

Decision No. C23-0490

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 22A-0315EG

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR APPROVAL OF ITS COMBINED ELECTRIC AND NATURAL GAS DEMAND-SIDE MANAGEMENT AND BENEFICIAL ELECTRIFICATION PLAN FOR CALENDAR YEAR 2023.

**COMMISSION DECISION
ADDRESSING APPLICATIONS FOR REHEARING,
REARGUMENT, OR RECONSIDERATION OF
DECISION NO. C23-0381 AND AMENDING DECISION NO.
C23-0381 PARAGRAPH NUMBER 80**

Mailed Date: July 26, 2023

Adopted Date: July 19, 2023

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I. BY THE COMMISSION**A. Statement**

1. Through Decision No. C23-0381 (Commission Decision), the Commission addressed the Application for Approval of its 2023 Electric and Natural Gas Demand-Side Management (DSM) and Beneficial Electrification (BE) Plan (2023 DSM & BE Plan or Plan), filed by Public Service Company of Colorado (Public Service or the Company) on July 1, 2022.

2. Through this Decision, the Commission addresses the one application for rehearing, reargument, or reconsideration of the Rate Case Decision (RRR Application) filed on June 28, 2023, by Iconergy LTD (Iconergy).

3. Consistent with the discussion below, we grant in part and deny in part, the RRR Application.

B. Background

4. On July 1, 2022, Public Service filed its Application for approval of its 2023 DSM & BE Plan. In the Application, Public Service stated the proposed Plan is a combined electric and gas plan that contains comprehensive descriptions of each of the electric and gas DSM programs the Company proposes for calendar year 2023, including BE measures.

5. On December 2, 2022, Public Service, along with the City of Boulder (Boulder), Colorado Energy Consumers (CEC), the Colorado Energy Office (CEO), Climax Molybdenum Company (Climax), the City and County of Denver (Denver), Energy Efficiency Business Coalition (EEBC), Energy Outreach Colorado (EOC), Trial Staff of the Colorado Public Utilities Commission (Staff), Southwest Energy Efficiency Project (SWEEP), the Office of the Utility Consumer Advocates (UCA), and Western Resource Advocates (WRA) (the Settling Parties), filed

a Comprehensive Settlement Agreement (Settlement Agreement), along with a Joint Motion to Approve the Settlement Agreement.

6. The Commission conducted live deliberations in this Proceeding at a Commissioners' Deliberations Meeting on May 11, 2023, and a Commissioners' Weekly Meeting on May 17, 2023, resulting in the Commission Decision.

7. On June 28, 2023, Iconergy filed its RRR Application.

C. Discussion

8. Iconergy did not join the Settlement Agreement and raised three main objections in this Proceeding. First, Iconergy asserted that Public Service uses ratepayer funds to provide free or discounted DSM services for its customers in an unregulated market; that the programs are limited to few implementers; and that Public Service does not open these programs on a regular basis in a transparent fashion for additional implementers to participate. Iconergy put forth several recommendations for process changes that it believes would increase competition for services for DSM within Public Service's service territory.¹

9. In response to Iconergy's recommendations and concerns, the Commission stated that it was persuaded that improvements can be made to how these programs are delivered to ensure that qualified vendors can participate without artificial barriers, but also mindful that it is the utility who is ultimately responsible for delivering the DSM programs, thus warranting some guardrails around this process.² The Commission ultimately directed Public Service to open its competitive processes to facilitate greater opportunities for third-party entities. The Commission

¹ Decision No. C23-0381, ¶ 62.

² Decision No. C23-0381, ¶ 77.

stated that Public Service's DSM programs could benefit from a more regular cadence of bidder selection requests for proposals (RFP). The Commission also ordered that Public Service provide blind evaluation or third-party independent evaluator oversight of bids to determine qualification of vendors and that it create a publicly accessible website through which the procurements of third-party services are managed.³

10. In its RRR Application, Iconergy addresses one aspect of the Commission Decision. Specifically, it requests that the Commission clarify that Public Service is to accept all qualified participants on a rolling basis, for all rebate-eligible upstream services such as, Strategic Energy Management, Business Energy Assessment (which includes retro-commissioning), and New Construction (Energy Design Assistance), energy modeling, and other energy engineering and project development and delivery services the Company includes in its DSM portfolio. In the alternative, Iconergy argues the Commission should require the Company to issue RFP for these services on an annual basis and contract with a specific minimum number of providers.

11. Iconergy's arguments include, first, that the RFP requirements in paragraph 80 of the Commission Decision are unclear whether it relates to a single-year DSM plan or a multi-year DSM plan. Second, Iconergy argues that paragraph 80 is non-binding if the Company introduces new programs outside a formal application process to the Commission (such as, via its roundtable process held with stakeholders), or if Public Service implements shorter periods to contract for third-party services. And third, Iconergy argues that the Commission Decision may not solve the problems that exist and as such the Commission should require Public Service to consider the

³ Decision No. C23-0381, ¶¶ 78-80.

qualifications of new third-party partners on a rolling and ongoing basis as proposed by its witness.⁴

D. Findings and Conclusions

12. With respect to Iconergy's request for certifying third party vendors on a rolling and ongoing basis, we generally agree that such an approach could ultimately be successful. However, we do not find the record in this Proceeding to support taking such a step at this juncture. We do, however, agree with Iconergy that Public Service should issue RFPs on some regular and frequent basis independent from its filings at the Commission.

13. We also agree with Iconergy that paragraph 80 of the Commission Decision could be improved to provide additional clarity on the Commission's intent for the RFP process. As such, we grant Iconergy's RRR in part and amend paragraph 80 to read as follows:

Third, we direct Public Service to issue an RFP to increase the role of third-party partnerships in implementing its business programs at least once per year and within 60 days of the final decision in this proceeding. The intent of this requirement is to substantially expand the number of third parties eligible to provide rebate-eligible DSM services for commercial entities other than those serving vulnerable low-income housing needs which appropriately need greater oversight.

Further, in its next DSM Plan application, the Company should either provide a path to adoption of certifying third-party vendors on an ongoing and rolling basis or explain why such a path is not appropriate to take.

14. However, we deny Iconergy's RRR Application request to order the Company to engage with some minimum number of qualified bidders. The number of bids received and the number of qualified bidders is something outside of the Company's control.

⁴ Iconergy RRR Application, pp. 3-4.

15. In sum, we grant Iconergy's RRR Application to the extent it requests the Commission require the Company issue RFPs on an annual basis. However, we deny the RRR Application to the extent it requests the Commission require the Company to contract with a specific minimum number of providers and to the extent that it requests the Commission require the Company to accept all qualified participants on a rolling basis, for all rebate-eligible upstream services.

II. ORDER

A. The Commission Orders That:

1. The Application for Rehearing, Reargument, or Reconsideration of Decision No. C23-0381 filed by Iconergy on June 28, 2023 is granted, in part, and denied, in part, consistent with the discussion above.

2. The 20-day period provided for in § 40-6-114, C.R.S., within which to file applications for rehearing, reargument, or reconsideration, begins on the first day following the effective date of this Decision.

3. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
July 19, 2023.**

(S E A L)



ATTEST: A TRUE COPY

Rebecca E. White,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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MEGAN M. GILMAN

TOM PLANT

Commissioners