

Decision No. R20-0412-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 19A-0728E

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR THE VOLTAGE CONTROL FACILITIES ASSOCIATED WITH THE COLORADO ENERGY PLAN.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
CONOR F. FARLEY
GRANTING JOINT MOTION TO VACATE
AND STAY, VACATING AND RESCHEDULING
REMOTE HEARING, AND STAYING PROCEEDING**

Mailed Date: June 1, 2020

I. BY THE COMMISSION

A. Statement

1. On December 20, 2019, Public Service Company of Colorado (PSCo) filed the Application described in the caption.
2. On the same day, the Commission issued notice of the Application.
3. On January 10, 2020, Trial Staff of the Commission filed a notice of intervention by right and entry of appearance.
4. On January 21, 2020, the Office of Consumer Counsel filed a notice of intervention and entry of appearance.
5. On January 29, 2020, the Commission deemed the Application complete and referred this proceeding to an Administrative Law Judge (ALJ) for disposition. The proceeding was subsequently assigned to the undersigned ALJ.

6. On February 21, 2020, the ALJ issued Decision No. R20-0122-I that: (a) scheduled a prehearing conference for March 4, 2020 at 9:00 a.m.; (b) ordered the parties to confer in advance of the prehearing conference regarding a schedule for this proceeding; and (c) ordered PSCo to file a report of the results of the conferral by March 2, 2020.

7. On March 2, 2020, PSCo filed an Unopposed Motion to Adopt Consensus Procedural Schedule, Vacate Prehearing Conference, and for Leave to File Supplemental Direct Testimony.

8. On March 5, 2020, the ALJ issued Decision No. R20-0142-I that adopted the consensus procedural schedule proposed by the parties. Among other things, Decision No. R20-0142-I scheduled an in-person hearing in this proceeding for June 1 and 2, 2020.

9. On May 19, 2020, the ALJ issued Decision No. R20-0377-I that converted the in-person hearing into a remote hearing and provided instructions for participating remotely in the remote hearing. Decision No. R20-0377-I also scheduled a remote prehearing conference for May 28, 2020 at 1:30 p.m.

10. On May 26, 2020, PSCo and Staff filed: (a) a Notice of Settlement, Joint Motion to Vacate Procedural Schedule and Stay Proceeding, and Request for Shortened Response Time of One Day (Joint Motion to Vacate and Stay); and (b) a Notice of Settlement and Joint Motion to Approve Settlement, Consolidate Proceedings, Hear Consolidated Proceeding *En Banc*, Approve Procedural Schedule, and Shorten Response Time of Three Days (Joint Motion to Consolidate) (collectively, Joint Motions). The Joint Motion to Vacate and Stay is directed to the ALJ and the Joint Motion to Consolidate is directed to the Commission. In both Joint Motions, PSCo and Staff state that they have reached an agreement to settle this proceeding and Proceeding No. 20A-0063E currently pending before ALJ Steven Denman, but that the OCC is

not a party to the agreement. In the Joint Motion to Consolidate, PSCo and Staff request the Commission to consolidate this proceeding and Proceeding No. 20A-0063E to consider and address the settlement, hear the consolidated proceeding *en banc*, adopt a procedural schedule proposed by PSCo and Staff for the proposed consolidated proceeding, and shorten response time to the Joint Motion to Consolidate to May 29, 2020 so that the Commission can rule thereon “on or before Wednesday, June 3, 2020.”¹ In the Joint Motion to Vacate and Stay, PSCo and Staff request that the schedule in this proceeding, including the hearing scheduled for June 1 and 2, 2020, be vacated, the proceeding be stayed, and response time to the Joint Motion to Vacate and Stay be shortened to May 27, 2020 “so that [the ALJ] can rule on this Motion at the May 28, 2020 pre-hearing conference.”²

11. On May 29, 2020, the OCC filed its response to the Joint Motion to Vacate and Stay in which it stated that it does not object to: (a) vacating the procedural schedule, including the hearing; or (b) staying this proceeding to allow the Commission to address the Joint Motion to Consolidate.

12. On May 28, 2020, the ALJ held the prehearing conference.

B. Joint Motion to Vacate and Stay

13. At the prehearing conference, the ALJ stated that the Joint Motion to Vacate and Stay would be granted to give the Commission the opportunity to address the Motion to Consolidate. The ALJ also stated that the hearing would have to be rescheduled to June 8 and 9, 2020 to comply with the statutory deadline of October 5, 2020 imposed by § 40-6-109.5, C.R.S., unless PSCo waived the statutory deadline. The ALJ noted that the schedule proposed in the

¹ Joint Motion to Consolidate at 14 (Request for Relief)

² Joint Motion to Vacate and Stay at 6 (¶ 15).

Joint Motion to Consolidate is consistent with the schedule adopted by ALJ Denman in Proceeding No. 20A-0063E, which has a statutory deadline of December 7, 2020, over two months later than the deadline in this proceeding. Thus, the schedule for the proposed consolidated proceeding proposed by PSCo and Staff suggested that PSCo intended to waive the statutory deadline in this proceeding.

14. PSCo responded that it is currently unwilling to waive the statutory deadline. PSCo further stated that, if the Joint Motion to Consolidate is granted, it believes the statutory deadline in this, the earlier-filed proceeding, will apply to the consolidated proceeding. Finally, PSCo stated that it believes the Commission can comply with this proceeding's October 5, 2020 statutory deadline in the proposed consolidated proceeding, but only if the Commission hears the consolidated proceeding *en banc* or refers the proceeding to an ALJ or a Hearing Commissioner for an Initial Commission Decision pursuant to Rule 1404(b) of the Commission's Rules of Practice and Procedure.³

15. Based on the foregoing, the Joint Motion to Vacate and Stay shall be granted. The remote hearing currently scheduled for June 1 and 2, 2020 shall be vacated and rescheduled for June 8 and 9, 2020. The instructions for participating in the remote hearing contained in Decision No. R20-0377-I that issued on May 19, 2020, apply to the rescheduled remote hearing. The proceeding shall be stayed pending the Commission's decision on the Joint Motion to Consolidate.

³ 4 *Colorado Code Regulations* 723-1.

II. ORDER

A. It Is Ordered That:

1. The requests to vacate the schedule in this proceeding, including the hearing scheduled for June 1 and 2, 2020, and to stay the proceeding, both of which are made in the Notice of Settlement, Joint Motion to Vacate Procedural Schedule and Stay Proceeding, and Request for Shortened Response Time of One Day filed by Public Service Company of Colorado (PSCo) and Trial Staff of the Commission (Staff) on May 26, 2020, are granted.

2. The remote evidentiary hearing currently scheduled for June 1 and 2, 2020 is vacated and rescheduled as follows:

DATES: June 8 and 9, 2020

TIME: 9:00 a.m.

FOR WEBCASTS: Commission Hearing Room B
1560 Broadway, 2nd Floor
Denver, Colorado

METHOD: Join by video conference at the link to be provided by the
email from the Administrative Law Judge, **OR**

Join by telephone: Dial the telephone number provided in
the email, and when prompted, enter the PIN (or Meeting
ID) in the email.

3. The parties, witnesses, and members of the public should not attend the remote evidentiary hearing in-person. Instead, they should follow the instructions for participating in, or viewing, the remote evidentiary hearing contained in Decision No. R20-0377-I that issued on May 19, 2020.

4. This proceeding is stayed pending the Commission's decision on the request to consolidate this proceeding with Proceeding No. 20A-0063E contained in the Notice of

Settlement and Joint Motion to Approve Settlement, Consolidate Proceedings, Hear Consolidated Proceeding *En Banc*, Approve Procedural Schedule, and Shorten Response Time of Three Days, filed by PSCo and Staff on May 26, 2020.

5. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

CONOR F. FARLEY

Administrative Law Judge

ATTEST: A TRUE COPY

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

Doug Dean,
Director