

Decision No. R23-0479-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23A-0330E

IN THE MATTER OF APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO
FOR APPROVAL OF A NON-STANDARD EDR CONTRACT, AND FOR DETERMINATION
NO CPCN IS NEEDED FOR CUSTOMER-FUNDED TRANSMISSION FACILITIES.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
G. HARRIS ADAMS
GRANTING INTERVENTIONS**

Mailed Date: July 26, 2023

I. STATEMENT

1. On June 23, 2023, Public Service Company of Colorado (Public Service or Company) filed an Application for Approval of a Non-Standard Economic Development Rate (EDR) Contract, and for Determination No Certificate of Public Convenience and Necessity (CPCN) is Needed for Customer-Funded Transmission Facilities (Application).

2. By Decision No. C23-0472-I, the Commission referred the matter to an Administrative Law Judge (ALJ) for issuance of a Recommended Decision.

3. On June 30, 2023, the Notice of Intervention as a Matter of Right, Request for Hearing, and Entry of Appearances of the Office of the Utility Consumer Advocate (UCA) was timely filed by the UCA.

4. On July 7, 2023, the Notice of Intervention as of Right by Trial Staff of the Commission (Staff), Entry of Appearance, Notice Pursuant to Rule 1007(a) and Rule 1401, and Request for Hearing was timely filed.

A. Permissive Interventions

5. On July 10, 2023, QTS Aurora Infrastructure, LLC (QTS) filed its Motion to Intervene. The within application seeks approval of a proposed economic development rate for QTS, available pursuant to C.R.S. §40-3-104.3.

6. QTS states that the EDR is a critical reason QTS selected the Aurora site to build its next facility and that, accordingly, the application will have a direct and pecuniary impact upon its interests. QTS further states that it will not broaden the issues in this proceeding and that it is uniquely positioned to represent its interests in the proceeding that cannot be represented by the UCA, Staff or Public Service.

7. On July 12, 2023, Colorado Energy Consumers (CEC) filed the Colorado Energy Consumers' Unopposed Motion to Permissively Intervene. CEC is an unincorporated association of corporate industrial and commercial customers of Public Service Company of Colorado that are duly authorized and in good standing to transact business within Colorado. For purposes of this proceeding, its membership is comprised of, AirGas, USA, LLC, All Recycling, Inc., Google, Lockheed Martin Corporation, Occidental Energy Ventures, Suncor Energy (U.S.A.) Inc., and Western Midstream.

8. CEC asserts that CEC members have pecuniary and tangible interests in ensuring that the Economic Development Rate (EDR) Customer Service Agreement complies with the requirements of § 40-3-104.3(5) through (8), C.R.S. and the EDR Settlement as modified and approved by the Commission in Proceeding No. 20A-0345E. CEC further states that it will not

broaden the scope of the proceeding and that the unique interests of its membership are not, and cannot be, adequately represented by any other party in this proceeding.

9. On July 14, 2023, Climax Molybdenum Company's (Climax) Motion to Intervene Permissively was timely filed by Climax. Climax states that it receives electric service from Public Service under Schedule TG of its PUC No. 8 Electric Tariff at its respective facilities and that it is among Public Service's largest customers.

10. Climax states that it has an interest in this proceeding including verification that the revenues Public Service will receive under the EDR Customer Service Agreement will be greater than the marginal cost to serve QTS's load, and that rates of other customers will not increase or cross-subsidize QTS's service. Thus, Climax asserts that the outcome of this case may substantially affect its tangible and pecuniary interests as contemplated by 4 CCR 723-1-1401(c). Climax further states that it will not unduly broaden the issues in this proceeding and that its unique facilities and electricity usage are such that its interests will not be adequately represented unless Climax is allowed to intervene.

11. Rule 1401(c) of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1 provides, in pertinent part, regarding permissive intervention:

A motion to permissively intervene shall state the specific grounds relied upon for intervention; the claim or defense within the scope of the Commission's jurisdiction on which the requested intervention is based, including the specific interest that justifies intervention; and why the filer is positioned to represent that interest in a manner that will advance the just resolution of the proceeding. The motion must demonstrate that the subject proceeding may substantially affect the pecuniary or tangible interests of the movant (or those it may represent) and that the movant's interests would not otherwise be adequately represented. If a motion to permissively intervene is filed in a natural gas or electric proceeding by a residential consumer, agricultural consumer, or small business consumer,

the motion must discuss whether the distinct interest of the consumer is either not adequately represented by the UCA or inconsistent with other classes of consumers represented by the UCA. The Commission will consider these factors in determining whether permissive intervention should be granted. Subjective, policy, or academic interest in a proceeding is not a sufficient basis to intervene. Anyone desiring to respond to the motion for permissive intervention shall have seven days after service of the motion, or such lesser or greater time as the Commission may allow, in which to file a response. The Commission may decide motions to intervene by permission prior to expiration of the notice period.

12. No response was filed to any pending request for permissive intervention. Based upon good cause shown for the unopposed requests, it is found and concluded that each movant has sufficiently demonstrated that this proceeding may substantially affect the pecuniary or tangible interests of those requesting intervention that would not otherwise be adequately represented. The requests for permissive intervention will be granted.

II. ORDER

A. It Is Ordered That:

1. The timely filed interventions of right by the Office of the Utility Consumer Advocate and Staff of the Public Utilities Commission are noted.
2. The Motion to Intervene filed by QTS Aurora Infrastructure, LLC (QTS) on July 10, 2023, is granted.
3. Colorado Energy Consumers' (CEC) Unopposed Motion to Permissively Intervene filed on July 12, 2023, by CEC is granted.
4. Climax Molybdenum Company's (Climax) Motion to Intervene Permissively filed by Climax on July 14, 2023, is granted.
5. QTS, CEC, and Climax, are each granted intervenor status in this Proceeding.

6. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

G. HARRIS ADAMS

Administrative Law Judge

ATTEST: A TRUE COPY

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

Rebecca E. White,
Director