Decision No. C23-0791

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 20A-0300E

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR APPROVAL OF WILDFIRE MITIGATION PLAN AND WILDFIRE PROTECTION RIDER.

DECISION DENYING PUBLIC SERVICE COMPANY OF COLORADO'S MOTION FOR NO MORE THAN A ONE-YEAR EXTENSION OF THE APPROVED DEFERRED ACCOUNTING MECHANISMS ASSOCIATED WITH ITS WILDFIRE MITIGATION PLAN

Mailed Date: November 29, 2023
Adopted Date: November 22, 2023

I. BY THE COMMISSION

A. Statement

1. This Decision denies the Motion for No More Than A One-Year Extension of the Approved Deferred Accounting Mechanisms Associated With Its Wildfire Mitigation Plan (Motion) filed by Public Service Company of Colorado (Public Service or the Company) on October 18, 2023.

B. Background

2. On July 17, 2020, Public Service filed a Verified Application (Application) for approval of its Wildfire Mitigation Plan (WMP), seeking, among other things, a five-year rider for cost recovery of planned WMP investments. The Application was referred to an administrative law judge (ALJ). Commission Staff (Staff), the Office of the Utility Consumer Advocate

(UCA, formerly OCC) and Colorado Energy Consumers (CEC) intervened in the Proceeding, objecting to the request for a rider.

3. The ALJ held an evidentiary hearing and on February 26, 2021, issued Decision No. R21-0109 (Recommended Decision) denying the WMP rider, but authorizing two deferred regulatory assets: 1) a capital regulatory asset to track capital costs and monthly distribution depreciation expense, with a carrying charge equal to the Company's long-term cost of debt; and 2) a distribution operations & maintenance (O&M) regulatory asset to all O&M expense, with no interest. These deferrals were authorized for 2021, 2022, and 2023.

4. Public Service filed exceptions to the Recommended Decision, taking issue with the authorized carrying costs for the accounts. Through Decision No. C21-0237, issued April 16, 2021, the Commission upheld Decision No. R21-0109 on the carrying-cost issue.

5. On October 18, 2023, Public Service filed a Motion seeking an extension of the cost deferral mechanisms authorized for costs associated with its WMP Decision Nos. R21-0109 and C21-0237. In its Motion, the Company states that wildfire mitigation efforts have evolved in response to increasing wildfire risk and that through the end of 2023, it will refine its wildfire risk mapping; develop a wildfire risk model; and develop its next WMP, to be filed in 2024.

6. The Company states that it has hired a consultant, Todd Filsinger of Filsinger Energy Partners, to conduct a comprehensive wildfire risk assessment and to review the Company's current and planned wildfire mitigation work.[1] Public Service requests the Commission allow the Company to continue its deferred regulatory accounts through 2024 or until the Commission approves the Company's next WMP.

[1] A letter of support from Todd Filsinger is attached to the Motion.

7. Public Service states that the scope of work for the requested extension of the deferral is consistent with the WMP and includes 1) repair and replacement programs, 2) inspection, modeling and asset data gathering, 3) protection programs, 4) expanded vegetation management, and 5) ongoing assessment of other activities for future consideration.

8. The Company contends that in its 2020 Application it requested a five-year timeline for the deferred regulatory accounts, consistent with its five-year WMP, but that the ALJ ordered approval for only three years, without discussion on the basis for the three-year period.

9. Public Service contends that if the deferred recovery mechanisms expire at the end of this year, there will be a mismatch between the investments contemplated by the WMP and the recovery of costs for completing necessary work and making investments. According to the Company, an extension of the deferred accounting mechanisms though 2024 will serve as a bridge for costs until the approval of a new WMP. Additionally, since the recovery of the deferred expenses will be addressed in a future rate case, the Company notes that there will be no rate impact associated with the extension.

10. Public Service states that it conferred with all parties to this Proceeding and that Staff opposes the Motion, CEC reserves the right to respond, and UCA takes no position.

C. Responses Filed by Staff and CEC

11. On November 1, 2023, Staff filed its Response to Public Service's Motion, objecting to the Motion and stating that the Company will continue with its wildfire mitigation efforts whether or not the extension of the deferred regulatory accounts is approved. Staff contends that the Company can seek recovery of costs incurred in 2024 in a rate case.

12. Staff argues that the Motion is procedurally improper, as it is essentially an appeal of Decision Nos. R21-0109 and C21-0237. Staff notes that Public Service filed exceptions to the Recommended Decision on March 18, 2021, but did not seek reversal of the three-year deferred accounting period; nor did the Company file an application for rehearing, reargument or reconsideration to the Commission's Decision on Exceptions. For this reason, Staff requests the Commission reject the Motion.

13. Alternatively, if the Commission approves the Motion, Staff requests that the Commission establish procedures allowing Staff and other interested parties to investigate the merits of the one-year extension.

14. Also on November 1, 2023, CEC filed its Response to the Motion. CEC objects to the Motion, asserting that deferred accounting should be used sparingly for non-routine or unanticipated circumstances and that Public Service should seek cost recovery for its WMP through a general rate case or in the next WMP filing. CEC argues that Public Service has known that deferred account treatment would expire at the end of 2023 and that the Company controls the timing of its WMP filing.

15. CEC emphasizes that Public Service should continue its wildfire mitigation efforts but that the Company does not need exceptional rate treatment to continue those activities.

16. CEC states that in the WMP Proceeding, the Commission contemplated Public Service's request for cost recovery and authorized the deferred accounts for a period that balanced the positions of the Company and the intervenors. CEC asserts that the Company has provided no evidence, justification, or extraordinary circumstances that warrant a reversal of the Commission's prior decision, casting the Company's request to "bridge costs" as inadequate rationale.

CEC rejects statements of support provided by Public Service's Consultant Filsinger because Mr. Filsinger is a wildfire mitigation expert, not a rate expert.

17. CEC refutes the Company's assertion that the Recommended Decision approving the three-year period for deferred accounting treatment was done without discussion on the basis for the timing, noting that the deferred accounting decision was central to the proceeding, in witness testimony, the evidentiary hearing, and statements of position. CEC contends that the cost- recovery decision balanced the positions of the parties in the proceeding.

18. CEC further argues that the Company had ample time to seek an extension of the deferral period in its Phase I rate case earlier this year but chose to settle the issue with an agreement that the deferral would expire at the end of this year and that the Company could file for an extension in another filing. CEC characterizes Public Service's filing now as seeking "to get more from the Commission, and upend a balanced outcome already struck." [2]

D. Findings and Conclusions

19. We find that Public Service has not provided sufficient support for its request to extend the timeline for the deferred regulatory assets authorized in Decision No. R21-0109. Specifically, we agree with CEC that the Company has had ample opportunity to request and provide support for an extension beyond December 31, 2023 and has failed to do so.

20. When the Company files a new WMP it can propose a cost-recovery methodology for our review. We note that the Company will continue with its wildfire mitigation work and

[2] CEC Response, p. 6.

expect that when it files its new WMP it will provide sufficient information to indicate trends in its capital expenses and justification for any requested cost recovery.

21. We deny Public Service's Motion.

II. ORDER

A. The Commission Orders That:

1. The Motion for No More Than A One-Year Extension of the Approved Deferred Accounting Mechanisms Associated With Its Wildfire Mitigation Plan filed by Public Service Company of Colorado on October 18, 2023 is denied.

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 November 22, 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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Commissioners