

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

\* \* \* \* \*

IN THE MATTER OF THE VERIFIED )  
APPLICATION OF PUBLIC SERVICE )  
COMPANY OF COLORADO FOR )  
APPROVAL OF A MODIFIED GAS METER )  
SAMPLING AND PERIODIC TESTING ) PROCEEDING NO. 23A-0204G  
PROGRAM, PROCESS FOR EXCHANGE )  
OF METERS IN FAILED LOTS, AND )  
WAIVER OF COMMISSION RULES )  
4304(D)(I) - (IV) AND (VI) AS NECESSARY )

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**UNANIMOUS JOINT COMPREHENSIVE SETTLEMENT  
AGREEMENT**

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**Confidential: Attachment B**

**Table of Contents**

**I. INTRODUCTION AND IDENTIFICATION OF PARTIES.....3**

**II. BACKGROUND.....3**

**III. SETTLEMENT TERMS .....5**

**A. Amended Gas Meter Sampling and Periodic Testing Program .....5**

**1. Homogenous Diaphragm Meter Lots and Random Selection Methodology .....6**

**2. Testing Exemption Period..... 7**

**3. Diaphragm Meter Sample Selection Protocol..... 7**

**4. Diaphragm Meter Sampling Testing Protocol .....9**

**5. Failed Lot Removal Protocol.....11**

**6. Adding Alternate Design Meters to the Existing Gas Meter Types and Periodic Testing .....12**

**B. Transition Protocol for Meter Groups That Currently Have at Least Five Consecutive Statistical Non-Acceptances Test Results .....12**

**C. Annual Reporting and Meetings .....14**

**D. Ability to Provide Written Comments Regarding Company’s Annual Report .....15**

**E. Cost Recovery.....16**

**F. Rule Waivers .....17**

**G. Tariff Changes.....18**

**IV. GENERAL PROVISIONS .....18**

## **I. INTRODUCTION AND IDENTIFICATION OF PARTIES**

This Unanimous Comprehensive Settlement Agreement (“Settlement Agreement” or “Agreement”) is entered into by Public Service Company of Colorado (“Public Service” or the “Company”), Trial Staff (“Staff”) of the Colorado Public Utilities Commission (“Commission”), and the Colorado Office of the Utility Consumer Advocate (“UCA”) (collectively, the “Settling Parties”), pursuant to Rule 1408 of the Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1. This Settlement Agreement is intended to resolve all issues that were or could have been raised in this proceeding with respect to the Company’s Verified Application (“Application”). ...

## **II. BACKGROUND**

1. On April 25, 2023, Public Service filed with the Commission the Application, seeking approval to continue its existing meter sampling and periodic testing program, with modifications and related revisions to its Colo. PUC No. 6-Gas Tariff (“Gas Tariff”), as well as the process for continued replacement of meters in failed lots and for a waiver from Commission Rules 4304(d)(I) through (IV) and (VI).

2. This filing, which commenced this Proceeding, was required by the Commission, as reflected in Decision Nos. C22-0642 and C22-0804 in the Company’s 2022 Gas Rate Case, Proceeding No. 22AL-0046G (“2022 Gas Rate Case”). Specifically, in Decision No. C22-0642, the Commission directed “Public Service to confer with Staff and UCA following the conclusion of this Proceeding in anticipation of a future filing for the purpose of a review and potential update to the Failed Meter Program and the process for future meter replacements. Public Service is required to file an application for approval of

the continuation of its Failed Meter Program no later than six months from the effective date of this Decision.”<sup>1</sup>

3. The Commission thereafter clarified this directive in Decision No. C22-0804, stating: “We again direct the Company to confer with Staff and UCA on the Meter Sampling and process for Failed Meter Program and make the appropriate filing in accordance with the Rate Case Decision. We reiterate that Public Service is directed to file an application for the continuation of the Failed Meter Program within six months of the effective date of the Rate Case Decision.”<sup>2</sup>

4. On April 26, 2023, the Commission noticed the Application to all interested persons, firms, and corporations, and established a 30-day intervention period for intervenors to file appropriate pleadings to become parties to this Proceeding.

5. On May 11, 2023, UCA filed its Notice of Intervention of Right and Entry of Appearance.

6. On May 26, 2023, Staff filed its Notice of Intervention of Right by Trial Staff of the Commission, Entry of Appearance, Notice Pursuant to Rule 1007(a) ad Rule 1401, and Request for Hearing.

7. On May 31, 2023, the Commission deemed the Application complete and referred this Proceeding to an Administrative Law Judge (“ALJ”) by minute entry.

8. By Decision No. R23-0450-I, issued July 10, 2023, the ALJ, among other things, adopted a procedural schedule and scheduled an evidentiary hearing. Pursuant to that procedural schedule, Answer Testimony was due to be filed on August 4, 2023,

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<sup>1</sup> Decision No. C22-0642 at ¶180. Within the quote, “UCA” refers to the Colorado Office of the Utility Consumer Advocate.

<sup>2</sup> Decision No. C22-0804 at ¶40.

Rebuttal Testimony was due to be filed on August 31, 2023, and the evidentiary hearing was scheduled for September 20 – 21, 2023.

9. On August 3, 2023, the parties submitted their Notice of Joint Comprehensive Settlement in Principle, Joint Motion to Modify Procedural Schedule and set Settlement Deadlines, and Request for Waiver of Response Time (“Joint Motion”). In the Joint Motion, the parties request that the ALJ waive response time to the Joint Motion, vacate all remaining procedural deadlines in this case, and allow for the filing of the settlement agreement, motion for approval of the settlement agreement, and supporting settlement testimony by August 16, 2023.

10. On August 9, 2023, through Decision No. R23-0529-I, the ALJ granted the Joint Motion, vacated remaining procedural deadlines, and required the filing of this settlement agreement, the motion for approval of the settlement agreement, and supporting settlement testimony by August 16, 2023. The ALJ also ordered that the hearing remain as scheduled unless otherwise ordered by a separate decision.

11. This Settlement Agreement represents the comprehensive, extensively negotiated agreements reached by the Settling Parties to resolve all the issues in this proceeding that were raised or that could have been raised.

### **III. SETTLEMENT TERMS**

The following terms comprise the Settlement Agreement reached by the Settling Parties:

#### **A. Amended Gas Meter Sampling and Periodic Testing Program**

12. The Settling Parties agree to revise the Gas Meter Sampling and Periodic Testing Program (“Gas Meter Test Program” or “New Program”) to reflect the settlement

reached in this Proceeding. The new Gas Meter Test Program is included as Attachment A to this Settlement Agreement.

13. Consistent with the existing program, only diaphragm meters are subject to random sample testing under the New Program. The remaining meter types continue to remain subject to periodic testing, as reflected in Attachment A.

14. The new Gas Meter Test Program includes the following key provisions:

**1. Homogenous Diaphragm Meter Lots and Random Selection Methodology**

15. The Settling Parties agree that the homogeneity of meter lots ("lot" or "lots") is key in meeting the ANSI/ASQ Z1.9-2003 standard,<sup>3</sup> which applies to both the current program and the New Program. The Company is transitioning from the Monitoring Device Management System ("MDMS") platform to the SAP module Industry Specific Utilities ("IS-U") platform in order to manage its gas meter test program.

16. Beginning in 2024, the Company will transition from original lot groupings (typically five-year tranches, also referred to as Parent Lot Groupings) to the lot groupings defined under the New Program. The goal is for the Company to transition Parent Lot Groupings into new lot groupings with tightened homogeneity. Specifically:

- Lots will continue to be grouped in groups of up to five-year increments during normal testing, assuming homogeneity can be retained.
- Homogeneous lot determination will be based on manufactured year or purchase year (as available), manufacturer, model type, and capacity.
- On or before January 1, 2024, and for new diaphragm meters, the Company will begin recording the manufactured year for each meter in its system instead of purchase year. As there is currently no "manufactured year" field in the Company's system, such data will be included in the receipt year field. Older diaphragm meters without manufactured year data in the system will continue to

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<sup>3</sup> Excerpts from the ANSI Standards are attached hereto as Confidential Attachment B.

use purchase year.

- Refurbished diaphragm meters will not be categorized as new meters and will retain their original purchase/manufacture year as applicable. Refurbished meters will remain in their previously-designated lot.

## **2. Testing Exemption Period**

17. The Settling Parties agree to continue sampling diaphragm meters beginning the fifteenth year after purchase/year of manufacture (as applicable). This testing exemption period is supported by the ANSI B109 accreditation, meter manufacturer test of all meters prior to shipment, and the Company's acceptance testing. If the Company believes based on information received regarding meter performance that earlier testing is required, then it will take actions to evaluate affected meter groups and explain this action in its Gas Meter Test Program Annual Report ("Annual Report"). Annual reporting is addressed later in this Settlement Agreement.

## **3. Diaphragm Meter Sample Selection Protocol**

18. The Settling Parties agree to the following diaphragm meter sample selection protocol under the New Program.

19. Sample diaphragm meters are randomly selected for testing. The MDMS program (or IS-U module once the Company transitions to this system) will generate a random sample list during the lot's annual run, typically at the beginning of the test cycle.

20. Inoperative or damaged meters will continue to be excluded from the statistical analysis.

21. Random gas meters that arrive at the gas meter shop for reasons other than that a work order for random sampling that was generated by MDMS (or IS-U), during the meter lot's annual run, may be used to supplement or displace randomly selected meters,

within their respective lots. The Company will not rely on these meters for its new Gas Meter Test Program, except to the extent that they can be used to supplement a small number (under 30% of the total sample size) of the total meters required by the annual test sample. The Company would adhere to this threshold beginning in the 2024 test cycle.

22. Such random gas meters that were not selected by the lot's annual run (not auto generated), may be used in the Gas Meter Test Program provided the removal reason is eligible for inclusion. Removal reasons indicated in the table below are eligible for inclusion in the Gas Meter Test Program and are considered random sample meters:

| <b>Code</b> | <b>Type</b>           | <b>Description</b>                                          |
|-------------|-----------------------|-------------------------------------------------------------|
| AM          | Automate Meter Read   | Switch from manual to automated read                        |
| DS          | Discontinue Service   | Customer requested disconnect                               |
| F           | Change in Size - Gas  | Exchange gas meter to better meet customer demand           |
| G           | Account Closed - Gas  | Customer closed account                                     |
| IO          | In to Out - Gas       | Moving meter from inside building meter location to outside |
| PC          | Pressure Change - Gas | Changing delivery pressure to customer                      |
| RC          | Rate Change           | Customer changing tariff rate                               |

23. The number of meters tested must meet the sample size determined in the statistical analysis. In instances where the Company has more test results than necessary for its random sample, random selection of those test results will be used in order to meet the required sample size.

24. In unusual circumstances the Company may not be able to obtain enough test results to meet the required sample size. In that event, and dependent on the circumstances, the Company will re-test in the following test cycle, or retire the lot, as applicable. The Company will explain treatment of such lots in its Annual Report (as outlined in Section III.C

of this Settlement Agreement).

**4. Diaphragm Meter Sampling Testing Protocol**

25. The Settling Parties agree to the following diaphragm meter sampling testing protocol under the New Program.

26. Lots are initially subject to random sample testing under normal testing protocols. A random sample from each lot is selected in accordance with ANSI/ASQ Z1.9-2003 Tables A-1, A-2 and B-3 for an Acceptance Quality Limit ("AQL") of 10 and Inspection Level II, normal inspection, tested, and statistically analyzed twice, once for fast meters and once for slow meters, in accordance with Example B-2 for a single specification limit, variability unknown, standard deviation method. The AQL level 10 has a specified acceptance quality limit (by sample size) as specified in the ANSI standard, while in normal status and another set of acceptance quality limits while in tightened status. While the previously approved AQL of 10 is reasonable at this time, it may be reviewed again in future proceedings.

27. In both normal and tightened inspection, the Company will take into consideration meter testing results that would be considered as outliers in the Gas Meter Test Program through the implementation of the Chauvenet Rule. Chauvenet's criterion is a way to identify outliers. The method works by creating an acceptable band of data around the mean and specifies eliminating any values that fall outside that band. To apply Chauvenet's criterion, the Company will first calculate the mean and standard deviation of the observed data. Based on how much the suspect data differs from the mean and the number of samples, the Company will use the normal distribution function (or a table thereof) to determine the probability that a given data point is a suspect data point. Suspect data point(s) may be discarded.

28. The Company will continue using the Average Test methodology. Each sample meter is tested at both open rate (approximately 100% of badged capacity) and check rate (approximately 20% of badged capacity), and the average percentage error is calculated as (open rate error + check rate error) / 2.

29. The acceptance tolerance for meters running fast (over measuring) will continue to be +2% average error. Thus, meters testing 2% fast or less would be acceptable in the Company's statistical analysis.

30. The specification limit for meters running slow (under measuring) will be adjusted from -2% to -3% average error beginning with the 2024 test cycle (including lots discussed in Section III.B of this Settlement Agreement), with acceptable tolerance such that meters testing 3% slow or less would be acceptable.

31. Under ANSI/ASQ Z1.9-2003, if a lot meets statistics for a given test cycle it skips the next test cycle.

32. If a meter lot experiences two consecutive statistical non-acceptances tightened inspection is instituted in compliance with ANSI/ASQ Z1.9-2003 section A10. Once in tightened status, the maximum allowable percent of nonconformance is reduced, making it harder to meet statistics once in tightened inspection.

33. Under tightened testing protocols, lots will be broken down into sub-lots, by year (manufactured/purchase year) and potentially other unique attributes. In order to be sub-lotted, the initial or Parent Lot Grouping must have at least 100 qualified meters at time of sub-lotting.

34. Once a lot does not meet statistics for five consecutive test cycles in tightened inspection, the lot is deemed failed.

35. An illustrative example of the testing timeline before a lot reaches failed status is included in the table below:

| Sample year | Lot Number | Normal / Tightened Inspection Plan | Sample size | Estimate of Lot Standard Deviation | Sample Mean | Estimate Percent Nonconforming in Lot (meter over measuring) | Estimate Percent Nonconforming in Lot (meter under measuring) | Maximum Allowable Percent Nonconforming for AQL=10 Normal Inspection | Maximum Allowable Percent Nonconforming for AQL=10 Tightened Inspection | Statistical Acceptance AQL =10 | Year end Count of "Does not meet" acceptance (N = normal inspection, T = tightened inspection) | Year end lot status * (Using purchase year analysis for years 2009 through 2019) |
|-------------|------------|------------------------------------|-------------|------------------------------------|-------------|--------------------------------------------------------------|---------------------------------------------------------------|----------------------------------------------------------------------|-------------------------------------------------------------------------|--------------------------------|------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------|
| 2009        | 461XX      | Normal                             | 100         | 1.492                              | -0.604      | 4.04                                                         | 17.62                                                         | 14.18                                                                | N/A                                                                     | Does not meet                  | 1N, 0T                                                                                         | Sample in 2010 using normal inspection                                           |
| 2010        | 461XX      | Normal                             | 100         | 2.928                              | -1.3496     | 12.71                                                        | 42.08                                                         | 14.11                                                                | N/A                                                                     | Does not meet                  | 2N, 0T                                                                                         | Sample in 2011 using tightened inspection                                        |
| 2011        | 461XX      | Tightened                          | 100         | 3.054                              | -1.4679     | 12.92                                                        | 46.02                                                         | N/A                                                                  | 9.80                                                                    | Does not meet                  | 2N, 1T                                                                                         | Sample in 2012 using tightened inspection                                        |
| 2012        | 461XX      | Tightened                          | 100         | 2.341                              | -1.2364     | 8.36                                                         | 37.08                                                         | N/A                                                                  | 9.80                                                                    | Does not meet                  | 2N, 2T                                                                                         | Sample in 2013 using tightened inspection                                        |
| 2013        | 461XX      | Tightened                          | 100         | 3.331                              | -1.316      | 15.87                                                        | 42.08                                                         | N/A                                                                  | 9.80                                                                    | Does not meet                  | 2N, 3T                                                                                         | Sample in 2014 using tightened inspection                                        |
| 2014        | 461XX      | Tightened                          | 100         | 2.347                              | -1.347      | 7.610                                                        | 38.220                                                        | N/A                                                                  | 9.80                                                                    | Does not meet                  | 2N, 4T                                                                                         | Sample in 2015 using tightened inspection                                        |
| 2015        | 461XX      | Tightened                          | 100         | 2.858                              | -1.662      | 10.010                                                       | 46.020                                                        | N/A                                                                  | 9.800                                                                   | Does not meet                  | 2N, 5T                                                                                         | <b>Discontinue sample testing</b>                                                |

## 5. Failed Lot Removal Protocol

36. The Settling Parties agree to the following failed lot removal protocol under the New Program.

37. Lots that fail tightened inspection will be removed from service and replaced as appropriate.

38. The Company will prioritize the replacement of meters in failed lots. The Company will generally attempt to prioritize the replacement of lots in the following order: 1) lots statistically running fast on average, 2) lots with the worst performing meters (in other words the lots with the highest estimate percent of nonconformance over-measurement or under-measurement), and 3) lots running on average slow. Other factors that will shape replacement priority include geographic grouping and logistics efficiency. Affordability shall also be taken into account should the Company have a significant number of meters to replace under the sampling program.

39. The Company will evaluate the feasibility of first replacing “running fast” failed meters in disproportionately impacted communities in order to help reduce the possibility of overbilling economically disadvantaged customers. The results of this evaluation, along with the resulting plan, will be presented in the Annual Report.

**6. Adding Alternate Design Meters to the Existing Gas Meter Types and Periodic Testing**

40. The periodic testing requirements will be as set forth in Attachment A. The Settling Parties agree to the following with respect to adding alternate design meters to the existing gas meter types, and with respect to periodic testing of meters that are not subject to random sample testing under the New Program.

41. The Company’s request to add alternate design ultrasonic gas meters and rotary gas meters to expand the type of meters used under its program will be withdrawn at this time, without prejudice to making a new request in the future. The Settling Parties agree that there is insufficient information in this Proceeding to justify the use of alternate design ultrasonic gas meters and rotary gas meters that generally cost more than the other meter types currently being used by the Company.

**B. Transition Protocol for Meter Groups That Currently Have at Least Five Consecutive Statistical Non-Acceptances Test Results**

42. As noted earlier in Section II.A of this Settlement Agreement, beginning January 1, 2024, the Company will transition from previously used lot groupings (typically five-year tranches, also referred to as Parent Lot Groupings) to the lot groupings defined under the New Program. Recognizing that a number of the Parent Lot Groupings identified under the current meter sampling program have failed several years of testing, the Settling Parties agree to adopt a faster tightened testing protocol for certain lots, as described in the following paragraphs.

43. Taking into consideration the updated lot grouping procedures (Section A.1), meter sample selection protocols (Section A.3), and meter sample testing protocols (Section A.4) outlined in this Settlement, a faster tightened two-year testing protocol will be applied for any homogenous meter types identified under the current meter sampling program that were part of prior groupings with non-conformance of 30% or greater or meter groups that are fast running. Non-conformance of 30% or greater lots that were part of prior groupings are defined as meter groups who in 5 years, under tightened testing, had Non-Conformance either under- or over- measuring of 30% or greater. Fast running lots that were part of prior groupings are defined as meter groups who in at least 4 out of 5 years, under tightened testing, had an 'Estimate Percent Nonconforming in Lot – Meter Over-measuring' which was greater than the 'Estimate Percent Nonconforming in Lot - Meter Under-measuring'. If a lot in this transition protocol meets statistics, it will skip a year of testing. If a lot in this transition protocol does not meet statistics, the lot will be retested the following test year. If a lot in this transition protocol does not meet statistics the following year (two consecutive statistical non-acceptances test results), the lot will be deemed failed and subject to replacement. Meter groups that do not meet the foregoing thresholds for the tightened two-year testing protocol would be subject to the five-year tightened testing under the new Gas Meter Test Program.

44. The Company has not been able to fully evaluate the total number of lots that would be subject to this transition protocol. The Settling Parties recognize that the Company will need time to ramp-up this testing, and may implement testing of all lots subject to this tightened two-year testing protocol over five years, beginning with the 2024 test cycle.

### **C. Annual Reporting and Meetings**

45. The Company will provide annual random sample test reports by May 15<sup>th</sup> of the following calendar year and will submit executable attachments along with the Annual Report. The Annual Reports will be filed in this Proceeding.

46. In addition to currently-required reporting on the results of the Company's annual testing, as reflected in the Company's most recent annual report filed on April 21, 2023 in Proceeding No. 08A-280G, the Annual Report will include:

- an explanation on the Company's procedure for grouping and sub-lotting of meter lots;
- any considerations in the development of those lots;
- procedures taken during tightened inspection;
- lot trend-to-fail information;
- the anticipated pace of replacement for meters that have failed under the program; and
- information on warranties/guarantees applicable to meters subject to sample testing, including the following information since the last Annual Report:
  - any changes made to its negotiated warranties or guarantees; and
  - warranty claim information.

47. The Settling Parties agree to meet annually prior to the filing of the May 15<sup>th</sup> Annual Report (unless otherwise agreed). These meetings will include discussion of the results of the prior year's Gas Meter Test Program, including, but not limited to, the new definition of homogeneous lot and tightened inspection, enhanced procedures and considerations to the accuracy, efficiency, and cost of the Gas Meter Test Program, pace of replacement of failed meters (with a consideration focused on affordability).

48. The annual meeting would also allow the Company to present its Annual Report to Staff/UCA and provide additional details on the types of meters that are failing/passing, provide a listing of the meters tested for random reasons outside the Gas Meter Test Program, any considerations made for lot testing where the Company was unable to obtain

the sample target quantity, etc. The Company agrees to meet with Staff/UCA for five years following the approval of this Settlement Agreement, and further upon mutual agreement.

49. The Company agrees to explore a weighted average methodology (Weighted Average Test =  $((\text{Open Test} \times 4) + \text{Check Test})/5$ ) on a sample basis and discuss results and potential merits of adopting the alternative methodology during the annual meetings.

**D. Ability to Provide Written Comments Regarding Company's Annual Report**

50. To the extent Staff or UCA have concerns regarding the Company's Annual Report, the Settling Parties agree to a 30-day comment process beginning with the filing of the May-2025 Annual Report. Any such comments shall be filed in this Proceeding.

51. To the extent comments are filed by Staff and/or UCA within 30 days after the filing of the Company's Annual Report, Public Service will confer with Staff and/or UCA within 30 days of receiving the comments and will work to resolve concerns raised through comments. Public Service will thereafter file a response to the comment clarifying how the issue was resolved. If not resolved, the Company would file testimony on the disputed issue in the next gas Phase I rate case.

52. If during the course of the annual review and comment process the parties reach consensus on modifications as related to the Gas Meter Test Program or the Annual Report, the Settling Parties will file with the Commission the agreed-upon modifications, as well as any needed waiver or variance requests. If no consensus is reached, the Settling Parties agree to litigate concerns raised in the Company's following gas Phase I rate case filing.

53. This comment process is not intended to:

- alter in any respect the Commission-approved Gas Meter Test Program unless agreed by the parties and filed with the Commission;
- determine cost recovery associated with the Gas Meter Test Program; and/or

- affect or limit any party's ability to review and challenge the pace of failed meter replacement and cost recovery issues associated with the Gas Meter Test Program in a Phase I rate case proceeding.

54. The lack of a comment by either Staff or UCA has no precedential value, and shall not be construed as a waiver of either party's rights (or those of the Company).

#### **E. Cost Recovery**

55. The Settling Parties agree that this Proceeding is not a cost recovery proceeding for meters or the Gas Meter Test Program. The costs associated with the purchase, replacement, or sampling of gas meters are subject to review in a rate proceeding. The Company recovers the cost of new meter investments through recovery of depreciation expense and a return on rate base, similar to all other approved rate base investments.

56. The Settling Parties acknowledge that the Commission approved depreciation expense and a return on rate base in the test year for recovery of meter-related costs in the Company's last gas rate case, Proceeding No. 22AL-0046G. As such, the Commission approved replacement of meters in failed lots that were included in the Company's 2021 Historical Test Year revenue requirement, required the filing of this case, and did not order the Company to cease replacement of meters in failed lots in the interim. This process is consistent with the Commission's cost recovery for meter replacements that has occurred for decades.

57. The Settling Parties also acknowledge that the Company has, consistent with its current Gas Meter Test Program, continued to replace meters in failed lots since the conclusion of the 2021 test year in that case through 2023, with changes as agreed herein

effective January 1, 2024, and neither Staff nor UCA will contest cost recovery on the meters replaced through 2023.

58. The Settling Parties agree that Public Service will provide testimony regarding the amount being recovered for meter related costs in its next Gas rate filing, including but not limited to costs associated with meter purchases, meter replacement, and meter depreciation expenses.

59. Please see Attachment C for more information on the Company's meter depreciation procedures. This is being provided for informational purposes only as part of this Settlement Agreement.

#### **F. Rule Waivers**

60. To the extent necessary, the Settling Parties seek a permanent waiver from Rules 4304(d)(I) through 4304(d)(III) by requesting the Commission approve the New Program. The Commission granted a waiver from these rules relative to the sampling of diaphragm meters in Decision No. R09-0683, Ordering Paragraphs 4 and 5.

61. To the extent necessary, the Settling Parties also request a permanent waiver of Rule 4304(d)(IV) to allow the Company to periodically test rotary meters having a rated capacity of more than 5,000 cubic feet per hour at a differential not to exceed two inches water column, every five years. Rule 4304(d)(IV) provides that testing for such meters shall be at the frequency of testing stated in the utility's tariff. The Commission granted this requested waiver in Decision No. R09-0683, Ordering Paragraph 6.

62. Finally, the Settling Parties request that the Commission grant any other waivers from Commission Rules to the extent necessary to approve the New Program and this Settlement Agreement.

#### **G. Tariff Changes**

63. The Settling Parties agree to the Gas Tariff changes as reflected in redline in Attachment D to this Agreement, and in clean format in Attachment E. Upon approval of the Settlement, the Company requests to place the revised tariff changes into effect on not less than two business days' notice through a compliance advice letter filing, as contemplated by Rule 1207(g).

#### **IV. GENERAL PROVISIONS**

65. Except as expressly set forth herein, nothing in this Settlement Agreement is intended to have precedential effect or to bind the Settling Parties with respect to positions they may take in any other proceeding regarding any of the issues addressed in this Settlement Agreement. No Settling Party concedes the validity or correctness of any regulatory principle or methodology directly or indirectly incorporated in this Settlement Agreement. Furthermore, this Settlement Agreement does not constitute agreement, by any Settling Party, that any principle or methodology contained within or used to reach this Settlement Agreement may be applied to any situation other than the above-captioned Proceeding, except as expressly set forth herein.

66. The Settling Parties agree the provisions of this Settlement Agreement, as well as the negotiation process undertaken to reach this Settlement Agreement, are just, reasonable, and consistent with and not contrary to the public interest and should be approved and authorized by the Commission.

67. The discussions among the Settling Parties that produced this Settlement Agreement have been conducted in accordance with Rule 408 of the Colorado Rules of Evidence. In the event this Settlement Agreement becomes null and void or in the event the

Commission does not approve this Settlement Agreement, it, as well as the negotiations or discussions undertaken in conjunction with the Settlement Agreement, shall remain inadmissible into evidence in these or any other proceedings in accordance with Rule 408 of the Colorado Rules of Evidence.

68. The Settling Parties agree to use good faith efforts to support all aspects of the Settlement Agreement embodied in this document in any hearing conducted to determine whether the Commission should approve this Settlement Agreement, and/or in any other hearing, proceeding, or judicial review relating to this Settlement Agreement or the implementation or enforcement of its terms and conditions. Each Settling Party also agrees that, except as expressly provided in this Settlement Agreement, it will take no formal action in any administrative or judicial proceeding that would have the effect, directly or indirectly, of contravening the provisions or purposes of this Settlement Agreement. However, except as expressly provided herein, each Settling Party expressly reserves the right to advocate positions different from those stated in this Settlement Agreement in any proceeding other than one necessary to obtain approval of, or to implement or enforce, this Settlement Agreement or its terms and conditions.

69. Except as otherwise set forth herein, the Settling Parties do not believe any waiver or variance of Commission rules is required to effectuate this Settlement Agreement, but they agree jointly to apply to the Commission for a waiver of compliance with any requirements of the Commission's Rules and Regulations if necessary to permit all provisions of this Settlement Agreement to be approved, carried out, and effectuated.

70. This Settlement Agreement is an integrated agreement that may not be altered by the unilateral determination of any Settling Party. There are no terms, representations, or agreements among the parties which are not set forth in this Settlement Agreement.

71. This Settlement Agreement shall not become effective until the Commission issues a final decision addressing the Settlement Agreement. In the event the Commission modifies this Settlement Agreement in a manner unacceptable to any Settling Party, that Settling Party may withdraw from the Settlement Agreement and shall so notify the Commission and the other Settling Parties in writing within ten (10) days of the date of the modifying Commission order. In the event a Settling Party exercises its right to withdraw from the Settlement Agreement, this Settlement Agreement shall be null and void and of no effect in this or any other proceeding.

72. There shall be no legal presumption that any specific Settling Party was the drafter of this Settlement Agreement.

73. This Settlement Agreement may be executed in counterparts, all of which when taken together shall constitute the entire Agreement with respect to the issues addressed by this Settlement Agreement. This Settlement Agreement may be executed and delivered electronically and the Settling Parties agree that such electronic execution and delivery, whether executed in counterparts or collectively, shall have the same force and effect as delivery of an original document with original signatures, and that each Settling Party may use such electronic or facsimile signatures as evidence of the execution and delivery of this Settlement Agreement by the Settling Parties to the same extent that an original signature could be used.

Dated this 16th day of August 2023

Agreed on behalf of:

**PUBLIC SERVICE COMPANY OF  
COLORADO**

By: /s/ Jason J. Peuquet

Jason J. Peuquet  
Director, Regulatory Administration  
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Approved as to form

**ATTORNEY FOR PUBLIC SERVICE COMPANY  
OF COLORADO**

By: /s/ Tana K. Simard-Pacheco

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