-filed hearing exhibit marked for identification is admitted into evidence, it is anticipated that the electronic copy in 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).

9. To facilitate the presentation of electronic exhibits, all pre-marked and electronically filed exhibits will be available during the evidentiary hearing through a hyperlinked spreadsheet identifying filings in the Commission's E-Filings System. The spreadsheet will be made available to the parties prior to hearing and marked as a hearing exhibit. Commission Staff will display pre-filed electronic filings during hearing.¹

10. The parties are advised and on notice that final versions of all hearing exhibits must be filed in accordance with the filing deadlines in the procedural schedule and not less than

¹ Exhibits will be displayed on large monitors in the hearing room. Should the parties have technical questions relating to the electronic presentation of exhibits, they may contact Ms. Alison Torvik at (303) 894-2885.

three business days prior to hearing so that the spreadsheet may be timely prepared and distributed.²

11. Unless otherwise ordered, a sponsoring party shall ensure that one paper copy of each pre-filed hearing exhibit is available at hearing. Any paper copy provided at hearing shall reflect the same marking for identification appearing in the Commission's filed copy. 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.

B. Assignment of Hearing Exhibit Number Blocks

12. In order to efficiently organize the numbering and preparation of exhibits for hearing, all parties shall use a unified numbering system for all hearing exhibits. Parties should not duplicate hearing exhibits or attachments previously filed by another party because any hearing exhibit filed may be used by any party.

13. The party initiating the proceeding is assigned hearing exhibit numbers, from 101 to 300. Each person requesting intervention is assigned a sequential block of an additional 100 hearing exhibit numbers in the order that requests or notices of intervention are filed, as reflected in the Commission's E-Filings System. Illustratively, the first person noticing an intervention by right or requesting permissive intervention would be assigned hearing exhibit numbers from 201 to 300. The second person would be assigned hearing exhibit numbers from 301 to 400. 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-Filings System to determine sequencing of requests for intervention (*i.e.*, without regard to when the intervention was granted).

² No confidential or highly confidential information will be included with this distribution.

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

C. Identification and Filing Requirements for Hearing Exhibits.

15. 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.

16. Each type of a witness's testimony, including any attachments, (*e.g.*, direct, answer, rebuttal, and cross-answer) shall be marked as one hearing exhibit number. Even if comprised of multiple electronic documents, the testimony and attachments will be one hearing exhibit. The title of each pre-filed hearing exhibit shall match the title entered in the Commission's E-Filings System and 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).

17. The title of all pre-filed written testimony (*i.e.*, primary document) should include the type of testimony and the name of the witness. For example, if Hearing Exhibit 101 is the direct testimony of witness John J. Doe, the following title should be used: "Hearing Exhibit 101, Direct Testimony of John J. Doe."

18. 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 an "attachment" to the testimony in the hearing exhibit and identified by the hearing exhibit number reference, the witness's initials, and a number sequence. Again, attachments will be part of the hearing exhibit identifying each type of testimony. As an example, if the party assigned block

301 files answer testimony of Albert B. Cooke, that includes a table as Attachment ABC-1, then the title of the table will be “Hearing Exhibit 301, Attachment ABC-1.” The attachment should not be referred to as Exhibit ABC-1 or Appendix A.

19. Any party wishing to admit any document used for impeachment or rebuttal, may do so by presenting a paper copy of the document at the time of the hearing.³ In such a circumstance, the party offering the document into evidence is responsible for ensuring that there are an appropriate number of paper copies available at the time of the hearing. In addition to an original, copies for the other parties, and a copy for the witness, the parties should bring a copy for the advisor(s) and the presiding officer, or Commissioners if the matter is heard *en banc*.

D. Formatting of Hearing Exhibits.

20. Slip sheets referred to in Rule 1202(g) shall be blank pieces of paper.

21. There shall be only one page number shown on each page of all testimony. The first page of **all** page-numbered hearing exhibits shall be page 1, with each additional page numbered in succession (to best match page number references with electronic file page references). For example, the cover page shall be page 1, and all following pages shall be numbered sequentially, including executive summaries, tables of contents, and lists of attachments.

22. Page numbers should be included in the header of each page-numbered hearing exhibit. The top line of the header shall include the title of the document (*e.g.*, Hearing Exhibit 401, Answer Testimony of Albert B. Cooke or Hearing Exhibit 401, Attachment ABC-1).

³ To be clear, the parties are not required to pre-file documents to be used solely for impeachment or rebuttal.

23. 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).

24. Titles entered into the Commission's E-Filings System should be in title format (*i.e.*, not all capitals).

E. Modifying, Amending, Supplementing, or Correcting a Previously Filed Hearing Exhibit Before Deadline for Corrections.

25. Should a party need to modify, amend, supplement, or correct a previously identified hearing exhibit on or before the deadline for filing corrections as set forth in the procedural schedule and more than three business days prior to hearing, a complete revision including all changes in redline/strikeout format shall be filed.⁴ No modification, amendment, supplement, or correction shall be made to a filed hearing exhibit without indicating a new revision number. The same 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 101, Direct Testimony of John J. Doe changed, it would be filed as Hearing Exhibit 101, Direct Testimony of John J. Doe, Rev. 1 containing redlined modifications to the original version.⁵ If an additional revision is later filed, it would be filed as Hearing Exhibit 101, Direct Testimony of John J. Doe, Rev. 2 and would contain all redlined modifications as compared to the original version (*i.e.*, not only as compared to Rev. 1). For Rev. 2 as well as any subsequent revisions, the filing shall also include an additional notice attachment (*i.e.*, as a secondary document) identifying changes in each revision from the next previous revision. Further, the title

⁴ Filing a "clean" version is not necessary and is discouraged.

⁵ "Rev." stands for revision.

of any revision should not contain the word “corrected” even if the revision corrects the prior filing.

26. The most recent revision of a hearing exhibit shall be the version utilized during the evidentiary hearing. References in testimony to obsolete versions of other testimonies will be construed to be amended 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 (*e.g.*, no need to amend) so long as the reference remains in reasonable proximity to the referenced material. Thus, a reference in answer testimony to page 10, line 5 of someone else’s direct testimony need not be revised when a revision is filed to such direct testimony so long as page 10, line 5 is still an approximate reference.

F. Modifying, Amending, Supplementing, or Correcting a Previously Filed Hearing Exhibit After Deadline for Corrections.

27. Should a party need to modify, amend, supplement, or correct a previously identified hearing exhibit after the deadline for corrections or **less than three business days** prior to hearing or during hearing, all changes should be reflected on replacement pages only in redline/strikeout format that will be presented in paper form during hearing.⁶ The replacement pages shall collectively be marked numerically and sequentially for identification as a separate hearing exhibit within the party’s block of hearing exhibit numbers. The replacement pages shall also include an additional notice attachment (*i.e.*, as a secondary document if electronically filed) identifying changes in each revision from the next previous revision.

⁶ Filing a “clean” version is not necessary and is discouraged.

28. If the changes are permitted, and assuming the original filing otherwise admissible, both hearing exhibits would be admitted into evidence during hearing with the latter replacement pages superseding and prevailing to the extent of conflict in the next previous revision.

29. References to superseded portions of a hearing exhibit will be construed to be amended to refer to the replacement pages, unless otherwise specified. Although corresponding page and line references may reasonably be affected by such construction, corrected references will not be necessary (*e.g.*, no need to amend) so long as the reference remains in reasonable proximity to the referenced material. Thus, a reference in answer testimony to page 10, line 5 of someone else's direct testimony need not be revised when a replacement page 10 is filed so long as page 10, line 5 is still an approximate reference.

G. Procedures Regarding Confidentiality

30. Any pre-filed hearing exhibit (including attachments) filed in accordance with the Standards of Conduct in the Commission's Rules of Practice and Procedure containing confidential information shall be pre-marked 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 101, Direct Testimony of John J. Doe. If portions of the testimony in Hearing Exhibit 101, Direct Testimony of John J. Doe are claimed to be confidential, those portions would be filed in accordance with the Standards of Conduct and identified as Hearing Exhibit 101C, Direct Testimony of John J. Doe. Hearing Exhibit 101, Direct Testimony of John J. Doe would remain in the public record (redacted to exclude confidential material). Further, if portions of Hearing Exhibit 101, Direct

Testimony of John J. Doe, Attachment JJD-1 are claimed to be confidential, those portions would be filed in accordance with the Standards of Conduct and identified as Hearing Exhibit 101, Attachment JJD-1C. Hearing Exhibit 101, Attachment JJD-1 would remain in the public record (redacted to exclude confidential material). Comparably, should any highly confidential protections be afforded, the hearing exhibit number would be designated with a “D” following the number.

31. 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).

II. ORDER

A. It Is Ordered That:

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

2. Any objections to the admissibility of the form of any pre-filed hearing exhibits marked for identification (*e.g.*, authenticity) shall be filed not less than 20 business days prior to the commencement of hearing. Response time to any motion so filed is shortened to five business days.

3. If necessary to comply with this Decision, Public Service Company of Colorado 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 within 14 days of the date of this Decision,. For purposes of this Decision, any such filings shall be treated as the original filing of hearing exhibits.

4. Any party desiring to file Answer Testimony in this proceeding shall file the same on or before July 25, 2016.

5. Any party desiring to file Rebuttal or Cross-Answer Testimony in this proceeding shall file the same on or before August 25, 2016.

6. 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.⁷

7. A hearing in this matter shall be conducted at the following dates, times, and place:

DATES: September 26 and 27, 2016
TIME: 9:00 a.m.
DATE: September 28, 2016
TIME: 10:00 a.m.
PLACE: Commission Hearing Room
1560 Broadway, Suite 250
Denver, Colorado

8. At the hearing, all parties shall bring one paper copy of the pre-marked hearing exhibits they intend to offer into evidence.

⁷ 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.

9. Any party desiring to file a Statement of Position shall file the same on or before October 5, 2016.

10. Any discovery propounded after 3:00 p.m. MST on the last business day before a holiday or a Saturday shall be deemed to be propounded at 8:00 a.m. MST on the next business day.⁸

11. All prehearing motions other than as to admissibility of the form of any pre-filed hearing exhibits marked for identification (*i.e.*, including motions to approve settlement agreements) as well as corrections to any pre-filed hearing exhibits marked for identification shall be filed on or before August 29, 2016.

12. Response time to any motions to compel discovery shall be shortened to five business days.

⁸ Business days and holidays shall be defined by reference as the Commission's normal business hours. *See* Rule 1204 of the Rules of Practice and Procedure, 4 CCR 723-1.

13. 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