

Decision No. R21-0160-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 20R-0349EG

IN THE MATTER OF THE PROPOSED RULES REGARDING IMPLEMENTATION OF SENATE BILL 20-030 AND THE REVISION OF DISCONNECTION STANDARDS FOR ELECTRIC AND GAS UTILITIES PURSUANT TO 4 CODE OF COLORADO REGULATIONS 723-3 AND 723-4.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
MELODY MIRBABA
SCHEDULING ADDITIONAL RULEMAKING HEARING,
TAKING ADMINISTRATIVE NOTICE OF FILINGS, AND
IDENTIFYING ITEMS FOR PUBLIC COMMENT**

Mailed Date: March 16, 2021

I. STATEMENT AND BACKGROUND

A. Summary.

1. This Decision schedules an additional public comment rulemaking hearing; identifies matters for additional comment and dates by which those should be filed; and takes administrative notice of filings in other Commission proceedings.

B. Background.

2. This proceeding was initiated in response to Senate Bill (SB) 20-030, which requires the Commission to consider modifications to electric and gas utilities' disconnection standards and electric utilities' programs providing medical exemptions from tiered electric rates.¹

¹ Only the procedural history necessary to understand this Decision is included.

3. On August 19, 2020, the Commission adopted a Notice of Proposed Rulemaking (NOPR) to amend its Rules Regulating Electric Utilities, 4 *Code of Colorado Regulations* (CCR) 723-3 (Electric Rules) and Rules Regulating Gas Utilities and Pipeline Operators, 4 CCR 723-4 (Gas Rules).² Decision No. C20-0622, adopted August 19, 2020. The NOPR was accompanied by proposed Electric Rules and Gas Rules in legislative and clean format. *See* Attachments A through D to Decision No. C20-0622. Concurrently, the Commission referred this proceeding to an Administrative Law Judge (ALJ), invited public comments, and scheduled a remote video-conference public comment hearing for October 20, 2020. Decision No. C20-0622. Notice of that public comment hearing was published in *The Colorado Register*.

4. Since this proceeding was initiated, numerous interested persons and entities have submitted public comment. Among the commenters are the following regulated utilities: Atmos Energy Corporation (Atmos); Black Hills of Colorado Electric, LLC and Black Hills Colorado Gas, Inc. (collectively, Black Hills); Colorado Natural Gas, Inc. (CNG); and Public Service Company of Colorado (Public Service).

5. The ALJ held the October 20, 2020 public comment hearing as noticed. *See* Decision No. R20-0801-I issued November 13, 2020. The ALJ also scheduled a second public comment hearing for March 4, 2021; took administrative notice of a filing in another proceeding and invited public comment on that filing; and invited public comment on specific items. *Id.*

6. The ALJ held the March 4, 2021 public comment hearing as noticed. During the hearing, interested persons provided public comment on numerous issues. Several participants offered to submit additional clarifying written comments, as well as a blue-lined version of the

² Unless otherwise specified, the Electric Rules and Gas Rules are treated together in this Decision.

rules highlighting proposed changes. As the ALJ indicated during the hearing, additional written comment is welcomed, especially a blue-lined version of the rules with the filing party's current proposed changes. At the close of the hearing, the ALJ explained that another public comment hearing would be held, and that the ALJ is considering taking administrative notice of filings in Commission Proceeding No. 20M-0267EG, which a participant raised during the public comment hearing. The ALJ also informed the participants that if she seeks comments on any other specific item, that will be explained in a written decision.

II. FINDINGS AND CONCLUSIONS

A. Administrative Notice.

7. As mentioned, during the March 4, 2021 public comment hearing, a commenter raised filings made in a related Commission proceeding, that is, Proceeding No. 20M-0267EG. That proceeding was opened to collect comments and other information regarding the statutory changes in SB20-030 that direct the Commission to promulgate rules concerning disconnection practices applicable to Colorado regulated gas and electric utilities. Decision No. C20-0452, adopted June 17, 2020 in Proceeding No. 20M-0267EG. The Commission opened Proceeding No. 20M-0267EG in order to: (1) gather insights that could "inform the issuance of" a NOPR for rules to implement SB20-030; and (2) collect information on the impact of the COVID-19 pandemic on utilities and their customers. Decision No. C20-0636-I adopted August 26, 2020, in Proceeding No. 20M-0267EG, at ¶ 1. As such, there is no question that Proceeding No. 20M-0267EG directly relates to this rulemaking. The ALJ finds that filings in Proceeding No. 20M-0267EG may be useful in addressing or assessing many of the issues raised in this proceeding. As such, the ALJ takes administrative notice of Proceeding No. 20M-0267EG, and the filings in that proceeding as of this Decision's mail date.

8. In addition, the Commission has already taken administrative notice of three proceedings in which regulated utilities have filed or will file periodic reports relating to the subject of SB20-030. Decision No. R20-0622-I, at 7-8. Those are Proceeding Nos. 08M-0305EG, 17M-0848E and 19M-0240E. *Id.* To the extent that the Commission's administrative notice of these proceedings is limited to taking administrative notice of the filings that exist in those proceeding as of August 19, 2020 (the date the Commission took administrative notice), the ALJ hereby takes administrative notice of any additional filings in those proceedings made on or by this Decision's mail date.

9. Given the volume of filings that the ALJ is taking administrative notice of, and the fact that such documents have been filed in Commission proceedings, copies of such filings are not submitted in this proceeding, consistent with Rule 1501(c), 4 CCR 723-1, of the Commission's Rules of Practice and Procedure.

B. Items for Additional Public Comment.

10. The ALJ invites public comment on any matter raised in any of the filings that the ALJ is taking administrative notice of, as described above.

11. When it issued the NOPR in this proceeding, the Commission asked regulated utilities "[w]hat proportion of residential customers experience multiple disconnections per year? If this data is not available, why or why not?" Decision No. C20-0622 at 26. Some utilities provided a percentage without explanation. Information explaining the basis for such figures will be helpful in assessing issues in this proceeding. The ALJ invites regulated utilities to submit public comments that explain their answer to the above question, specifically including the

figures used to reach their conclusions, such as the denominator and numerator used to calculate the percentage or proportion of residential customers who experienced multiple disconnections.

18. There has been much public comment concerning rules governing service restoration (Proposed Rules 3409(c) and 4409(c)). The current rule language requires restoration within 24 hours, excluding holidays and weekends, or within 12 hours, if the customer pays any necessary after-hours charges established in tariffs. The proposed rule language would require utilities to restore service within business hours if a request is made by 10:00 a.m.; within 12 hours if the request is made after 10:00 a.m. and the customer pays any necessary after-hours charges established in tariffs; or within 24 hours, excluding holidays and weekends, if the request is made after 10:00 a.m. and the customer does not pay after-hours charges established in tariffs. Decision No. C20-0622, Attachments A at 16, and B at 15-16. By Decision No. R20-0801-I, the ALJ invited public comment from regulated utilities to help assess this proposed rule.

19. Specifically, the ALJ asked, “[f]or each regulated utility, in calendar years 2018 and 2019, what was the average restoration time from the point where a customer qualifies for reconnection, in hours? Break down that information, as applicable, by AMI-enabled customers and non-AMI-enabled customers.” Decision No. R20-0801-I, at 31. As detailed below, the ALJ invites public comment relating to utilities’ answers to that question.

20. Atmos provides data on average restoration time in days, not hours. Initial Comments of Atmos Energy Corporation filed January 11, 2021, at 20. Atmos also includes numbers relating to “count of contract account,” which is unclear. *Id.* The ALJ invites public comment clarifying the data provided, including breaking down the information into average reconnection times in hours, from the point where a customer qualifies for reconnection.

21. CNG provides two sets of data. First, CNG reports that from the time a technician was dispatched, the average reconnection time was 5.85 hours in 2018, and 5.4 hours in 2019. Supplemental Comments of Colorado Natural Gas, Inc., filed January 11, 2021, at 17-18. Second, CNG reports that from the time that a reconnection service order was created, the average reconnection time in 2018 was 34.67 hours, and 36.86 hours in 2019. *Id.* at 18. The ALJ invites public comment explaining the large difference in the reported average reconnection times for the two data sets. In addition, the ALJ invites public comment as to which of CNG's data sets is the average reconnection time from the point at which CNG has determined that the customer qualifies for reconnection (*i.e.*, CNG decides the customer's service should be reconnected).

22. Black Hills reports a 2.8-hour average restoration time for non-AMI electric customers, a 0.50-hour average restoration time for AMI electric customers, and a 9.4-hour average restoration time for non-AMI gas customers. Comments of Black Hills Colorado Electric, LLC and Black Hills Colorado Gas, Inc., d/b/a Black Hills Energy filed January 11, 2021, at 27. Black Hills did not break down this information by year (2018 and 2019) as requested. *Id.* The ALJ invites public comment breaking this information down by year.

23. Public Service reports a 7-hour average restoration time in 2018, and a 6.8-hour average restoration time in 2019. Public Service Company of Colorado's Initial Comments on Issues Identified by Decision No. R20-0801-I filed on January 11, 2021, at 42.

24. Given the average restoration timelines reported in this proceeding, particularly the averages that Public Service and Black Hills report, the ALJ invites public comment explaining the flaw (if any) with the 12 and 24 hour restoration timelines in the current version

of the rules, and any challenges that customers or utilities may face by retaining the currently effective restoration timelines.

III. WRITTEN PUBLIC COMMENTS

25. The Commission prefers written comments over oral comments. As a result, interested persons are encouraged to submit written comments through either: (a) the Commission's Electronic Filing System at <https://www.dora.state.co.us/pls/efi/EFI.homepage> in this proceeding; or (b) the Commission's website at <https://puc.colorado.gov/> by clicking on the "FILE A COMMENT OR COMPLAINT" link. Both oral and written comments will be given the same weight in this proceeding.

26. Interested persons are urged to submit written comments responding to the items identified in this Decision by April 6, 2021.

27. Individuals who wish to provide oral comments must participate in the remote public rulemaking hearing by telephone or video-conference (as explained below). Anyone wishing to submit documents in addition to their oral comments must submit those in the same manner described above for written comments.

IV. OBSERVING OR PARTICIPATING IN RULEMAKING HEARING

A. Observing Rulemaking Hearing.

28. The ALJ finds that it will be helpful to hold a third public comment hearing, particularly in light of the above. Consistent with Commission practice, the hearing will be webcast on the Commission's website. Persons wishing to observe, but not participate in the hearing, may do so by observing the webcast of the rulemaking hearing, and need not join the hearing by telephone or video-conference. To observe the rulemaking hearing by webcast, enter

this link in the web browser <https://puc.colorado.gov/webcasts> and select the audio or video option for Hearing Room A found on the date and time of the hearing. The ALJ encourages interested persons who do not wish to provide comments during the hearing to observe the hearing through the webcast because this will help minimize background noise during the hearing, and may assist in the orderly progression of the hearing.

B. Video-Conference Rulemaking Hearing.

29. The public comment hearing will be held using the web-hosted video-conferencing service, Zoom. This is a different platform than the one used for prior public comment hearings in this matter (GoToMeeting). Participants in the hearing should plan accordingly, including preparing in advance to use the different platform. Information and requirements to participate in the Zoom hearing by video-conference are included in Attachment A to this Decision.

30. For those who wish to provide oral comments during the hearing, video-conference participation is preferred and encouraged because it allows for the hearing to be held in a manner most similar to in-person hearings. Nevertheless, interested persons have the option to participate by telephone or by video-conference. The link, access code, and call-in information to participate in the hearing is provided below.

31. Any member of the public who wishes to participate in the public rulemaking hearing by video-conference must use a computer, smart phone, or tablet that is connected to the internet and has an operational microphone, speaker, and camera. Participants are required to input their full name when prompted to do so. This will allow the ALJ to call on participants to provide oral comments in an orderly fashion.

32. During the public comment hearing, the ALJ will take action as necessary to facilitate a clear and understandable record, and to ensure the orderly progress of the hearing. For the same reasons, all participants are required to: (a) mute their microphone during the hearing until called upon by the ALJ; (b) ensure they are participating from a location with minimal or no background noise; and (c) not connect to the hearing using multiple devices located in the same room (which will cause audio feedback). Participants are encouraged to use a headset to listen to the hearing, as this may also help avoid background noise and feedback when they speak.

V. ORDER

A. It Is Ordered That:

1. The Administrative Law Judge (ALJ) takes administrative notice of filings in Commission proceedings as explained above.

2. A remote public comment rulemaking hearing is scheduled for:

DATE: April 12, 2021

TIME: 9:00 a.m., continuing until concluded, not later than 5:00 p.m.

WEBCAST: Hearing Room A

PLACE: Join by video conference using Zoom

PARTICIPATING BY COMPUTER (PREFERRED METHOD):³

<https://zoom.us/j/99678287464?pwd=cFRKK0VOaHIDcnlieFpVcW9tK2Q3QT09>

Meeting ID: 996 7828 7464

Passcode: w7aRe2

³ If a participant is unable to participate by video-conference using a computer or mobile device, participation by telephone only will be accommodated. To do so, dial +1 669-900-6833 US (or find an alternate local number at: <https://zoom.us/j/99678287464?pwd=cFRKK0VOaHIDcnlieFpVcW9tK2Q3QT09>), and enter meeting identification number 996 7828 7464 and passcode 034230 when prompted.

3. Members of the public should *not* attend the public rulemaking hearing in-person. Interested persons may participate in the rulemaking hearing by telephone or video-conference using the information provided in this Decision.
4. When joining the rulemaking hearing, participants are required to enter their full name when prompted to do so through Zoom.
5. All participants in the public comment hearing must follow the requirements in Attachment A hereto, which is incorporated as if fully set forth herein.
6. Members of the public who wish to provide written comments may do so by following the instructions in this Decision. Comments in response to the issues identified by this Decision should be filed on or by April 6, 2021.
7. The ALJ may schedule additional hearings if necessary.
8. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

MELODY MIRBABA

Administrative Law Judge

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

ATTEST: A TRUE COPY

Doug Dean,
Director