

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

**RE: THE TARIFF SHEETS FILED BY PUBLIC )  
SERVICE COMPANY OF COLORADO WITH ) DOCKET NO. 04S-164E  
ADVICE LETTER NO. 1411 - ELECTRIC )**

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**SETTLEMENT AGREEMENT RESOLVING  
ELECTRIC ENERGY COST ISSUES**

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Public Service Company of Colorado (“Public Service” or “Company”), Staff of the Colorado Public Utilities Commission (“Staff”), and the Colorado Office of Consumer Counsel (“OCC”) (collectively, the “Parties”) hereby enter into this Settlement Agreement regarding certain issues in this proceeding. Specifically, this Settlement Agreement addresses Staff’s proposal for a pilot time-of-use (“TOU”) Electric Commodity Adjustment (“ECA”) program and issues related to the Company’s proposal to move certain energy costs that are currently being recovered in base rates into the ECA.

**Introduction**

On March 24, 2004, Public Service filed Advice Letter No. 1411 – Electric with the Commission, tendering revised tariff sheets in which the Company proposed its rate design to collect the revenue requirement authorized by the Commission in Decision No. C03-0877, the final order in Docket No. 02S-315EG. The Company also filed Direct Testimony and Exhibits in support of the proposed rate design. The Company’s revised tariff sheets are collectively referred to as its Phase 2 tariff sheets. Among the proposals made by the Company was a

proposal to move the base energy costs (\$0.01287/kWh, \$0.01261/kWh, \$0.01233/kWh for service delivered at secondary, primary and transmission voltages, respectively) (hereinafter "Base Energy Cost") currently being recovered in base rates into the ECA mechanism and a proposal to implement a TOU ECA for its Transmission General and Primary General customers and those Secondary General customers with an electric load in excess of 300 kW.

The Intervenors filed their Answer Testimony and Exhibits on October 12, 2004. Among the proposals made by Staff was for a pilot TOU ECA program. In addition, in recognition that the removal of Base Energy Cost from base rates would require recalculation of the Purchased Capacity Cost Adjustment ("PCCA") and Demand Side Management Cost Adjustment ("DSMCA") mechanisms, Staff proposed restructuring the PCCA and DSMCA mechanisms to more accurately track the way the Company incurs the costs recovered through these mechanisms.

On December 13, 2004, Public Service filed Rebuttal Testimony and Exhibits and other parties filed Cross-Answer Testimony and Exhibits. In its rebuttal case, Public Service withdrew its TOU ECA proposal due to its inability to provide all the intervenors with access to the highly confidential forecast data that formed the basis for its TOU ECA proposal.

Hearings were scheduled from January 10 through January 28, 2005. At the hearing on January 10, the Commission suspended hearings until January 12, 2005 to afford the parties time to engage in settlement discussions. On

January 12, 2005, the Commission further suspended hearings until January 18, 2005.

On January 14, 2005, the Company filed motions to approve settlement agreements addressing issues related to net metering/net billing and the Company's Windsource program. On January 18, 2005, the Company filed a motion to approve a settlement agreement addressing the Company's Interruptible Service Option Credit proposal. Although hearings went forward on January 18, 2005, the parties continued to look for opportunities to resolve issues without the need for litigation. As a result of these efforts, Public Service, the Staff and OCC have reached compromise and settlement on all contested issues relating to the Company's proposal to move the Base Energy Cost from base rates into the ECA and the associated recalculation of the PCCA and DSMCA mechanisms. In addition, the Parties have reached settlement agreement regarding Staff's proposed pilot TOU ECA.

### **Agreement**

The Parties to this Settlement Agreement hereby agree to the following resolution of the issues raised in this proceeding relating to the Company's proposal to move Base Energy Cost out of base rates and into the ECA, the associated recalculation and redesign of the PCCA and DSMCA, and Staff's proposed pilot TOU ECA.

1. Staff and the OCC agree that the Company should be permitted to remove the Base Energy Cost out of base rates and to recover its fuel and purchased energy costs through the ECA mechanism consistent with the terms

of the settlement approved by the Commission in Decision No. C03-0877 in Docket No. 02S-315EG. This change should be set forth in tariff sheets filed contemporaneously with the filing of Public Service's Phase 2 tariff sheets pursuant to the Commission's order in this docket.

2. On or before June 1, 2005, Public Service shall file an Advice Letter pursuant to C.R.S. §40-3-104 with accompanying tariff sheets seeking to redesign its PCCA and DSMCA mechanisms. The Company's Advice Letter shall be subject to protest and possible suspension as provided under C.R.S. §40-3-104 and Commission rules. The intent of the proposed redesign will be to more accurately reflect the nature of the costs that are being recovered through these mechanisms. In particular, Public Service shall endeavor to recover its PCCA and DSMCA costs through demand (kW) and energy (KWh) charges as applicable given the nature of the costs to be recovered.

3. During the time between the implementation of the change to the ECA mechanism described in paragraph 1 above and implementation of the redesigned PCCA and DSMCA mechanisms described in paragraph 2 above, the Company should be permitted to recalculate its PCCA and DSMCA as proposed by the Company in its Direct Testimony and Exhibits.

4. Staff agrees to withdraw its proposal for a pilot TOU ECA. The Company agrees to work with Staff and OCC over the next twelve months in its consideration of whether to propose a TOU ECA in its 2006 Phase 1 rate case. Staff, the OCC and the Company agree to meet at least quarterly, beginning in the 2<sup>nd</sup> quarter of 2005 to discuss the issues concerning a potential TOU ECA

program (“the Program”). The issues to be discussed include, but are not limited to, the following:

- a. Definition of customers eligible for the Program;
- b. Definition of on-peak and off-peak time periods for the Program;
- c. The appropriate costs to be used to develop the rate differential (average versus marginal cost) for the Program;
- d. If forecasted energy costs are used, the methodology to be used to produce the forecast;
- e. The availability of historical hourly average and hourly marginal energy cost data and the potential to make such information available in the future; and
- f. Costs and performance of metering technology to be used in the Program.

5. The Company is free to propose any TOU ECA program or other mechanism to recover its fuel and purchased energy costs in its 2006 Phase 1 rate case. Staff and the OCC are free to take any position in response to the Company’s proposal.

### **General Terms and Conditions**

6. This Settlement Agreement reflects the compromise and settlement of all issues raised or that could have been raised in this docket in regard to the Company’s proposal to move Base Energy Cost out of base rates and into the

ECA, the associated recalculation and redesign of the PCCA and DSMCA, and Staff's proposed pilot TOU ECA.

7. All signatories agree to support this Settlement Agreement and to join in a motion that requests the Commission approve the Settlement Agreement and to comply with all provisions of this Settlement Agreement that are binding upon all Parties to this agreement.

8. This Settlement Agreement is a negotiated compromise of the issues described in Paragraphs 1 through 5 above that is supported by the Parties. Nothing contained herein shall be deemed to constitute an admission or an acceptance by any Party of any fact, principle, or position contained herein. Notwithstanding the foregoing, by signing this Settlement Agreement and by joining in the motion to approve the agreement, the Parties acknowledge that they pledge support for Commission approval and subsequent implementation of these provisions.

9. This Settlement Agreement shall be treated as a complete package as it relates to the issues described in Paragraphs 1 through 5. To accommodate the interests of different Parties on various issues, the Parties acknowledge that changes, concessions, or compromises by a Party or Parties in one section of this Settlement Agreement necessitated changes, concessions, or compromises by other Parties in other sections.

10. This Settlement Agreement shall not become effective until the issuance of a final Commission Order approving the Settlement Agreement which Order does not contain any modification of the terms and conditions of this

Settlement Agreement that is unacceptable to any of the Parties. In the event the Commission modifies this Settlement Agreement in a manner unacceptable to any Party, that Party shall have the right to withdraw from this agreement and proceed to hearing on the issues that may be appropriately raised by that Party in this docket. The withdrawing Party shall notify the Commission and the other Parties to the Settlement Agreement by e-mail within 3 business days of the Commission-ordered modification that the Party is withdrawing from the Settlement Agreement and that the Party is ready to proceed to hearing; the e-mail shall designate the precise issue or issues upon which the Party desires to proceed to hearing (the "Hearing Notice").

11. The withdrawal of a Party shall not automatically terminate this Settlement Agreement as to the withdrawing Party or any other Party. However, within 3 business days of the date of the Hearing Notice from the first withdrawing Party, all Parties shall confer to arrive at a comprehensive list of issues that shall proceed to hearing and a list of issues that remain settled as a result of the first Party's withdrawal from this Settlement Agreement. Within 5 business days of the date of the Hearing Notice, the Parties shall file with the Commission a formal notice containing the list of issues that shall proceed to hearing and the list of issues that remain settled. The Parties who proceed to hearing shall have and be entitled to exercise all rights with respect to the issues that are heard that they would have had in the absence of this Settlement Agreement. Hearings shall be scheduled on all of the issues designated in the formal notice filed with the Commission as soon as practicable.

12. In the event that this Settlement Agreement is not approved, or is approved with conditions that are unacceptable to any Party who subsequently withdraws, the negotiations or discussions undertaken in conjunction with the agreement shall not be admissible into evidence in this or any other proceeding for any purpose, except as may be necessary in any proceeding to enforce this Settlement Agreement.

13. Approval by the Commission of this Settlement Agreement shall constitute a determination that the agreement represents a just, equitable, and reasonable resolution of all issues that were or could have been contested among the Parties in this proceeding relating to the issues described in Paragraphs 1 through 5 above. The Parties state that reaching agreement in this docket by means of a negotiated settlement is in the public interest and that the results of the compromises and settlements reflected by this Settlement Agreement are just, reasonable, and in the public interest.

14. All Parties to this Settlement Agreement have had the opportunity to participate in the drafting of this agreement. There shall be no legal presumption that any specific Party was the drafter of this agreement.

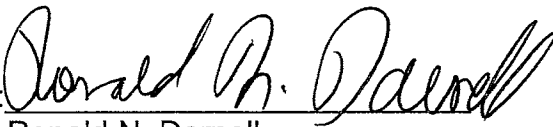
15. This agreement may be executed in counterparts, all of which when taken together shall constitute the entire agreement with respect to the issues addressed by this agreement.

Dated this 31st day of January, 2005.



PUBLIC SERVICE COMPANY OF  
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STAFF OF THE COLORADO  
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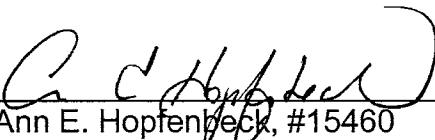
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Approved as to Form:

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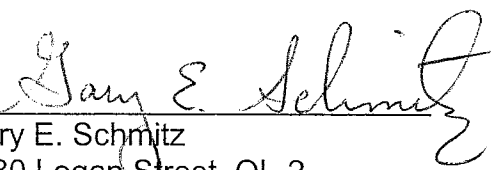
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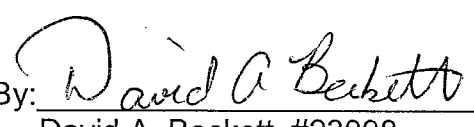
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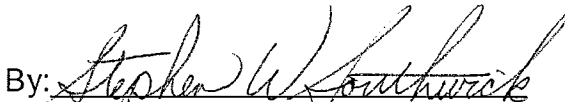
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