Decision No. R14-0389

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 13A-0773EG

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR APPROVAL OF ITS ELECTRIC AND NATURAL GAS DEMAND-SIDE MANAGEMENT (DSM) PLAN FOR CALENDAR YEAR 2014 AND TO CHANGE ITS ELECTRIC AND GAS DSM COST ADJUSTMENT RATES EFFECTIVE JANUARY 1, 2014.

RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
PAUL C. GOMEZ
APPROVING SETTLEMENT AGREEMENT
WITHOUT MODIFICATION, GRANTING APPLICATION
AS MODIFIED BY TERMS OF SETTLEMENT
AGREEMENT, AND REQUIRING TARIFF FILING

Mailed Date: April 11, 2014

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I. STATEMENT

A. Background

1. On July 1, 2013, Public Service Company of Colorado (Public Service or Company) filed its Application for Approval of its Electric and Natural Gas DSM Plan for Calendar Year 2014 (Application).

2. Public Service requested, pursuant to Commission Decision Nos. C11-0442 issued April 26, 2011 and C11-0645 issued June 14, 2011 in Proceeding No. 10A-554EG, as well pursuant to Rules 4 *Code of Colorado Regulations* (CCR) 723-4-4750 through 4760 of

the Commission's Rules Regulating Gas Utilities and Pipeline Operators (Gas Demand Side Management (DSM) Rules), a decision from the Commission approving the following: (1) Public Service's 2014 Electric and Natural Gas Demand-Side Management Plan; (2) Public Service's proposed electric demand reduction goals for 2014; (3) Public Service's proposed electric DSM budgets for calendar year 2014; (4) Public Service's proposed gas DSM budgets for calendar year 2014 and the associated energy savings the Company projects; (5) the avoided costs that Public Service used in the analysis of the electric and gas cost-effectiveness as reflected in Appendix C of the 2014 DSM Plan; (6) the technical assumptions, including the deemed savings for prescriptive programs set out in the Technical Reference Manual to the 2014 DSM Plan; and, (7) the net-to-gross factors for each DSM product that are set out in the Planning Assumptions section of the 2014 DSM Plan.

3. Public Service also requested that the Commission direct the Company to file, on not less than two days' notice, to become effective January 1, 2014, revised tariff sheets as part of its Colorado PUC No. 7 – Electric tariff and its Colorado PUC No. 6 – Gas tariff in substantially identical form to the *pro forma* tariff sheets contained in Exhibit Nos. LEG-3 and 4 to the direct testimony of Mr. Lee E. Gabler for the recovery of the 2014 DSM budgets approved in this proceeding, plus other allowable amounts.

4. Along with its Application, Public Service filed the direct testimony and exhibits of Mr. Lee E. Gabler.

5. The Commission issued Notice of the Application on July 8, 2013 which provided 30 days or until August 7, 2013 for any interested party to seek leave to intervene in this proceeding.

6. Timely intervenors in this proceeding include: the Colorado Energy Consumers Group (CEC); Energy Outreach Colorado (EOC); Staff of the Commission (Staff); the Colorado Office of Consumer Counsel (OCC); the City and County of Denver (Denver); Boulder County; the Southwest Energy Efficiency Project (SWEEP); the City of Boulder (Boulder); Climax Molybdenum Company (Climax) and CF&I Steel, LP, doing business as Evraz Rocky Mountain Steel (Evraz); the Energy Efficiency Business Coalition (EEBC); EnerNOC, Inc. (EnerNOC); the Colorado Energy Office (CEO) as *amicus curiae*; and, Noble Energy, Inc. (Noble) and EnCana Oil & Gas (USA) (EnCana).

7. The Application was deemed complete on August 14, 2013 by the Commission at its regular Weekly Meeting and referred to an Administrative Law Judge (ALJ) by minute entry for disposition. The matter was subsequently assigned to the undersigned ALJ.

8. By Interim Decision No. R13-1204-I issued September 27, 2013, a procedural schedule was adopted that, among other things, scheduled an evidentiary hearing on the Application for December 20, 2013, with Statements of Position due on January 23, 2014. In order to accommodate that procedural schedule, Public Service voluntarily waived the 210-day statutory deadline in which to issue a final Commission decision in this proceeding pursuant to § 40-6-109.5(3), C.R.S.

9. Interim Decision No. R13-1204-I also approved a request by Public Service at the pre-hearing conference to extend its 2013 DSM Plan until a final Commission decision was issued in this proceeding. In support of its request, on September 19, 2013, Public Service filed a pleading entitled *Joint Statement of Clarification Regarding Interim Extension of the Company's 2013 Electric and Natural Gas DSM Plan Pending Consideration of the Company's Proposed 2014 DSM Plan* (Joint Statement). According to the Joint Statement, its purpose was to provide clarification regarding Public Service's waiver of the 210-day statutory deadline and the interim extension of the 2013 DSM Plan agreed to by Public Service and the intervenors in consideration of that waiver.

10. Because the parties to this proceeding intended on participating in settlement negotiations, they sought to extend the 2013 DSM Plan on an interim basis pending a final Commission decision in this proceeding. As part of that interim extension, Public Service was permitted to prorate the 2014 gas and electric DSM budgets based on the length of time the interim extension remains in effect and the date that the new plan and budget take effect. Public Service's flexibility to exceed its DSM budget remained at 13.5 and 25 percent respectively for the electric and gas DSM plans in effect in 2014 during the time the interim extension remains in effect. Additionally, the level of Current Period Demand Side Management Costs recovered through the Demand Side Management Cost Adjustment (DSMCA) was allowed to remain unchanged as long as the interim extension of the 2013 DSM Plan is effective. Upon approval of the 2014 DSM Plan and approval of a new budget, the electric DSMCA would be amended to reflect the change in the level of expected expenses to be incurred during the year. Public Service also proposed filing an advice letter on or before November 1, 2013 to put into effect

changes in the electric DSMCA for the Company to recover the revised Interruptible Service Option Credit (ISOC) component for 2014.

11. The gas DSMCA was to remain unchanged until a final Commission decision in this proceeding which changes the gas DSM budget for 2014, at which time Public Service will make an appropriate compliance filing.

12. Regarding the calculation of the net economic benefits and incentives under the electric DSM Plan for 2013 and 2014, for the year 2014, Public Service's electric energy savings goal will be pro-rated based on the portion of the year that the interim extension of the 2013 DSM Plan is in effect and the portion of the year that the 2014 DSM Plan approved here is in effect. Public Service's overall performance will be measured at the end of the 2014 and compared against its energy savings goal pro-rated as described above.

13. For all electric DSM measures implemented during the period the interim extension is in effect, Public Service's energy savings and net economic benefits are to be measured based on the avoided costs and technical assumptions, including net-to-gross ratios used for the 2013 DSM Plan. When the 2014 DSM Plan is implemented, energy savings and net economic benefits will be determined based on the avoided costs and technical assumptions, including net-to-gross ratios which are approved here.[1]

14. Interim Decision No. R13-1204-I also permitted Public Service to expand its 2014 annual status report (due April 1, 2015) to illustrate the contribution and achievements of

[1] Public Service provided a table as part of the Joint Statement illustrating the pro-rated 2014 electric savings goals approved by the Commission, which assumes that the interim extension of the 2013 DSM Plan would be in effect from January 1, 2014 through March 31, 2014. The Company explained that its table illustrates the effect of pro-rating the energy savings goal, which is to incorporate the Commission approved goals from Decision No. C11-0442 of 356 GWh for 2013 and 384 GWh for 2014 into a composite of the interim extension of the 2013 DSM Plan and the approved 2014 DSM Plan at the end of 2014.

the interim extension of the 2013 DSM Plan and the 2014 DSM Plan on a separate and combined basis.

15. Further, for 2014, Public Service's energy savings target for its Gas DSM Plan was allowed to be pro-rated based on the portion of the year the interim extension of the 2013 DSM Plan remains in effect, and the portion of the year the 2014 DSM Plan approved here is in effect. Public Service's overall performance is to be measured at the end of calendar year 2014 and compared against its natural gas energy savings target as proposed to be pro-rated. The calculation of the acknowledgment of the last revenues and of the gas bonus is not to be otherwise affected by the interim extension of the Gas DSM Plan and is proposed to be calculated as set forth in Rule 4 CCR 723-4-4754.

16. Regarding the DSM Tracker (DT), it was understood that its operation would be unaffected by the interim extension of the 2013 DSM Plan, except to the extent that the level of cost recovery under the DSMCA against which DSM-related expenditures are compared may change upon issuance of a final Commission decision in this proceeding. The balance in the DT remains the difference between DSMCA revenues collected and the actual DSM-related costs incurred. In addition, Public Service's tracking of expenditures and revenue collection under its natural gas DSM program were not to be affected by the extension. It was further understood that the interim extension of the 2013 DSM Plan would not affect Public Service's ability to modify existing programs or make other changes in accordance with the existing 60 and 90-day notice process.

17. On October 28, 2013, the OCC filed the answer testimony and exhibits of Mr. Chris Neil.

18. On October 29, 2013, Public Service filed a Stipulation and Settlement Agreement (Settlement Agreement) which stated that it had reached a consensus and entered into a Settlement Agreement with several of the intervenors including: Staff, OCC (approving the Settlement Agreement in part), CEC, SWEEP, Denver, EOC, EEBC, and EnerNoc (collectively, the Settling Parties), regarding all the issues that had been raised in Public Service's 2014 DSM Plan filing in this proceeding. In addition, Public Service represented that Climax, Evraz, Noble, and EnCana did not oppose the Settlement Agreement. The CEO, participating as *amicus curiae* also supported the Settlement Agreement.

19. On November 22, 2013, Public Service filed its DSMCA tariff as contemplated in its Joint Statement (see discussion above) in order to put into effect the limited, agreed upon interim changes to the DSMCA. While the Joint Statement and Interim Decision No. R13-1204-I contemplated a filing date of November 1, 2013, due to unforeseeable delays Public Service actually filed its DSMCA tariff on November 22, 2013, along with its Motion to Accept DSMCA Tariff Filing out of Time.[2]

20. On December 6, 2013, Public Service filed the rebuttal testimony of Mr. Gabler which describes the Settlement Agreement for the 2014 DSM Plan and why it is in the public interest and should be approved, in addition to providing Public Service's rebuttal testimony to the OCC's answer testimony.

21. On December 6, 2013, SWEEP filed the rebuttal testimony of Mr. Howard Geller which provides the reasons SWEEP supports the Settlement Agreement and provides rebuttal testimony to the OCC's answer testimony.

[2] While no Decision was issued approving the late filed DSMCA tariff, Public Service confirmed at the hearing on the terms of the Settlement Agreement that the late filing was approved.

22. An evidentiary hearing on the terms of the Settlement Agreement was held on December 20, 2013. Appearances were entered by Public Service, Staff, OCC, Climax, Evraz, SWEEP, CEC, EOC, EEBC, EnerNoc, EnCana, and Noble. Testimony was received from Mr. Gabler of Public Service, Mr. Neil of the OCC, Mr. Geller of SWEEP, and Mr. Caldara of Staff. Hearing Exhibit Nos. 1A, 1B, and 2 through 7 were offered and admitted into evidence.

23. On January 23, 2014, Statements of Position were filed by Public Service, Staff, OCC, EOC, and SWEEP.

24. Pursuant to § 40-6-109, C.R.S., the Administrative Law Judge transmits to the Commission the record of this proceeding, this Recommended Decision containing findings of fact and conclusions therefore, as well as a recommended order.

II. FINDINGS OF FACT

25. The Application and the direct testimony and exhibits of Public Service witness Mr. Gabler, provide that the Company submit a combined electric and natural gas 2014 DSM Plan in accordance with Commission Decision Nos. C11-0442 and C11-0645 in Proceeding No. 10A-554EG, whereby Public Service proposed a DSM Plan designed to achieve energy savings of approximately 384.5 GWh in electric[3] and 623,543 Dth in natural gas in 2014, at proposed costs of $87.8 million and $12.3 million respectively. In addition, Public Service proposed through the DSM Plan to achieve incremental electric demand reduction totaling 86.4 MW in 2014, including the impact on demand from energy efficiency programs and the incremental demand response expected from the Company's Saver Switch program. Public Service also expects the ISOC and the Third-Party Demand program to provide 285 MW of

[3] The electric energy savings goal was set by the Commission in Proceeding No. 10A-554EG, Decision No. C11-0442.

controllable load. According to Public Service, its 2014 DSM Plan "reflects a continuation and evolution of the gas and electric DSM products that the Company first initiated during 2009 and 2010, as well as changes or additions to the DSM portfolio made during 2011, 2012, and 2013."[4]

26. Consistent with its 2013 DSM Plan, Public Service proposed a full portfolio of electric and natural gas DSM products to serve all its customer segments, including business, residential and low-income customers, as well as indirect products and services and pilots. Public Service indicated that it would market its energy efficiency products to each customer segment based on the number of customers, relative size of each customer, and amount of conservation potential at a customer site.

27. The 2014 DSM Plan includes the following programs:

- Residential Electric Program – 13 electric products with energy savings targets totaling 99.5 GWh and a combined budget of $31.2 million;
- Low-Income Electric Program – four electric products with energy savings targets totaling 8.2 GWh and a combined budget of $2.9 million;
- Business Electric Program – 15 electric products with energy savings targets totaling 242.4 GWh and a combined budget of $47.3 million;
- Residential Gas Program – seven gas products with energy savings targets totaling 244, 306 Dekatherms (Dth) and a combined budget of $5.3 million;
- Low-Income Gas Program – four gas products, with energy savings targets totaling 86,272 Dth and a combined budget of $3.3 million; and
- Business Gas Program – seven gas products with energy savings targets totaling 128,224 Dth and a combined budget of $1.6 million.

[4] *See*, Hearing Exhibit No. 1B, p. 3, *Xcel Energy 2014 Demand-Side Management Plan Electric and Natural Gas, July 1, 2013. See also*, Exhibit LEG-2 which inventories the changes and additions to the 2014 DSM Plan that were made pursuant to the 60/90-day notice process for making modifications to the Company's DSM Plans.

In addition, the portfolio includes Indirect Products and Services which support the direct savings programs indicated above. The Indirect Products and Services are as follows:

- Indirect Products – Education/Market Transformation – six combined electric/gas products with a combined budget of $4.1 million; and
- Indirect Services – Planning and Research and Pilot Products – five non-customer facing internal services with a combined budget of $2.2 million.

28. Four pilot products are proposed within the Product Development area, two of which have projected savings of 34.5 GWh and 164,741 Dth based on a combined electric/gas budget of $1.3 million. Public Service proposed continuing the Energy Feedback Pilot, the Community Energy Efficiency Planning Pilot, the Electric Vehicle Charging Station Pilot, and the In Home Smart Device Pilot for 2014. In addition, the Company proposed launching pilots for an Energy Feedback Pilot directed at business customers.

29. According to Public Service witness Mr. Gabler, pursuant to § 40-3.2-104(4), C.R.S., the 2014 DSM Plan has electric and gas programs applicable to residential, low-income, commercial and industrial customers, other than those who receive gas transportation service. In addition, Mr. Gabler stated that the 2014 DSM Plan included products for existing homes and buildings, as well as for new construction, as well as addressing the significant end-uses for both residential and business customer classes.

30. Public Service proposed adding or removing other products or measures which were not the subject of its 60/90-day notices. Public Service proposed adding the following products and measures for the 2014 DSM Plan:

- Building Tune Up Measure added to the Business Recommissioning Program;
- Bathroom and Kitchen Aerators – added to the Residential Energy Efficient Showerheads Program;

- Anti-Sweat Heater Controls – added to the Business Cooling Efficiency Program;
- Electronically Commutated Motors for Furnace Fans – added to the Residential Heating System Rebate Program;
- Online Energy Feedback – added to the Energy Feedback Pilot;
- Bathroom and Kitchen Aerators and Energy Efficient Showerheads – added to Residential, School Education Kits; and,
- LED Parking Garage Retrofit and New Construction – added to Business Lighting Efficiency and Small Business Lighting.

31. Public Service also proposed removing several measures including the following:

- Rebates for Plan B Boilers from the Business Heating Efficiency Program;
- Advanced Evaporative Cooling from the Business Cooling Efficiency Program;
- Standard Tank Water Heater Rebates 0.65 and 0.62 Energy Factor from the Residential Water Heater Rebate Program; and,
- Furnace Rebates with less than 96 % Annual Fuel Utilization Efficiency from the Residential Heating System Rebate Program.

A. Business Electric and Gas Programs

32. Public Service's total proposed goals and budgets for the business program in the 2014 DSM Plan included an electric budget of $47,347,362, electric savings of 40,852 Net Generator kW, and 242,350,496 Net Generator kWh, with approximately 8,969 electric participants. As for the business gas program, Public Service proposed a budget of $1,645,000 and gas savings of 128,224 Dth with approximately 1,522 gas participants.

33. The business electric program consists of 8,969 participants comprised of commercial and industrial customers in the Colorado service area.[5] The gas program consists of 1,522 participants. For marketing purposes, Public Service divides business customers into two

[5] *See*, Hearing Exhibit No.1B, Table 5, p. 21 describing the total number of natural gas and electric business customers in Public Service's service territory.

categories: large business customers and small business customers. Large business customers are typically single or aggregated electric customers with demand usage of over 500 kW, natural gas customers with annual loads of 5,000 Dth or more or national customers including fast food chains.

34. For the 2014 DSM Plan, Public Service proposed to continue offering 16 electric and 8 natural gas direct impact products. According to the Company, six of the seven natural gas products coincide with their electric counterparts where electric, natural gas, or both savings may be analyzed. These overlapping products include: Commercial Refrigeration Efficiency; Energy Management Systems; Recommissioning; New Construction; Custom Efficiency; and, Segment Efficiency.[6]

35. Public Service indicated that it intended to continue offering products targeting specific business-related market segments originally launched in 2009. According to the Company, those products continue to penetrate their business market segments and have become larger contributors to the portfolio. According to Public Service, its Business Program contributes a significant portion of its planned conservation and load management achievements in the 2014 DSM Plan, accounting for 242 GWh at the generator and 128,244 Dth over a one-year period, which equates to 63 percent of Public Service's total electric energy savings goal and 21 percent of the total natural gas savings goal.

36. Public Service represents that the most significant Business Program energy savings will come from the Lighting Efficiency, New Construction, Small Business Lighting,

[6] *See*, Hearing Exhibit No. 1B, Table 7 p. 24 which ranks Public Service's business electric and gas products, Table 8a p. 25 which depicts the Company's Electric Business Program Budgets and Goals, and Table 8B p. 26 which depicts its 2014 Gas Business Program Budgets and Goals. Additionally, a thorough description of each business electric and gas product and program is provided at pp. 21-114.

Process Efficiency, and Motor and Drive Efficiency products. In the Business Program of the 2014 DSM Plan, the Company proposes an increase from 2013 DSM goals due to higher portfolio level goals set from the Strategic Policy Issues Filing (Proceeding No. 10A-554EG). In addition, Public Service states that it intends to accelerate market penetration in all customer classes through increased advertising, communications, promotions, trade channel development, and long-term planning with customers in order to achieve its higher goals.

37. The Company also indicated that it is continuing to reduce its natural gas spending through rebate reductions due to concerns regarding the reduced cost-effectiveness of many gas DSM products as a result of low gas commodity prices, the lack of significant system benefits from gas DSM, and the rate impact on non-participating customers.

38. Hearing Exhibit No. 1B also details the goals and participants proposed for the 2014 DSM Plan, as well as how those goals and budgets were developed. Public Service provides a market analysis of both commercial and industrial customers which reveals that the commercial segment holds the highest potential for energy savings, with lighting, office equipment, cooling and ventilation, and refrigeration as the end-uses with the greatest potential. From the industrial sector, pumps, compressed air, lighting, fans, drives, and cooling appear to show the highest end-use potential, under the Company's marketing analysis.

39. In addition, Public Service detailed its DSM marketing, advertising, and promotional efforts among its business customers. The Company provided information as to its strategy to encourage use of rebate products and its key messages targeted at specific business sub-populations within its small business and large commercial customers. Public Service also provided information regarding its program-level policies followed in its Business Program which generally provide overall product management direction.

40. Other information provided by the Company in Hearing Exhibit No. 1B demonstrates how it involves stakeholders in its DSM Business Plan, including the DSM Roundtable which is open to all interested parties seeking more information on Public Service's DSM products and who would like to provide feedback into the design, planning, and implementation of the DSM products.

41. Public Service presented a section which outlines the measurement and verification process for prescriptive and custom measures, as well as DSM products that will undergo comprehensive evaluation in 2014. A full description of each business DSM product is provided at pages 32 through 114 of Hearing Exhibit No. 1B.

B. Residential Electric and Gas Programs

42. Public Service's residential DSM Program includes single-family homes, town homes, apartments, and condominiums. Additionally, the residential DSM Program includes the load management Saver's Switch product. Public Service stated that it developed the 2014 DSM Plan to recognize that the residential market requires choices of conservation opportunities which accommodate various lifestyles, convenient participation, and information to make smart energy choices, presented in useable and understandable forms and formats.

43. Public Service proposed a comprehensive portfolio of prescriptive residential products for 2014 such as: Home Lighting & Recycling; School Education Kits; Showerheads; Evaporative Cooling Rebates; Refrigerator Recycling; Saver's Switch; Energy Star® New Homes; Heating System Rebates; Insulation; Pool Pump; High Efficiency Air Conditioning; Home Performance with Energy Star®; and, Water Heater Rebates.[7]

[7] Hearing Exhibit No. 1B, p. 116, Table 9 provides a list of each Residential Program product, its product ranking, and the product's fuel type. Tables 10a and 10b on p. 117 describe the Residential Electric and Gas Program budgets and goals for 2014.

44. An analysis of the Company's market analysis reveals that Public Service believes that there continues to be good energy efficiency opportunities for residential customers, as well as an opportunity to impact both the short-term and long-term in new home construction utilizing its Energy Star® Home products. Public Service stated that it will continue to investigate technologies which were assessed, but not included in its 2014 DSM Plan such as radiant cove and radiant floor heating, solar tube lighting, expanded LED options, solar water heating, smart power strips for TVs and other electronics, and improved windows.

45. As with its Business Program, Public Service detailed its marketing, advertising, and promotion strategies for its Residential Program, as well as its program-level policies, its efforts to obtain stakeholder involvement, and its evaluation, measurement, and verification plans. In addition. Public Service provided a detailed description of each of its Residential Program products on pages 121 through 165 of Hearing Exhibit No. 1B.

C. Low-Income Electric and Gas Programs

46. The primary objective of the Low-Income Program, according to Public Service, is to reduce energy consumption in low-income customers' homes, which in turn reduces low-income customer bills. Public Service's total proposed goals and budgets for the 2014 DSM Plan Low-Income Program include an electric budget of $2,941,590, with electric savings of 1,029 kW at the generator, and 8,169,590 kWh at the generator, with approximately 17,517 participants.[8]

47. Public Service's proposed budget for its Low-Income Gas Program is $3,307,421, with the goal of achieving gas savings of 86,272 Dth, with approximately 17,517 gas

[8] Hearing Exhibit No. 1B, Table 12a, p. 167 depicts the 2014 Electric Low-Income Program budgets and goals for each low-income program.

participants.[9] Public Service represented that it continues to seek new sources of information to expand its efforts into the low-income segment group. The proposed budget for the low-income electric program has remained approximately the same from 2013, while the natural gas budget has decreased from 2013 based on historical participation in the programs indicating a downward trend according to the Company.

48. Public Service indicated that the market analysis proved useful because it distinguished between single-family and multi-family dwellings, which allowed for distinctions between those customer types. Nonetheless, the Company stated that it continues to rely on information provided by entities such as EOC which assist Public Service in designing its low-income products.

49. Public Service also described in detail its marketing, advertising, and promotions aimed at its low-income customers, as well as its efforts to involve stakeholders in order to deliver successful products. The Company also described its methods of evaluation, measurement, and verification for its low-income products and programs. A detailed explanation of each low-income program, including the Energy Savings Kit, the Multi-Family Weatherization Program, the Non-Profit Energy Efficiency Program, and the Single-Family Weatherization Program is provided in Exhibit No. 1B at pages 169 through 177.[10]

D. Indirect Products and Services and Pilots

50. Public Service explained that its Indirect Products and Services for the most part support the direct products in its 2014 DSM portfolio. For example, there are two main areas

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[9] Hearing Exhibit No. 1B, Table 12b, p. 167 depicts the 2014 Gas Low-Income Program budgets and goals for each low-income program.

[10] *See*, Hearing Exhibit No. 1B at p. 167, Tables 12a and 12b for a detailed description of the 2014 Electric Low-Income Program Budgets and Goals and the 2014 Gas Low-Income Program Budgets and Goals.

under the Indirect offering - the Education/Market Transformation area and the Planning and Research area. The Education/Market Transformation area includes five customer facing products including: Business Energy Analysis; Consumer Education – Business; Consumer Education – Residential; Energy Efficiency Financing; and Residential Home Energy Audits, as well as a Community Energy Efficiency Planning Pilot. The Planning and Research area includes four internal services including DSM Planning and Administration, Program Evaluations, Measurement and Verification, DSM Market Research, and DSM Product Development.

51. Although the bulk of the Indirect Products and Services are indirect and therefore have no savings goals, Public Service explained that the DSM Product Development Offering contains two pilot products, one of which proposes electric and gas savings. Indirect Electric Products and Services involve approximately 166,349 participants. Gas programs involve approximately 165,439 participants.

52. The Company asserted that the Indirect Products and Services offering play critical roles in ensuring that the overall DSM Plan is effectively researched, managed, and operated in that they provide valuable information and support for the direct impact products and offer innovative approaches to affecting changes in the DSM marketplace. Although those innovative approaches may not produce readily quantifiable energy and demand savings, Public Service argues that they nonetheless play an important role in shifting markets and attitudes regarding energy efficiency and demand responsiveness.

53. Hearing Exhibit No. 1B provides detailed information of the overall goals, participants, and budgets for the Electric Indirect Products and Services at Table 13a on page 179 and for the Gas Indirect Products and Services at Table 13b on page 180. In addition, a more

thorough description of the Company's market analysis, marketing, advertising and promotion, stakeholder involvement and Public Service's evaluation, measurement and verification of the programs, as well as a more complete description of each program and product is contained on pages 179 through 201.

54. In addition to the description of Public Service's proposed products and programs included in its 2014 DSM Plan, the Company also provided details regarding its ISOC and its third-party demand response program known as the Peak Savings Program which is administered by EnerNOC.

55. Public Service proposed to measure the cost effectiveness of its gas and electric DSM programs utilizing the Modified Total Resource Cost (MTRC) which it stated is consistent with § 40-1-102(5), C.R.S., and the Commission's Gas DSM Rules. Company witness Mr. Gabler stated in his direct testimony that the benefit side of the benefit/cost equation for electric DSM includes avoided generation, transmission, distribution, capacity and energy costs, valuation of emissions, Operation & Maintenance (O&M) savings, and rebates and incentives received by participants and/or vendors.

56. For gas DSM, the benefit side of the equation includes the commodity cost of gas, avoided variable O&M costs, and demand savings calculated as avoided reservation costs, as well as O&M savings, and rebates and incentives received by the participants and/or vendors.

57. Further, for electric DSM, other than low-income, a 10 percent non-energy benefits adder is applied to the system benefits in accordance with Decision No. C08-0560, Proceeding No. 07A-420E issued June 5, 2008. For gas DSM, other than low-income, a combined emissions and non-energy benefits adder of 5 percent is applied to the benefits in accord with Gas DSM Rule 4753(i)(I). For low-income electric and gas DSM, the adder is

increased to 25 percent for purposes of screening for cost effectiveness in accordance with Decision No. C11-0442.

58. The cost side of the benefit-cost equation for both gas and electric DSM consists of all the utility costs necessary to administer the DSM programs, including rebates paid, plus the participants' incremental capital costs and any O&M costs of the more efficient measure compared to the standard or baseline measure.

59. Public Service represented that it proposes to use the same avoided costs assumptions used for purposes of determining each product's cost effectiveness at the outset, to calculate the level of net economic benefits achieved after the fact.

60. Specifically, Public Service sought approval of the electric and gas DSM portfolios as set out in Hearing Exhibit No. 1B while recognizing that the Company retains flexibility to modify the portfolios within the parameters agreed to in the Settlement Agreement as approved and reaffirmed by the Commission in several Decisions. Public Service also sought approval of its proposed electric demand reduction goals and electric DSM budget for 2014, as well as approval of the proposed gas DSM budget for 2014 and the associated energy savings targets proposed by Public Service.

61. The Company also sought approval of the avoided costs used in its analysis of the electric and gas cost-effectiveness as indicated in Appendix C to the 2014 DSM Plan (Hearing Exhibit No. 1B). Further, Public Service sought approval of the technical assumptions, including the deemed savings for prescriptive programs as set out in the Technical Reference Manual included as Appendix G to Hearing Exhibit No. 1B, and the net-to-gross factors for each DSM product set forth in the Planning Assumptions section of the 2014 DSM Plan.

62. Public Service requested that it be authorized to file revised Electric and Gas DSMCA tariffs to put into effect new rates effective January 1, 2014 (in the form attached as Exhibit Nos. LEG-3 and 4 to Mr. Gabler's direct testimony) sufficient to recover the Electric and Gas DSM budgets approved in this proceeding for Public Service's proposed 2014 DSM portfolios.[11]

E. Settlement Agreement

1. Parties to the Settlement Agreement

63. On October 29, 2013, a Stipulation and Settlement Agreement (Settlement Agreement) was filed in this proceeding. As indicated *supra*, Public Service and several intervenors reached a consensus and entered into the Settlement Agreement. Those intervenors which were signatories to the Settlement Agreement included: Staff, OCC (approving the Settlement Agreement in part), CEC, SWEEP, Denver, EOC, EEBC, and EnerNoc (collectively, the Settling Parties). The Settlement Agreement states that these parties reached agreement regarding all issues that had been raised in Public Service's 2014 DSM Plan filing in this proceeding. The Settlement Agreement states that Climax, Evraz, Noble, and EnCana, while not signatories, did not oppose the Settlement Agreement. CEO, participating as *amicus curiae* supported the Settlement Agreement.

2. Terms of the Settlement Agreement

64. The Settling Parties represent that they have discussed with Public Service various details of the Company's proposed programs and pilots. As a result of those discussions,

[11] Mr. Gabler points out in his direct testimony that in the case of the electric DSMCA, the Commission has previously authorized Public Service to recover on a current basis, through the combination of base rates and the DSMCA, 100 percent of the credits it forecasts will be paid to customers under the ISOC during the DSM program year, as well as all costs paid to EnerNoc under the third-party demand response program.

Public Service has agreed to make changes to aspects of the DSM programs originally filed in the 2014 DSM Plan Application, to consider launching certain pilots and other programs during the 2014 DSM Plan year, and to consider other programs for inclusion in the 2015-2016 Biennial DSM to be filed later in 2014.

65. Regarding the specific program changes to the 2014 DSM Plan which Public Service has agreed, it is agreed among the Settling Parties that the Company is to use its best efforts to achieve at least 384.4 GWh in electric energy savings, and at least 86.3 MW in incremental demand reduction in 2014, from the combined effect of Public Service's proposed electric energy efficiency and Saver's Switch programs. Public Service is to also work to obtain controllable load of 285 MW from the combination of its ISOC and Third-Party Demand Response programs.

66. The Settling Parties request that the Commission approve the above proposed levels of demand reduction as Public Service's electric demand reduction goals for 2014. The Settling Parties represent that as ordered by the Commission in Decision No. C11-0442, the Company has addressed the market potential for demand reduction from load management, demand response, and interruptible services and demand reduction goals for the period 2015 through 2020, in the pending 2013 Strategic Issues proceeding (Proceeding No. 13A-0686EG).

67. Regarding the Company's natural gas savings, the Settling Parties propose that savings of at least 623,543 Dth be approved for 2014. The Settling Parties request that the Commission approve this level of gas savings in combination with actual gas program expenditures to calculate Dths saved per dollars expended as the energy target to be utilized in 2014 for purposes of calculating a bonus pursuant to Rules 4754 and 4760.

68. The Settling Parties propose several modifications to the 2014 DSM Plan. Regarding Residential Home Lighting and Recycling, the Settling Parties agree that Public Service will reduce the net-to-gross (NTG) ratio applicable to the Residential Home Lighting and Recycling Program from the proposed 0.75 to 0.70 which is expected to result in an additional cost of $201,786 in order to achieve the same level of targeted energy savings (76,523,904 kWh). The additional cost to implement this program in 2014 will be accommodated within the 107.5 percent budget flexibility provided for as part of the Settlement Agreement (discussed *infra*). Public Service will reduce the capital cost of LEDs to reflect market conditions and to reduce rate-payer impacts, and will make corresponding redline changes to the 2014 DSM Plan Technical Assumptions (which will be separately submitted from the Settlement Agreement).

69. Regarding School Education Kits, Public Service agrees to update the contents of school education kits to include five CFLs and one LED bulb. The Settling Parties expect such an update will result in additional electric energy savings of 191,057 kWh and an additional cost of $526,028 in 2014 which will be accommodated within the 107.5 percent budget flexibility provided for in the Settlement Agreement (discussed *infra*).

70. As for Business Lighting Efficiency and Small Business Lighting, Public Service agrees to increase rebates for T8 lamps to $1.00 for 28-watt and $2.00 for 25-watt bulbs. The Settling Parties expect to yield additional energy savings of approximately 1,333,853 kWh in 2014 and to increase Public Service's DSM spending during 2014 by $222,768, which is to be accommodated within the 107.5 percent budget flexibility provided for in the Settlement Agreement (discussed *infra*).

71. Public Service agrees to add a NATE Certification requirement for gas contractors installing heating systems under the Residential Heating System Rebate Program.

72. Regarding the Residential Energy Star® New Homes and Home Performance with Energy Star® programs, Public Service agrees to exercise its discretion, as needed, to manage the 2014 gas DSM portfolio budget, shifting dollars among gas DSM products throughout 2014, up to the approved budget for the gas portfolio, to ensure that customers continue to be able to participate in Energy Star® New Homes and Home Performance with Energy Star® throughout the duration of the 4th quarter. Public Service agrees to provide an update on participation and budget expenditures for these two programs during each Quarterly Colorado DSM Roundtable meeting in 2014.

73. The Settling Parties also agree on certain program changes to be considered by Public Service during 2014. For example, Public Service agrees it will work with interested stakeholders through June 1, 2014 to develop a multi-family housing pilot to be launched in 2104 by means of a 60-day Notice. Public Service further agrees to keep those stakeholders apprised of the progress of the pilot until its completion.

74. Public Service agrees that the Western Cooling Control Device shall be added to the High Efficiency Air Conditioning product by means of a 60-day Notice within 3 months following a final decision issued by the Commission approving the Settlement Agreement without significant modifications.

75. Regarding the Smart Thermostat Market Study Group, Public Service agrees to form a study group consisting of trade representatives and other interested stakeholders, to design and implement a pilot to evaluate the capabilities of Wi-Fi connected thermostats based on the following guidelines and timeframes:

> a.) The study group shall work together to develop and design a smart thermostat pilot program to be launched by means of a 60-day Notice issued

within 3 months of a final Commission Decision approving the Settlement Agreement without significant modifications.

b.) The purpose of the pilot is to investigate and evaluate program elements including, but not limited to, load shed, energy savings, customer motivators, marketing channels (retail v. trade), and retail channel rebates.

76. The Settling Parties also discussed a number of program, product, and market research ideas to be considered for inclusion in Public Service's 2015/2016 Biennial DSM Plan. Public Service agreed to consider including in its 2015/2016 Biennial DSM Plan, the concepts listed in Appendix A attached to the Settlement Agreement, if it is found to be cost-effective.[12]

77. The Settling Parties, except for the OCC, agree that Public Service's electric and gas DSM budgets for 2014 should remain as initially proposed in its Application. Consequently, the Settling Parties recommend that the Commission approve a total DSM portfolio budget for 2014 of $100,069,452, including $87,763,495 for electric DSM programs and $12,305,957 for natural gas. The Settling Parties agree that the DSM Plan budgets, as proposed by Public Service, are intended to give due consideration to the impact of the 2014 DSM Plan on non-participants and low-income customers as required by § 40-3.2-104(4), C.R.S.

78. The 2014 electric and gas DSM budgets agreed to as part of the Settlement Agreement notwithstanding, the Settling Parties acknowledge that Public Service has the right to file and, in certain cases under Decision No. C11-0442, is required to file, a formal application for approval to implement DSM programs that are currently not part of the 2014 DSM Plan that is extended by the Settlement Agreement.

[12] The Settling Parties provide that by agreeing to the Settlement Agreement, no party necessarily endorses the inclusion of any concept proposed by Public Service in the 2015/2016 Biennial DSM Plan, and all Settling Parties reserve their rights to take any position that party wishes to take regarding such concepts as may be included by Public Service in its 2015/2016 Biennial DSM Plan.

79. The Settling Parties further agree that Public Service retains discretion to include in an application, a request for the additional budget amounts needed to implement any new programs and that the request may exceed the 107.5 percent budget flexibility for the electric program agreed to in this Settlement Agreement for 2014 and the 125 percent budget flexibility afforded for the gas DSM program.[13]

80. With the exception of Staff, the OCC, CEC, and Boulder,[14] the Settling Parties agree that the Commission should approve Public Service's proposed updated avoided costs as provided in Appendix C to the 2014 DSM Plan, and the technical assumptions set out in the Technical Reference Manual appended to the 2014 DSM Plan as Appendix G. Those avoided costs include the deemed savings and NTG ratios used to develop the 2014 gas and electric DSM Plans. The NTG ratios for which the Settling Parties recommend approval, except for those specific changes identified *supra*, regarding Residential Home Lighting and Recycling reductions to the NTG ratio, are set out in the Planning Assumptions section of the 2014 DSM Plan.

81. The Settling Parties agree that for purposes of calculating the gross savings associated with each of the prescriptive gas or electric DSM product measures offered as part of the gas and electric DSM portfolios, Public Service is to use the technical assumptions relating to the energy savings calculations for those measures actually installed during the 2014 calendar year and those savings are to be referred to as "deemed savings."

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[13] All Settling Partied reserve their respective rights to take any position regarding any formal application by Public Service for approval to implement DSM programs beyond what is currently included in the 2014 DSM Plan as modified by the Settlement Agreement, including a request to approve a budget in excess of the 107.5 and 123 percent budget flexibility for the electric and gas DSM programs respectively.

[14] Staff, CEC, and Boulder do not oppose the approval of the avoided costs for the limited purpose of calculating cost-effectiveness and net economic benefits related to the 2014 DSM Plan. While the OCC believes that avoided costs should be addressed in this proceeding, it nonetheless recognizes that avoided costs will be addressed in the strategic issues proceeding.

82. In addition, the Settling Parties agree that Public Service is to use the NTG ratios set forth in the Planning Assumptions section of the 2014 DSM Plan as modified by the Settlement Agreement, and the technical assumptions set forth in Public Service's Technical Reference Manual relating to: incremental customer O&M savings (for prescriptive measures only); customer O&M costs (for prescriptive measures only); incremental customer capital costs (for prescriptive measures only); and, the deemed savings formulae and other technical assumptions set forth in the Company's Technical Reference Manual for purposes of determining program and portfolio cost-effectiveness, and for calculating annual portfolio net economic benefits based on measures actually installed during calendar year 2014. The Settling Parties further agree that Public Service is to use the above avoided costs and other technical assumptions (unless modified through a 60-day Notice) to calculate the savings and net economic benefits associated with DSM products actually installed during 2014.

83. The Settling Parties also recommend that the Commission authorize Public Service to implement changes in the electric and gas DSMCA rates to become effective on January 1, 2014 as necessary to recover the approved gas and electric DSM budgets as set out *supra* and Public Service's 2014 forecast of expenditures for its ISOC and Third-Party Demand Response programs.

84. The Settling Parties represent that Public Service's 2014 DSM Plan as modified by the Settlement Agreement is consistent with §§ 40-3.2-103 and 40-3.2-104, C.R.S., and the Commission's Gas DSM Rules at 4 CCR 723-4-4750 through 4760, except to the extent such rules have been waived pursuant to Commission Decision No. C11-0645 issued in Proceeding No. 10A-554EG. The Settling Parties also take the position that the 2014 DSM Plan as amended by the Settlement Agreement is consistent with the Commission's directive that Public Service

should strive to meet or exceed the Commission approved electric energy savings goals for each year that it implements a new DSM Plan, because it has been designed to meet the Commission-approved electric energy savings goal for 2014 of 384 GWh.

85. In implementing the 2014 DSM Plan as modified by the Settlement Agreement, Public Service agrees to launch and/or continue in effect all the programs and pilots identified and described in the 2014 DSM Plan as amended by the Settlement Agreement, and to not discontinue those pilots or programs except after 90-day Notice as authorized by Decision No. C11-0442.

86. The Settling Parties recommend that the Commission authorize Public Service to continue in effect or implement each of the programs and pilots described in the 2014 DSM Plan, together with the amendments and additions to those programs and pilots as set forth in the Settlement Agreement.

87. The Settling Parties believe that Public Service's proposed 2014 DSM Plan as amended by the Settlement Agreement is designed to afford all classes of customers an opportunity to participate as required by §§ 40-3.2-103 and 40-3.2-104, C.R.S.

88. The Settling Parties also agree to recommend that the Commission authorize Public Service to implement changes in the electric and gas DSMCA rates as necessary to recover the approved gas and electric DSM budgets as described *supra* and Public Service's 2014 forecast of expenditures for its ISOC and Third-Party Demand Response programs.

F. OCC Answer Testimony

89. The OCC filed the answer testimony of its witness Mr. Chris Neil on October 28, 2013. Mr. Neil's answer testimony anticipated a settlement agreement in this proceeding and

addressed Public Service's 2014 DSM Plan within the context of the proposed terms of a settlement agreement.

90. Mr. Neil's answer testimony, as well as his testimony during the evidentiary hearing on the terms of the Settlement Agreement, states that the OCC supports the Settlement Agreement with the exception of Paragraph No. 8 - Budget, and Paragraph No. 9 - Avoided Costs and Technical Assumptions. As a result, Mr. Neil offers several recommendations regarding the 2014 DSM Plan proposed budget which would lower the budget slightly, as well as recommendations regarding several technical issues.

91. Regarding the DSM electric budget, Mr. Neil recommends that it be reduced approximately $6 million to $81.8 million or approximately 7 percent in order to achieve the savings goal of 384 GWh at less cost. In order to achieve the lower budget, Mr. Neil proposes a large budget reduction for the Home Lighting and Recycling program because according to Mr. Neil, the proposed Public Service budget for this program is based on faulty assumptions for the price of LEDs and CFLs and the rebates required for them. In addition, Mr. Neil proposes that the High Efficiency Air Conditioning Program be cancelled entirely because it is not cost effective, even under Public Service's avoided cost assumptions. Mr. Neil also proposes trimming several other programs that he deems to be marginally cost effective by approximately 15 percent.

92. Mr. Neil's budget proposal, which is approximately $6 million less than Public Service's proposed budget is based on calculations which Mr. Neil represents show that Public Service, on average over the four years for which actual results are available (2009-2012), has required $204,969 to achieve each GWh of actual savings. Therefore, according to

Mr. Neil, the 2014 DSM Plan savings goal should require a budget of $78.8 million or 384.5 GWh x $204,969.[15]

93. In order to achieve the budget level he proposes, Mr. Neil recommends that Public Service update some if its assumptions regarding the Home Lighting and Recycling Program to reflect current market conditions, and to reduce rate-payer impact, as well as make corresponding reductions in the budget for rebates for LEDs once the Company determines the new price. Mr. Neil argues that what Public Service might have assumed a few months ago when it drafted the 2014 DSM Plan is now obsolete due to changes in the LED market. Mr. Neil contends that his research reveals that despite Public Service's assumed average price of LEDs at $28.39 per bulb, there are LEDs available in the Denver market for less than $10 per bulb.

94. As for CFLs, Mr. Neil takes the position that Public Service's assumed price of $2.74 per bulb for CFLs is also too high. Mr. Neil claims that prices for CFLs are as low as $.74 per bulb rather than the $1.74 per bulb targeted by Public Service (which considers the average rebate of $1.00 per bulb proposed by the Company). It is Mr. Neil's contention that Public Service is lowering the price of CFLs through rebates to a level below the price of conventional bulbs. Rather than lowering the incremental cost of CFLs by 30 percent to 70 percent as represented by Public Service, Mr. Neil argues that Public Service is actually providing discounts that reduce the incremental cost of CFLs by over 100 percent. Consequently, Mr. Neil recommends that the Commission prohibit Public Service from providing rebates or incentives that lower the price of CFLs to less than $1.00 per bulb.

[15] While Mr. Neil's calculations actually result in a budget of $9 million less than Public Service's budget, Mr. Neil only proposed a budget that is $6 million less than Public Service's budget in order "[t]o be conservative." Table 1 of Mr. Neil's answer testimony depicts the specific program reductions or eliminations he proposes.

95. Mr. Neil also proposes that the budget for the Home Lighting and Recycling Program be cut by $2 million (of the $6 million he targets for cuts) which would reduce the advertising budget for this program. Mr. Neil also recommends reducing the rebate and incentive levels since the average rebate level of $9.30 that Public Service assumed, is higher than it should be. In addition. The rebates for LEDs and CFLs in the business Lighting Programs should also be reduced due to lower priced bulbs, according to Mr. Neil.

96. Mr. Neil takes issue with the technical assumptions Public Service used for CFLs and LEDs which he contends are driving the high rate impacts from this program. Specifically, Mr. Neil argues that the lifetime of the CFLs and LEDs assumed by Public Service should be reviewed. Mr. Neil takes the position that the lifetime of these bulbs is shorter than what Public Service reported. While the longer bulb lifetimes contribute to the cost effectiveness of the DSM programs, those same lifetimes result in larger rate impacts as well, according to Mr. Neil. As a result, Mr. Neil suggests that Public Service be required to research customer usage life of CFLs and LED, taking into account the behavioral issues related to bulb life and not just the bulb's physical life.

97. Mr. Neil also takes issue with the coincidence factor of LEDs and CFLs in non-residential applications and argues that the coincidence factor needs to be updated, which will change the capacity reduction of the DSM program and its benefit-cost analysis. Rather than the 0.7246 coincidence factor Public Service represents was based on *Michael's Energy Tech Assumptions Review 2013*, Mr. Neil claims that the coincidence factor should in fact be 0.40. Consequently, Mr. Neil concludes that the non-residential coincidence factor should be corrected in the 2014 DSM Plan, and both coincidence factors should be researched and reported in the 2015-2016 DSM Plan.

98. Energy use by incandescent bulbs should not be used in the calculation of energy savings in the 2014 DSM Plan from LEDs and CFLs by Mr. Neil's reckoning, since incandescent bulbs may only be on the market for a few more months, and completely gone by the peak selling season in the fall of 2014.

99. Mr. Neil also suggests numerous adjustments for other programs which in his estimation are not cost effective, or are only marginally cost effective. Those recommendations are summarized in Table 3 of his answer testimony.

100. Mr. Neil recommends two programs that should be eliminated - the Electric Water Heater Program, and the High Efficiency Air Conditioning Program. The basis for his recommendations is that the programs are not cost effective with MTRC ratios of 0.63 and 0.93 respectively.

101. In addition, Mr. Neil recommends that other programs that are marginally cost effective be scaled back. The commercial programs Mr. Neil proposes be reduced include the Compressed Air Efficiency, New Construction, Recommissioning, and Segment Efficiency. The residential programs Mr. Neil recommends be reduced include Energy Star® New Homes, Home Performance with Energy Star, and Pool Pump. According to Mr. Neil, scaling these programs back by 15 percent would result in a budget reduction of approximately $2 million.

102. On the other hand, Mr. Neil recommends that several programs should have their funding increased. Those programs include Computer Efficiency, Data Center Efficiency, Energy Management Efficiency, Process Efficiency, and Self-Directed Custom Efficiency, and the Residential Evaporative Cooling Rebate program.

103. Mr. Neil calculates that the net result of his proposed changes would still result in a goal of 384.5 GWh of energy savings, but with a budget of $81.8 million.

G. Rebuttal Testimony

104. Mr. Howard Geller of SWEEP filed rebuttal testimony on December 6, 2013, as well as offered testimony during the evidentiary hearing on the terms of the Settlement Agreement. Mr. Geller testified that the Commission should continue to refrain from micromanaging the budgets for individual DSM products which would entail rejecting Mr. Neil's specific budget recommendations. Mr. Geller expresses concern that Mr. Neil's recommendations, if adopted, would reduce program participation, hurt overall equity of Public Service's DSM efforts, and hamper the Company's ability to achieve the energy savings goals. Mr. Geller finds the proposed budget for the 2014 DSM Plan to be reasonable since it is a small increase from the 2013 DSM Plan budget. Additionally, Mr. Geller is satisfied that the currently proposed budget has less flexibility through the terms of the Settlement Agreement than in the past.

105. Mr. Geller testified that SWEEP is satisfied that the Settlement Agreement enables Public Service to achieve the electric energy savings goals in a cost effective manner, and allows the Company to provide substantial economic, as well as other benefits to residential and business customers service it serves. SWEEP supports many of the recommendations contained in the Settlement Agreement which SWEEP believes are appropriate and will help achieve the energy savings goals, as well as advance innovative technologies which could become an important source for energy savings in the future.

106. Mr. Geller also finds the proposed budget for the 2014 DSM Plan to be reasonable, and consistent with the policy and statutory basis utilized in past Commission DSM budget approvals. Mr. Geller argues that it is appropriate for the overall electric DSM budget to increase from the 2013 DSM Plan due to the fact that the energy savings goal established by the

Commission in Proceeding No. 10A-554EG for 2014 is 384 GWh per year, 7.9 percent higher than the savings goal of 356 GWh per year for 2013. Mr. Geller points out that the proposed increase in the electric DSM budget from 2013 to 2014 is less than the increase in the energy savings goal in percentage terms.

107. Mr. Geller also notes that while the Settlement Agreement allows for budget flexibility by Public Service without seeking Commission approval, it is limited to 7.5 percent of the total electric DSM budget for 2014. However, in the 2013 DSM Plan, this value was 13.5 percent. Therefore, an additional limitation is placed on DSM spending in 2014.

108. Regarding the proposed budget decreases proposed by Mr. Neil, Mr. Geller argues that his specific proposals for reducing the budget for certain elements of the program portfolio will hamper Public Service's ability to achieve the proposed energy savings goals, as well as hamper the Company's ability to maximize program participation, while ensuring that programs serve all customer classes equitably. Mr. Geller raises concerns that Mr. Neil's proposal will negatively affect the Company's ability to promote innovative technologies which could be important contributors to energy savings in the future. Because Public Service has demonstrated in the past, good performance in controlling program spending, and is operating under a shareholder incentive mechanism that rewards the Company for maximizing energy savings per utility program dollar, Mr. Geller sees no need to trim the budget for certain program elements.

109. While Public Service did not offer substantive testimony in support of the Settlement Agreement during the evidentiary hearing, its witness Mr. Gabler did file written rebuttal testimony on December 6, 2013.

110. In his written rebuttal testimony, Mr. Gabler takes the position that the Settlement Agreement is in the public interest because the 2014 DSM Plan as modified by the Settlement

Agreement is consistent with prior plans approved by the Commission, including market, research, evaluation, measurement, and verification of energy savings, in addition to customer rebate programs. Mr. Gabler emphasizes that the proposed combined programs achieve an MTRC ratio above 1.0 to ensure cost-effectiveness of the gas and electric DSM portfolios.

111. Mr. Gabler further notes that the 2014 energy savings targets are consistent with the Commission-ordered goals for 2014 and represent an increase from previous goals for the Company's DSM programs within a small budget increase under restrained budget flexibility. In addition, Mr. Gabler represents that all of the changes adopted under the terms of the Settlement Agreement for the 2014 DSM Plan will be accommodated within the agreed upon 107.5 percent budget flexibility applicable to the electric DSM portfolio and the approved 125 percent budget flexibility applicable to the gas DSM portfolio. Further, the 2014 DSM Plan is expected to result in net economic benefits of approximately $157,997,233.

112. Mr. Gabler also takes issue with Mr. Neil's recommendations. Mr. Gabler takes the position that Mr. Neil fails to take into account the wide range of factors required to develop a DSM portfolio that will achieve the Commission-ordered energy savings goal at a reasonable cost. Mr. Gabler cites examples such as the market demand, or the energy savings opportunities associated with a particular measure. Mr. Gabler expresses concern that Mr. Neil's proposals could compromise Public Service's ability to meet the Commission-ordered energy savings goal for 2014.

113. Mr. Gabler also expresses concern that Public Service could meet the Commission-ordered goal of 384 GWh with the budget proposed by the OCC, since it is Mr. Gabler's contention that OCC's proposed changes would reduce the available participant base further and increase the likelihood that the Company would not reach its required goal.

Mr. Gabler argues that under the OCC's proposal, there is an increased risk that should one or two DSM programs struggle, the entire DSM portfolio could be in jeopardy. As an example, Mr. Gabler argues that not every customer may have a need for a Data Center Efficiency DSM product, which the OCC proposes to increase the budget for, while many residential customers have a need for Home Lighting & Recycling measures. However, Public Service's proposal, according to Mr. Gabler, is based on market demand, and spreads the risk associated with under performance across the portfolio, rather than magnifying it as Mr. Neil's proposal would do.

114. Mr. Gabler points out that the budget reductions advocated by OCC may not necessarily meet OCC's objective of reducing customer impact of the 2014 DSM budget. Mr. Gabler refers to Table 3 of Mr. Neil's answer testimony which depicts the relative level of rate impacts from the various DSM programs included in the 2014 DSM Plan. Mr. Gabler notes that Mr. Neil recommends reducing Public Service's spending on the business New Construction program despite the fact that it has a 0.82 Rate Impact Measure test result, which shows that this program has had relatively less adverse customer impact than other programs Mr. Neil recommends expanding.

115. Mr. Gabler represents that Public Service harbors similar concerns as OCC regarding the rate impact of the 2014 DSM Plan on its customers. However, Mr. Gabler argues that eliminating many of the main channels for participation as recommended by the OCC will not aid ratepayers in reducing their individual bills and saving energy, or increase participation in the DSM program. Mr. Gabler commits that Public Service will continue to act prudently on behalf of customers in 2014 by ensuring that energy efficiency and demand response costs are appropriately and closely managed in order to maximize customer value.

116. Regarding the lighting technical assumptions within the 2014 DSM Plan, Mr. Gabler notes that Public Service agreed, as part of the Settlement Agreement, to reduce the capital cost of LEDs to reflect market conditions and to reduce ratepayer impacts, as well as make corresponding redline changes to the 2014 DSM Plan Technical Assumptions, which will be submitted separately from the Settlement Agreement. Additionally, Public Service has proposed changing the incremental cost of an LED from $27.31 to $20.35 within the technical assumptions of the 2014 DSM Plan, which will be filed in the redline version of the 2014 DSM Plan to be submitted following a Decision in this proceeding.

117. Mr. Gabler states that Public Service does not fully agree with OCC that recent market shifts have led to a reduction in CFL and LED bulb prices. He argues that while recent market shifts have reduced the price of LED bulbs, the prices of CFLs has not decreased. Mr. Gabler goes on to state that Public Service has proposed a decrease in bulb price assumptions for LEDs from $28.39 to $21.43 within the technical assumptions section of the 2014 DSM Plan and intends to file those changes with the redline version of the DSM Plan submitted following a Decision in this proceeding.

118. Mr. Gabler also takes exception with OCC's assumed efficient LED bulb cost of $10.00. Mr. Gabler emphasizes that the average price of Energy Star® LED bulbs is now $21.43, which are the only bulbs Public Service utilizes and rebates. Mr. Gabler explains that lower quality bulbs, such as those in the $10.00 range, negatively impacts market saturation. Additionally, Mr. Gabler provides that Public Service's baseline bulb price is a weighted average of a combination of bulb types such as flood lights, globes and other bulb types, some of which are more expensive than others.

119. Mr. Gabler also takes issue with OCC's proposal regarding CFL bulbs. Mr. Gabler again emphasizes that bulb lifetime is impacted by bulb quality which is one of the reasons Public Service only rebates Energy Star® bulbs. In addition, Mr. Gabler opposes OCC's proposal regarding CFL lighting rebates. According to Mr. Gabler, using $1.00 per bulb as the bottom price for all price points will limit the number of energy efficient products purchased and provide less availability of products at particular retailers, especially deep discount retailers, which typically cater to lower income customers.

120. Nor does Mr. Gabler agree with OCC that incandescent bulbs should not be included in any energy savings calculations for the 2014 DSM Plan. Mr. Gabler is of the opinion that incandescent bulbs will remain in stores for a period of time even after their manufacture and importation into the United States is discontinued.

121. Public Service also disagrees that the coincidence factor for non-residential LEDs and CFLs needs to be updated. Mr. Gabler argues that using actual historical data, as well as business program lighting assumptions is a valid approach to calculating the mean coincidence factor because that is what is most applicable.

122. Regarding the avoided costs and technical assumptions used in designing the 2014 DSM Plan, Mr. Gabler disagrees with OCC that avoided costs should be deferred to the Strategic Issues Proceeding. Rather, Mr. Gabler takes the position that the avoided costs and technical assumptions should be approved for the limited purposes of assessing cost-effectiveness, net economic benefits achieved, and energy savings achieved during 2014.

III. <u>ANALYSIS AND CONCLUSIONS</u>

123. The statutory requirements under which Public Service's 2014 Gas and Electric DSM Plan must be considered are codified primarily at §§ 40-1-102(5)-(8), 40-3.2-103, and

40-3.2-104, C.R.S. Regarding gas DSM, the Commission established its Gas DSM Rules set out in 4 CCR 723-4-4750, *et seq*., Commission Rules Regulating Gas Utilities and Pipeline Operators, which guide the determination of whether the proposed 2014 Gas DSM Plan conforms to the Commission's standards. The determination of gas savings goal policies specifically for Public Service evolved in future proceedings.

124. The Commission policy directives for Public Service's electric DSM programs have evolved over time beginning in Proceeding No. 07A-420E and continuing through Proceeding No. 10A-554EG. Through the various DSM and resource planning proceedings, the Commission established an expectation that Public Service was to aggressively pursue all cost-effective DSM consistent with the definition of "cost-effective" at § 40-1-102(5)(a), C.R.S.[16] Additionally, the Commission determined that all of Public Service's electric customers were to be provided a reasonable opportunity to participate in DSM.[17]

125. In Decision No. C11-0442, Proceeding No. 10A-554EG, the Commission established achievement of 130 percent of the savings goals instituted in Proceeding No. 07A-420E as the expected level of actual DSM performance for resource planning purposes.[18] The Commission also directed Public Service to communicate to its ratepayers that: 1.) DSM is a resource; 2.) DSM is a more cost-effective resource than new generation resources; and, 3.) DSM costs incurred today are an investment that defers higher costs of new generating equipment.[19]

[16] *See*, Decision No. C08-0560 in Proceeding No. 07A-420E, issued June 5, 2008, at p. 33.
[17] *Id*. at p. 46.
[18] *See*, Decision No. C08-0560 in Proceeding No. 07A,-420E, issued June 5, 2008, at p. 33.
[19] *Id*. at p. 46.

126. The proposed electric and gas DSM budgets and goals proposed by Public Service, as amended in the Settlement Agreement, closely mirror its 2012/2013 approved DSM programs[20] with several modifications. The terms of the Settlement Agreement provide the amount of electric and gas savings Public Service intends to meet for 2014, as well as how those savings compare to the goals established by the Commission in Proceeding No. 10A-554EG.

A. DSM Goals

127. By the terms of the Settlement Agreement, Public Service is to use its best efforts to achieve at least 384.4 GWh in electric savings and at least 86.3 MW in incremental demand reduction in 2014 from the combined effect of its proposed electric energy efficiency and Saver's Switch programs. In addition, Public Service is to work to obtain a controllable load of 285 MW from the combination of its ISOC and Third-Party Demand Response programs. Public Service is also to use its best efforts to achieve natural gas savings of at least 623,543 dth in 2014.

128. Based on the filed rebuttal testimony of Mr. Gabler, and the testimony offered at the evidentiary hearing by Mr. Geller of SWEEP and Mr. Caldara of Staff, the savings goal of 384.4 GWh in electric energy savings proposed by the Settling Parties comports with the goal for 2014 set by the Commission in Decision No. C11-0442. As the Commission found in that Decision which is applicable here, this annual electric savings goal is "properly ambitious yet realistically achievable" and is therefore an appropriate electric savings goal.[21] While the Commission allowed that the savings goals established for Public Service would be revisited in future proceedings in order to account for variability in market potential, new technologies,

[20] For 2012 and 2013, Public Service's goal to achieve 330.5 GWh and 356 GWh in electric energy savings respectively, and 97 MW and 89.2 MW in demand reduction respectively was approved by Decision No. R11-1326 in Proceeding No. 11A-631EG issued on December 9, 2011.

[21] *See*, Decision No. C11-0442 at ¶24.

avoided costs, and other factors, as of the date of this proceeding, the Commission has not yet adjusted those projected savings goals. As a result, the proposed 2014 electric savings of at least 384.4 GWh as proposed in the terms of the Settlement Agreement will be approved without modification.

129. The demand savings or reduction goals of 86.3 MW in incremental demand reduction and 285 MW of controllable load from the combination of Public Service's ISOC and Third-party Demand Response programs as proposed by the Settling Parties take into consideration the market potential for demand reduction from load management, demand response, ISOC services, and demand reduction goals. Therefore, the proposed demand reduction goals as proposed by the Settling Parties in the terms of the Settlement Agreement will be approved without modification.

130. With regard to the 2014 gas savings goals, the Settling Parties propose that Public Service is to use its best efforts to achieve natural gas savings of at least 623,543 dth in 2014. The Settling Parties seek approval of this level of gas savings coupled with actual gas program expenditures to calculate dth saved per dollar expended as the energy savings target to be used in 2014 for purposes of calculating a bonus pursuant to Rules 4754 and 4760.

131. The proposed gas DSM goal proposed by the Settling Parties does not deviate from the Company's original proposal in its DSM Application. No party takes issue with the proposed natural gas savings goals. Therefore, the proposed natural gas savings of at least 623,543 dth in 2014 will be approved.

132. As provided in Decision No. R08-1243 in Proceeding No. 08A-366EG, issued November 28, 2008, and Decision No. C11-0645 in Proceeding No. 10A-554EG, issued June 14, 2011, Public Service will be granted waivers from Rule 4 CCR 723-4-4725(c) to allow for

biennial plan filings to be submitted no later than July 1 of the final year of a current DSM Plan. In addition, the provisions of Rule 4 CCR 723-4-4757 that are counter to the operation of Public Service's currently effective gas DSMCA tariff are waived, which will allow Public Service to recover projected costs in the year that they are incurred, and allow the Company's gas DSMCA to change every six months (in accordance with April 1 filings for rates to be effective July 1 and October 1 filings to be effective January 1).

B. Plan Modifications for 2014

133. The Settlement Agreement sets out the specific program changes to the 2014 DSM Plan which was agreed to by the Settling Parties and Public Service. The plan modifications agreed to for 2014 are described below.

1. Residential Home Lighting and Recycling

134. The Settlement Agreement provides that Public Service is to reduce the NTG ratio applicable to the Residential Home Lighting and Recycling Program from the proposed 0.75 to 0.70 which is expected to result in an additional cost of $201,786 in order to achieve the same level of targeted energy savings of 76,523,904 kWh. The additional cost to implement the program in 2014 is to be contained within the 107.5 percent budget flexibility provided for in the Settlement Agreement. Public Service is required to reduce the capital cost of LEDs to reflect market conditions and to reduce ratepayer impacts. The Company is to then make corresponding redline changes to the 2014 DSM Plan Technical Assumptions which is to be submitted subsequent to the Settlement Agreement.

135. The reduced NTG ratios proposed by the Settling Parties and the agreement by Public Service to reduce the capital cost of LEDs to reflect market conditions and reduce ratepayer impacts reflects congruence, to a certain degree, with the OCC's concerns regarding

the Company's initial technical assumptions regarding bulb prices. In addition to reducing the NTG ratios, Public Service has agreed to change the incremental cost of an LED bulb from $27.31 to $20.35 within the technical assumptions section of the 2014 DSM Plan (Hearing Exhibit No. 1B), which is an update of the bulb prices initially utilized by the Company in its Application.[22]

136. Good cause is found to adopt the modifications to the Residential Home Lighting and Recycling program as proposed by the Settlement Agreement.

2. School Education Kits

137. Public Service agrees to update the contents of school education kits to include five CFLs and one LED bulb. The Settling Parties expect that this update will result in additional electric energy savings of 191,057 kWh and an additional cost of $526,028 in 2014 which is to be accommodated within the 107.5 percent budget flexibility as provided for in the Settlement Agreement.

138. The update to the contents of the school education kits can only increase the number of low-income customers included in the Company's DSM program and encourage additional participation. Including the additional cost of the program modification within the 107.5 percent budget flexibility as agreed to in the Settlement Agreement, and the anticipated additional electric energy savings, provide good cause to approve the modifications to the school education kits.

[22] *See*, Gabler Rebuttal Testimony, p. 14.

3. Business Lighting Efficiency and Small Business Lighting

139. As part of the Settlement Agreement, Public Service agrees to increase rebates for T8 lamps to $1.00 for 28-watt and $2.00 for 25-watt bulbs. The Settling Parties expect that modification to yield additional energy savings of approximately 1,333,853 kWh in 2014 and to increase the Company's DSM costs during 2014 by $222,768, which is also to be accommodated within the 107.5 percent budget flexibility as provided for in the Settlement Agreement.

140. Good cause is found to adopt the modification to Public Service's 2014 DSM Application as proposed by the Settling Parties regarding business and small business lighting.

4. Residential Heating System Rebate Program

141. Public Service agrees to add a NATE Certification requirement for gas contractors installing heating systems under this program.

142. Good cause is found to adopt the proposal by the Settling Parties.

5. Residential ENERGY STAR® New Homes and Home Performance with ENERGY STAR®

143. The Settling Parties agree that Public Service is to exercise its discretion, as needed, in managing the 2014 gas DSM portfolio budget, shifting dollars among gas DSM products throughout 2014, up to the approved budget for the gas portfolio, to ensure that customers continue to be able to participate in ENERGY STAR® New Homes and Home Performance with ENERGY STAR® throughout the duration of the 4th Quarter. Public Service agrees to provide an update on participation and budget expenditure for these two programs during each Quarterly Colorado DSM Roundtable meeting in 2014.

144. Good cause is found to adopt the proposal by the Settling Parties.

C. Program Changes Public Service will Consider During 2014

145. As part of the Settlement Agreement, the Settling Parties agree to specific program changes that Public Service would consider during 2014 which may be implemented. Those programs are as follows.

1. Multi-Family Housing Pilot

146. Public Service agrees that it will work with interested stakeholders through June 1, 2014 to develop a multi-family housing pilot to be launched in 2014 by means of a 60-Day Notice. The Company further agrees to keep such stakeholders apprised of the progress of the pilot until its completion.

147. Details are sparse regarding this proposed pilot program addition; nevertheless, additional programs specifically designed and targeted to assist low-income ratepayers to participate in DSM are highly encouraged. It is hoped that Public Service will work diligently with appropriate stakeholders to further flesh out this pilot program in order to make it as beneficial as possible for low-income customers. Good cause is found to approve the possible addition of this pilot program to the 2014 DSM Plan.

2. Western Cooling Control Device

148. The Company agrees that the Western Cooling Control Device shall be added to the High Efficiency Air Conditioning product by means of a 60-Day Notice within three months following a final order issued by the Commission approving the Settlement Agreement without any modification that causes a Settling Party to withdraw from the Settlement Agreement as permitted.

149. This program offers another method in addition to Saver's Switch to allow air conditioning units to run more efficiently. Good cause is found to approve this possible program addition to the 2014 DSM Plan.

3. Smart Thermostat Market Study Group

150. The Company agrees to form a study group, consisting of trade representatives and other interested stakeholders, to design and implement a pilot to evaluate the capabilities of Wi-Fi connected thermostats based on the following timeframes and guidelines:

i. The study group shall work together to develop and design a smart thermostat pilot program to be launched by means of a 60-Day Notice issued within three months of a final order issued by the Commission approving this Stipulation without any modification that may cause a Settling Party to withdraw from the Settlement Agreement.

ii. The purpose of the pilot shall be to investigate and evaluate program elements including, but not limited to, load shed, energy savings, customer motivators, marketing channels (retail vs. trade), and retail channel rebates.

151. This program also presents possible state-of-the-art DSM solutions which could provide efficient and reasonably low cost electric energy savings within the 2014 DSM Plan. It is encouraging that Public Service has agreed to conduct such a study group to determine whether a smart thermostat exists that is compatible with the 2014 DSM goals and budgets. Good cause is found to approve this possible program addition to the 2014 DSM Plan.

D. Program Changes Under Consideration for Inclusion in 2015/2016 DSM Plan

152. A number of program, product, and market research ideas to be considered for inclusion in Public Service's 2015/2016 Biennial DSM Plan expected to be filed on July 1, 2014 were discussed by the Settling Parties. Appendix A attached to the Settlement Agreement

provides a list of those concepts that Public Service agreed to consider including in its 2015/2016 Biennial DSM Plan, if found to be cost-effective.

153. The proposed program changes under consideration for inclusion in Public Service's 2015/2015 Biennial DSM Plan attached to the Settlement Agreement as Appendix A are approved without modification.

E. 2014 DSM Budgets

154. As stated *supra*, with the exception of OCC, the Settling Parties agree to recommend to the Commission that it approve Public Service's electric and gas DSM budgets as initially proposed by the Company in its Application. Accordingly the Settling Parties recommend that the Commission approve a total DSM portfolio budget for 2014 of $100,069,452, including $87,763,495 for electric DSM programs and $12,305,957 for natural gas. The Settling Parties agree that the DSM Plan budgets, as proposed by the Company, are intended to give due consideration to the impact of the DSM Plan on non-participants and low-income customers, as required by § 40-3.2-104(4), C.R.S.

155. The Settling Parties further indicate that they understand and acknowledge that Public Service has the right to file and, in some circumstances pursuant to Decision No. C11-0442, is required to file a formal application for approval to implement DSM programs that are currently not part of the 2014 DSM Plan that is extended by the terms of the Settlement Agreement. The Settling Parties additionally agree that Public Service retains discretion to include in such an application a request for the additional budget dollars needed to implement any proposed new programs and that such a request may exceed the 107.5 percent budget flexibility for the electric program agreed to in the Settlement Agreement for 2014, and the 125 percent budget flexibility provided for the gas DSM program. In the event Public Service

files a formal application for approval to implement DSM programs beyond what is currently included in the 2014 DSM Plan, as modified by the Settlement Agreement, including a request to approve budgetary dollars in excess of the 107.5 and 125 percent budget flexibility for the electric and gas DSM programs, respectively, the Settling Parties state that they reserve their rights to take any position such party wishes to take regarding any requests for approval.

156. As set forth *supra*, the OCC opposes the proposed electric DSM budget of $87.8 million as being larger than necessary to achieve the Commission-ordered savings goals for 2014. It is OCC's position that the proposed electric DSM budget will allow Public Service to exceed the savings target and as a result, earn a larger performance incentive. It is the position of OCC that Public Service has an earnings incentive to oversize the electric DSM budget to exceed the savings goal, and has also included ineffective and marginally effective products in its portfolio in order to increase the size of the electric DSM budget.

157. The OCC takes the position that its witness Mr. Neil successfully demonstrated that by eliminating the DSM products that are not cost effective, reducing the budgets of marginal DSM products, and increasing the budgets for some of the more cost effective products, Public Service could achieve the Commission-ordered savings goal at a lower overall cost to ratepayers. The OCC argues that Public Service could achieve its electric energy savings goal at $6 million less than what the Company proposes.

158. The OCC maintains that the programs it proposes eliminating are residential programs and amount to a small portion of the customers participating in the residential programs. Therefore, the OCC posits that cutting the two residential programs as not cost effective will not have a significant impact on residential customers' ability to participate in electric DSM programs. Additionally, OCC argues that its proposed budget reductions do not

eliminate any customer class's ability to participate as the proposed reductions can be characterized as mere "tweaks" that leave programs intact.

159. It is also the OCC's contention that by reducing spending and eliminating programs, the resulting budget would lessen the rate impact on low-income and non-participating customers. The OCC contends that its proposed budget savings of $6 million, by targeting the same level of energy savings at a lower cost, reduces the amount to be recovered by Public Service through the DSMCA, thereby reducing the rate impact on all customers.

160. In addition to Staff, EOC, SWEEP and Public Service oppose the electric DSM budget and program proposals offered by OCC. EOC argues that the testimony of record establishes that the 2014 DSM Plan as filed, provides savings opportunities for all classes of electric customers as required by § 40-3.2-104(4), C.R.S., and for both commercial and residential gas sales customers as required by Commission rules.

161. The Settling Parties believe that the budgets for the low-income programs are reasonable, and consistent with previous Public Service DSM Plans. The Settling Parties are confident that the projected savings are achievable.

162. EOC argues that the evidence shows that OCC's proposed changes are piecemeal, and, because they are designed solely to reduce the cost impact of the 2014 Plan. EOC and the other Settling Parties take the position that OCC's proposals fail to take into account important non-cost considerations and consequences such as the need for Public Service to have flexibility in plan administration over the course of a plan's implementation as market conditions and prices change, and failing to recognize the importance to the long-term success of DSM implementation by allowing significant numbers of residential customers to participate in popular products, even if those products are individually not the most cost-effective products in a given plan.

163. The Settling Parties concur that the OCC cost-focused proposals fail to consider the fact that not every DSM product in a particular DSM program, such as the residential program, is required to achieve an MTRC of 1.0 or higher, as long as the program as a whole achieves that objective. The Settling Parties each express some level of concern that the evidence of record shows that the budget cuts and product eliminations OCC proposes may jeopardize the ability of Public Service to meet Commission-ordered DSM savings goals.

164. SWEEP, as well as Staff, EOC, and Public Service, points out that the Settlement Agreement specifically reduces budget flexibility (defined as the amount of potential overspending that Public Service is allowed without needing to seek Commission approval) to 7.5 percent of the total electric DSM budget for 2014. The Settling Parties note that this level was 13.5 percent for Public Service's 2013 DSM Plan. The Settling Parties take the position that this provision in the Settlement Agreement provides an additional limitation on DSM spending in 2014. SWEEP supports this provision by pointing out that Public Service has done a good job of meeting its electric energy savings goals without exceeding the approved budget during 2009 to 2011 and only exceeded the approved budget slightly in 2012 when its actual energy savings exceeded the savings goal.

165. The arguments raised by the Settling Parties regarding OCC's budget and DSM program recommendations are compelling. It is agreed that cutting or reducing program budgets as OCC suggests, would in effect provide fewer opportunities for customers to participate in the 2014 DSM program, which would in turn significantly increase the number of non-participants. The level of DSM portfolio management suggested by OCC has been avoided by the Commission previously and will not be adopted here. It is further agreed with the Settling

Parties that scaling back individual products as proposed by the OCC may negatively affect the economy of scale and the cost effectiveness of the products.

166. The OCC testimony was not convincing that it performed the requisite analysis of the energy savings potential of those DSM products and measures it proposed eliminating or reducing to demonstrate that its proposal could result in achievement of the proposed DSM goal. Public Service noted in its Statement of Position that one of OCC's proposed means to achieve the same savings goal while reducing the budget is by first eliminating the High Efficiency Air Conditioner and Electric Water Heater Programs. However, Public Service noted that OCC acknowledged during the hearing that removal of those two products would reduce expected participation in the Plan by approximately 3,700 customers.

167. In previous Decisions, the Commission structured incentives to signal to utilities that they should pursue aggressively all cost-effective DSM, while also tempering the incentive so that it does not raise rates more than necessary to achieve the desired results. The OCC's proposals for the Plan do not comport with Commission policy directives. The responsibility to meet the energy savings goals lies with Public Service. Therefore, Public Service should have the discretion and flexibility to plan and implement the most cost-effective DSM plan to achieve the approved energy savings goals.

168. Net economic benefits are increased when Public Service delivers energy savings at the lowest possible cost, which in turn increases the Company's performance incentive. Public Service maintains that the fact that the Company has exceeded approved goals in the past for a cost that was below the approved budget demonstrates that the incentive structure established by the Commission in 2008 is working properly to contain the Company's costs. The Company's conclusion comports with the Commission's long-standing policy as reconfirmed in Decision

No. C11-0442, to leave the overall management of the annual DSM Plan within the Company's discretion.

169. The concept of including individual DSM programs with MTRC ratios less than one is a generally accepted practice in the approval of the overall DSM portfolio. The Commission has provided guidance from time-to-time in this regard. For example, in Decision No. C08-0560 in Proceeding 07A-420E, with respect to customer education, market transformation, and pilot programs, the Commission stated, “[w]e agree that these components do not need individually to pass a TRC test, however, they do need to be incorporated into the overall costs used to calculate the TRC of the DSM portfolio.” (*Id* at ¶141). With respect to education programs, § 40-3.2-103(5) provides that the Commission shall authorize cost recovery for education programs, impact and process evaluations, and program planning related to natural gas DSM programs even when the associated expenditures, on an independent basis, are not cost-effective; however, the Commission may limit the amount spent for these activities.

170. The evidence of record provides sufficient information to find that the proposed gas and electric DSM portfolios achieve an MTRC ratio above 1.0 which ensures their cost effectiveness pursuant to § 40-1-102(5)(a), C.R.S. Additionally, under § 40-1-102(5)(b) which sets forth the requirements to calculate the benefit-cost ratio, Public Service has shown the level of cost effectiveness is approximately $157,997,233 in net economic benefits. The OCC’s arguments regarding the cost effectiveness of the DSM program did not sufficiently take into account the interrelated budget, goals, technical assumptions, and net-benefits pieces of a DSM program.

171. While the OCC’s proposals were well-intentioned, its arguments in support of its recommendations regarding budget cuts and program elimination or reduction were not

persuasive given past policy determinations by the Commission. Those policy directives provide Public Service with discretion and flexibility to change the direction of certain programs within the overall DSM program through the 60-day or 90-day stakeholder notice and comment period or through the DSM Roundtable, without first having to seek Commission approval. Public Service has also enjoyed the ability to increase portfolio budgets within certain parameters as long as the overall DSM portfolio remains cost effective. While Public Service may not move DSM budget dollars between their respective gas and electric programs, it nonetheless may move budget dollars within each gas and electric program. It is through this approach that Public Service's DSM program has enjoyed a high level of success.

172. Reducing rate impacts on low-income customers and non-participants remains a high priority for the Commission. However, the proposals put forth by the OCC are not sufficiently vetted here to provide a reasonable level of comfort that the ultimate result of its proposed reductions would not result in a boomerang effect whereby through the loss of participants, the cost-effectiveness of the 2014 DSM Plan would be diminished.

173. As a result, the proposed 2014 DSM Plan budgets as initially proposed by Public Service in its Application and as described in Section 8 of the Settlement Agreement will be approved without modification. In addition, the proposed programs set forth in the DSM Application (Hearing Exhibit No. 1B) as modified by the terms of the Settlement Agreement at Sections 5 and 6 will be approved without modification.

F. Updated Avoided Costs and Technical Assumptions

174. Except for Staff, OCC, CEC and Boulder, the Settling Parties recommend that the Commission approve Public Service's proposed updated avoided costs as contained in

Appendix C to the 2014 DSM Plan and technical assumptions as set forth in the Technical Reference Manual appended to the 2014 DSM Plan as Appendix G.

175. These include the deemed savings and NTG ratios used for purposes of developing the 2014 gas and electric DSM Plans. With the exception of the specific changes referenced in Section 5 of the Settlement Agreement, the NTG ratios, for which the Settling Parties recommend approval, are set forth in the Planning Assumptions section of the 2014 DSM Plan. Staff, CEC, and Boulder do not oppose the approval of the avoided costs for the limited purpose of calculating cost-effectiveness and net economic benefits with the 2014 DSM Plan. Although the OCC believes that the avoided costs should be addressed in this proceeding, the OCC recognizes that this issue will be addressed in the upcoming strategic issues proceeding

176. The Settling Parties agree that for purposes of calculating the gross savings associated with each of the prescriptive gas or electric DSM product measures offered as part of the gas and electric DSM portfolios, Public Service is to use the technical assumptions relating to the energy savings calculations for such measures actually installed during calendar year 2014. Such savings are to be referred to as "deemed savings."

177. The Settling Parties further agree that Public Service is to use the NTG ratios set forth in the Planning Assumptions section of the 2014 DSM Plan, as modified by the Settlement Agreement, and the technical assumptions set forth in the Company's Technical Reference Manual (Appendix G to the 2014 DSM Plan) relating to incremental customer O&M savings (for prescriptive measures only), customer O&M costs (for prescriptive measures only), incremental customer capital costs (for prescriptive measures only), and the deemed savings formulae and other technical assumptions set forth in the Technical Manual, for purposes of determining

program and portfolio cost-effectiveness and for calculating annual portfolio net economic benefits based on measures actually installed during calendar year 2014.

178. The Settling Parties agree that Public Service is to use the above-referenced avoided costs and other technical assumptions (unless they have been modified through a 60-Day Notice) to calculate the savings and net economic benefits associated with DSM products actually installed during 2014.

179. While the OCC recommends that consideration of the avoided costs be deferred to Proceeding No. 13A-0686EG, the strategic issues proceeding, it is found that these issues are better addressed here. Because the methodology for determining avoided costs was determined in a previous Strategic Issues proceeding, it makes little sense to relegate the avoided costs issues here to Proceeding No. 13A-0686EG which will set avoided costs policy on a going-forward basis.

180. Consequently, Public Service's proposed updated avoided costs as depicted in Appendix C to the 2014 DSM Plan and the technical assumptions set out in the Technical Reference Manual appended to the 201 DSM Plan as Appendix G are approved in their entirety without modification. The avoided costs and technical assumptions, including the deemed savings and NTG ratios used for developing the 2014 gas and electric DSM Plans are approved as described in Section 9 of the Settlement Agreement.

181. As discussed *supra*, Public Service's proposed electric budget reflects a 2 percent increase of the 2013 approved DSM budget, while designed to achieve an energy savings goal which is 8 percent or 28 GWhs higher than the 2013 DSM Plan. The requested budget-by-budget analysis of cost effectiveness in which program budgets are eliminated, reduced, or increased is beyond the policy directives established by the Commission for review

of the Company's DSM proposals. The Commission never intended this level granularity and such a review policy will not be adopted here.

182. The terms of the Settlement Agreement, including Public Service's proposed 2014 budget is in the public interest. There is a measurable benefit to ratepayers with respect to the savings realized relative to the costs of the DSM programs. The 2014 budget reflects an increase of approximately 2 percent over the 2013 budget; however, the savings goal is approximately 8 percent higher than in 2013. It is important to note Staff's analysis which compared the cost-per-kWh saved of $0.225 for 2014, while the cost-per-kWh saved in 2013 was $0.233, reflecting a reduction in cost for 2014.

183. As well, Public Service represents that the technical assumptions will be used for the limited purpose of calculating the cost effectiveness of the various products included in the 2014 DSM Plan, as well as the net economic benefits to be derived at the end of the 2014 DSM Plan year. In addition, Public Service acknowledged in testimony that it will conduct a Portfolio Technical Assumptions Evaluation every two years. Further, Public Service has updated previous cost assumptions made regarding LED and CFL bulbs.

184. The method of preparing the avoided technical assumptions appears consistent with respect to prior years as suggested by Staff. Therefore, it is in the public interest to approve the avoided costs and technical assumptions of the 2014 DSM Plan. Approval of the technical assumptions and avoided costs is solely for use for the 2014 DSM Plan year.

185. Public Service's 2014 DSM Plan as amended by the Settlement Agreement is in the public interest and will be approved without modification (except for the modifications to the Plan as set out in the terms of the Settlement Agreement). The budget, avoided costs, technical assumptions, and the DSM Plan all support the statutory directives of §§ 40-3.2-103 and 104, as

well as Commission Rules regarding gas DSM. As required under § 40-3.2-104(4), the Plan satisfies the requirement that all classes of customers have an opportunity to participate in Public Service's 2014 DSM Plan by offering a variety of direct and indirect impact DSM programs for residential, low-income, commercial, and industrial customers.

186. The 2014 DSM Plan is in the public interest because it also gives consideration to the impact of the programs on nonparticipants and on low-income customers. It is important that the 2014 DSM Plan reduces the impact on nonparticipants by minimizing the occurrence of nonparticipants by providing a reasonable opportunity for the maximum amount of customers to participate in DSM.

187. For all these reasons, it is found that Public Service's 2014 DSM Plan as amended by the Settlement Agreement is in the public interest and will be granted.

G. DSMCA Tariffs

188. The Settling Parties recommend that the Commission authorize Public Service to implement changes in the electric and gas DSMCA rates to become effective January 1, 2014, as necessary to recover the approved gas and electric DSM budgets as set forth in Section 8 of the Settlement Agreement and Public Service's 2014 forecast of expenditures for its ISOC and Third-Party Demand Response programs.

189. Good cause is found to authorize Public Service to implement the changes in its electric and gas DSMCA rates in order to recover the approved gas and electric DSM budgets as set forth in Section 8 of the Settlement Agreement and the Company's 2014 forecast of expenditures for its ISOC and Third-Party Demand Response programs.

190. Public Service will be ordered to file revised tariff sheets to recover the *pro-rata* portion of the 2014 DSM budgets on not less than two days' notice to become effective on the first day of the next calendar month following the effective date of this Decision.

191. Public Service will also be required to meet with and coordinate with Staff prior to its tariff filing in order to provide Staff with pertinent information it will require to review the proposed tariffs.

192. In accordance with § 40-6-109, C.R.S., it is recommended that the Commission enter the following order.

IV. ORDER

A. The Commission Orders That:

1. The Application of Public Service Company of Colorado (Public Service) for Approval of its Electric and Natural Gas DSM Plan for Calendar Year 2014, as amended by the terms of the Stipulation and Settlement Agreement is approved without modification consistent with the discussion above.

2. Public Service is authorized to use its best efforts to achieve at a minimum, 384.4 GWh in electric energy savings and a minimum of 86.3 MW in incremental demand reduction for 2014.

3. Public Service is authorized to use its best efforts to obtain controllable load of 285 MW from its Interruptible Service Option Credit and Third-Party Demand Response programs for 2014.

4. Public Service is authorized to use its best efforts to achieve natural gas savings of at least 623,543 dth for 2014.

5. The total Demand Side Management (DSM) portfolio budget of $100,069,452 which includes $87,763,495 for electric DSM programs and 412,305,957 for natural gas DSM programs is approved.

6. Public Service shall file an application to seek pre-approval from the Commission to incur costs in excess of 107.5 percent of the approved budget for its electric DSM portfolio for 2014.

7. Public Service shall file an application to seek pre-approval from the Commission to incur costs in excess of 125 percent of the approved budget for its natural gas DSM portfolio for 2014.

8. The updated avoided costs as set forth in Appendix C to Public Service's 2014 DSM Plan identified as Hearing Exhibit No. 1B are approved without modification.

9. The technical assumption, including the deemed savings for prescriptive programs as set forth in the Technical Reference Manual in Appendix G to Public Service's 2014 DSM Plan identified as Hearing Exhibit No. 1B are approved without modification.

10. The net-to-gross factors used for purposes of developing Public Service's 2014 gas and electric DSM plans as set forth in the Planning Assumptions section of Public Service's 2014 DSM Plan identified as Hearing Exhibit No. 1B are approved without modification.

11. Public Service shall file, on not less than two days' notice, to become effective on the first day of the next calendar month following the effective date of a final Commission Decision in this Proceeding, revised tariff sheets as part of Public Service's Colorado PUC No. 7 – Electric Tariff in substantially identical form to the *pro forma* tariff sheet contained in Exhibit

Nos. LEG-3 to Mr. Gabler's direct testimony to provide for the recovery of a *pro rata* portion of the 2014 DSM budgets approved in this proceeding, plus other allowable amounts.

12. Public Service shall file, on not less than two days' notice, to become effective on the first day of the next calendar month following the effective date of a final Commission Decision in this Proceeding, revised tariff sheets as part of Public Service's Colorado PUC No. 6 – Gas Tariff in substantially identical form to the *pro forma* tariff sheet contained in Exhibit No. LEG-4 to Mr. Gabler's direct testimony to provide for the recovery of a *pro rata* portion of the 2014 DSM budgets approved in this proceeding, plus other allowable amounts.

13. Public Service is ordered to immediately work with Commission Staff (Staff) prior to the filing of its tariffs as described above in Ordering Paragraph Nos. 11 and 12 to provide Staff with sufficient information it may request regarding those two tariff filings.

14. This Recommended Decision shall be effective on the day it becomes the Decision of the Commission, if that is the case, and is entered as of the date above.

15. As provided by § 40-6-109, C.R.S., copies of this Recommended Decision shall be served upon the parties, who may file exceptions to it.

a) If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the Decision is stayed by the Commission upon its own motion, the Recommended Decision shall become the Decision of the Commission and subject to the provisions of § 40-6-114, C.R.S.

b) If a party seeks to amend, modify, annul, or reverse basic findings of fact in its exceptions, that party must request and pay for a transcript to be filed, or the parties may stipulate to portions of the transcript according to the procedures stated in § 40-6-113, C.R.S. If no transcript or stipulation is filed, the Commission is bound by the facts set out by the administrative law judge and the parties cannot challenge these facts. This will limit what the Commission can review if exceptions are filed.

16. If exceptions to this Decision are filed, they shall not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be exceeded.

(S E A L)

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

PAUL C. GOMEZ

____
Administrative Law Judge

ATTEST: A TRUE COPY

Doug Dean,
Director