

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

PROCEEDING NO. 16A-0512EG

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IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR APPROVAL OF (1) ITS ELECTRIC AND NATURAL GAS DEMAND-SIDE MANAGEMENT (DSM) PLAN FOR CALENDAR YEARS 2017 AND 2018, (2) REVISIONS TO ITS ELECTRIC AND GAS DSM COST ADJUSTMENT (DSMCA) TARIFFS INCLUDING RATES EFFECTIVE JANUARY 1, 2017, AND (3) APPROVAL OF THE PEAK PARTNER REWARDS TARIFF.

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**INTERIM DECISION OF  
ADMINISTRATIVE LAW JUDGE  
MANA L. JENNINGS-FADER  
GRANTING JOINT MOTION, APPROVING  
CONTINUATION OF 2015-2016 DSM PLAN,  
APPROVING PRORATION AND METHOD,  
AND WAIVING RESPONSE TIME TO MOTION**

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Mailed Date: December 22, 2016

**I. STATEMENT**

1. The procedural history of this Proceeding is set out in Interim Decisions previously issued in this matter. The procedural history is repeated here as necessary to put the instant Interim Decision in context.

2. On July 1, 2016, Public Service Company of Colorado (Public Service, Company, or Applicant) filed its Verified Application for Approval of its Electric and Natural Gas [Demand Side Management (DSM)] Plan for Calendar Years 2017 and 2018 (Application). That filing commenced this Proceeding.

3. On August 17, 2016, by Minute Order, the Commission deemed the Application complete as of that date. On August 31, 2016, Decision No. R16-0811-I extended the time for Commission decision. Absent a further enlargement of time by the Commission or Applicant's

waiver of § 40-6-109.5, C.R.S., a Commission decision on the Application should issue not later than March 15, 2017.

4. The following intervened as of right or were granted permission to intervene: CF&I Steel, LP, doing business as Evraz Rocky Mountain Steel (CF&I); City and County of Denver (Denver); Climax Molybdenum Company (CMC); Colorado Energy Consumers (CEC); Colorado Energy Office (CEO); Colorado Office of Consumer Counsel (OCC); Energy Efficiency Business Coalition (EEBC); Energy Outreach Colorado (EOC); Southwest Energy Efficiency Project (SWEEP); Trial Advocacy Staff of the Commission (Staff); and Western Resource Advocates (WRA).

5. CEC, CEO, CF&I, CMC, Denver, EEBC, EOC, OCC, Staff, SWEEP, and WRA, collectively, are the Intervenors; each individually is an Intervenor. Applicant and the Intervenors, collectively, are the Parties; each individually is a Party. Each Party is represented by legal counsel in this Proceeding.

6. On August 17, 2016, by Minute Order, the Commission referred this matter to an Administrative Law Judge (ALJ) for disposition.

7. On November 4, 2016, Public Service, CEC, CEO, CF&I, Denver, EEBC, EOC, Staff, SWEEP, and WRA (Settling Parties) filed a Joint Motion to Approve the Unopposed Comprehensive Settlement Agreement in this Proceeding.<sup>1</sup> The Unopposed Comprehensive Settlement Agreement accompanied that filing. On November 14, 2016, Public Service filed an updated version of the Unopposed Comprehensive Settlement Agreement (Settlement Agreement).

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<sup>1</sup> OCC joined a portion of the Joint Motion to Approve the Unopposed Comprehensive Settlement Agreement and took no position on the remainder. CMC did not oppose the Joint Motion to Approve the Unopposed Comprehensive Settlement Agreement.

8. In the Settlement Agreement at § III.A, the

Settling Parties agree that if Public Service has not received approval of its 2017/2018 DSM Plan on or before December 31, 2016 that it is reasonable for Public Service to continue the implementation of its 2015/2016 DSM Plan until a final order has been received in this Proceeding. If this were to occur, the Settling Parties will file a Joint Statement that will identify the methodology to prorate the 2015/2016 DSM Plan for 2017. Precedent for this action exists in Proceeding No. 13A-0773EG whereby Public Service and the Parties to that case filed on September 13, 2013 a “Joint Statement” which agreed to continue the implementation of the Company’s 2013 DSM Plan into 2014 pending approval of the 2014 DSM Plan.

Settlement Agreement at 8-9.

9. The ALJ held an evidentiary hearing on the Settlement Agreement. During that evidentiary hearing, the witness who testified in support of the Settlement Agreement stated that, as used in the Settlement Agreement at § III.A, approval means a final Commission decision in this Proceeding.

10. As of the date of this Interim Decision, the recommended decision in this Proceeding has not issued. If no exceptions are taken to the recommended decision when it is issued, the recommended decision will become a Commission Decision 20 days after it is issued. If exceptions are taken, there will be no Commission Decision in this Proceeding until the Commission issues a decision on the exceptions. Thus, there will be no final Commission Decision in this case on or before December 31, 2016.

11. On December 16, 2016, the Settling Parties filed, in one document, a Joint Motion to Continue the 2015/2016 DMS Plan [Motion to Continue DSM Plan] and Waiver of Response Time [Motion for Waiver] and Joint Statement Identifying the Methodology to Prorate the 2015/2016 DSM Plan for 2017 [Statement of Method to Prorate] (in its entirety, the December 16 Filing). The Settling Parties represent that CMC and OCC do not object to the December 16 Filing.

12. As to the *Motion for Waiver*, the motion states good cause; and granting the unopposed motion will not prejudice any Party. The ALJ will grant the Motion for Waiver and will waive response time to the Motion to Continue DSM Plan and the Statement of Method to Prorate.

13. As to the *Motion to Continue DSM Plan*, the motion seeks authority for Public Service to continue implementation of the approved 2015-2016 DSM Plan until there is a final order in this Proceeding (Interim Extension). Granting the motion: (a) allows the Commission to give reasoned consideration to the Settlement Agreement; (b) eliminates, or significantly mitigates, the potential disruption (*e.g.*, discontinuance of a DSM measure or program) that may occur at the beginning of 2017 if the Interim Extension is not in place; and (c) effectuates § III.A of the Settlement Agreement. The Settling Parties state good cause to grant the Motion to Continue DSM Plan. In addition, because no Party opposes the motion, granting the Motion to Continue the DSM Plan will not prejudice any Party. The ALJ will grant the Motion to Continue the DSM Plan and will authorize the Interim Extension.

14. As to the *Method to Prorate*, the *Interim Extension's impact on the Demand Side Management Cost Adjustment (DSMCA) tariff calculations*, and the *treatment of various aspects of the DSM program*, the Settling Parties state:

Extending the 2015/2016 DSM Plan into 2017 will affect various aspects of the overall DSM program, including: a) the electric and gas budgets for 2017 and the gas and electric DSMCAs proposed to take effect on January 1, 2017; b) the calculation of net economic benefits and associated incentives under the electric DSM Plan for 2017; c) the calculation of lost revenues and the gas bonus under the gas DSM Plan for 2017; and d) the operation of the DSM tracker during 2017.

## **II. EFFECT OF THE EXTENSION OF THE 2015/2016 DSM PLAN ON THE ELECTRIC AND GAS BUDGETS AND DSMCA TARIFF CALCULATIONS**

Consistent with Sheets 140 and 140A of the Company's electric DSMCA tariff, the change in the electric DSMCA that the Company previously proposed to take effect on January 1, 2017, included both changes to the Current Period Demand-Side Management Costs ("CDSC") and to the Interruptible Service Option Credit Program Costs ("ISOC"). The CDSC component was equal to the Company's projected DSM expenses for calendar year 2017 that was equal to the Company's proposed electric budget for 2017, less the amount of DSM expenses that are currently being recovered in base rates. The ISOC component was equal to the Company's projection of ISOC credits to be paid to customers under its ISOC tariff during 2017 [plus] the Company's 2017 forecast of ISOC marketing and operation and maintenance ("O&M") expenses less the level of such expenses that are already being recovered through base rates. The interim extension of the 2016 DSM Plan agreed to [in the Settlement Agreement] does not affect the electric budget for 2017 or the CDSC component of the DSMCA proposed for 2017.

The tariff sheets that have been filed in Proceeding 16AL-0755E reflect the budgets that were agreed upon in the [Settlement Agreement]. In the event that the Commission-approved budget is different than the budget in the [Settlement] Agreement, the 2017 gas and electric DSM budgets shall be pro-rated based on the length of time the Interim Extension of the 2015/2016 DSM Plan remains in effect and the date that the new plan and budget take effect. The Company's DSM budget cap shall remain at \$84.3 million. For so long as the Company operates under the Interim Extension of the 2015/2016 DSM Plan, the level of the CDSC recovered through the DSMCA will remain unchanged.

The gas DSMCA shall remain unchanged until the Commission enters a final order in this proceeding changing the gas DSM budget for 2017/2018, after which the Company shall make an appropriate compliance filing.

## **III. JOINT STATEMENT OF THE PARTIES REGARDING THE METHODOLOGY AND PRORATION OF THE 2017 PROGRAM YEAR SAVINGS AND INCENTIVE**

The Company's recovery of the Disincentive Offset and Performance Incentive for 2016 will not be affected by the Interim Extension of the 2015/2016 DSM Plan. The Parties agree that this is[] consistent with Sheet 140 and 140A of the Company's electric DSMCA tariff, effective January 1, 2017, and in compliance with Decision C14-0731 which states that beginning on July 1, 2014, the Company shall be entitled to recover a pretax disincentive offset provided it meets or exceeds 100% of its DSM performance goals. The Company shall also be permitted to recover a Performance Incentive based on five percent of net economic benefits achieved in calendar year 2016 if it achieves 100 percent of its energy savings goal.

The Company's electric energy savings goal does not require a proration, as was necessary in Proceeding No. 13A-0773EG, because the Commission has ordered, in Proceeding No. 13A-0686EG, that the Company achieve at least 400 GWh annually through 2020. For all electric DSM measures implemented during the period in which the Interim Extension of the 2015/2016 DSM Plan remains in effect, the Company's energy savings and net economic benefits will be measured based on the avoided costs and technical assumptions, including net-to-gross ratios[,] used for purposes of the 2015/2016 DSM Plan. Once the Company implements an approved 2017/2018 DSM Plan pursuant to a final order issued in this proceeding, energy savings and net economic benefits shall be determined based on the avoided costs and technical assumptions, including net-to gross ratios, approved in this proceeding.

December 16 Filing at ¶¶ 2-7.

15. The ALJ finds the proposed treatments and methods to be reasonable as they: (a) continue the current, approved treatment of the 2015-2016 DSM Plan until implementation of a Commission-approved 2017-2018 DSM Plan; and (b) provide a reasonable method to prorate the 2017 Program Year savings and incentive. The ALJ will approve the proposed treatments and methods as described in the December 16 Filing at ¶¶ 2-7 and set out above.

16. **The Parties are advised and are on notice that** this Interim Decision approves the treatments and methods for the Interim Extension and for the 2017 DSM Plan from its date of implementation; together, these DSM Plans cover calendar year 2017. **The Parties are advised and are on notice that** this Interim Decision makes no finding with respect to the reasonableness or prudence (or both) of the Company's calculation of net economic benefits and associated incentives under the electric DSM Plans in effect in calendar year 2017, the Company's calculation of lost revenues and the gas bonus under the gas DSM Plans in effect in calendar year 2017, and the operation of the DSM tracker during calendar year 2017. The issues of prudence and reasonableness, if they are raised, will be addressed in future Proceedings.

**II. ORDER**

**A. It Is Ordered That:**

1. The Joint Motion to Continue the 2015/2016 DSM Plan, which motion was filed on December 16, 2016, is granted.

2. Public Service Company of Colorado (Public Service) shall continue to implement the Commission-approved 2015-2016 Demand Side Management (DSM) Plan until a final Commission Decision is issued in this Proceeding (Interim Extension).

3. Public Service shall implement the Interim Extension as set out above in this Interim Decision.

4. The Joint Statement of the Parties regarding the Methodology and Proration of the 2017 Program Year Savings and Incentive, as set out above in this Interim Decision, is approved.

5. Public Service shall use the method approved in Ordering Paragraph No. 4 to prorate the 2017 DSM Plan for the period from January 1, 2017 until the effective date of the tariff sheets that Public Service will file to comply with the Commission Decision in this Proceeding.

6. The Joint Motion for Waiver of Response Time is granted.

7. Response time to the Joint Motion to Continue the 2015/2016 DMS Plan and the Joint Statement Identifying the Methodology to Prorate the 2015/2016 DSM Plan for 2017 is waived.

8. The Parties are held to the advisements in the Interim Decisions issued in this Proceeding.

9. This Interim Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

MANA L. JENNINGS-FADER

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Administrative Law Judge

ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean,  
Director