

Decision No. R23-0475-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 22R-0557EG

IN THE MATTER OF THE PROPOSED AMENDMENTS TO THE COMMISSION'S RULES REGULATING ELECTRIC UTILITIES, 4 CODE OF COLORADO REGULATIONS 723-3, AND RULES REGULATING GAS UTILITIES, 4 CODE OF COLORADO REGULATIONS 723-4, PURSUANT TO HOUSE BILL 22-1018.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
ALENKA HAN
CONTINUING PUBLIC COMMENT HEARING,
SCHEDULING CONTINUED PUBLIC COMMENT
HEARING, AND
SETTING DEADLINES FOR ADDITIONAL WRITTEN
COMMENTS**

Mailed Date: July 25, 2023

I. STATEMENT

A. Background

1. On December 21, 2022, the Colorado Public Utilities Commission (PUC or Commission) initiated this proceeding by issuing a Notice of Proposed Rulemaking (NOPR) to amend the Rules Regulating Electric Utilities (Electric Rules), 4 *Code of Colorado Regulations* (CCR) 723-3, and the Rules Regulating Gas Utilities (Gas Rules), 4 CCR 723-4.¹ The NOPR proposed changes to the aforementioned rules, established deadlines for initial written comments, and scheduled a remote public comment hearing for February 27, 2023 at 11:30 a.m.

¹ Decision No. C22-0815, issued Dec. 21, 2022.

The NOPR also referred this proceeding to an Administrative Law Judge (ALJ). The proceeding was subsequently assigned to the undersigned ALJ.

2. The Office of the Utility Consumer Advocate (UCA), Energy Outreach Colorado (EOC), Public Service Company of Colorado (Public Service), Colorado Natural Gas, Inc. (CNG), and Black Hills Colorado Electric, LLC, and Black Hills Colorado Gas, Inc., doing business as Black Hills Energy (collectively Black Hills), and Atmos Energy Corporation all filed written comments prior to the February 27, 2023 public comment hearing, as permitted by Commission Decision No. C22-0815.

3. The undersigned ALJ held the initial remote public comment hearing as scheduled on Monday, February 27, 2023, at 11:30 a.m. Based on the written comments submitted prior to the hearing, and the verbal comments received at the hearing, the ALJ scheduled a second public comment hearing for on April 4, 2023.² Interested parties filed additional written comments after both the February 27 and April 4, 2023 public comment hearings.

4. Based on the written and verbal comments received before and during the April 4, 2023 public comment hearing, by Decision No. R23-0259-I, issued April 20, 2023, the ALJ scheduled a third public comment hearing to be held on May 15, 2023, at 4:00 p.m. The third public comment hearing was held as scheduled on May 15, 2023.

5. The robust discussion during the May 15, 2023 public comment hearing, and the written comments received prior to that public comment hearing prompted the ALJ to hold a fourth public comment hearing. By Decision No. R23-0366-I, issued May 31, 2023, the ALJ scheduled a fourth public comment hearing, to be held on July 18, 2023, at 11:30 a.m.

² See Decision No. R23-0169-I, issued March 9, 2023.

6. On June 9, 2023, the EOC and the UCA jointly advised the undersigned ALJ that they, along with Public Service, Black Hills, and CNG, were actively working to come up with proposed consensus rule language.³ On June 23, 2023, the same interested entities filed a Second Notice advising the undersigned ALJ that their discussions pertaining to customer education and outreach continued, but that they had not yet reached a consensus.⁴

7. The morning of the continued public comment hearing, July 18, 2023, EOC, UCA, Public Service, and Black Hills jointly filed their Proposed Consensus.⁵ These entities hammered out proposed language for Rules 3407(f), (i), (j), and (k), 4 CCR 723-3, and Rules 4407(f), (i), (j), and (k), 4 CCR 723-4.

8. Other participants at the July 18, 2023, public comment hearing, particularly representatives of CNG and Atmos, indicated that although they had not had an opportunity to thoroughly review the proposed consensus rules, and had some lingering concerns about the scope of some proposed definitions, they were in general agreement with much of the proposed language.

9. However, because the proposed consensus rules were filed just minutes before the July 18, 2023, public comment hearing, participants all agreed that further discussion and additional written comments analyzing the proposed language would be beneficial and were warranted.

³ See Joint Notice of Conferral on Consensus Proposed Rules Regarding Customer Outreach and Education, filed Jun 9, 2023.

⁴ See Second Joint Notice of Conferral on Consensus Proposed Rules Regarding Customer Outreach and Education, filed June 23, 2023.

⁵ See Proposed Consensus Rules of Energy Outreach Colorado, the Office of the Utility Consumer Advocate, Public Service Company of Colorado, and Black Hills Energy, filed July 18, 2023.

B. Continued Public Comment Hearing

10. Based on the comments received at the July 18, 2023 public comment hearing, participants' desire to continue the discussion, the late filing of proposed consensus rules, and the necessity for participants, Commission Staff, and the undersigned ALJ to consider the proposed consensus rules and other issues raised, the ALJ finds that a fifth public comment hearing in this Proceeding is warranted and appropriate.

11. During the July 18, 2023 public comment hearing, the ALJ announced that the public comment hearing will be continued to Friday, September 15, 2023, at 1:30 p.m. This Interim Decision memorializes the continuance of this Proceeding and schedules the continuation of the fully remote public comment hearing for September 15, 2023, at 1:30 p.m.

C. Additional Written Comments

12. The proposed consensus rules filed on July 18, 2023, represent the agreement of four entities participating in this rulemaking proceeding. Importantly, the consensus was reached between divergent groups representing the interests of different stakeholders in this proceeding. Notably, entities representing consumers' interests — UCA and EOC — successfully reached this consensus with representatives of some of the largest utilities in the State — Public Service and Black Hills. Thomas Dixon, speaking on behalf of UCA, stated that UCA “completely supports” the agreed-upon consensus rules.

13. However, because some participants to this rulemaking proceeding, in particular Atmos and CNG, had not joined in the consensus rules and voiced reservations about certain provisions, they expressed a desire for additional time to review the proposed consensus rules and file responsive written comments.

14. The undersigned ALJ finds additional written comments warranted and appropriate and therefore will permit interested persons or entities to file additional responsive comments on or before August 11, 2023.

D. Instructions for Remote Public Comment Hearing

15. The public comment hearing will be held using the web-hosted video-conferencing service, Zoom. This means that members of the public who wish to participate in the public comment hearing should not appear in person at the Commission's offices but should instead appear remotely via Zoom. Participants in the hearing should prepare in advance to use this platform. Attachment A to this Decision provides step-by-step technical instructions and requirements to participate by video-conference using a computer. This is intended to ensure that the remote hearing proceeds efficiently. Hence, it is important that video-conference participants carefully review and follow all requirements in this Decision and Attachment A.

16. 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. The link, access code, and call-in information to participate in the hearing will be available on the Commission's calendar of events for the date and time of the hearing at <https://puc.colorado.gov/pucalendar>.

17. Any member of the public participating in the public comment 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 and any affiliation when prompted to do so. This will allow the ALJ to call on participants to provide oral comments in an orderly fashion.

18. 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.

19. The Commission will publicize the public comment hearing by press release, announce it on its public calendar, and make it known by other avenues to the extent resources are available.

20. The Commission strives to accommodate all members of the public at its hearings by providing services for foreign language users and persons with disabilities upon receipt of a reasonable accommodation request. Requests for such accommodations should be made at least one week prior to the event by completing the Language Access Form. Requests can also be made directly by contacting Holly Bise at (303)894-2024 or by emailing holly.bise@state.co.us.

E. Observing the Public Comment Hearing

21. Consistent with Commission practice, the public comment 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 hearing by webcast, enter this link in

the web browser <https://puc.colorado.gov/webcasts> and select the audio or video option for the assigned hearing room. The assigned hearing room will be identified on the Commission's public calendar for the date and time of the hearing, at the following link: <https://puc.colorado.gov/puccalendar>.

22. 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.

23. Methods to Submit Public Comment

24. Interested persons may provide written or oral comments. Although the Commission prefers written comments over oral comments, they are given the same weight.

25. 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. Anyone using the latter option should ensure that their comments include this Proceeding number (Proceeding No. 22R-0557EG).

26. Oral comments can be provided during the scheduled public comment hearing, or by leaving a voice mail message at (303) 869-3490. Voice mail public comments will be placed in the record of this Proceeding and should likewise include a reference to this Proceeding number (Proceeding No. 22R-0557EG).

27. The Commission will equally consider public comments, regardless of the format in which they are submitted (verbal or in writing).

II. ORDER

A. It Is Ordered That:

1. The public comment hearing in Proceeding No. 23R-0557EG is continued.
2. The continued fully remote public comment hearing on the proposed revisions to

the Electric Rules and Gas Rules is scheduled as follows:

DATE: **September 15, 2023**

TIME: **1:30 p.m.**

PLACE: By video conference: using the Zoom web conferencing platform at a link in the calendar of events on the Commission's website, available at <https://puc.colorado.gov/>.

3. Interested persons may file additional or supplemental written comments in this matter. Additional responsive comments should be submitted no later than **August 11, 2023**.

4. All participants in the public comment hearing must follow the requirements in Attachment A hereto, which is incorporated as if fully set forth herein.

5. Those wishing to observe but not participate in the above public comment hearing may do so by observing the Commission's webcast for the assigned hearing room at: <https://puc.colorado.gov/webcasts>.

6. Members of the public who wish to provide written or oral comments outside of the public comment hearing may do so by following the instructions in this Decision.

7. The Administrative Law Judge 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

ALENKA HAN

Administrative Law Judge

ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Rebecca E. White".

Rebecca E. White,
Director