

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO**

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**IN THE MATTER OF THE APPLICATION)
OF PUBLIC SERVICE COMPANY OF)
COLORADO FOR APPROVAL OF ITS) PROCEEDING NO. 16A-0396E
2016 ELECTRIC RESOURCE PLAN)**

**PUBLIC SERVICE COMPANY OF COLORADO'S
MOTION FOR PARTIAL WAIVER OF RULE 3612(a)**

Public Service Company of Colorado ("Public Service" or "Company"), pursuant to Rules 1003 and 1400 of the Colorado Public Utilities Commission's ("Commission") Rules of Practice and Procedure, respectfully requests a partial waiver of Rule 3612(a), 4 C.C.R. 723-3. In support of this Motion, Public Service states as follows:

STATEMENT REGARDING CONFERRAL

1. Rule 3612(a) requires the involvement of Staff of the Commission ("Staff") and the Office of Consumer Counsel ("OCC") in identifying an Independent Evaluator ("IE"). Therefore, while Staff and OCC are not yet parties to this proceeding, the Company has conferred with both Staff and OCC and both have indicated they do not oppose the relief sought in this Motion. Because this Motion is being filed contemporaneously with the Company's Application for Approval of its 2016 Electric Resource Plan ("ERP"), as described below, no interested person has intervened by right or been granted permissive intervention in this proceeding as of the date of this filing. Accordingly, Public Service has only conferred with Staff and OCC regarding this Motion.

RULES 3612(a) AND RULE 1003

2. Rule 3612(a) provides that prior to filing an ERP, the utility shall file for Commission approval of an IE jointly proposed by the utility, Staff, and OCC. Rule 3612(a) also provides that if these parties cannot reach an agreement on an IE, the Commission shall refer the matter to an administrative law judge (“ALJ”) for resolution. However, “[i]n any event, the Commission shall approve an independent evaluator by written decision within 30 days of the filing of the plan under rule 3603.”¹

3. Rule 1003 addresses requests for waiver, and for good cause shown the Commission may grant waivers from Commission Rules. Rule 1003(a) provides that “the Commission may take into account, but is not limited to, considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.”²

REQUEST FOR WAIVER

4. While the Company, Staff, and OCC (collectively, the “Parties”) have not yet reached an agreement on an IE to jointly propose for Commission approval, they are actively engaged in discussions on this issue. For this reason, Public Service has not yet filed a motion seeking approval of a specific IE mutually agreed to by the Parties. Public Service believes the Parties will benefit from having additional time to continue these discussions. At this point in time, administrative inefficiencies would be imposed upon the Commission should Public Service, Staff, and OCC all present briefing to an ALJ while discussions regarding the selection of an appropriate IE are ongoing. Moreover, Public Service does not believe this issue is particularly time sensitive given

¹ 4 C.C.R. 723-3-3612(a).

² 4 C.C.R. 723-1-1003(a).

that the IE's involvement in the 2016 ERP proceeding will not commence in earnest until after the conclusion of Phase I. Notwithstanding, taking additional time may impact the Commission's ability to approve an IE "by written decision within 30 days" of filing its 2016 ERP, as set forth in Rule 3612(a). Accordingly, Public Service is requesting that the Commission issue a partial waiver of Rule 3612(a) by waiving the requirement that the Commission approve an independent evaluator within 30 days of filing its 2016 ERP.

INFORMATION REQUIRED BY RULE 1003

A. Rule 1003(c)(I) – Citation to Specific Paragraph

5. Public Service seeks a partial waiver of Rule 3612(a). It is specifically seeking a waiver of the requirement that the Commission approve, by written decision, an IE within 30 days of filing its 2016 ERP.³

B. Rule 1003(c)(II) – Statement of the Waiver Requested

6. The Company seeks a partial waiver of Rule 3612(a) as discussed above. The waiver is reasonable, just, and equitable as it will give the Parties' additional time to attempt to mutually agree upon an IE and may conserve Commission resources by avoiding the need to refer the matter to an ALJ for resolution. If this matter is not resolved, additional time will also allow the Parties to bring forward a comprehensive list of potential IEs that the Parties individually or collectively believe are qualified to serve as IE in this proceeding.

C. Rule 1003(c)(III) – Statement of Facts and Circumstances

³ This Motion is being concurrently filed with Public Service's 2016 ERP on May 27, 2016.

7. The relevant facts and circumstances are set forth in Paragraph 4 above. Rule 1003(c)(III) also requires an explanation of the “specific date or event that will terminate” the requested waiver. Following further discussions among the Parties, the Parties will jointly propose an IE for Commission approval through an appropriate filing if they reach a resolution. If a resolution is not reached, Public Service will file a notice with the Commission with names of potential and qualified IEs and the Commission can either evaluate the jointly proposed IE or refer the notice to an ALJ for resolution. The Company does not have an explicit timeframe for approval in mind; however, as previously mentioned, Public Service does not believe this is a time-sensitive issue. Nevertheless, the Parties can work within any timeframe set by the Commission in its consideration of this Motion.

D. Rule 1003(c)(IV) – Duration of the Waiver/Rule 1003(c)(V) Full or Partial

8. The Company is seeking a partial waiver of Rule 3612(a)’s requirement that “the Commission shall approve an independent evaluator by written decision within 30 days of the filing of the plan under rule 3603.” The waiver is partial in that it only seeks a waiver of this discrete timing requirement within Rule 3612(a). The partial waiver is permanent for purposes of this proceeding.

F. Rule 1003(c)(VI) – Any Other Information Required by Rule

9. There is no additional information required by rule.

REQUEST FOR RELIEF

WHEREFORE, Public Service Company of Colorado respectfully requests the Commission enter an order granting a partial waiver of Rule 3612(a), as set forth herein.

DATED this 27th day of May, 2016.

Respectfully submitted,

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