

Decision No. C21-0090

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 18A-0194E

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR APPROVAL TO ACTIVATE THE HOME AREA NETWORK PURSUANT TO THE DECISION APPROVING THE SETTLEMENT AGREEMENT.

**COMMISSION DECISION GRANTING
MOTION FOR LEAVE TO REPLY**

Mailed Date: February 19, 2021
Adopted Date: February 17, 2021

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of the January 26, 2021, Motion for Leave to Reply and Reply to Trial Staff of the Colorado Public Utilities Commission's Response (Motion) filed by Public Service Company of Colorado (Public Service) and Western Resource Advocates (WRA). The Motion asks the Commission to accept the Movants' proposed reply to Commission Trial Staff's response to Mission:data Coalition's (Mission:data) motion to Reopen, Join Proceedings, Establish a Procedural Schedule, Extend the Deadline for Filing Responses, and for an Order Prohibiting Public Service Company of Colorado from Temporarily Deploying Certain Advanced Meter Software Applications. This Decision grants the Motion and accepts the Movants' proposed reply.

B. Discussion

2. This proceeding and Proceeding No. 16A-0588E relate to Public Service's advanced meters. Each proceeding resulted in a settlement, and together they resulted generally in Public Service receiving a Certificate of Public Convenience and Necessity (CPCN) for

advanced meters and an agreement on which type of wireless communication standard would be used for those meters.

3. On December 23, 2020, Mission:data filed its Motion to Reopen, Join Proceedings, Establish a Procedural Schedule, Extend the Deadline for Filings Responses, and for an Order Prohibiting Public Service Company of Colorado From Temporarily Deploying Certain Advanced Meter Software Applications. The Commission extended the deadline to respond to Mission:data's motion on January 7, 2021.

4. Public Service and WRA filed separate responses to Mission:data's motion and also filed a joint response. Trial Staff filed a response to the motion, as well. As relevant here, the parties disagree on the procedural path the Commission should take to examine some of the questions that Mission:data's motion raises. Mission:data, Public Service/WRA's joint response, and Trial Staff each suggest different procedural approaches.

5. On January 26, 2021, Public Service and WRA filed a Motion for Leave to Reply and Reply to Trial Staff of the Colorado Public Utilities Commission's Response. That Motion is the subject of this Decision. The Proposed Reply in large part addresses Trial Staff's proposed procedural approach. And the Motion argues that Commission Rules allow one non-moving party to reply to another non-moving party's response to a third party's motion.

6. On February 9, 2021, Mission:data and Trial Staff each responded to the Public Service/WRA joint motion for leave to reply. Both argue that the motion for leave to reply is unusual and improper under Commission Rules.

C. Findings and Conclusion

7. Mission:data and Trial Staff are correct that in these circumstances Commission Rule 1400 does not permit Public Service and WRA to file a reply to Trial Staff's response to

Mission:data's motion. Rule 1400 permits movants (in this instance, Mission:data) to seek leave to file replies in very limited circumstances. It does not permit other parties to do so.

8. However, the issue at the core of the current disagreement (putting aside the more substantive issues raised by Mission:data) is a procedural one. The Commission will soon address the substance of Mission:data's motion, and if necessary, will determine an appropriate procedural pathway for the questions raised therein. However, it is not bound by any of the procedural suggestions made by the parties. The additional discussion in the proposed reply could assist the Commission if it considers the merits of Mission:data's motion and determines that additional investigation is necessary. Therefore, the proposed reply adds some value to these proceedings. For these reasons and pursuant to Rule 1003, we find good cause to waive Rule 1401 and accept the proposed reply.

II. ORDER

A. It Is Ordered That:

1. The Motion for Leave to Reply and Reply to Trial Staff of the Colorado Public Utilities Commission's Response filed by Public Service and Western Resource Advocates on January 26, 2021, is granted.

2. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
February 17, 2021.**

(S E A L)



ATTEST: A TRUE COPY



Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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Commissioners