

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 19AL-0268E

IN THE MATTER OF ADVICE LETTER NO. 1797 FILED BY PUBLIC SERVICE COMPANY OF COLORADO TO RESET THE CURRENTLY EFFECTIVE GENERAL RATE SCHEDULE ADJUSTMENT (“GRSA”) AS APPLIED TO BASE RATES FOR ALL ELECTRIC RATE SCHEDULES AS WELL AS IMPLEMENT A BASE RATE KWH CHARGE, GENERAL RATE SCHEDULE ADJUSTMENT-ENERGY (“GRSA-E”) TO BECOME EFFECTIVE JUNE 20, 2019.

INTERIM DECISION GRANTING UNOPPOSED MOTION TO EXCUSE ATTENDANCE OF ASSOCIATED COUNSEL, GRANTING MOTIONS TO EXCUSE CERTAIN WITNESSES, REJECTING CROSS-EXAMINATION MATRIX, MODIFYING PROCEDURAL SCHEDULE, AND ORDERING THE PARTIES TO CONFER AND FILE A PRACTICABLE CROSS-EXAMINATION MATRIX

Mailed Date: November 1, 2019
Adopted Date: October 30, 2019

TABLE OF CONTENTS

I. BY THE COMMISSION	2
A. Statement	2
B. Discussion.....	2
1. Unopposed Motion to Excuse the Attendance of Associated Counsel at the Evidentiary Hearing	2
II. MOTIONS TO EXCUSE WITNESS ATTENDANCE	3
III. CROSS-EXAMINATION MATRIX AND PROCEDURAL SCHEDULE.....	3
IV. ORDER.....	4
A. It Is Ordered That:	4
B. ADOPTED IN COMMISSIONERS’ WEEKLY MEETING October 30, 2019.	6

I. BY THE COMMISSION**A. Statement**

1. This Decision addresses a number of filings that raise procedural issues in the run-up to the evidentiary hearing. First, the Commission grants the Department of Energy's Unopposed Motion to Excuse the Attendance of Associated Counsel at the Evidentiary Hearing. Second, the Commission grants the motions to excuse Witness Cheryl Roberto, Witness Steve W. Chriss, and Witness Jonathan Rogers filed by Sierra Club, Walmart, Inc. (Walmart) and the City and County of Denver, respectively. Third, the Commission rejects the unworkable cross-examination matrix filed by Public Service Company of Colorado (Public Service) and directs the parties to confer and to file a practicable cross-examination matrix no later than 12:00 p.m. on Friday, November 1, 2019. Finally, the Commission vacates the statement of position deadline and extends the evidentiary hearing to include November 14 and 15.

B. Discussion**1. Unopposed Motion to Excuse the Attendance of Associated Counsel at the Evidentiary Hearing**

2. The Department of Energy (DOE) filed this unopposed motion on October 22, 2019. The motion seeks to excuse the attendance of Ronald J. Klinefelter—the Colorado-licensed attorney associated with Peter Meier—from the upcoming evidentiary hearing. Mr. Meier is appearing *pro hac vice* to represent the DOE in this proceeding.

3. In support of the motion, the DOE asserts that

- Mr. Meier is an experienced attorney who has participated in rate cases and other regulatory proceedings in a number of different jurisdictions;
- Mr. Meier has reviewed the Commission's rules, is familiar with the pleadings and record in this proceeding, and can effectively represent DOE and the Federal Executive Agencies at the evidentiary hearing without Mr. Klinefelter in attendance;

- Mr. Meier has been an active participant in the proceeding;
 - Mr. Klinefelter's place of business is nearby and he will be available to attend the evidentiary hearing if necessary; and
 - the DOE conferred with all parties on the lengthy service list in this proceeding and there are no objections to the relief requested.
4. Consistent with Colorado Rule of Civil Procedure 205.3(3), we will grant the

DOE's motion for the reasons outlined above.

II. MOTIONS TO EXCUSE WITNESS ATTENDANCE

5. On October 28th, Sierra Club and Walmart each filed motions to excuse one of their witnesses from appearing at the upcoming evidentiary hearing. The next day, the City and County of Denver filed a similar motion to excuse its witness, Mr. Jonathan Rogers. No other party intended to cross-examine these three witnesses. The three movants ask that if the Commissioners have no questions for their witness, that the witness be excused from attending the hearing.

6. We have reviewed the record as it relates to each of these three witnesses and have no further questions for any of them at this time. Accordingly, we conclude that it is appropriate to grant the relief requested in the three motions; Ms. Roberto, Mr. Chriss, and Mr. Rogers are excused from appearing at the evidentiary hearing.

III. CROSS-EXAMINATION MATRIX AND PROCEDURAL SCHEDULE

7. The matrix Public Service filed on October 25, 2019, indicates that parties have subscribed to 60 hours of hearing time for cross-examination. There are three problems with this approach. First, under the current schedule, the parties would be cross-examining witnesses long after the hearing has ended. Sixty hours translates to roughly ten days full of nothing but cross-examination, yet the hearing is currently scheduled for only seven days. Second, the

parties have left no time for the Commission to question witnesses. This is an important part of the evidentiary hearing, as well. Third, the matrix fails to account for the late start on November 6 and November 13 due to the Commission's weekly business meeting, breaks, lunch, or time spent dealing with procedural matters that occur during the normal course of a hearing that require additional time.

8. Accordingly, we reject the cross-examination matrix filed by Public Service on October 25, 2019.

9. We will also order the parties to confer, develop, and file a practicable cross-examination matrix by noon on Friday, November 1st. The parties should count each hearing day as 6 hours of hearing and should reserve 15 minutes at a minimum per witness¹ for Commission questions. The remaining time may be used for cross-examination.

10. Given the important issues to be discussed at the hearing, we will modify the procedural schedule by extending the evidentiary hearing by two days to include November 14th and November 15th. This extension will compress the already short time available for parties to develop their post-hearing statements of position (SoPs). Accordingly, we will vacate the SoP deadline of November 22, 2019 adopted by Decision No. C19-0709-I. The SoP deadline will be discussed and set at the hearing.

IV. ORDER

A. It Is Ordered That:

1. The Department of Energy's Unopposed Motion to Excuse the Attendance of Associated Counsel at the Evidentiary Hearing filed on October 22, 2019 is granted.

¹ Excluding the six witnesses who are now excused or who had zero minutes of cross-examination time subscribed on the first matrix filed by Public Service.

2. Sierra Club's Motion to Excuse Witness from Appearing at Hearing filed on October 28, 2019 is granted.

3. Walmart Inc.'s Motion to Excuse Witness from Appearing at Hearing filed on October 28, 2019 is granted.

4. The City and County of Denver's Motion to Excuse Witness from Appearing at Hearing filed on October 29, 2019 is granted.

5. The cross-examination matrix filed on October 25, 2019 by Public Service Company of Colorado (Public Service) is rejected.

6. Two additional days of hearing are scheduled as follows:

DATES: November 14 and 15, 2019

TIME: 9:00 a.m. to 5:00 p.m.

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

7. The November 22, 2019 deadline for statements of positions as established by Decision No. C19-0709-I is vacated.

8. Public Service is ordered to confer with the parties and to develop a new cross-examination matrix that works within the time allotted to the extended evidentiary hearing and to file that matrix by 12:00 p.m. on November 1, 2019.

9. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
October 30, 2019.**

(S E A L)



ATTEST: A TRUE COPY



Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JEFFREY P. ACKERMANN

FRANCES A. KONCILJA

JOHN GAVAN

Commissioners