

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 19A-0534E

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR APPROVAL OF THE SALE OF STREET LIGHTING FACILITIES TO THE CITY OF GREENWOOD VILLAGE.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
MELODY MIRBABA
GRANTING UNOPPOSED MOTION TO VACATE
PREHEARING CONFERENCE, ESTABLISHING
DEADLINES, AND SCHEDULING HEARING**

Mailed Date: December 2, 2019

I. STATEMENT

A. Summary.

1. This Decision grants Public Service Company of Colorado's (Public Service) Unopposed Motion to Vacate Prehearing Conference, Establish Procedural Schedule and Waive Response Time (Motion). The Decision approves the procedural schedule and hearing dates proposed in the Motion, waives the response time to the Motion, vacates the December 3, 2019 prehearing conference, and enters other appropriate orders relating to the evidentiary hearing.

B. Background and Findings.

2. Only the relevant portion of the procedural history is included. By Decision No. R19-0940-I, the Administrative Law Judge (ALJ) scheduled this matter for a prehearing conference for December 3, 2019 to establish a procedural schedule and set an evidentiary hearing. The same Decision requires the parties to confer about a proposed consensus procedural and hearing schedule meeting identified minimum criteria, and to present the schedule at the prehearing conference. Decision No. R19-0940-I, Ordering ¶ 4.

3. On December 2, 2019, Public Service filed the Motion seeking to vacate the December 3, 2019 prehearing conference based on a proposed procedural and hearing schedule outlined in the Motion. The Motion states that it is unopposed, and that all parties agree to the procedural schedule and hearing dates outlined in the Motion. Motion at ¶¶ 9-10. If the proposed schedule is approved, the Motion asks that the December 3, 2019 prehearing conference be vacated. *Id.* at ¶ 9. In addition, because the Motion asks that the response time to it be waived since the Motion is unopposed. *Id.* at ¶ 10.

4. As an initial matter, the ALJ finds good cause to waive the response time to the Motion because it is unopposed. The response time will be waived, consistent with Rule 1400(b), of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1.

5. The Motion proposes deadlines to file and serve: answer, rebuttal and cross-answer testimony; stipulations; settlement agreements; prehearing motions; corrections to pre-filed testimony; exhibits; exhibit and witness lists; and statements of position. It also proposes that a two-day hearing be scheduled for April 6 and 7, 2019. The ALJ finds that the proposed procedural schedule and hearing dates comply with the minimum criteria set forth in Decision No. R19-0940-I. As such, the ALJ will approve the proposed procedural schedule and hearing dates.¹ Based on this, there is no need for a prehearing conference, so December 3, 2019 prehearing conference will be vacated.²

¹ The ALJ also enters additional orders relating to the evidentiary hearing and exhibits.

² The ALJ informally notified the parties that the prehearing conference will be vacated by email on December 2, 2019. The email has been filed in this proceeding and is part of the record.

II. ORDER

A. **It Is Ordered That:**

1. Consistent with the above discussion, Public Service Company of Colorado's (Public Service) Unopposed Motion to Vacate Prehearing Conference, Establish Procedural Schedule and Waive Response Time (Motion) is granted. The response time to the Motion is waived, and the prehearing conference scheduled in this proceeding for December 3, 2019 at 1:00 p.m. is vacated.

2. An evidentiary hearing in this proceeding is scheduled as follows:

DATE: April 6 and 7, 2020
TIME: 9:00 a.m. (each day)
PLACE: Commission Hearing Room
1560 Broadway, 2nd Floor
Denver, Colorado

3. **Answer Testimony.** The parties must file and serve answer testimony by February 14, 2020.

4. **Rebuttal and Cross-Answer Testimony.** The parties must file and serve rebuttal and cross-answer testimony by March 13, 2020.

5. **Stipulations and Settlement Agreements.** The parties must file and serve stipulations and settlement agreements by March 23, 2020.

6. **Prehearing Motions.** The parties must file and serve prehearing motions by March 30, 2020. The parties must confer with each other prior to filing prehearing motions.

7. **Corrections to Testimony.** The parties may make corrections to testimony (including attachments thereto) without filing a motion seeking leave to do so. The parties must file and serve any corrections to testimony by March 30, 2020. Corrections include minor changes, such as correcting typographical errors. Corrections to testimony do not include

material or substantive changes to testimony. The parties may only file the pages of the testimony (or attachment) that are corrected; the corrected pages must be filed in a redlined or similar format that highlights the changes as compared to the original.³ Parties filing more than one revision to an exhibit or attachment must: ensure that the redlined version shows changes as compared to the original version; and file a notice identifying changes in the latest revision as compared to the most recent version. Parties wishing to make a material or substantive change to written testimony must file a motion establishing good cause; such a motion must be filed as soon as the party becomes aware of the need to amend or modify the filing. Unreasonable delay in filing such a motion is cause to deny the motion.

8. **Final Witness and Exhibit Lists, and Exhibits.** The parties must file and serve final witness and exhibit lists and exhibits by March 30, 2020. Exhibit lists must identify the hearing exhibit number and title of each hearing exhibit; provide a brief description of each hearing exhibit; and indicate whether the parties have stipulated to the admission of any hearing exhibit listed. Nothing in this Decision requires parties to pre-file and serve hearing exhibits that the parties intend to use solely for impeachment or rebuttal. Any party may use any other party's hearing exhibits during the course of the hearing. The parties are encouraged to confer with each other to avoid offering identical duplicative exhibits during the hearing. The parties are on notice that the Administrative Law Judge anticipates denying requests to admit identical duplicative hearing exhibits during the hearing.

9. **Joint Witness Testimony Matrix.** The parties must file a joint witness testimony matrix identifying the amount of time each party anticipates using to examine all witnesses who will testify at the hearing by March 30, 2020.

³ Filing a "clean" version is not necessary and is discouraged.

10. **Statements of Position.** In lieu of closing argument, the parties may submit statements of position. Any party wishing to do so must file a statement of position by April 14, 2020.

11. **Paper Copies of Hearing Exhibits.** Unless otherwise ordered, the sponsoring party must bring to the hearing three paper copies of all pre-marked hearing exhibits they intend to offer.

12. **Hearing Exhibit Number Block Assignments.** Public Service is assigned hearing exhibit numbers 1 to 199. All other parties are assigned a sequential block of 100 exhibit numbers starting with hearing exhibit 200, in the order that their notices of intervention were filed, as reflected in the Commission's E-Filings System for this proceeding. The last unassigned block of hearing exhibits is reserved for hearing exhibits first presented at hearing (*e.g.*, exhibit for rebuttal).

13. **Hearing Exhibit Identification Requirements.** The parties must sequentially number each hearing exhibit within their assigned hearing exhibit number blocks. The parties must conspicuously mark for identification each exhibit as a "hearing exhibit" with its corresponding hearing exhibit number, and a brief description of the document, such as the document's substantive title. For example, if Hearing Exhibit 1 is John J. Doe's direct testimony, the party offering the exhibit must mark the exhibit for identification as follows: "Hearing Exhibit 1, John J. Doe's Direct Testimony." Parties offering written testimony with attachments must mark the entirety of the witnesses' testimony including all attachments, with one hearing exhibit number. In addition, the parties must mark all attachments to witness testimony as an "attachment" to the testimony with the relevant hearing exhibit number, the witness's initials, and a sequential number sequence. Building on the above example, if John J. Doe's direct

testimony includes an attachment, the party must mark the attachment as follows: “Hearing Exhibit 1, Attachment JJD-1.”

14. **Hearing Exhibit Page Numbering.** The parties must sequentially number each page of each hearing exhibit and attachment, starting with the exhibit’s or attachment’s first page, regardless of the first page’s content. For example, if the first page of the hearing exhibit or attachment is a cover page, that page must be marked as page number 1, and all pages to follow (including table of contents, executive summaries, intentionally blank pages and the like) must be sequentially page-numbered. In addition, page numbering must be formatted to reflect the exhibit’s or attachment’s total number of pages (*e.g.*, page 1 of 20).

15. Unless inconsistent with this Decision, the parties must comply with the Commission’s Rules of Practice and Procedure, 4 *Code of Colorado Regulations* 723-1, throughout this proceeding.

16. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

MELODY MIRBABA

Administrative Law Judge

ATTEST: A TRUE COPY

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

Doug Dean,
Director