Decision No. R17-0028

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 16A-0512EG

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.

RECOMMENDED DECISION OF ADMINISTRATIVE LAW JUDGE MANA L. JENNINGS-FADER APPROVING, WITHOUT MODIFICATION, UNOPPOSED COMPREHENSIVE SETTLEMENT AGREEMENT; GRANTING APPLICATION AS MODIFIED BY SETTLEMENT AGREEMENT; AND ORDERING COMPLIANCE FILINGS

Mailed Date: January 12, 2017

TABLE OF CONTENTS

I. STATEMENT

1. On July 1, 2016, Public Service Company of Colorado (Public Service, Company, PSCo, 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).[1] In the Application, Public Service also seeks approval of its Electric and Natural Gas Demand-Side Management Cost Adjustment (DSMCA) rates effective January 1, 2017 and of the new Peak Partner Rewards Program. The direct testimony and attachments of Shawn M. White in support of the Application accompanied that filing.[2] The Application commenced this Proceeding.

[1] The Application is Hearing Exhibit No. 3.

[2] On November 14, 2016, Public Service filed a corrected version of the direct testimony and attachments of Shawn M. White.

2. On July 12, 2016, the Commission issued its Notice of Application Filed (Notice) in this Proceeding. That Notice established an intervention period, which has expired.

3. The following intervened as of right or were granted leave to intervene: CF&I Steel, LP, doing business as Evraz Rocky Mountain Steel (CF&I); City and County of Denver (Denver); Climax Molybdenum Company (Climax); 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).

4. CEC, CEO, CF&I, Climax, 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.

5. 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. A Commission decision on the Application should issue not later than March 15, 2017.

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

7. On September 1, 2016, by Decision No. R16-0814-I, the ALJ granted, in part, PSCo's First Motion for Extraordinary Protection. In that Interim Decision, the ALJ identified highly confidential information and specified extraordinary protections for that information.

8. On September 15, 2016, by Decision No. R16-0855-I, the ALJ scheduled the final prehearing conference for November 15, 2016; scheduled the evidentiary hearing for November 17 and 18, 2016; and established a procedural schedule in this Proceeding.

9. On October 24, 2016, OCC filed the Answer Testimony and Attachments of Chris Neil. No other Intervenor filed answer testimony.

10. On October 31, 2016, by Decision No. R16-1008-I, the ALJ granted, in part, PSCo's Second Motion for Extraordinary Protection. In that Interim Decision, the ALJ identified highly confidential information and specified extraordinary protections for that information.

11. On November 4, 2016, Public Service, CEC, CEO, CF&I, Denver, EEBC, EOC, Staff, SWEEP, and WRA filed a Joint Motion to Approve the Unopposed Comprehensive Settlement Agreement in this Proceeding (Joint Motion to Approve). OCC joined a portion of the Joint Motion to Approve and took no position on the remainder. Climax did not oppose the Joint Motion to Approve. The Unopposed Comprehensive Settlement Agreement accompanied that filing. On November 14, 2016, the Company filed an updated version of the Unopposed Comprehensive Settlement Agreement (Settlement Agreement).

12. On November 4, 2016, Public Service, CEC, CEO, CF&I, Climax, Denver, EEBC, EOC, Staff, SWEEP, and WRA filed a Joint Motion to Vacate the Remaining Procedural Schedule and Waive the Response Time (Motion to Vacate).

13. On November 7, 2016, by Decision No. R16-1030-I, the ALJ granted the Motion to Vacate. In that Interim Decision, the ALJ vacated the scheduled final prehearing conference; vacated the November 18, 2016 evidentiary hearing; and vacated portions of the procedural schedule.

14. The ALJ held the evidentiary hearing as scheduled.[3] Parties[4] were present, were represented, and participated.

15. At the conclusion of the hearing, the ALJ closed the evidentiary record.

16. On November 18, 2016, PSCo filed an updated version of Exhibit B to the Settlement Agreement. The updated version increased the font size to allow easier reading of the document. The updated version of Exhibit B is included as Exhibit B to Hearing Exhibit No. 4 (the Settlement Agreement).

17. Exhibit A to the Settlement Agreement is PSCo's 2017/2018 Electric and Natural Gas DSM Plan as amended by the Settlement Agreement. As filed with the Settlement Agreement, Exhibit A is in legislative drafting format (*i.e.*, red-lined); does not have a table of contents; and, as a result, is difficult to read. At the evidentiary hearing, the ALJ directed Public Service to file a clean version of Exhibit A (*i.e.*, a version without the red lines) that included a table of contents. On November 28, 2016, PSCo filed an Exhibit A that is clean and contains a table of contents. With this filing, one can read and understand PSCo's 2017/2018 Electric and Natural Gas DSM Plan, as amended by the Settlement Agreement.

18. On December 16, 2016, Public Service, CEC, CEO, CF&I, Denver, EEBC, EOC, Staff, SWEEP, and WRA filed a Joint Motion to Continue the 2015/2016 DSM Plan and Waiver of Response Time and Joint Statement Identifying the Methodology to Prorate the 2015/2016 DSM Plan for 2017. Climax and OCC did not oppose this motion.

[3] A transcript of the hearing has been filed in this Proceeding. In this Decision, citation to the transcript is: Tr. at page:line. For example, citation to the transcript at page 11, lines 12 through 20 is: Tr. at 11:12-20.

[4] CEO was excused from the hearing, and Denver did not appear at the hearing.

On December 22, 2016, by Decision No. R16-1166-I, the ALJ granted the motion. As pertinent here, the ALJ: (a) approved the treatments and methods both for the extension of the Commission-approved 2015/2016 DSM Plan until there is a Commission Decision in this Proceeding and for the 2017 DSM plan year from its date of implementation (together, these DSM Plans cover Calendar Year (CY) 2017); and (b) advised the Parties that future proceedings will address any issues pertaining to the reasonableness and prudence of PSCo's calculation of the net economic benefits and associated incentives under the electric DSM Plans in effect in CY 2017, PSCo's calculation of the lost revenues and the natural gas bonus under the natural gas DSM Plans in effect in CY 2017, and the operation of the DSM tracker during CY 2017.

19. In accordance with § 40-6-109, C.R.S., the undersigned ALJ now transmits to the Commission the record in this Proceeding and a written recommended decision.

II. FINDINGS OF FACT

20. The record establishes, and the ALJ finds, that the Commission has subject matter jurisdiction in this Proceeding.

21. The record establishes, and the ALJ finds, that the Commission has *in personam* jurisdiction over the Company in this Proceeding.

22. The facts are not in dispute.

A. Parties.

23. Applicant Public Service is a public utility in the State of Colorado and, in the provision of electric service and of natural gas service, is subject to the jurisdiction of the Commission. As pertinent here, PSCo provides electric service to its retail ratepayers within its certificated service territory in Colorado; is rate-regulated by the Commission; and is subject to § 40-3.2-104, C.R.S., and the Decisions that implement that statutory provision. As pertinent

here, PSCo provides natural gas service to its retail ratepayers within its certificated service territory in Colorado; is rate-regulated by the Commission; is subject to § 40-3.2-103, C.R.S., and the Decisions that implement that statutory provision; and is subject to Rules 4 *Code of Colorado Regulations* (CCR) 723-4-4750 through and including 723-4-4760 (Natural Gas DSM Rules)[5] and the Decisions that implement those Rules.

24. Intervenor "CEC is an unincorporated association of corporations duly authorized and in good standing to transact business within Colorado" and its

> members are comprised of industrial and commercial customers of PSCo and, for purposes of this proceeding, CEC's membership includes: Air Liquide, Anadarko Petroleum Corporation, Ball Corp., the Denver Metro Building Owners and Managers Association, Lockheed Martin Corporation, MillerCoors, Suncor Energy (U.S.A.) Inc., and Western Metals Recycling.

CEC Motion to Intervene at 1 & n.1. CEC members participate in the Company's DSM programs and fund DSM programs through PSCo's DSMCA rider.

25. Intervenor CEO is a Colorado state office established pursuant to § 24-38.5-101, C.R.S. As pertinent here, pursuant to § 24-38.5-102(a)(IV), C.R.S., CEO "[w]ork[s] with communities, utilities, private and public organizations, and individuals to promote ... [e]nergy efficiency technologies and practices[.]" CEO Notice of Intervention by Right at ¶ 1. In addition, CEO "administers a low-income weatherization program in partnership with local agencies and the [U.S.] Department of Energy[.]" *Id.* at ¶ 2.

26. Intervenor CF&I operates a steel manufacturing and fabrication plant and related facilities in Pueblo, Colorado. CF&I receives electric service from Applicant, is one of

[5] These Rules are found in the Rules Regulating Gas Utilities and Pipeline Operators, Part 4 of 4 *Code of Colorado Regulations* 723.

Public Service's largest retail electric ratepayers, and funds PSCo's DSM programs through the DSMCA rider.

27. Intervenor Climax operates the Climax and Henderson molybdenum mines and related facilities near Leadville and Empire, Colorado, respectively. Climax receives electric service from Applicant under the tariffed Interruptible Service Option Credit (ISOC), is Public Service's second-largest retail electric ratepayer, and funds PSCo's DSM programs thorough the DSMCA rider.

28. Intervenor Denver is a home rule city and county, municipal corporation, and political subdivision pursuant to Article XX of the Colorado Constitution and the Home Rule Charter of Denver. Denver receives electric service and natural gas service from Applicant and funds PSCo's DSM programs through the DSMCA rider. Denver residents and businesses receive electric service and natural gas service from Applicant, participate in the Company's DSM programs, and fund PSCo's DSM programs through the DSMCA rider.

29. Intervenor EEBC is a

> Colorado non-profit corporation in good standing [and] is an IRS section 501(c)(6) trade association created to advocate for policies, programs, and business practices that will benefit and promote the market for energy efficiency technologies, products, and services in Colorado. EEBC's mission is to support the business community engaged in manufacturing, distributing, and selling products and services related to residential and commercial [DSM], and the advancement of the economic and environmental benefits derived by customers and utilities [using] such technologies.
>
> EEBC's business members employ thousands of industry workers[;] ... are directly affected by the economic and environmental impacts of DSM programs, measures, and implementation of the same[; and] have a direct economic relationship with specific DSM measures and products currently in effect and proposed in PSCo's DSM Program.

EEBC Motion to Intervene and Entry of Appearance at ¶¶ 1-2.

30. Intervenor EOC is a Colorado non-profit corporation. Its mission

> is to ensure that low-income Colorado households meet their home energy needs. Pursuant to Colo. Rev. Stat. § 40-8.5-104, EOC collects and disburses low-income energy assistance funds, as well as voluntary contributions from utility customers pursuant to the Low-Income Energy Assistance Act, C.R.S. § 40-8.7-101, *et seq*. Funds are disbursed to provide low-income energy assistance and to improve energy efficiency for the benefit of low-income customers.
>
> EOC has significant experience and expertise in the administration of low-income [DSM] programs by Colorado's investor-owned utilities. Since 2010, EOC has served as PSCo's partner in the administration of various products in PSCo's low-income natural gas and electric DSM programs. EOC assists PSCo in targeting low-income utility customers, in both single- and multi-family housing, for appropriate DSM measures and products.

EOC Motion to Intervene and Entry of Appearance at ¶¶ 1-2.

31. Intervenor OCC is a Colorado state agency established pursuant to § 40-6.5-102, C.R.S. Its statutory charge is set out in § 40-6.5-104, C.R.S.

32. Intervenor Staff is Trial Advocacy Staff of the Commission as identified in the Rule 4 CCR 723-1-1007(a)[6] notice filed in this Proceeding.

33. Intervenor SWEEP is a non-profit, regional

> public interest group working to advance energy efficiency, and the economic and environmental benefits those resources provide, in the public policy and utility regulatory arenas in Colorado ... . Through advocacy, analysis, and education, SWEEP helps to advance energy conservation and energy efficiency. SWEEP partners with businesses, state and local governments, and other public interest groups to promote more efficient use of our energy resources.

SWEEP Petition for Leave to Intervene at ¶ 1.

34. Intervenor "WRA is a non-profit conservation organization dedicated to protecting the land, air and water of the West." WRA Petition for Leave to Intervene at ¶ 1. WRA has headquarters in Colorado and has been active in Colorado in the development of

[6] This Rule is found in the Rules of Practice and Procedure, Part 1 of 4 *Code of Colorado Regulations* 723.

DSM programs. WRA receives service from the Company and funds PSCo's DSM programs through the DSMCA rider. WRA has members and financial supporters who receive service from the Company and fund PSCo's DSM programs through the DSMCA rider.

35. Taken together, Intervenors represent the interests of all customer classes for PSCo electric service or natural gas service (or both). In addition, several Intervenors represent the interests of low-income customers who take electric service or natural gas service (or both) from Public Service.

B. Witnesses and Exhibits.

36. At the evidentiary hearing, the ALJ heard the testimony of one witness in support of the Settlement Agreement: Shawn M. White. PSCo witness White is employed by Xcel Energy Services Inc.[7] as Manager, Demand-Side Management and Renewable Regulatory Strategy & Planning. In that capacity, he is

> responsible for ensuring Xcel Energy's energy efficiency and demand response programs adhere to regulatory policies. [He provides] strategic direction and oversees a team that: (i) develops long-range goals for the portfolio of programs for resource planning; (ii) tracks and reports energy efficiency achievements and financial operations; (iii) prepares DSM regulatory reports and filings; and (iv) analyzes the cost-effectiveness of energy efficiency and load management programs and portfolios in each of XES's state jurisdictions with active energy efficiency programs or pending legislation.

Hearing Exhibit No. 1 at 9:5-12.[8] His direct testimony is Hearing Exhibit No. 1, and his supplemental direct testimony is Hearing Exhibit No. 2. His oral testimony is found in Tr. at 11:24-92:14.

[7] Xcel Energy Services Inc. (XES) is a wholly-owned subsidiary of Xcel Energy Inc. (Xcel Energy). It provides support services to PSCo and Xcel Energy's other utility operating company subsidiaries.

[8] In this Decision, citation to testimony is: Hearing Exhibit No. at page:line.

37. Although he did not testify at the evidentiary hearing, OCC witness Chris Neil prefiled answer testimony and attachments that were admitted into evidence by stipulation. This testimony contains highly confidential information. OCC witness Neil's testimony and attachments are Hearing Exhibit No. 5 and Highly Confidential Hearing Exhibit No. 5B.

38. Including prefiled testimonies and attachments, five documents were marked for identification; were offered; and were admitted into evidence as Hearing Exhibits. Hearing Exhibit No. 4A contains confidential information, and Hearing Exhibit No. 5B contains highly confidential information.

C. DSM Plan as Filed.

39. In 2008, by Decision No. C08-0560,[9] the Commission authorized Public Service to file biennial combined electric and natural gas DSM Plans.

40. In accordance with that authorization, the Company's DSM Plan as filed is a combined electric and natural gas plan.[10] The Plan includes both electric and natural gas DSM Programs[11] for business (including governmental), residential, and low-income customers. The Plan also has Indirect Products and Services that include an Education/Market Transformation component[12] and a Planning and Research component.[13]

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[9] That Decision was issued on June 5, 2008 in Proceeding No. 07A-420E, *In the Matter of the Application of Public Service Company of Colorado for Authority to Implement an Enhanced Demand Side Management Program and to Revise its Demand-Side Management Cost Adjustment Mechanism to Include Current Cost Recovery and Incentives*.

[10] The Plan as filed is found in Hearing Exhibit No. 1 at Attachment SMW-1.

[11] As used in this Decision, unless the context indicates otherwise, DSM Program or Program has the same meaning as the definition of Program in Hearing Exhibit No. 4 at Exhibit A at Appendix B. The definitions in the Appendix B are based on, or rely heavily on, the definitions in the Gas DSM Rules.

[12] This component includes: business education, consumer education, business energy analysis, home energy audit, energy benchmarking, and energy efficiency financing.

[13] This component includes: DSM planning and administration, DSM program evaluations, DSM market research, DSM product development, DSM measurement and verification, and DSM pilot programs.

41. For *2017*, the entire DSM Plan (electric and natural gas): (a) is designed to achieve an incremental electric demand reduction target[14] of 75 Megawatts (MW); (b) is designed to achieve energy savings goals[15] of 401 Gigawatt hours (GWh) (electric) and 636,078 dekatherms (Dth) (natural gas); and (c) has a total budget of $ 112.7 million. For *2018*, the entire DSM Plan (electric and natural gas): (a) is designed to achieve an incremental electric demand reduction target of 74 MW; (b) is designed to achieve energy savings targets of 401 GWh (electric) and 537,136 Dth (natural gas); and (c) has a total budget of $ 111.1 million.

1. Electric DSM Portfolio.

42. The electric DSM Portfolio[16] is designed to achieve these targets: (a) 401.2 GWh in electric energy savings in 2017; (b) 401.7 GWh in electric energy savings in 2018; (c) 75 MW in total incremental electric demand reduction[17] in 2017; and (d) 74 MW in total incremental electric demand reduction in 2018. For the 2017 electric Portfolio, Public Service calculates a

[14] As used in this Decision, unless the context indicates otherwise, target has the same meaning as the definition of target in Hearing Exhibit No. 4 at Exhibit A at Appendix B. Generally speaking, target means PSCo's estimated achievements for a given Plan-year for the Portfolio, Programs, and Products. For ease of reference, in this Decision, unless the context indicates otherwise, target includes goal as defined in note 15.

[15] As used in this Decision, unless the context indicates otherwise, goal has the same meaning as the definition of goal in Hearing Exhibit No. 4 at Exhibit A at Appendix B. Generally speaking, goal means the annual DSM electric energy savings of 400 GWh that the Commission ordered PSCo to achieve in DSM plan years 2015 through and including 2020.

[16] As used in this Decision, unless the context indicates otherwise, Portfolio has the same meaning as the definition of Portfolio in Hearing Exhibit No. 4 at Exhibit A at Appendix B. Generally speaking, Portfolio refers to the entire group of natural gas or electric Programs, Products, and Measures that PSCo implements in a given DSM Plan-year.

As used in this Decision, unless the context indicates otherwise, DSM Measure or Measure has the same meaning as the definition of Measure in Hearing Exhibit No. 4 at Exhibit A at Appendix B. Generally speaking, a Measure refers to an individual component or technology offered to customers as part of a specific Product.

[17] This target includes both demand reductions from energy efficiency Programs and demand reductions from Demand Response Programs.

Modified Total Resource Cost (MTRC) Test Ratio[18] of 1.27;[19] for the 2018 electric Portfolio, PSCo calculates an MTRC Test Ratio of 1.32. The 2017 electric Portfolio budget is $ 99.5 million, and the 2018 electric Portfolio budget is $ 99.5 million.

43. The MTRC Test Ratios are calculated from, and the budgets are comprised of, the electric Energy Efficiency Portfolio (which includes the Low-Income Program and the Indirect Products and Services) and the electric Demand Reduction Portfolio.

44. The *2017* Energy Efficiency Program (this includes Indirect Products and Services): (a) contains 17 Products[20] for business customers, 13 Products for residential customers, and 4 Products for low-income customers; (b) has a target of 59 MW in incremental

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[18] The MTRC Test Ratio is the ratio of a DSM portfolio's, program's, or measure's benefits (including non-energy benefits such as the value of avoided emissions and other societal benefits) to its costs. The Commission uses this to evaluate the cost effectiveness of DSM.

Rule 4 CCR 723-4-4751(o) defines the Modified Total Resource Cost Test as "an economic cost-effectiveness test used to compare the net present value of the benefits of a DSM program or measure over its useful life[] to the net present value of costs of [that] DSM measure or program for the participant and the utility, consistent with § 40-1-102(5), C.R.S." The MTRC Test Ratio incorporates non-energy benefits by calculating the TRC Test Ratio without non-energy benefits and then applying a Commission-determined multiplier (or percentage adder) to the measurable benefits associated with the DSM program or measure to calculate the MTRC Test Ratio.

Section 40-1-102(5)(b), C.R.S., contains a non-exclusive list of the benefits one considers when calculating the benefit-cost ratio. The benefits used in the MTRC Test include, but are not limited to, avoided utility costs, avoided emissions, and non-energy benefits as determined by the Commission. *See also* Rule 4 CCR 723-4-4751(o) (containing a non-exclusive list of benefits one considers when performing the MTRC Test). The benefits include Commission-determined non-energy benefits.

Section 40-1-102(5)(c), C.R.S., contains a non-exclusive list of costs (*i.e.*, utility and participant expenditures) one considers when calculating the benefit-cost ratio. The costs include, but are not limited to: program design, administration, evaluation, and advertising and promotion costs; customer education costs; incentives and discounts; capital costs; and operation and maintenance expenses. *See also* Rule 4 CCR 723-4-4751(o) (containing a non-exclusive list of costs one considers when performing the MTRC Test).

In cases in which the net economic benefits associated with an electric low-income DSM program is negative without the consideration of the non-energy benefits, Public Service may exclude the benefits and costs of the program from the calculation of the overall net economic benefits.

Indirect market transformation programs have a presumed MTRC Test Ratio of 1.0.

[19] Section 40-1-102(5)(a), C.R.S., defines cost-effective, in the context of electric DSM and natural gas DSM, as a program or measure that has "a benefit-cost ratio greater than one." Thus, a DSM program or measure with an MTRC Test Ratio greater than one is cost-effective.

[20] As used in this Decision, unless the context indicates otherwise, Product has the same meaning as the definition of Product in Hearing Exhibit No. 4 at Exhibit A at Appendix B. Generally speaking, a Product is an offering that is a principal component of a Program offered to customers.

demand reduction and an electric energy savings target of 401.2 GWh; (c) has an MTRC Test Ratio of 1.26; and (d) has a budget of $ 80.3 million. The *2018* Energy Efficiency Program (this includes Indirect Products and Services): (a) contains 17 Products for business customers, 13 Products for residential customers, and 4 Products for low-income customers; (b) has a target of 57 MW in incremental demand reduction from energy efficiency and an electric energy savings target of 401 GWh; (c) has an MTRC Test Ratio of 1.31; and (d) has a budget of $ 77.7 million.

45. The *2017* Demand Response (DR) Program: (a) has four Products, including the Peak Partner Rewards (PPR) Product;[21] (b) has an incremental demand reduction target of 16 MW and an energy savings target of significantly less than 1 GWh; (c) has an MTRC Test Ratio of 1.38; and (d) has a budget of $ 19.2 million.[22] The *2018* DR Program: (a) has three Products, including the PPR Product; (b) has an incremental demand reduction target of 16 MW and an energy savings target of significantly less than 1 GWh; (c) has an MTRC Test Ratio of 1.36; and (d) has a budget of $ 20.6 million.[23]

2. Natural Gas DSM Portfolio.

46. The *2017* natural gas DSM Plan: (a) contains eight Products for business customers, nine Products for residential customers, and four Products for low-income customers; (b) is designed to achieve an energy savings target of 636,078 Dth; (c) has an MTRC Test Ratio

[21] This Product is discussed *infra*.

[22] The DR Program budget does not include credits paid under the ISCO Program. PSCo recovers the ISOC credits through the DSMCA.

[23] *See* note 22.

of 1.49;[24] and (d) has a budget of $ 13.1 million. The *2018* natural gas DSM Plan: (a) contains eight Products for business customers, nine Products for residential customers, and four Products for low-income customers; (b) is designed to achieve an energy savings target of 573,136 Dth; (c) has an MTRC Test Ratio of 1.58; and (d) has a budget of $ 12.8 million.

D. Settlement Agreement and Modifications to DSM Plan as Filed.

47. On November 14, 2016, the Company filed the Settlement Agreement.[25] The Settlement Agreement has two attachments: (a) Exhibit A is the DSM Plan, as modified by the Settlement Agreement (Modified DSM Plan or Modified Plan); and (b) Exhibit B compares the DSM Plan as filed to the Modified DSM Plan.

48. The Modified DSM Plan contains an electric Portfolio and a natural gas Portfolio for 2017 and for 2018. The discussion here highlights the differences between the DSM Plan as filed and the Modified DSM Plan, focuses on other provisions, and does not discuss all provisions of the Settlement Agreement.

49. For 2017, the Modified DSM Plan (electric and natural gas): (a) is designed to achieve an incremental electric demand reduction target of 81 MW;[26] (b) is designed to achieve energy savings targets of 422 GWh (electric) and 636,078 Dth (natural gas); and (c) has a total budget of $ 112.8 million.

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[24] To determine cost-effective natural gas DSM Programs, Public Service applies the MTRC Test. Public Service must spend at least $ 12 million annually on natural gas DSM. If it is unable to find cost-effective natural gas DSM programs applying the MTRC Test, Public Service may use the Societal Cost Test to screen natural gas DSM programs to reach the required annual spending level. Decision No. C14-0731 at ¶¶ 69-72. Decision No. C14-0731 was issued on July 1, 2014 in Proceeding No. 13A-0686EG, *In the Matter of the Application of Public Service Company of Colorado for Approval of a Number of Strategic Issues Relating to its Demand Side Management Plan*.

[25] The Settlement Agreement is Hearing Exhibit No. 4 and Confidential Hearing Exhibit No. 4A.

[26] The 81 MW consists of: (a) 65 MW of incremental demand reduction from energy efficiency; and (b) 16 MW of incremental demand reduction from DR.

50. For 2018, the Modified DSM Plan (electric and natural gas): (a) is designed to achieve an incremental electric demand reduction target of 81.7 MW;[27] (b) is designed to achieve energy savings targets of 429 GWh (electric) and 537,136 Dth (natural gas); and (c) has a total budget of $ 111.2 million.

51. Public Service agrees to use its best efforts to achieve the electric demand reduction target and energy savings targets (electric and natural gas) for 2017 and 2018.

1. Electric DSM Portfolio.

52. The modified electric DSM Portfolio is designed to achieve these targets: (a) approximately 422 GWh in electric energy savings in 2017; (b) approximately 429 GWh in electric energy savings in 2018; (c) 81 MW in incremental electric demand reduction in 2017; and (d) 81.7 MW in incremental electric demand reduction in 2018. Each is an increase over the targets in the Plan as filed.

53. Public Service calculates an MTRC Test Ratio of 1.34 for the modified 2017 electric Portfolio and an MTRC Test Ratio of 1.40 for the modified 2018 electric Portfolio. Each is an increase over the MTRC Test Ratios in the Plan as filed.

54. Public Service proposes a modified electric Portfolio budget of $ 99.6 million in 2017 and of $ 98.4 million in 2018. Each is a slight increase over the 2017 and 2018 electric Portfolio budgets in the Plan as filed.

55. The MTRC Test Ratios are calculated from, and the budgets are comprised of, the modified electric Energy Efficiency Portfolio (which includes the Low-Income Program and the Indirect Products and Services) and the modified electric Demand Reduction Portfolio.

[27] The 81.7 MW consists of: (a) 65.7 MW of incremental demand reduction from energy efficiency; and (b) 16 MW of annual incremental demand response.

56. The modified electric Energy Efficiency Program is designed to achieve these targets: (a) 422 GWh in electric energy savings in 2017; (b) 429 GWh in electric energy savings in 2018; (c) 65 MW in incremental electric demand reduction in 2017; and (d) 65.7 MW in incremental electric demand reduction in 2018. Each target is an increase over the 2017 and 2018 targets in the Plan as filed.

57. The *modified 2017 Energy Efficiency Program*: (a) contains 17 Products for business customers, 13 Products for residential customers, and 4 Products for low-income customers; (b) has an incremental demand reduction target of 65 MW and an energy savings target of 422 GWh; (c) has an MTRC Test Ratio of 1.32; and (d) has a budget of $ 80.4 million. Compared to the Plan as filed, the modified 2017 Energy Efficiency Program: (a) has the same Products, although some Products are modified; (b) has increased targets; (c) has an increased MTRC Test Ratio; and (d) has a slightly increased budget.

58. The *modified 2018 Energy Efficiency Program*: (a) contains 17 Products for business customers, 13 Products for residential customers, and 4 Products for low-income customers; (b) has an incremental demand reduction target of 65.7 MW and an energy savings target of 429 GWh; (c) has an MTRC Test Ratio of 1.38; and (d) has a budget of $ 77.7 million. Compared to the Plan as filed, the modified 2018 Energy Efficiency Program: (a) has the same Products, although some Products are modified; (b) has increased targets; (c) has an increased MTRC Test Ratio; and (d) has the same budget.

59. The Settlement Agreement, at 13-22, identifies and discusses the electric DSM Plan modifications for 2017 and 2018. Generally speaking, at 13-20, the Settlement Agreement identifies and discusses the modifications to the electric energy efficiency

Programs. Generally speaking, at 20-22, the Settlement Agreement identifies and discusses the modifications to the electric Indirect Products and Services.

60. Public Service must "use its best efforts not to make changes or additions to [the Modified] DSM Plan that would cause it to exceed the Commission-established budget cap applicable to its electric energy efficiency programs." Settlement Agreement at 12-13. If the Company exceeds that budget cap without

> express Commission approval, the Company shall not be eligible to recover costs incurred that are in excess of the Commission-established budget cap of $84.3 million applicable to energy efficiency programs within the electric DSM portfolio. For costs incurred in excess of the revised budgets [of] $80,429,748 for 2017 and $77,741,665 for [2018], but still within the Commission-established budget cap for energy efficiency of $84.3 million, the Company shall have a rebuttable presumption of prudence.

Settlement Agreement at 23-24.

61. The *modified 2017 electric DR Program*: (a) contains four Products, including the PPR Product; (b) has a demand reduction target of 16 MW and an energy savings target of significantly less than 1 GWh; (c) has an MTRC Test Ratio of 1.58; and (d) has a budget of $ 19.2 million. Compared to the Plan as filed, the modified electric DR Program for 2017: (a) has the same Products, although at least one Product is modified; (b) has the same targets; (c) has an increased MTRC Test Ratio; and (d) has the same budget (including exclusion of ISOC credits).

62. The *modified 2018 electric DR Program*: (a) contains three Products; (b) has an incremental demand target of 16 MW and an energy savings target of significantly less than 1 GWh; (c) has an MTRC Test Ratio of 1.55; and (d) has a budget of $ 20.6 million. Compared to the Plan as filed, the Modified Plan: (a) has the same number of Products, although at least

one Product is modified; (b) has the same targets; (c) has an increased MTRC Test Ratio; and (d) has the same budget (including exclusion of ISOC credits).

63. With respect to cumulative demand reductions, the Settlement Agreement states:

> The cumulative demand reductions from energy efficiency, demand response products, and the ISOC product [are] intended to be 626 MW in 2017 and 654 MW in 2018. The Company will strive to meet the total demand reduction goals adopted by the Commission in Decision No. C14-0731 from the combination of demand response and energy efficiency programs, specifically 620 MW in 2017 and 640 MW in 2018.

Settlement Agreement at 12.

2. Natural Gas DSM Portfolio.

64. The modified natural gas DSM Plan for 2017 is the same as the 2017 natural gas DSM Plan as filed. It: (a) contains eight Products for business customers, nine Products for residential customers, and four Products for low-income customers; (b) is designed to save 636,078 Dth; (c) has an MTRC Test Ratio of 1.49; and (d) has a budget of $ 13.1 million (this includes Indirect Products and Services).

65. The modified natural gas DSM Plan for 2018 is the same as the 2018 natural gas DSM Plan as filed. It: (a) contains eight Products for business customers, nine Products for residential customers, and four Products for low-income customers; (b) is designed to save 573,136 Dth; (c) has an MTRC Test Ratio of 1.58; and (d) has a budget of $ 12.8 million (this includes Indirect Products and Services).

66. The Settlement Agreement signatories

> request that the Commission approve the [stated] level[s] of [natural] gas savings, in combination with actual [natural] gas program expenditures to calculate

> dekatherms saved per dollar expended, as the energy savings target [to] be used in 2017 and 2018 for purposes of determining the Company's performance under

Rules 4 CCR 723-4-4754[28] and 723-4-4760.[29] Settlement Agreement at 12.

3. Other Provisions.

67. *Modifications to DSM notice requirements*. The Settlement Agreement, at 21-22, discusses the modifications to the Company's current 60-Day Notice, 90-Day Notice, and PSCo Decision Notice process and the related filings that the Company will make. The notice process and the modifications contained in the Settlement Agreement are discussed in the TR. at 33:15-37:3 and 75:13-76:18.

68. *PSCo's DSM trade ally incentive policy*: The Settlement Agreement, at 22-23, discusses PSCo's DSM trade ally incentive policy. As discussed there, the Company will deliver its DSM Products "through an open process that provides a reasonable opportunity for all third-party trade allies to participate." Settlement Agreement, at 22. In addition, through testimony in its next DSM Strategic Issues filing, the Company will address: (a) its "use of outside DSM consultants and providers and why those entities are needed"; and (b) "the provision of incentives to entities other than customers, including the amounts involved, why such incentives are needed, and whether those incentives flow through to customers." Settlement Agreement at 22-23. The Company expects to make its next DSM Strategic Issues filing not later than March 31, 2017.

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[28] This Rule pertains to, and governs, a natural gas utility's annual DSM report; requires a natural gas utility to file an application for a gas DSM bonus; and governs calculation of the level of a natural gas utility's gas DSM bonus, if any.

[29] This Rule pertains to, and governs, a natural gas utility's application for a DSM bonus; the procedures for processing such an application; and the accounting treatment for, prudence review of, and adjustment of a gas DSM bonus.

69. *Avoided costs*: To determine the cost-effectiveness of an electric energy efficiency or electric DR Program, Public Service must calculate the marginal energy costs and the generation, transmission, and distribution costs that the Program avoids. With respect to those avoided costs, the Settlement Agreement: (a) at 24-25, discusses the method to calculate avoided generation capacity costs and the method to calculate avoided marginal energy costs that Public Service will use; (b) at 24 and n.34, provides the avoided transmission and distribution costs that Public Service will use; and (c) at 25, states that PSCo's next DSM Strategic Issues filing will determine the ISOC program avoided costs that Public Service will use. *See also* Settlement Agreement at Exhibit A at Appendix E (avoided costs assumptions).

70. To determine the cost-effectiveness of a natural gas DSM Program, Public Service must calculate the avoided capacity costs, avoided commodity cost of natural gas, and avoided variable Operations and Maintenance costs associated with the natural gas energy efficiency savings. The Settlement Agreement at Exhibit A at Appendix E shows the natural gas DSM avoided cost assumptions.

71. Public Service seeks Commission authorization to use the avoided costs and methods contained in the Settlement Agreement and its Exhibit A at Appendix E in the DSM status reports and incentive calculations for 2017 and 2018. The Settlement Agreement signatories agree that the Commission should give this authorization.

72. *Dispatch of a DR Product*: Public Service will provide, in its next DSM Strategic Issues filing, testimony as described in the Settlement Agreement at 25.

73. *Peak Partners Rewards Program*: The new PPR Product is discussed in the Settlement Agreement at 25-26. This Product and the modifications made in the Settlement Agreement are discussed *infra*.

74. *Vendor incentives*: With respect to vendor incentives during the implementation of the Modified Plan, the Settlement Agreement establishes the circumstances in which those incentives will be claimed as rebates or incentives and the circumstances in which they will be identified as administrative costs. In addition, in its next DSM Strategic Issues filing, Public Service will take the actions described in the Settlement Agreement at 26-27. Finally, as part of its regular evaluations of midstream products, Public Service will conduct the evaluation described in the Settlement Agreement at 27. The agreements with respect to vendor incentives are discussed in the Tr. at 82:7-83:17.

75. *Electric demand savings*: With respect to achieving 65 MW of demand savings from electric energy efficiency Programs,[30] Public Service will proceed as described in the Settlement Agreement at 27. The process that the Company will use is discussed in the Tr. at 83:17-85:9.

76. *Avoided transmission and distribution*: Public Service will conduct an avoided transmission and distribution cost study to "evaluate the use of historical five-year average costs for transmission and distribution costs to update the avoided transmission and distribution value [used] in DSM avoided cost calculations" (Settlement Agreement at 27) and will provide that study in the next Strategic Issues filing. "If the Company finds that historical transmission and distribution expenditures are more stable that its forecast of future annual budgets, the Company will calibrate its future budget forecasts to historical expenditures." *Id*.

[30] The Commission established this target in Decision No. C14-0731.

77. *Effect on other cases*: The Settlement Agreement at 29 provides: "Except as expressly stated herein, nothing in this Settlement Agreement shall resolve any principle or establish any precedent or settled practice."

E. Additional Facts.

78. Additional facts are found throughout the remainder of this Decision.

III. BURDEN OF PROOF AND RELATED PRINCIPLES

79. As the Parties that seek Commission approval of the Settlement Agreement and of the Application as amended by the Settlement Agreement, the signatories to the Settlement Agreement bear the burden of proof; and the burden of proof is preponderance of the evidence. Section 24-4-105(7), C.R.S.; § 13-25-127(1), C.R.S.; Rule 4 CCR 723-1-1500. "The evidence underlying the agency's decision must be adequate to support a reasonable conclusion." *City of Boulder v. Colorado Public Utilities Commission*, 996 P.2d 1270, 1278 (Colo. 2000) (quoting *CF&I Steel, L.P. v. Public Utilities Commission*, 949 P.2d 577, 585 (Colo. 1997)). A party has met this burden of proof when the evidence, on the whole and however slightly, tips in favor of that party.

80. In addition, the Company's Modified DSM Plan, the proposed Peak Partner Rewards Program and tariff, the proposed revisions of the Company's electric DSMCA and natural gas DSMCA, and the other approvals sought in the Application are matters of public interest. The Commission has an independent duty to determine matters that are within the public interest. *Caldwell v. Public Utilities Commission*, 692 P.2d 1085, 1089 (Colo. 1984). As a result, the Commission is not bound by the Parties' proposals. The Commission may do what the Commission deems necessary to assure that the final result in this Proceeding is just, is

reasonable, and is in the public interest provided the record supports the result and provided the reasons for the choices made (*e.g.*, policy decisions) are stated.

81. Further, unless the record establishes good cause not to do so, the ALJ should apply the principles found in Commission Decisions that address, or provide guidance with respect to, the issues in this Proceeding. By way of example and not limitation, these include: (a) Decision No. C08-0248;[31] (b) Decision No. C08-0560; (c) Decision No. C11-0442;[32] (d) Decision No. C11-0645;[33] (e) Decision No. C14-0731; and (f) Decision No. C14-0997.[34]

82. As relevant here, when it authorized Public Service to file biennial combined electric and natural gas DSM Plans, the Commission specified that the Plan filing must

> include the contents set forth in paragraph 171 [of Decision No. C08-0560], as well as incorporate the findings and directives [in that Decision] concerning Low-Income DSM (paragraphs 134-137), Market Transformation (paragraph 141), a public education strategy (paragraph 143), ... and benchmarking against DSM "best practices" (paragraph 162).

Decision No. C08-0560 at Ordering Paragraph No. 2.

83. As pertinent here, the Commission required a PSCo biennial DSM Plan to include at least these components:

- The proposed technical assumptions underlying the DSM plan
- The proposed avoided cost values underlying the DSM plan

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[31] That Decision adopted the Gas DSM Rules and was issued on March 7, 2008 in Proceeding No. 07R-371G, *In the Matter of the Proposed Rules Regarding Natural Gas Demand-Side Management, Pursuant to House Bill 07-1037, Enacted as §40-3-103*. The Commission denied exceptions in Decision No. C08-0425, issued on April 22, 2008 in Proceeding No. 07R-371G.

[32] That Decision was issued on April 26, 2011 in Proceeding No. 10A-554EG, *In the Matter of the Application of Public Service Company of Colorado for Approval of a Number of Strategic Issues Relating to its DSM Plan, including Long-Term Electric Energy Savings Goals, and Incentives*.

[33] That Decision addressed an Application for Rehearing, Reargument, or Reconsideration of Decision No. C11-0442 and was issued on June 14, 2011 in Proceeding No. 10A-554EG.

[34] That Decision addressed Applications for Rehearing, Reargument, or Reconsideration of Decision No. C14-0731 and was issued on August 18, 2014 in Proceeding No. 13A-0686EG.

- Specific non-energy benefit values being used for specific DSM programs, if applicable (vs. the default values)
- The portfolio of specific programs being proposed, including the customer segment(s) being targeted and anticipated participation rates
- TRC calculations for each program and for the overall portfolio
- Budgets for each program, indirect impact programs, administration and the total portfolio
- Descriptions of the proposed indirect impact programs (market transformation, education, pilot and start-up programs)
- The spectrum of potential low-income programs, as addressed in [Decision No. C08-0560]
- Other topics to be addressed in testimony, as set forth in [Decision No. C08-0560].

Decision No. C08-0560 at ¶ 171. In subsequent Decisions, the Commission established additional content requirements.

84. Finally, the Parties request that the Commission approve the Settlement Agreement. Concerning its responsibility when it considers a settlement,

> the Commission has a long standing policy of encouraging settlements. In particular in Rule 4 [CCR] 723-1-1408, the Commission encourages settlements by parties. However, ... the same rule allows the Commission to approve, deny, or require a modification of the settlement. Moreover, in [Rule] 4 CCR 723-1-1407(a), the ability of this Commission to require a modification of a stipulation, in addition to approving or denying, is explicitly permitted. The intent of rule 1408, while encouraging settlement, is not to grant *carte blanche* approval of such agreements, no matter the policy implications. Such a reading of the rule would be wholly contrary to our public interest charge to ensure just and reasonable rates to the citizens of Colorado.
>
> ... [A]ll settlements in matters before the Commission are negotiated under the premise that we possess the authority to deny, or make changes[] to[,] a settlement as we deem necessary. Notably, such authority may also encourage parties to adopt reasonable positions in their work towards a settlement.
>
> We point out that ... the Commission has broad[] authority and responsibility for all class of customers, to insure a settlement meets the public interest standard and will result in just and reasonable rates. We also note that ...

> we may ... review the settlement as a whole, and order any changes to fit the broader issue of the public interest for all classes of customers.

Decision No. C07-0677[35] at ¶¶ 14-16. When necessary and prudent to do so, the Commission will not hesitate to modify the terms of a settlement presented to it. *See also* Decision No. C06-0259[36] at ¶ 10 (when reviewing a settlement, the Commission "has an obligation to review all the terms contained in a settlement agreement to ensure that they comply to the greatest extent possible with applicable regulatory principles, and are just and reasonable."); Decision No. C03-0670[37] at ¶ 16 ("Notwithstanding the parties' agreement to resolve this case as set forth in the Settlement, it is the Commission's independent obligation to review the Settlement to ensure it is just and reasonable"). Although each of these cited Decisions was issued in the context of a rate case settlement, the principles apply equally to review of settlements in application proceedings (such as the instant Proceeding).

85. In reaching her decision in this matter, the ALJ is mindful of, and assesses the Application in accordance with, these principles, the established filing requirements for DSM plans, and the Commission's duty.

IV. DISCUSSION

86. In reaching the Decision in this Proceeding, the ALJ considered the entire evidentiary record, including evidence not specifically addressed in this Decision.

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[35] That Decision was issued on August 9, 2007 in Proceeding No. 06S-656G, *Re: The Investigation and Suspension of Tariff Sheets Filed by Public Service Company of Colorado for Advice Letter No. 690-Gas*.

[36] That Decision was issued on March 20, 2006 in Proceeding No. 05S-264G, *Re: The Tariff Sheets Filed by Public Service Company of Colorado with Advice Letter No. 647-Gas*.

[37] That Decision was issued on June 26, 2003 in Proceeding No. 02S-315EG*: The Investigation and Suspension of Tariff Sheets Filed by Public Service Company of Colorado with Advice Letter No. 1373-Electric, Advise Letter No. 593-Gas, and Advice Letter No. 80-Steam*.

87. In reaching the Decision in this Proceeding, the ALJ considered all arguments presented by the Parties.

A. Peak Partner Rewards Program and Tariff.

88. In the 2015/2016 DSM Plan, the DR Plan contained the Third-Party Demand Response Program managed by EnerNOC; that program accounted for approximately 37 MW of DR. The EnerNOC contract for the third-party DR program expired at the end of 2016.

89. The PPR Program is a new DR Program designed to replace the Third-Party Demand Response Program and to ensure that the 37 MW of DR continue to be available. It provides the Company's commercial and industrial customers an incentive for agreeing to reduce their electric loads by a minimum of 25 kW during peak periods.

90. While similar in concept to the ISOC Program, the PPR Program is designed to be more flexible than, and to target business customers that are not eligible for, the ISOC Program. The PPR Program "will focus primarily on customers not already participating in a demand response program and customers with demand reductions less than 300 kW." Hearing Exhibit No. 2 at 11:7-9.

91. The Company will use (dispatch) the PPR Program during contingency or economic conditions on the PSCo system. This is consistent with the Company's use (dispatch) of the ISOC and Saver's Switch programs.

92. To participate in the PPR Program, an eligible customer

> will enter into a contract with Public Service to provide a minimum curtailable load during demand response events. The customer will receive two incentives, in the form of bill credits, for this load. The first is a monthly reservation credit based upon the amount of committed load the customer provides. The second is a

> performance credit that the customer receives only after an event has been called and the customer has reduced load.

Hearing Exhibit No. 2 at 13:16-21. The PPR Program participants

> will receive two credits: a reservation credit of $2.00 per kW-month and a performance credit of $0.70 per kWh ("kilowatt hour") of actual load reduction during an event. The reservation credit is designed to encourage the customer to nominate curtailable load into the program which allows the Company to plan its loads and resources and ensure commitment to the demand response goals. The performance credit is designed to incentivize the participant to deliver upon the nominated load. If a customer is able to deliver the nominated load when called upon they will receive a benefit -- if not, there is no cost to the portfolio, and ratepayers, for the lack of performance.

Hearing Exhibit No. 2 at 14:4-12.

93. With respect to interruptions,

> There are three types of interruptions that Public Service may call -- Capacity, Contingency, or Economic. All interruptions must last a minimum of 4 hours. A capacity interruption occurs when generation and/or transmission resources are not sufficiently available to meet [PSCo's] requirements. Capacity interruptions are mandatory, and customers may not buy through. ... Contingency interruptions ... are called to meet [PSCo's] Disturbance Control Standards. Economic interruptions are voluntary and called at the discretion of the System Operator or Energy Markets. Customers may choose to buy-through economic interruptions by purchasing buy-through energy and avoid interrupting their load. Only one economic interruption may be called per day; however there is no limit to the number of capacity or contingency interruptions that may be called in a 24-hour period. All interruptions are restricted to the contractual annual hour limitation.

Hearing Exhibit No. 2 at 17:18-18:12.

94. The PPR Program budget for 2017 is $ 2.6 million, and the PPR Program budget for 2018 is $ 3.2 million.

95. As set out in the Settlement Agreement: (a) based on forecasts in this Proceeding, PPR Program costs are lower than the Third-Party Demand Response Program costs; (b) based on forecasts in this Proceeding, the PPR Program will be more cost-effective than the

Third-Party Demand Response Program; and (c) "the total annual incentive for the [PPR] program is $45.60 per kW ..., which is below the avoided cost of $102.85 per kW used to measure the cost effectiveness of the [Modified Plan]. The result is that the cost of this incentive is less than the avoided capacity costs, which suggests that nonparticipating customers also receive a benefit from the program" (Settlement Agreement at 25-26 (footnote omitted)). Based on the record, the ALJ concurs.

96. In the Settlement Agreement at 26, Public Service agrees: (a) to include specified information about the PPR in the 2019-2020 DMS Plan; (b) to include specified information about the PPR in its annual DSM status report filings; (c) to convene a stakeholder meeting to address specified items; and (d) in 2017, to conduct a Request for Proposals for implementation services in 2018.

97. The PPR Program is discussed in the electric Demand Response Program portion of the Modified DSM Plan. The PPR Program, the Program benefits, and the Company's agreements pertaining to the Program are discussed in the Settlement Agreement at 25-26 and in Tr. at 42:11-44:2, 55:2-62:8, 70:9-72:7, and 80:22-82:6.

98. The Company will file a tariff that contains the PPR Program terms, conditions, and rate (*i.e.*, incentive credits) schedule. The tariff may be updated annually as necessary to balance customer participation and Program cost-effectiveness. Attachment SMW-5 to Hearing Exhibit No. 1 is an illustrative tariff for the PPR Program.

99. Based on the entire record, the ALJ finds: (a) the burden of proof has been met with respect to the PPR Program; (b) the portion of the Modified Plan and the portion of the Settlement Agreement that describe and discuss the PPR Program should be approved; and (c) the PPF Program, as described and explained in the Modified Plan, the Settlement

Agreement, and the testimony at hearing, should be approved. In addition, the ALJ finds that Public Service should file, by Advice Letter on not less than two days' notice, as a compliance filing: a PPR Program tariff that is consistent with the illustrative tariff that is Attachment SMW-5 to Hearing Exhibit No. 1. Having a tariff in effect will permit Public Service to implement the PPR Program. Finally, the ALJ finds it appropriate to include the PPR Program in the Company's electric DSM Portfolio as a DR Program for the purpose of considering the Modified DSM Plan.

B. DSM Targets.

1. Electric.

100. In Decision No. C14-0731 at ¶ 19, the Commission established the *electric energy savings target* for the Company's DSM plan years 2015 to 2020: 400 GWh. Under the Modified Plan, the electric energy savings target is 422 GWh in 2017 and 429 GWh in 2018. The Modified Plan allows the Company to meet the Commission-established electric energy savings target in 2017 and in 2018.

101. The Company's *electric demand reduction target* includes demand reduction from electric energy efficiency programs and demand reduction from load management and DR Programs. In Decision No. C14-0731 at ¶ 60, the Commission established "a minimum annual demand reduction target of 65 MW from energy efficiency measures for 2015 through 2020[.]" In addition, as relevant here, the Commission adopted these targets "for demand reductions from load management and demand-response resources[:] ... 555 MW in 2017, 575 MW in 2018" (*id*. at ¶ 58). As a result, the Company's total incremental demand reduction target is 620 MW for 2017 and 640 MW for 2018. In the Modified Plan, the electric demand

reduction targets are 626 MW in 2017 and 654 MW in 2018.[38] Taken together, the Modified Plan and the Settlement Agreement allow Public Service to meet the Commission-established electric demand reduction target in 2017 and in 2018.

102. In addition, in Decision No. C14-0731 at Ordering Paragraph No. 2, the Commission ordered Public Service to "use its best efforts to achieve the electric energy savings and [the] demand reduction goals [(or targets)] discussed [in that Decision] during 2015 through 2020." In the Settlement Agreement, Public Service pledges to use its best efforts to achieve the stated electric energy savings targets and the demand reduction targets in 2017 and 2018.

103. Based on the entire record, the ALJ finds that the Modified Plan meets the Decision No. C14-0731 electric-related targets and requirements.

2. Natural Gas.

104. Absent a Commission Decision to the contrary, the Natural Gas DSM Rules establish the annual DSM target for a natural gas utility. The target is found in Rule 4 CCR 723-4-4753(h)(I), which provides that the

> utility's annual expenditure target for DSM programs shall be, at a minimum, two percent of [that] natural gas utility's base rate revenues[] (exclusive of commodity costs)[] from its sales customers in the 12-month calendar period prior to setting the targets, or one-half of one percent of total revenues from its sales customers in the 12-month calendar period prior to setting the targets, whichever is greater.

This Rule is consistent with, and implements the requirements in § 40-3.2-103(2)(a), C.R.S.

105. In Decision No. C14-0731, the Commission established $ 12 million as the annual budget target for Public Service's annual natural gas DSM expenditures. The Commission also

[38] If the Company determines that it may not meet the targets, the Settlement Agreement at 27 contains the procedure that the Company will follow.

ordered PSCo to propose, in its biennial natural gas DSM Plans after plan years 2015 and 2016, natural gas savings targets that are

> commensurate with the $12 million annual spending level. This spending level is in excess of the minimum required by § 40-3.2-103, C.R.S., and Rule [4 CCR 723-4-4753(h)(I)], but we expect the Company will find sufficient market potential for cost-effective measures and programs. ...
>
> Public Service may propose to reduce spending on [natural] gas DSM below $12 million in its biennial DSM plan addressing 2017 and 2018. However, the amount of spending on low-income [natural] gas DSM programs shall remain constant from the 2014 levels in 2015 through 2018. Budget targets for [natural] gas DSM beyond 2018 shall be addressed in the Company's next DSM strategic issues proceeding.

Decision No. C14-0731 at ¶¶ 70-71.[39] The Modified Plan contains a 2017 natural gas budget of $ 13.1 million and a 2018 natural gas budget of $ 12.8 million.

106. The Settlement Agreement does not modify the natural gas DSM budgets, and the natural gas DSM program savings targets that are commensurate with the budgets, as filed. The natural gas DSM budgets, and the natural gas program savings targets that are commensurate with the budgets, are unopposed.

107. For 2017 and 2018, the natural gas DSM budget targets contained in the Modified Plan exceed the minimum natural gas DSM expenditure target contained in § 40-3.2-103(2)(a), C.R.S., and Rule 4 CCR 723-4-4753(h)(I) and the minimum spending requirement established in Decision No. C14-0731. In addition, 2017 and 2018 natural gas DSM savings targets are commensurate with the $ 12 million expenditure target. Finally, the natural gas low-income DSM spending targets in the Modified Plan for 2017 and 2018 meet the requirements of Decision No. C14-0731 at ¶ 71.

[39] The referenced Strategic Issues filing is the filing that PSCo will make not later than March 31, 2017.

108. Based on the entire record, the ALJ finds that, with respect to the natural gas DSM targets, the Modified Plan complies with the requirements established in Decision No. C14-0731.

C. DSM Budget.

109. As discussed above, the Commission has established an annual budget cap of $ 84.3 million for the electric energy efficiency DSM Products and a minimum spending level of $ 12 million for natural gas DSM.

110. In this Proceeding, Public Service presented detailed budgets for 2017 and 2018. For each year, there was a separate budget for the electric DSM Portfolio and for the natural gas DSM Portfolio. For each year, the electric DSM Portfolio budget contained separate budgets for energy efficiency and for demand response. For each year, the natural gas DSM Portfolio budget contained spending levels for natural gas DSM programs for low-income customers; the budgeted spending levels meet the requirement in Decision No. C14-0731 at ¶ 71.

111. The Settlement Agreement and Modified Plan make minor changes to the electric DSM Portfolio budgets as filed. The Company is of the opinion that it can achieve the increased electric targets in the Modified Plan for only a slight increase in the electric budget by “being more efficient or giving back on some administrative things” (Tr. at 31:7-8).

112. The Settlement Agreement and Modified Plan make no changes to the natural gas DSM budgets as filed.

113. Based on the entire record, the ALJ finds that the 2017 and 2018 budgets contained in the Modified Plan for electric and natural gas DSM are consistent with the Commission’s directives in Decision No. C14-0731 and, therefore, are reasonable.

D. Providing All Customer Classes an Opportunity to Participate.

114. Section 40-3.2-104(4), C.R.S., states: "The commission shall ensure that utilities develop and implement [electric] DSM programs that give all classes of customers an opportunity to participate." Section 40-3.2-103(3)(a), C.R.S., requires a utility to "[d]evelop and begin implementing a set of cost-effective [natural gas] DSM programs for its full service customers[.]"

115. The Modified DSM Plan includes 17 electric DSM Products for business customers in 2017 and in 2018. Among the business products is the LED Street Lights Product targeted to municipal customers, and many of the other business products are available to governmental customers. The Modified DSM Plan includes 13 electric DSM Products for residential customers in 2017 and in 2018.

116. The Modified DSM Plan includes eight natural gas DSM Products for business customers in 2017 and in 2018. Many of the business products are available to governmental customers. The Modified DSM Plan includes nine natural gas DSM Products for residential customers in 2017 and in 2018.

117. The Modified DSM Plan includes four natural gas and electric DSM Products targeted to low-income residential customers.

118. The signatories to the Settlement Agreement

> agree that the portfolio [in the Modified Plan] provides all customer classes the opportunity to participate, and it provides, ... through the number of technologies, the focus of products that [are in the Modified Plan] towards specific [customer] segments, and the breadth of the offerings, that all classes have the opportunity to participate.

Tr. at 48:15-21. Based on review of the Modified Plan, the ALJ concurs.

119. Taken together, Intervenors represent directly, or are sensitive to, the interests of all customer classes that receive PSCo electric service or natural gas service (or both). No Intervenor opposes the Modified DSM Plan. The ALJ finds that the lack of opposition is a significant indication that the Modified Plan provides an opportunity for all customer classes to participate in DSM.

120. Based on the entire record, the ALJ finds that the Modified DSM Plan is designed to afford, and if implemented will afford, all classes of PSCo's customers an opportunity to participate in DSM as required by §§ 40-3.2-103 and 40-3.2-104, C.R.S.

E. Impact on Low-Income Ratepayers and Non-Participant Ratepayers.

121. Section 40-3.2-104(4), C.R.S., directs the Commission to "give due consideration to the impact of DSM programs on nonparticipants and on low-income customers."

122. In Decision No. C08-0560 at ¶ 146, the Commission found: "the first way to address the impact of DSM on non-participants is to minimize the occurrence of non-participants. By this we mean that all customers need to be provided a reasonable opportunity to participate in DSM[.]"

123. Review of the Modified DSM Plan establishes that it includes DSM Products that meet an assortment of PSCo's customers' needs and that it is designed to expand the number of DSM participants in all customer classes.

124. In addition, the Modified Plan includes a separate DSM Portfolio segment targeted to low-income customers. Under the Modified Plan, Public Service will maintain a level of spending on its programs for low-income customers that is consistent with 2014 levels.

125. Based on the entire record, the ALJ also finds that the Modified Plan gives due consideration to the impact of DSM on low-income customers. It includes a separate segment

targeted to those customers and assures continuation of a consistent level of support by maintaining the budget for the Low-Income Program at the level specified by the Commission in Decision No. C14-0731 at ¶ 76.

126. Based on the entire record, the ALJ finds that the Modified DSM Plan gives due consideration to the impact of the plan on non-participant ratepayers. The Modified Plan provides a reasonable opportunity for all customers to participate in, and to benefit directly from, DSM. This reduces the number of non-participant ratepayers. In addition, designing the Modified Plan so that it remains within the electric energy efficiency budget cap also serves to lessen the impact on non-participant ratepayers.

F. Just, Reasonable, and in the Public Interest.

127. In the Joint Motion to Approve at ¶¶ 38-40, the signatories state:

> The Settling Parties request the approval of the Settlement Agreement, which represents separate interests coming together to resolve issues that would otherwise require full litigation. Pursuant to Rule [4 CCR 723-1-1408(a)], "[t]he Commission encourages settlement of contested proceedings." The requested approval of the Settlement Agreement is consistent with this Commission directive, and approval of the Settlement Agreement is in the public interest.
>
> The Settlement Agreement is in the public interest because it increases the total lifetime benefits and net-benefits to customers, compared to [the] originally filed plan, of $20,626,936.77 and $15,665,763.49, respectively by exceeding the Commission established goals of 400 GWh of energy savings and 65 MW of demand reductions from energy efficiency, annually, and 620 MW and 640 MW of demand response (including demand reductions from energy efficiency) in 2017 and 2018 respectively with [forecasted] annual budgets that are less than [the] Commission authorized cap of $84.3 million.
>
> Similarly, the Settlement Agreement is in the public interest because it supports the Company's proposal for a natural gas portfolio of energy efficiency programs, products, and measures that are forecasted to provide customers with total lifetime benefits of $48,900,171 and net-benefits of $15,985,803.

See also Settlement Agreement at 28 ("reaching resolution of these issues through this negotiated Settlement Agreement is in the public interest and ... the results of the compromises and settlements reflected in the Settlement Agreement are just[,] reasonable, and in the public interest"); Tr. at 50:17-25 (Modified Plan is consistent with statutes, Rules, Commission decisions; is consistent with Commission-established targets; is under Commission-established budget cap for electric energy efficiency program; and offers wide variety of DSM Programs that PSCo customers have come to expect). Based on the entire record, the ALJ concurs.

128. In addition, the Modified DSM Plan as a whole is cost-effective (*i.e.*, the Modified Plan for 2017 and the Modified Plan for 2018 have an MTRC Test Ratio that is greater than one). Overall, the anticipated benefits from the Company's achieving the targets in the Modified Plan exceed the forecasted costs to achieve those benefits.

129. Moreover, as set out in the Settlement Agreement at 29, the impact of the Settlement Agreement is limited: except as expressly stated in the Settlement Agreement, the Settlement Agreement is not controlling in future DSM Strategic Issues cases or in future biennial DSM plan filings.

130. Further, taken together, Intervenors represent directly, or are sensitive to, the interests of all customer classes that receive PSCo electric service or natural gas service (or both). Several Intervenors represent directly, or are sensitive to, the specific interests of low-income customers who receive electric service or natural gas service (or both) from Public Service. No Intervenor opposes the Modified Plan. The ALJ finds that the lack of opposition is a significant indication that the Modified Plan is just, is reasonable, and is in the public interest.

131. Finally, the Commission has specified the information and data that Public Service must include or provide in its biennial DSM Plan filings. *See*, *e.g.*, discussion above and Tr. at 85:19-88:1 (discussing some of the information that the Commission requires PSCo to include in its biennial DSM plan filings). No Intervenor filed testimony suggesting that Public

Service failed to include Commission-required information and data in the 2017/2018 DSM Plan. No Intervenor objects to the Modified DSM Plan. It appears, therefore, that the Modified DSM Plan contains the Commission-ordered information and data.

132. The Settlement Agreement is comprehensive and resolves all necessary matters for purposes of this Proceeding. Based on the entire record, the ALJ finds that the Settlement Agreement and the Modified Plan represent a just, equitable, and reasonable resolution of issues that were or could have been contested among the Parties.

133. Based on the entire record, the ALJ finds that approval of the Settlement Agreement and of the Modified DSM Plan, without modification, is just; is reasonable; and is in the public interest.

G. Revisions to Electric and Natural Gas Demand-Side Management Tariffs.

134. In this Proceeding, Public Service seeks these tariff-related authorizations from the Commission: (a) authority to revise the electric DSMCA tariff in order to allow PSCo to recover the 2017 electric Portfolio DSM budget approved in this Proceeding; (b) authority to revise the electric DSMCA tariff to change, from July 1 to October 1, the filing date for the annual filing that includes the revised electric DSMCA rates to be effective on January 1 of the following year; (c) authority to revise the natural gas DSMCA tariff in order to allow PSCo to recover the 2017 natural gas Portfolio DSM budget approved in this Proceeding; (d) authority to revise the natural gas DSMCA tariff to change, from July 1 to October 1, the filing date for the annual filing that includes the revised natural gas DSMCA rates to be effective on January 1 of the following year; and (e) authority to implement the PPR tariff for the PPR Program.

135. With respect to the request for authorization to revise the electric DSMCA tariff and the natural gas DSMCA tariff to allow Public Service to recover the 2017 DSM budgets

approved in this Proceeding, the authorizations will be granted. The requested authorizations are unopposed. In addition, granting the requested authorizations is consistent with Commission practice and decisions. Public Service should be ordered to file as compliance filings: (a) revised tariff sheets as part of its Colorado PUC No. 7 - Electric Tariff to provide for the recovery of a *pro rata* portion of the 2017 electric DSM Portfolio budget approved in this Proceeding, plus other allowable amounts; and (b) revised tariff sheets as part of its Colorado PUC No. 6 - Gas Tariff to provide for the recovery of a *pro rata* portion of the 2017 natural gas DSM Portfolio budget approved in this Proceeding, plus other allowable amounts. Public Service will be required to file, by Advice Letter on two days' notice, the proposed tariffs.

136. With respect to the request for authorization to revise the electric DSMCA tariff and the natural gas DSMCA tariff to change the filing date from July 1 to October 1, the authorizations will be granted. The request is unopposed. In addition, the current filing dates creates this inefficiency: in years in which Public Service files a new biennial DSM plan, it

> is unlikely that the Commission will approve the new DSM Plan by July 1. Therefore, on July 1[,] the Company is required to file rates that are forecasts based on the two-year old Commission approved DSM Plan, instead of the proposed rates recently filed in the DSM Plan pending approval. Thus, when the DSM Plan is approved[,] it requires revisions to the DSMCA that was filed on July 1.

Hearing Exhibit No. 1 at 52:11-16. Granting the requested authorizations addresses that inefficiency. Public Service should be ordered to file as compliance filings: (a) revised tariff sheets as part of its Colorado PUC No. 7 - Electric Tariff to change to October 1 the filing date for the annual filing that includes the revised electric DSMCA rates to be effective on January 1 of the following year; and (b) revised tariff sheets as part of its Colorado PUC No. 6 - Gas Tariff to change to October 1 the filing date for the annual filing that includes the revised natural gas DSMCA rates to be effective on January 1 of the following year. Public Service will be required to file, by Advice Letter on two days' notice, the proposed tariffs.

137. As discussed *supra*, authorization to file and to implement the PPR tariff will be granted.

V. CONCLUSIONS

138. The Commission has subject matter jurisdiction over this Proceeding and has jurisdiction over Public Service in this Proceeding.

139. The Joint Motion to Approve will be granted.

140. The Settlement Agreement will be approved without modification.

141. The Settlement Agreement modifies the Application.

142. As modified by the Settlement Agreement, the Application will be granted.

143. The PPR Program will be approved. Public Service will be ordered to file, by Advice Letter on two days' notice, a PPR Program tariff that is consistent with the illustrative tariff that is Attachment SMW-5 to Hearing Exhibit No. 1.

144. The DSM Plan filed by Public Service on July 1, 2016 is modified as set out in Exhibit A to the Settlement Agreement (Modified DSM Plan or Modified Plan).

145. The Modified DSM Plan will be approved.

146. The electric energy efficiency savings goals (or targets) for 2017 and 2018 contained in the Modified Plan will be approved.

147. The budgets for the electric energy efficiency Portfolios for 2017 and 2018 contained in the Modified Plan will be approved.

148. The electric Demand Response Program goals (or targets) for 2017 and 2018 contained in the Modified Plan will be approved.

149. The budgets for the electric Demand Response Programs for 2017 and 2018 contained in the Modified Plan will be approved.

150. The natural gas DSM Portfolio goals (or targets) for 2017 and 2018 contained in the Modified Plan will be approved.

151. The budgets for the natural gas DSM Portfolios for 2017 and 2018 contained in the Modified Plan will be approved.

152. Public Service will be ordered to use its best efforts to achieve the electric DSM goals (or targets) and the natural gas DSM goals (or targets) contained in the Modified DSM Plan.

153. In accordance with the Settlement Agreement, the avoided cost assumptions in Appendix E of the Modified Plan will be approved for purposes of determining DSM Program and DSM Portfolio cost-effectiveness and for calculating annual Portfolio net economic benefits.

154. In accordance with the Settlement Agreement, the technical assumptions, including (but not limited to) the deemed savings and the net-to-gross factors for DSM products, as set forth in the Technical Reference Manual attached to the Modified Plan at Appendix G, will be approved. These technical assumptions are to be used for developing a forecast of annual DSMCA expenditures, determining savings achieved (gross savings or deemed savings), determining program and portfolio cost-effectiveness, and calculating the annual portfolio net economic benefits.

155. In accordance with the Settlement Agreement, Public Service will be authorized to modify its electric DSM Plan and budget as necessary to meet the electric DSM targets, in a manner consistent with the Settlement Agreement and Commission Decisions.

156. Public Service will be ordered to file, by Advice Letter 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 its Colorado PUC No. 7-Electric Tariff to provide for the recovery of a *pro rata* portion of the 2017 DSM budgets approved in this Proceeding, plus other allowable amounts.

157. Public Service will be ordered to file, by Advice Letter 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 its Colorado PUC No. 6-Gas Tariff to provide for the recovery of a *pro rata* portion of the 2017 DSM budgets approved in this Proceeding, plus other allowable amounts.

158. Public Service will be ordered to file, by advice Letter on not less than two days' notice, revised tariff sheets as part of its Colorado PUC No. 7-Electric Tariff to change to October 1 of each year the date for the compliance filing that includes the revised electric DSMCA rates to be effective January 1 of the following year.

159. Public Service will be ordered to file, by Advice Letter on not less than two days' notice, revised tariff sheets as part of its Colorado PUC No. 6-Gas Tariff to change to October 1 of each year the date for the compliance filing that includes the revised natural gas DSMCA rates to be effective January 1 of the following year.

160. Public Service will be ordered to make the filings and reports that it agreed to make, as those filings and reports are described in the Application, the Settlement Agreement, and the Modified Plan.

161. Public Service will be ordered to implement the processes and to give the notices that it agreed to implement and to give, as those processes and notices are described in the Application, the Settlement Agreement, and the Modified Plan.

162. Public Service will be ordered to comply with the Settlement Agreement, the Modified Plan, and this Decision.

163. Pursuant to § 40-6-109, C.R.S., the Administrative Law Judge recommends that the Commission enter the following order.

VI. ORDER

A. The Commission Orders That:

1. Consistent with the discussion above, the Joint Motion to Approve the Unopposed Comprehensive Settlement Agreement in this Proceeding is granted.

2. Consistent with the discussion above, the Unopposed Comprehensive Settlement Agreement filed in this Proceeding on November 4, 2016, as modified on November 14, 2016 (Settlement Agreement), is approved without modification.

3. The Settlement Agreement is incorporated by reference and made an order of the Commission as if fully set forth here. Appendix A to this Decision is a copy of the Settlement Agreement without its voluminous Exhibit A.

4. Consistent with the discussion above, the Verified Application for Approval of its Electric and Natural Gas DSM Plan for Calendar Years 2017 and 2018 filed on July 1, 2016

by Public Service Company of Colorado (Public Service), as modified by the Settlement Agreement, is granted.

5. The Public Service 2017/2018 Demand-Side Management Plan Electric and Natural Gas, dated July 1, 2016 and revised on July 21, 2016, as modified by the Settlement Agreement (Modified DSM Plan), is approved.

6. Consistent with the discussion above, the Modified DSM Plan, and the Settlement Agreement, the Peak Partner Rewards Program is approved.

7. Public Service shall file, by Advice Letter on not less than two days' notice, a Peak Partner Rewards Program tariff that is consistent with the illustrative tariff that is Attachment SMW-5 to Hearing Exhibit No. 1.

8. Consistent with the discussion above, the Modified DSM Plan, and the Settlement Agreement, Public Service shall use its best efforts to achieve, at a minimum, these DSM goals (or targets) in 2017: (a) electric energy efficiency savings of 422 GWh; and (b) an incremental electric demand reduction of 81 MW.

9. Consistent with the discussion above, the Modified DSM Plan, and the Settlement Agreement, Public Service shall use its best efforts to achieve, at a minimum, these DSM goals (or targets) in 2018: (a) electric energy efficiency savings of 429 GWh; and (b) an incremental electric demand reduction of 81.7 MW.

10. Consistent with the discussion above, the Modified DSM Plan, and the Settlement Agreement, the 2017 budget of $ 80,429,748 for the electric energy efficiency programs and electric indirect program and the 2017 DSM budget of $ 19,180,133 for electric demand response programs are approved.

11. Consistent with the discussion above, the Modified DSM Plan, and the Settlement Agreement, the 2018 budget of $ 77,741,665 for the electric energy efficiency programs and electric indirect program and the 2018 electric DSM budget of $ 20,625,501 for electric demand response programs are approved.

12. Public Service is authorized to modify its modified electric DSM Plan and budget as necessary to meet the electric DSM goals (or targets), in a manner consistent with the Settlement Agreement and Commission Decisions.

13. Consistent with the discussion above and the Settlement Agreement, in 2017 and in 2018, Public Service may incur electric energy efficiency costs of up to the Commission-established budget cap of $ 84.3 million without being required to seek Commission approval of an electric energy efficiency DSM Plan modification.

14. For electric energy efficiency costs that are incurred in 2017 and in 2018 and that are in excess of the electric energy efficiency budgets approved in this Decision but within the Commission-established $ 84.3 million budget cap for electric energy efficiency, Public Service shall have a rebuttable presumption of prudence.

15. Consistent with the discussion above, the Modified DSM Plan, and the Settlement Agreement, the DSM natural gas energy target, as defined in Rule *Code of Colorado Regulations* 723-4-4753(c), is: (a) 636,078 Dekatherms for 2017; and (b) 537,136 Dekatherms for 2018. Public Service shall use its best efforts to achieve these natural gas energy savings targets.

16. Consistent with the discussion above, the Modified DSM Plan, and the Settlement Agreement, the 2017 natural gas DSM budget of $ 13,144,577 is approved.

17. Consistent with the discussion above, the Modified DSM Plan, and the Settlement Agreement, the 2018 natural gas DSM budget of $ 12,796,667 is approved.

18. Public Service shall spend not less than $ 12 million annually for its natural gas DSM portfolio in 2017 and in 2018.

19. In accordance with the Settlement Agreement, the avoided cost assumptions in Appendix E of the DSM Plan are approved for purposes of determining program and portfolio cost-effectiveness and for calculating annual portfolio net economic benefits.

20. In accordance with the Settlement Agreement, the technical assumptions, including (but not limited to) the deemed savings and the net-to-gross factors for DSM products, as set forth in the Technical Reference Manual attached to the DSM Plan at Appendix G, are approved. These technical assumptions shall be used for developing a forecast of annual Demand Side Management Cost Adjustment expenditures, determining savings achieved (gross savings or deemed savings), determining program and portfolio cost-effectiveness, and calculating the annual portfolio net economic benefits.

21. Public Service shall file, by Advice Letter 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 to provide for the recovery of a *pro rata* portion of the 2017 DSM budgets approved in this Proceeding, plus other allowable amounts.

22. Public Service shall file, by Advice Letter 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 to provide for the recovery of a *pro rata* portion of the 2017 DSM budgets approved in this Proceeding, plus other allowable amounts.

23. Public Service shall file, by Advice Letter on not less than two days' notice, revised tariff sheets as part of Public Service's Colorado PUC No. 7-Electric Tariff to change to October 1 of each year the date for the compliance filing that includes the revised electric DSMCA rates to be effective January 1 of the following year.

24. Public Service shall file, by Advice Letter on not less than two days' notice, revised tariff sheets as part of Public Service's Colorado PUC No. 6-Gas Tariff to change to October 1 of each year the date for the compliance filing that includes the revised natural gas DSMCA rates to be effective January 1 of the following year.

25. Public Service shall make the filings and reports that it agreed to make, as those filings and reports are described in the Application, the Settlement Agreement, and the Modified DSM Plan.

26. Public Service shall implement the processes and shall give the notices that it agreed to implement and to give, as those processes and notices are described in the Application, the Settlement Agreement, and the Modified DSM Plan.

27. Public Service shall comply with the Modified DSM Plan, the Settlement Agreement, and this Decision.

28. 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.

29. 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 ten calendar 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 procedure 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.

30. 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

MANA L. JENNINGS-FADER

____
Administrative Law Judge

ATTEST: A TRUE COPY

Doug Dean,
Director