

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 20A-0345E

IN THE MATTER OF THE VERIFIED APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR APPROVAL OF AN ECONOMIC DEVELOPMENT RATE (EDR) PROPOSAL PURSUANT TO COLORADO HB 18-1271.

**INTERIM DECISION FURTHER
ESTABLISHING ELECTRONIC PROCEDURES FOR
PRESENTATION AND SUBMISSION OF EXHIBITS**

Mailed Date: November 16, 2020
Adopted Date: November 12, 2020

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I. BY THE COMMISSION

A. Statement

1. On August 21, 2020, Public Service Company of Colorado (Public Service) filed an Application and Direct Testimony requesting Commission approval of an economic development rate tariff pursuant to § 40-3-104.3, C.R.S.

2. By Decision No. C20-0702-I, issued October 6, 2020, the Commission deemed Public Service's Application complete and set the matter for hearing *en banc*.

3. By Decision No. C20-0726-I, issued October 9, 2020, the Commission addressed motions for intervention and *amicus curiae* status, scheduled a prehearing conference for October 30, 2020, and required parties to confer on the procedural schedule that included supplemental direct testimony.

4. On October 23, 2020, Public Service submitted an unopposed motion to approve a procedural schedule and discovery procedures, and to vacate the prehearing conference.

5. By Decision No. C20-0756-I, issued October 28, 2020, the Commission vacated the prehearing conference set for October 30, 2020, and approved the parties' proposed procedural schedule, including scheduling a remote five-day hearing requested for April 5 through 9, 2021. The schedule also includes that supplemental direct testimony shall be filed no later than December 11, 2020; answer testimony shall be filed no later than February 8, 2021; and rebuttal and cross-answer testimony shall be provided no later than March 12, 2021.

6. Through this Decision, we set electronic procedures for the submission and presentation of exhibits.

B. Presentation of Exhibits Electronically During Evidentiary Hearing

7. Because the hearing will be held remotely by video-conference, all evidence must be presented electronically. 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).

8. To facilitate the presentation of exhibits electronically during the evidentiary hearing, the Commission will provide a spreadsheet identifying each hearing exhibit as it exists in the administrative record. The spreadsheet will include hyperlinks to the filings in the administrative record. The spreadsheet will be made available to the parties prior to the hearing and marked as a hearing exhibit. Commission Staff will display pre-filed electronic filings during the hearing.¹

9. Any document previously-filed by a party that will be offered into evidence, but has not been identified in compliance with this Decision, must be revised and re-filed in accordance with this Decision. Any such filings shall be: (a) made within 14 days of the date of the underlying Decision; and (b) treated as the original filing of hearing exhibits.²

10. Any stipulations or settlement agreements, along with any associated testimony or exhibits, shall also be filed electronically in accordance with the procedures set forth below.

¹ Exhibits will be displayed electronically during the hearing. Should the parties have technical questions relating to the electronic presentation of exhibits, they may contact Ms. Christie Nicks at Christie.Nicks@state.co.us or Mr. Ross Smith at Ross.Smith@state.co.us.

² Compliance with this Decision may result in a change to pagination of prior versions of hearing exhibits. References in discovery requests and responses to prior versions of hearing exhibits 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 (*i.e.*, no need to amend) so long as the reference remains in reasonable proximity to the referenced material.

11. Final versions of all previously-filed hearing exhibits must be filed **on or before** the fourth business day prior to the hearing,³ unless otherwise ordered, so that the spreadsheet may be timely prepared and distributed during the three business days prior to the hearing. Hyperlinks will not be included for confidential or highly confidential information. Any exhibits filed after this deadline will not be included in the spreadsheet of hyperlinked electronic exhibits and will not be admitted by administrative notice.

12. After the deadline for final versions, a party intending to present a document during hearing must: (a) pre-mark such document with a hearing exhibit number within the party's assigned exhibit number block; and (b) upload such document into the party's designated box.com folder before presenting them during the hearing.⁴ This includes documents not required to be pre-filed (*e.g.*, for impeachment, to refresh recollection, or for rebuttal).

13. The parties are responsible for ensuring they and their witnesses have access to all pre-marked exhibits and are able to download and view documents from box.com *during the hearing*.

1. Assignment of Hearing Exhibit Number Blocks

14. Hearing exhibits shall be marked numerically and sequentially for identification by the filing parties within their respective blocks of numbers. In order to efficiently organize the numbering and preparation of exhibits for the 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.

³ A calculation of the fourth business day prior to hearing shall exclude the first day of the hearing and include each of the four business days preceding the hearing. For example, if the first day of the hearing falls on a Monday, then the fourth business day prior to hearing is Tuesday of the preceding week.

⁴ The Public Utilities Commission Administrative Hearings Section uses a web-based document sharing service, box.com. All parties must ensure they can access and use box.com. An email with more details will follow.

15. The party initiating the proceeding is assigned hearing exhibit numbers 100 to 299.

16. Each intervening person or entity is assigned a block of 100 hearing exhibit numbers (*e.g.*, 300-399, 400-499, etc.) in the chronological order that notices of intervention by right and petitions for permissive intervention are filed, as reflected in the Commission's E-Filings System. As a result, the first person or entity noticing an intervention by right or requesting permissive intervention is assigned hearing exhibit numbers from 300 to 399, the second person or entity is assigned hearing exhibit numbers from 400 to 499, etc. Parties shall rely upon the Commission's E-Filings System to determine sequencing of requests for intervention (*i.e.*, without regard to whether or when the interventions were granted). To determine the sequencing and avoid duplicative use of blocks, parties are encouraged to confer as needed.

2. Identification of Filing Requirements for Hearing Exhibits

17. 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 and filed in accordance with this Interim Decision.⁵

18. Parties must mark all hearing exhibits for identification in sequential order, using hearing exhibit numbers within their assigned hearing exhibit number block. Each type of a witness's testimony, including any attachments, (*e.g.*, direct, answer, rebuttal, cross-answer, and

⁵ In order to minimize the size and allow electronic text searches of the PDF files, versions filed in PDF format should be generated from the native executable electronic file format when possible.

supplemental) shall be marked with one hearing exhibit number.⁶ Even if comprised of multiple electronic documents, the testimony and attachments will be one hearing exhibit.⁷

19. Parties should not duplicate hearing exhibits or attachments previously filed by another party. At the hearing, any party may sponsor an exhibit that was pre-filed by another party.

20. The title of all pre-filed written testimony should include the type of testimony and the name of the witness. For example, if Hearing Exhibit 100 is the direct testimony of witness John J. Doe, the following title should be used: “Hearing Exhibit 100, Direct Testimony of John J. Doe.”

21. Anything accompanying pre-filed written testimony within a hearing exhibit (*e.g.*, exhibits, appendices, attachments, or attachments to filing) shall be referred to as an “attachment” to the testimony and identified by the hearing exhibit number reference, the witness’s initials, and a number sequence. For example, if the party assigned block 300 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 300, Attachment ABC-1.” The attachment should not be referred to as Exhibit ABC-1 or Appendix A.

22. When filing hearing exhibits in the Commission’s E-Filings System, parties must title the exhibits to match the title of the hearing exhibit, but may not be in all uppercase format. All exhibit titles entered into the E-Filing System must start with “Hearing Exhibit XXX.”

⁶ Each type of testimony should be identified with a different hearing exhibit number. For example, John J. Doe’s direct testimony may be Hearing Exhibit 100 and his rebuttal testimony may be Hearing Exhibit 105.

⁷ While marked for identification with one hearing exhibit number, the testimony and each attachment should be filed in compliance with Rule 1202 of the Commission’s Rules of Practice and Procedure, 4 *Code of Colorado Regulations* 723-1, which provides that the primary document and each secondary document must be separately uploaded in the Commission’s E-Filings system.

Building on the above examples, John J. Doe's Direct Testimony should be titled "Hearing Exhibit 100, Direct Testimony of John J. Doe" when filing in the Commission's E-Filing System, and the first attachment to John J. Doe's testimony should be titled "Hearing Exhibit 100, Attachment JJD-1" when filing.

3. Formatting of Hearing Exhibits

23. The first page of **all** hearing exhibits shall be page 1, with each additional page numbered in succession. This will match the page numbers to the electronic file page numbers, which will facilitate electronic navigation during the hearing. 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.

24. There shall be only one page number shown on each page of hearing exhibits. 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 400, Answer Testimony of Albert B. Cooke or Hearing Exhibit 400, Attachment ABC-1).

25. 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).

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

4. Filing of Executable Attachments to Hearing Exhibits

27. Any spreadsheet filed as, or that is the basis for, an attachment to a hearing exhibit shall be filed in both .pdf format and in the native executable electronic file format (*e.g.*, .xlsx, .ods, .gsheet).

28. The title of the executable version filed shall mirror the title identifying the pre-filed version and include the word “Executable” after the hearing exhibit number. For example: Hearing Exhibit 300, Executable Attachment ABC-1, or Hearing Exhibit 400, Executable.

29. Parties are not required to: mark native executable hearing exhibits, including executable attachments thereto, for identification, paginate such executable exhibits, or file amended, modified, or corrected executable exhibits in redline/strikeout format.

5. Modifying, Amending, or Correcting a Previously Filed Hearing Exhibit on or Before the Deadline for Corrections

30. Should a party need to modify, amend, or correct a previously identified hearing exhibit **on or before the** ordered deadline for such changes before the hearing, the following procedures shall be followed.

31. If the native executable electronic file format is **not** a spreadsheet, a complete revision including all changes in redline/strikeout format shall be filed.⁸ No modification, amendment, or correction shall be made to a filed hearing exhibit without indicating a new revision number, as described below. 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.

32. For example, if Hearing Exhibit 100, Direct Testimony of John J. Doe changed, it would be filed as Hearing Exhibit 100, Direct Testimony of John J. Doe, Rev. 1 containing redlined modifications to the original version.⁹ If an additional revision is later filed, it would be filed as Hearing Exhibit 100, Direct Testimony of John J. Doe, Rev. 2 and would contain all

⁸ Filing a “clean” version is not necessary and is discouraged.

⁹ “Rev.” stands for revision.

redlined modifications as compared to the original version (*i.e.*, not only as compared to Rev. 1). For Rev. 2 and all subsequent revisions, the filing shall also include a notice identifying changes in each revision from the most recent previous revision. Further, the title of any revision should not contain the word “corrected” even if the revision corrects the prior filing.

33. If the native executable electronic file format **is** a spreadsheet (*e.g.*, .xlsx, .uos, .gsheet), a complete revision including all changes shall be filed. The changes do *not* need to be in redline/strikeout format. No modification, amendment, or correction shall be made to a filed hearing exhibit without indicating a new revision number (*e.g.*, Rev. 1). 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. The revision pages shall also include an additional notice attachment (*i.e.*, as a secondary document if electronically filed) identifying changes in each revision from the most recent previous revision. Additionally, a complete revision of the executable spreadsheet, including all changes, shall be filed.

34. 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 (*i.e.*, no need to amend) so long as the reference remains in reasonable proximity to the referenced material.

6. Modifying, Amending, or Correcting a Previously Filed Hearing Exhibit After the Deadline for Corrections

35. Should a party need to modify, amend, or correct a previously identified hearing exhibit **after the** ordered deadline for such changes, or during the hearing, the following procedures shall be followed.

36. Should a party need to modify, amend, or correct a previously identified hearing exhibit **after the earlier of the** ordered deadline for such changes or the fourth business day prior to hearing, or during the hearing, the following procedures shall be followed to upload them into the party's designated box.com folder rather than filing through the Commission's E-Filings System.

37. If the native executable electronic file format is **not** a spreadsheet, all changes should be reflected on replacement pages only in redline/strikeout format that will be: (a) marked for identification with a hearing exhibit number within the party's assigned exhibit number block in accordance with the procedures in this Decision; and (b) uploaded into the party's designated box.com folder prior to use of the exhibit during the hearing.¹⁰ 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 most recent previous revision.

38. If the native executable electronic file format **is** a spreadsheet (*e.g.*, .xlsx, .uos, .gsheet), all changes should be reflected **on replacement pages only** that will be: (a) marked for identification with a hearing exhibit number within the party's assigned exhibit number block in accordance with the procedures in this Decision; and (b) uploaded into the party's designated box.com folder prior to use of the exhibit during the hearing. The changes do *not* need to be in

¹⁰ Filing a "clean" version is not necessary and is discouraged.

redline/strikeout format. The revision pages shall also include an additional notice attachment (*i.e.*, as a secondary document if electronically filed) identifying changes in each revision from the most recent previous revision. Additionally, a complete revision of the executable spreadsheet, including all changes, shall be filed in accordance with Section E above.

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

40. 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 in reasonable proximity to the referenced material.

7. Procedures for Confidentiality

41. 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.

42. For example, a witness's pre-filed written testimony might be identified as Hearing Exhibit 100, Direct Testimony of John J. Doe. If portions of the testimony in Hearing

Exhibit 100, 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 100C, Direct Testimony of John J. Doe. Hearing Exhibit 100, Direct Testimony of John J. Doe would remain in the public record (redacted to exclude confidential material).

43. Further, if portions of Hearing Exhibit 100, 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 100, Attachment JJD-1C. Hearing Exhibit 100, 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 an “HC” following the number.

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 and filed in accordance with this Decision,¹¹ including the following:

- a. Any spreadsheet filed as, or that is the basis for, an attachment to a hearing exhibit shall be filed in both .pdf format and in the native executable electronic file format (e.g., .xlsx, .ods, .gsheet).
- b. To comply with this Decision, Public Service Company of Colorado shall revise and re-file the testimony it filed with its Application in accordance with ordered procedures and the discussion above within 14 days of the date

¹¹ If the Commission’s E-Filings System does not accept the electronic format of any pre-filed hearing exhibit, an electronic copy must be filed with the Commission on a CD, DVD, or portable drive. If any such hearing exhibit is created from a spreadsheet, the native executable electronic file format must be filed simultaneously on the same CD, DVD, or portable drive.

of this Decision. For purposes of this Decision, any such filings shall be treated as the original filing of hearing exhibits.¹²

- c. All corrections to any pre-filed hearing exhibits marked for identification shall be filed on or before the deadline for “Corrected Testimony” established in the procedural schedule.
 - d. Any objections to the admissibility of any pre-filed hearing exhibits marked for identification (*e.g.*, authenticity) shall be filed by the deadline for “Pre-hearing Motions” established in the procedural schedule.
2. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS’ WEEKLY MEETING
November 12, 2020.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JEFFREY P. ACKERMANN

JOHN GAVAN

MEGAN M. GILMAN

Commissioners

¹² Compliance with this Decision may result in a change to pagination of prior versions of hearing exhibits. References in discovery requests and responses to prior versions of hearing exhibits 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 (*i.e.*, no need to amend) so long as the reference remains in reasonable proximity to the referenced material.