

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

PROCEEDING NO. 19AL-0063ST

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IN THE MATTER OF ADVICE LETTER NO. 150 FILED BY PUBLIC SERVICE COMPANY OF COLORADO TO PLACE INTO EFFECT NEW BASE RATES FOR ALL STEAM SERVICE CUSTOMERS TO BECOME EFFECTIVE FEBRUARY 25, 2019.

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**RECOMMENDED DECISION OF  
ADMINISTRATIVE LAW JUDGE  
STEVEN H. DENMAN  
APPROVING SETTLEMENT AGREEMENT  
WITHOUT MODIFICATION;  
PERMANENTLY SUSPENDING TARIFFS;  
REQUIRING AN ENGINEERING STUDY AND  
REGULATORY RESOURCE PLAN;  
AND REQUIRING THE FILING OF NEW TARIFFS**

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Mailed Date: July 12, 2019

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**I. STATEMENT**

**A. Background**

1. On January 25, 2019, Public Service Company of Colorado (Public Service or the Company) filed with the Colorado Public Utilities Commission (Commission), Advice Letter No. 150-Steam, accompanying tariff sheets, and supporting testimony and attachments of seven witnesses, proposing new base rates for all steam service customers. The proposed effective date on the filed tariffs was February 25, 2019.

2. The Company sought to place into effect revised base rates for all steam service customers which would increase Public Service’s annual base rate revenues by \$7,298,455, based on an overall annual revenue requirement of \$19,415,944. The proposed revenue requirement was developed using a Historical Test Year (HTY) consisting of the 12 months ended December 31, 2017, with adjustments that included income tax savings associated with the implementation of the Tax Cuts and Jobs Act (TCJA), adjustments to depreciation and amortization expense, and costs associated with the installation of a new Reverse Osmosis (RO) Water Treatment System in 2018 and a new unit 3 boiler at the Denver Steam Plant (DSP) planned to go into service on October 1, 2019. The revenue requirement was calculated by using a proposed Return on Equity (ROE) of 10.65 percent, a long-term cost of debt of 4.42 percent, and a 7.92 percent Weighted Average Cost of Capital (WACC), based on a capital structure composed of 56.29 percent equity and 43.71 percent long-term debt. As a part of its proposed

rates, the Company also included a premium to reflect the increased risk associated with operating a small utility with a declining customer base.

3. To moderate the impact of this base rate revenue increase, the Company proposed a two-step mitigation plan that would reduce the proposed revenue increase by 35 percent for the first year in which the new base rates would be in effect. Specifically, this mitigation was proposed to be implemented through a General Rate Schedule Adjustment (GRSA) of -13.16 percent to be effective from October 1, 2019 through September 30, 2020. Public Service also requested deferred accounting treatment for certain engineering study costs, which Public Service would track and present to the Commission in a future proceeding.

4. The Parties in this Proceeding are Trial Staff of the Colorado Public Utilities Commission (Staff), the City and County of Denver, Colorado (Denver), and the Colorado Energy Consumers (CEC).<sup>1</sup>

5. On April 11, 2019, Staff filed the Answer Testimony and Attachments of four witnesses. Staff proposed a revenue requirement increase of \$5,880,780 based on an ROE of 9.72 percent;<sup>2</sup> capital structure consisting of 55.34 percent equity, 43.42 percent long-term debt, and 1.25 percent short-term debt; a cost of long-term debt of 4.18 percent; and a cost of short-term debt of 1.84 percent.

6. Staff also recommended a number of additional requirements including: award the proposed risk premium with an explicit recognition that Public Service and its shareholders bear

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<sup>1</sup> Decision No. R19-0191-I (mailed on February 21, 2019) acknowledged Staff's Intervention as of right. Decision No. R19-0274-I (mailed on March 25, 2019) granted motions for permissive intervention filed by Denver and CEC.

<sup>2</sup> Staff's 9.72 percent ROE recommendation is the same ROE that was approved in Public Service's last steam rate case, Proceeding No. 15AL-0938ST. The same ROE of 9.72 percent was also approved in Public Service's previous steam rate case, Proceeding No. 12AL-1269ST.

the risk of the future viability of its steam operations; require a steam resource plan application with the proposed engineering study; require the engineering study to include an analysis of the Steam System under the condition of DSP Units 1 and 2 retiring in 2025 and determine which customers are most able to transition from steam service to electric or gas service to allow retirement of DSP Units 1 and 2; disallow Reverse Osmosis Water Treatment System (RO System) costs of \$6,559,486 as not in the ordinary course of business, requiring a Certificate of Public Convenience and Necessity (CPCN) application for the RO System; and require three-step mitigated increases in rates.

7. Neither Denver nor CEC filed answer testimony.

8. On April 25, 2019, Public Service filed the Rebuttal Testimony and Attachments of four witnesses.

9. No public comments were filed in this Proceeding.

**B. Procedural History**

10. On January 25, 2019, Public Service filed with the Commission Advice Letter No. 150-Steam, accompanying tariff sheets, and supporting testimony and attachments, proposing new base rates for all steam service customers. The proposed effective date on the filed tariffs was February 25, 2019.

11. By Decision No. C19-0152 (mailed on February 8, 2019), pursuant to § 40-6-111(1), C.R.S., the Commission set the tariffs filed with Advice Letter No. 150-Steam for hearing, and thereby suspended their effective date for 120 days, or until June 25, 2019. The Decision referred the matter to an Administrative Law Judge (ALJ) for disposition. Subsequently, the undersigned ALJ was assigned to preside over this Proceeding.

12. Pursuant to § 40-6-111(1), C.R.S., Decision No. R19-0191-I (mailed February 21, 2019) suspended the effective date of the tariff sheets that accompanied Advice Letter No. 150-Steam for an additional 90 days, resulting in a maximum suspension period of 210 days or until September 23, 2019. That Decision scheduled a prehearing conference for March 14, 2019, and ordered the Company to consult with parties to negotiate a procedural schedule, hearing dates and other procedural matters, and to make a filing no later than May 12, 2019 reporting the results of those discussions. Finally, Decision No. R19-0191-I set page limits on Statements of Position and gave several procedural advisements to govern the litigation of this rate case.

13. On March 12, 2019, Public Service filed a consensus procedural schedule and consensus discovery procedures.

14. The prehearing conference was held on March 14, 2019, as scheduled. After the prehearing conference, Decision No. R19-0274-I (mailed on March 25, 2019) scheduled an evidentiary hearing for May 29 and 30, 2019 (reserving May 31, 2019, if needed), adopted a procedural schedule for the filing of answer and rebuttal testimony and attachments, granted Public Service's motion for protective order, and addressed other procedural requirements for litigating this rate case.

15. On May 20, 2019, Public Service, Staff, and Denver (Settling Parties) filed an Unopposed Joint Motion for Approval of the Settlement Agreement, for Modification of Procedural Schedule and Adoption of Modified Procedures, and for Waiver of Response Time (Unopposed Joint Motion). A comprehensive Settlement Agreement and four attachments purporting to resolve all issues in the proceeding were attached to the Unopposed Joint Motion.

Counsel for CEC authorized counsel for Public Service to state that CEC did not oppose the Settlement Agreement or the relief sought in the Unopposed Joint Motion.

16. Decision No. R19-0432-I (mailed on May 22, 2019) vacated the remaining procedural schedule adopted in Decision No. R19-0274-I and set May 30, 2019 for a hearing on the merits of the Settlement Agreement. That Decision also posed questions regarding the terms of the Settlement Agreement and directed Public Service to file its testimony in support of the Settlement Agreement no later than 5:00 p.m. on May 24, 2019. The other Settling Parties were invited to present the testimony of at least one witness to describe the terms of the Settlement Agreement, to answer questions posed by the ALJ, and to testify about why that party believes the Settlement Agreement and the rates proposed therein are just, reasonable, non-discriminatory, and not contrary to the public interest.

17. On May 24, 2019, Public Service filed written Settlement Testimony of two witnesses, to provide support for the Settlement and to respond to the ALJ's questions posed in Decision No. R19-0432-I.

18. At the May 30, 2019 hearing on the Settlement Agreement, the latest revised versions of the pre-filed Direct, Answer, and Rebuttal Testimonies and related Attachments were admitted into evidence without cross-examination. The Settlement Agreement and Public Service's written Settlement Testimony were also admitted into evidence.

19. This Decision will adjudicate the merits of the Settlement Agreement and the proposed Settlement Tariffs.

## II. FINDINGS AND DISCUSSION

### A. The Rate Setting Process.

20. The Commission's authority to regulate Public Service's steam utility rates, facilities, and operations derives from Article XXV of the Colorado Constitution. The Commission is charged with ensuring the provision of safe and reliable utility service at just and reasonable rates for customers pursuant to §§ 40-3-101, 40-3-102, 40-3-111, and 40-6-111, C.R.S.

21. The act of establishing rates for the provision of services of public utilities is a legislative function that has been delegated to the Commission. *City and County of Denver v. Public Utilities Comm'n.*, 129 Colo. 41, 43, 266 P.2d 1105, 1106 (1954). It is the function of the Commission to adopt rates and rate structures that are fair and reasonable. *Integrated Network Services, Inc. v. Public Utilities Comm'n.*, 875 P.2d 1373, 1381 (Colo. 1994). Ratemaking "is not an exact science but a legislative function involving many questions of judgment and discretion." *Integrated Network Services, Inc. v. Public Utilities Comm'n.*, 875 P.2d at 1381 [citations omitted]. Charged with the responsibility of setting rates, the Commission must consider the interests of both the investors and the consumers. Sound judgment in the balancing of their respective interests is how a decision is reached, rather than by use of a mathematical or legal formula. *Public Utilities Comm'n v. Northwest Water Corp.*, 168 Colo. 154, 173, 551 P.2d 266, 276 (1963). Stated differently, in setting rates, the Commission must balance protecting the interests of the general public from excessive and burdensome rates against the utility's rights to adequate revenues and financial health. *Public Utilities Comm'n v. District Court*, 186 Colo. 278, 234, 527 P.2d 233, 282 (1974). The final test is that the rates must be "just and reasonable." *Id.*; see *Integrated Network Services, Inc. v. Public Utilities Comm'n.*, 875 P.2d at

1381 (“[I]t is the function of the [Commission] to adopt rate structures that are fair and reasonable.”) In rate-making, it is the result reached, not the method employed that is controlling. *Federal Power Comm’n v. Hope Natural Gas Co.*, 320 U.S. 591, 602 (1944).

**B. The Settlement Agreement.**

22. As noted earlier, the Settling Parties are Public Service, Staff, and Denver. In the Settlement Agreement, Hearing Exhibit 500, the Settling Parties have proposed a comprehensive settlement addressing all contested issues in the rate case based on a net base rate revenue requirement of \$18,748,354, reflecting an increase of \$6,630,865 over current annual base rate revenues. The average customer bill impact of the settled rates with the Mitigation GRSA is an increase of 24.9 percent compared with current rates. The average customer bill impact of the full amount of settled rates, after the rate mitigation GRSA is removed, will be an increase of 35.6 percent compared with current rates. These percentage increases are subject to the true-up of actual rate case expenses and actual DSP boiler unit 3 costs, as discussed below.

23. The Settlement Agreement includes four attachments. Attachment A lists Settlement Agreement Adjustments made to the cost of service study. Attachment B represents the Settlement cost of service study. A demonstration of the derivation of the settled rates and associated estimated average bill impacts are reflected in Attachment C. The resulting settled rates are as set forth on Sheet No. 3 of the *pro forma* tariff sheets included as Settlement Attachment D. The Settlement Agreement and its four attachments are included in Appendix A to this Decision.

24. The Commission encourages the settlement of contested proceedings. Rule 1408 of the Rules of Practice and Procedure, 4 *Code of Colorado Regulations* 723-1.



25. The Settlement Agreement is supported by the Settlement Testimonies of Public Service witness Applegate (Hearing Exhibit 501) and Public Service witness Berman (Hearing Exhibit 502), as well as by oral testimony at the May 30, 2019 Settlement hearing.

26. In the Commission's suspension order, the Commission listed three issues that the Commissioners desired to be examined in this Proceeding. Those issues were: (1) whether the costs proposed to be recovered through the Company's steam rates are consistent with previous Commission direction and Company assertions in earlier proceedings related to the replacement of the Zuni Station as well as the various rate proceedings since 2012 to the present, including, but not limited to, Proceeding Nos. 12A-1264ST, 14AL-0710ST, and 14A-1190ST; (2) whether there are any variances in costs at issue in this Proceeding, as compared to the costs presented in those earlier proceedings, and whether any variances that may become apparent should have an impact on the allowable recovery of costs or on the Company's authorized return on the associated investments; and (3) the proposed engineering study, including how the results of the study would be used, and whether it is appropriate to authorize future rate recovery for the costs of the study in this Proceeding.<sup>3</sup> At the prehearing conference, consistent with fundamental fairness and Due Process of Law, the ALJ invited the Parties to address those issues in the answer testimony to be filed by intervenors and in the rebuttal testimony to be filed by Public Service.<sup>4</sup> The Parties addressed those issues in the Answer Testimony, in the Rebuttal Testimony, and in the Settlement Agreement and Settlement Testimony. Based upon substantial evidence in the record of this Proceeding as a whole, by approving the Settlement Agreement, the ALJ has

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<sup>3</sup> Decision No. C19-0152 ¶ 14 at page 4.

<sup>4</sup> Decision No. R19-0274-I ¶ 34 at page 11.

examined those issues thoroughly, consistent with the requirements of fundamental fairness and Due Process of Law.

**1. Revenue Requirement.**

27. The Settling Parties agreed to a net base rate revenue requirement of \$18,748,354, reflecting an increase of \$6,630,865 over current annual base rate revenues. A 2017 HTY Cost of Service Study (COS) with a year-end rate base was used as the starting point for the revenue requirement.<sup>5</sup> The COS incorporates the impacts of the reduction in the corporate federal income tax rate from 35 percent to 21 percent as a result of the TCJA. The Settling Parties averred that the revenue requirement, with its stipulated base rate increase, is just and reasonable.

28. Attachment A to the Settlement Agreement demonstrates the adjustments that were made to the COS, including the change to the WACC or the overall rate of return, removal of Construction Work in Progress (CWIP), removal of Allowance for Funds Used During Construction (AFUDC), removal of the Unamortized Balance of Rate Case Expenses, removal of Rate Case Expenses for this Proceeding, and an adjustment for the Net Operating Loss impact.

29. Attachment B to the Settlement Agreement is the revenue requirement model based on the 12 months ended December 31, 2017, which also demonstrates the adjustments made as a result of the settlement. The full revenue requirement model presented in the attachment is comprised of 44 schedules that support the derivation of the settled revenue requirement.

30. Attachment C to the Settlement Agreement demonstrates the test year billing determinants and bill impacts as a result of the settled rates, including the mitigation of those

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<sup>5</sup> The COS was presented by Public Service witness Steven P. Berman as Attachment No. SPB-1 to his Direct Testimony, Hearing Exhibit 101.

rates in the first year under the Settlement Agreement. As reflected in the settled rates, the mitigated GRSA of negative 10.61 percent to be effective on October 1, 2019 will result in a total bill increase of 24.9 percent. In the second year, effective October 1, 2020, the GRSA will be reset to zero percent, resulting in a total bill increase of 10.7 percent. The total bill impact for both years (2019 and 2020) is an increase of 35.6 percent.

31. The ALJ finds that the 2017 HTY, as adjusted, is a just and reasonable basis for determining the revenue requirement. The ALJ finds that the settled overall base rate revenue requirement of \$18,748,354, reflecting an increase of \$6,630,865 over current annual base rate revenues, is just and reasonable. The ALJ also finds that the stipulated rate mitigation strategy, which effectively reduces the rate impacts in the first year (2019), then implements the full revenue requirement in the second year (2020), and reduces the GRSA to zero percent, is also just and reasonable.

## **2. Weighted Average Cost of Capital, Capital Structure, and Return on Equity**

32. In its Direct Testimony, Public Service proposed an overall rate of return (or return on rate base) of 7.92 percent based on its requested Capital Structure of 56.29 percent equity and 43.71 percent long-term debt, a Cost of Long-Term Debt of 4.42 percent, and an ROE of 10.65 percent.<sup>6</sup> The proposed ROE was based on a range of reasonableness between approximately 9.95 percent and 11.05 percent.

33. The Settlement Agreement reflects an overall rate of return on rate base of 7.19 percent. The rate of return calculation is comprised of a Capital Structure that includes a ratio of 56.04 percent equity, which is based on the average of the 12 months ended March 31,

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<sup>6</sup> Hearing Exhibit 100, Direct Testimony of Michelle Moorman Applegate, p. 3:15-19.

2019. The ratio of long-term debt, as reflected in Attachment B to the Settlement Agreement, is 43.96 percent.<sup>7</sup> The settled Cost of Long-Term Debt is 4.03 percent.<sup>8</sup>

34. The Settlement Agreement states that the ROE shall be 9.67 percent for purposes AFUDC.<sup>9</sup> In Settlement Testimony, Hearing Exhibit 501, Public Service witness Ms. Applegate stated that the Settlement Agreement does not directly state a settled ROE, apart from an ROE for the purposes of AFUDC. However, the Settling Parties relied on an ROE of 9.67 percent in calculating the settled revenue requirement.<sup>10</sup>

35. The resulting calculation of the overall rate of return of 7.19 percent, incorporating the settled elements of the cost of capital, is as follows:

**Rate of Return Calculation**

	<b>Ratio</b>	<b>Cost Rate</b>	<b>Weighted Contribution</b>
Ratio of Long-Term Debt	43.96 percent	4.03 percent	1.77 percent
Ratio of Common Equity	56.04 percent	9.67 percent	5.42 percent
Weighted Average Cost of Capital	100 percent		7.19 percent

36. The Settling Parties state that the stipulated rate of return takes into account the unique characteristics of the Steam business, including the risks associated with a declining customer base, sources of financing included in actual capital structures and various time periods, as well as the commitment to work collaboratively on a Regulatory and Resource Plan.

<sup>7</sup> Hearing Exhibit 500. Settlement Agreement, Attachment B, Schedule 2, p. 4, Line No. 1.

<sup>8</sup> *Id.*, Line No. 2.

<sup>9</sup> The ALJ notes that, as stated in Settlement Testimony, the settled revenue requirement includes an adjustment “Removing all Construction Work in Progress (CWIP) from rate base, including the offset for [AFUDC].” Therefore, AFUDC is not part of the revenue requirement calculation. Hearing Exhibit 501, Settlement Testimony of Michelle Moorman Applegate, p. 16:8-10.

<sup>10</sup> *Id.*, p. 33:10-21.

37. The ALJ finds that the WACC and Capital Structure are just and reasonable and in the public interest. Because the Settlement Agreement did not stipulate an agreed ROE between the Settling Parties, the ALJ makes no finding of specific percentage ROE. However, for purposes of calculating the revenue requirement, the Settlement Agreement incorporates an ROE of 9.67 percent as an element of the overall rate of return calculation, which the ALJ finds is just and reasonable and in the public interest.

### 3. Depreciation and Amortization Expense

38. Through the Direct Testimony of Laurie J. Wold, Public Service proposed adjustments to depreciation and amortization expense reflected in the 2017 HTY,<sup>11</sup> as well as revised depreciation rates. No party opposed the revisions. The Settling Parties agree that the Commission should approve the updated depreciation rates for production, distribution, general, and common plant accounts based on the 2018 Deprecation Study, which includes a terminal retirement date of 2044 for the DSP Unit 3 Boiler and a revised terminal retirement date of 2025 for both of the existing boilers (Units 1 and 2) at the Denver Steam Plant.

39. The Zuni Station will cease steam operations in 2019 with an estimated unrecovered net plant balance of \$333,522 at September 30, 2019.<sup>12</sup> In conjunction with the agreement regarding the treatment of accrued TCJA savings, Public Service will apply \$333,522 of that savings to eliminate the unrecovered net book balance of the Steam business's Zuni investment as of October 1, 2019. Public Service will not recover depreciation and amortization expense related to the Steam Business's investment in Zuni effective October 1, 2019. No depreciation or

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<sup>11</sup> Hearing Exhibit 106, Direct Testimony and Attachments of Laurie J. Wold, p. 7:10-8:23.

<sup>12</sup> Hearing Exhibit 106, Direct Testimony and Attachments of Laurie J. Wold, p. 29:12-13.

amortization expense related to the Zuni Plant investment was included in the 2017 HTY nor is it reflected in the Settled Revenue Requirement.

40. In the Settlement Testimony of Ms. Applegate, the Company requests that any Commission decision approving the Settlement Agreement list the attachments to testimony containing the depreciation rates, in order to identify clearly the depreciation rates that are approved.<sup>13</sup> The ALJ agrees that, since the Settlement Agreement proposes to adopt the depreciation rates proposed in the Direct Testimony of Ms. Wold, it is important to specify the attachments containing the depreciation rates that are approved. The depreciation rates as set forth in Attachment LJW-1 (and specifically Appendix A, Appendix A-1, and Appendix A-2 of the 2018 Depreciation Study), Attachment LJW-2, and Attachment LJW-3 are approved.<sup>14</sup>

41. The ALJ finds that the updated assumptions and adjustments to the 2017 test year, as well as the proposed depreciation rates, are a just and reasonable basis for inclusion in determining Public Service's revenue requirement.

#### **4. Rate Review Expense**

42. The Settling Parties agree that the \$215,758 of estimated rate review (or rate case) expenses is reasonable. In conjunction with the agreement concerning the treatment of accrued TCJA savings, Public Service will apply a portion of the savings to offset the actual final expenses incurred for this rate case. Both the regulatory asset reflected in rate base and the amortization amount included in Administrative and General) expense, as proposed in the Direct

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<sup>13</sup> Hearing Exhibit 501, Settlement Testimony of Michelle Moorman Applegate, p.19: 9-20.

<sup>14</sup> Hearing Exhibit 106, Direct Testimony and Attachments of Laurie J. Wold.

Testimony of Steven P. Berman, Hearing Exhibit 101, have been removed from the Settlement Cost of Service Study.<sup>15</sup>

43. Because the rate case expenses are an estimate, the Settling Parties acknowledged that a true-up process for actual rate case expense is necessary. At the hearing on the Settlement Agreement, Public Service witness Steven P. Berman explained: 1) the true-up for rate case expenses is a distinct process from the true-up related to the DSP Unit 3 Boiler; 2) it will be completed prior to October 1, 2019; and 3) the recovery of actual rate case expense is expected to be accomplished through a separate advice letter filing.<sup>16</sup>

44. The ALJ finds and concludes that this aspect of the Settlement Agreement is reasonable and a fair and efficient way to handle recovery of actual rate case expenses.

**5. TCJA Tax Savings**

45. With respect to application of the TCJA tax savings accrued from January 1, 2018 through the effective date of new rates in this proceeding on October 1, 2019, the Settling Parties agreed to the following:

Total TCJA Savings <sup>17</sup>	\$896,643
Unrecovered Net Book Value of Zuni Investment <sup>18</sup>	(333,522)
Estimated Rate Review Expenses <sup>19</sup>	<u>(215,758)</u>
Steam Cost Adjustment Credit (estimate)	\$347,363

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<sup>15</sup> Hearing Exhibit 101, Direct Testimony of Steven P. Berman, pp. 8:17 through 9:6.

<sup>16</sup> Settlement Hearing Transcript, p. 29:4-18.

<sup>17</sup> Hearing Exhibit 101, Attachment SPB-5, Direct Testimony and Attachments of Steven P. Berman.

<sup>18</sup> Hearing Exhibit 106, Direct Testimony and Attachments of Laurie J. Wold, p. 29:12-13

<sup>19</sup> Hearing Exhibit 100, Attachment MMA-2, Direct Testimony and Attachments of Michelle Moorman Applegate.

46. Initially, Public Service proposed to apply \$333,522 of the TCJA tax savings to the Zuni investment and to retain the remaining amount of the savings of \$563,121.<sup>20</sup> Staff opposed the Company's request to retain the remaining savings, stating the Commission has either flowed TCJA savings to customers through reduced rates or, as in the case of Public Service's Electric and Gas Departments, used savings to benefit ratepayers by offsetting the Company's Legacy Pre-Paid Pension Assets. The Commission has not allowed any utility to retain TCJA savings for any other reason<sup>21</sup>.

47. According to the Settlement Agreement, \$333,522 of the accrued savings will be used to eliminate the unrecovered net book balance of the steam business's Zuni investment as of October 1, 2019. The actual rate case expense amount will be applied to fully reimburse the Company (whether more or less than the projected \$215,758). The remaining estimated amount will be returned to customers through the Steam Cost Adjustment (SCA) mechanism. The TCJA amount applied to the SCA will be credited to the Deferred Steam Cost balance in the first SCA application filed after the effective date of the final Commission decision approving this Settlement Agreement.

48. The ALJ finds the application of the TCJA tax savings as described in the Settlement Agreement and in this Decision to be just and reasonable and in the public interest.

## **6. Rate Design and Rates.**

49. The Settling Parties agree to the approval and implementation of the Company's proposed rate design and derivation of revised rates, as detailed in the Direct Testimony and Attachments of Steven J. Wishart, Hearing Exhibit 105, with an adjustment to the consumption

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<sup>20</sup> Hearing Exhibit 100, Direct Testimony and Attachments of Michelle Moorman Applegate, p. 52:4-13.

<sup>21</sup> Hearing Exhibit 202, Answer Testimony and Attachments of Karlton Kunzie, p. 24:2-7.



charge from \$14.115 to \$13.314/Mlb to reflect the Settled Revenue Requirement. The derivation of the settled Consumption Charge of \$13.314 per Mlb is shown on page 1 of Attachment C to the Settlement Agreement. The monthly Service and Facility Charge will be \$300 and the monthly Demand Charge will be \$85 per Mlb, as originally proposed by the Company. The Settled Rates and associated estimated average bill impacts are reflected in Attachment C to the Settlement Agreement. The resulting settled rates are as set forth on Sheet No. 3 of the *pro forma* tariff sheets included in Attachment D to the Settlement Agreement. The new rates on the Schedule of Charges for Rendering Service, Sheet No. 4, were also agreed to by the Settling Parties.<sup>22</sup>

50. The ALJ finds that the revised tariff sheets in Attachment D, including the Schedule of Charges for Rendering Service, are just, reasonable, and non-discriminatory.

#### **7. Rate Mitigation Plan, True-Up.**

51. The Settlement proposes a two-step rate mitigation approach. For the period October 1, 2019 through September 30, 2020, when new rates are in effect, a negative GRSA rate adjustment rider of 10.61 percent will be implemented to reduce annual base rate revenues by \$1,989,259, or 30 percent of the annual revenue increase of the Settled Revenue Requirement. On October 1, 2020, the negative GRSA will terminate and be replaced with a zero percent GRSA to remove the rate mitigation amount. From October 1, 2020 forward, the approved base rates will continue in effect without further mitigation. The Settling Parties acknowledged, however, that a GRSA other than zero percent may be required as a result of the true-up, either positive or negative, to reflect the final actual costs, including AFUDC, of the DSP Unit 3 Boiler. The Settling Parties agreed that, on or before July 1, 2020, the Company will submit for review

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<sup>22</sup> See Hearing Exhibit 500, the Settlement Agreement and Attachments C and D.

and inspection by the Parties<sup>23</sup> a detailed breakdown of the actual costs of the DSP Unit 3 Boiler.<sup>24</sup> If the Parties have any concerns with the actual cost breakdown, they must raise those concerns to the Company by August 1, 2020. Then the Company and Parties would try to resolve those concerns. If the Company and Parties cannot resolve those concerns, the Parties may, by September 15, 2020, file a protest to the July Advice Letter and tariff filing. If a protest is filed, either by Parties to this proceeding or by any other filer, and the Commission suspends the Advice letter and tariffs, then the Company will implement by compliance filing as directed by this Decision the zero GRSA rates as presented in the tariff sheets attached to the settlement, to be in effect on October 1, 2020. The adjudication of the actual cost breakdown and any dispute over the actual costs would be set for hearing, and upon completion of that proceeding the resulting rate changes will be implemented.<sup>25</sup>

52. As previously discussed in Section B.1 on the Revenue Requirement, the rate mitigation plan proposed in the Settlement Agreement is an essential component of the settlement, and it is necessary to implement the final rates in a just and reasonable manner.

### **8. Engineering Study, Regulatory and Resource Plan**

53. The Settlement Agreement proposes that the Company will develop a Regulatory and Resource Plan for the Steam business and will file it with the Commission on or before May 1, 2022. As part of that Plan, the Settling Parties agree that the Company will undertake an engineering study, as detailed in Ms. Applegate's Rebuttal Testimony.<sup>26</sup>

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<sup>23</sup> The Company shall provide the actual cost breakdown information to all Parties to this proceeding, including CEC.

<sup>24</sup> Public Service will be ordered to file the detailed breakdown of the actual costs of the DSP Unit 3 Boiler with this Commission in this Proceeding.

<sup>25</sup> See May 30, 2019 transcript pages 16-23 and Hearing Exhibit 501, Settlement Testimony of Michelle Moorman Applegate, pp. 23:18 through 25:22.

<sup>26</sup> Hearing Exhibit 107, Rebuttal Testimony of Michelle M. Applegate, pp. 35:1 through 40:15.

54. The Company initially proposed the engineering study to include an evaluation of each of the Company's individual customer's steam facilities and the scope of work and costs associated with a potential future conversion to another fuel source. The Company stated that through this study it will complete a full evaluation of the Steam business and will better inform customers and promote mutual collaboration on future energy alternatives. Staff recommended that the Company's engineering study include an analysis of the Steam System under the "watershed event" of DSP Units 1 and 2 retiring in 2025, as well as a determination of the customers who would be most able to transition from steam service to electric or gas service in order to meet the reduced maximum load resulting from the retirement of DSP Units 1 and 2 in the future.

55. As proposed in the Settlement Agreement, the Regulatory and Resource Plan will include:

- Engineering Study results;
- Life of Steam system assets necessary to provide reliable service, including DSP Units 1 and 2;
- Load profiles and assets necessary to support load;
- Reliability;
- Any regulatory proposals to stabilize rates; and
- Long-term plan for steam operations, addressing the needs for the period 2023 through 2030 and/or later.

56. The Settling Parties further agreed to deferred accounting treatment and the establishment of a regulatory asset for the third-party engineering firm costs. The deferred accounting treatment and regulatory asset will be used only for the third-party engineering firm costs incurred by the Company associated with the engineering study.

57. The ALJ finds that the Regulatory and Resource Plan and engineering study are essential to determine the future of the Company's steam business, and directs the Company to pursue fully the objectives proposed in the Settlement Agreement, as well as the objectives stated in testimony by the Company and Staff. The proposed Regulatory and Resource Plan and engineering study are reasonable and will be approved, along with the deferred accounting treatment and the establishment of a regulatory asset for the costs associated with the third-party engineering firm.

**9. Water Treatment and DSP 3 Boiler costs.**

58. In the Settlement Agreement, the Settling Parties represented that they have investigated whether the costs proposed to be recovered through the Company's steam rates are consistent with previous Commission directions in earlier proceedings related to the replacement of the Zuni Station and the various steam rate proceedings since 2012 and have satisfied themselves that the variances in costs included in the Settled Revenue Requirement discussed above are reasonable.

59. Staff actively engaged in the review of the additional Denver Steam Plant unit 3 boiler and RO water treatment costs proposed for recovery in this proceeding. In its Answer Testimony, Staff recommended requiring Public Service to file an application for approval of a CPCN for the RO water treatment plant costs associated with DSP units 1 and 2, and recommended disallowance at this time for \$6,559,484 in costs associated with the RO System.<sup>27</sup> Staff also recommended requiring the engineering plan to include consideration of the retirement of DSP units 1 and 2.<sup>28</sup> This analysis would, therefore, address whether the \$6.5 million RO

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<sup>27</sup> Hearing Exhibit 200, Answer Testimony of Gene Camp, p. 14:12-17.

<sup>28</sup> *Id.*, pp. 8-11.

investment would be used only through the current 2022 retirement, or whether the facilities would be used longer if DSP 1 and 2 retirement is extended to 2025, as Public Service initially proposed or as determined in the engineering study.

60. The ALJ finds that the Parties adequately addressed the inclusion of RO water treatment plant costs and DSP unit 3 boiler costs as a part of the overall settlement. The ALJ finds that inclusion of the full RO water treatment plant costs and DSP unit 3 boiler costs is reasonable, as proposed in the Settlement Agreement. The ALJ also approves Staff's withdrawal of its request for a CPCN application for the DSP unit 1 and 2 RO water treatment facilities.

### **III. CONCLUSIONS**

61. The Commission has jurisdiction over the subject matter of this proceeding, pursuant to §§ 40-1-103(1), 40-3-102 and 40-6-111, C.R.S., and over the Parties.

62. The ALJ will approve the Settlement Agreement without modification. The Settlement Agreement, including its Attachments, is attached to this Decision as Appendix A.

63. The draft tariffs and new rates, in Attachment D to the Settlement Agreement, are just, reasonable, and non-discriminatory and will be approved.

64. The Parties will be ordered to abide by the terms and conditions of the Settlement Agreement and with this Decision.

65. The tariffs filed by Public Service with Advice Letter No. 150 on January 25, 2019, will be permanently suspended and will not become effective.

66. Public Service will be ordered to file compliance tariffs on not less than two business days' notice to implement actual rate case expenses, to be in effect on October 1, 2019.

67. Public Service will be ordered to file compliance tariffs to implement step one of the new rates and charges approved in this Decision, including the rate mitigation GRSA, on not less than two business days' notice.<sup>29</sup>

68. Public Service will be ordered to file compliance tariffs to remove the step one GRSA rate mitigation, and to implement a true-up for actual DSP unit 3 and RO water treatment costs on 30 days' notice, to become effective on October 1, 2020.

69. In accordance with § 40-6-109, C.R.S., the ALJ recommends that the Commission enter the following Order.

#### **IV. ORDER**

##### **A. The Commission Orders That:**

1. The Unopposed Joint Motion for Approval of Settlement Agreement filed by Public Service Company of Colorado (Public Service or Company), Commission Staff (Staff), and the City of Denver (Denver) on May 20, 2019, is granted, consistent with the findings and discussion in this Decision.

2. The Settlement Agreement filed on May 20, 2019 by Public Service, Staff, and Denver (Parties) is approved without modification, consistent with the findings and discussion in this Decision.

3. Public Service shall develop a Regulatory and Resource Plan, which includes an engineering study, consistent with the discussion above. Public Service shall file for approval of the Regulatory and Resource Plan with the Commission on or before May 1, 2022.

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<sup>29</sup> Parties to the Settlement request compliance tariffs on not less than two days' notice. Hearing Exhibit 500, Settlement Agreement, Section V, p. 10.

4. Deferred accounting treatment is granted for the third-party engineering firm costs incurred by the Company associated with the engineering study. Public Service is authorized to implement a regulatory asset to be used for the engineering study, consistent with the findings and discussion in this Decision.

5. The tariffs filed on January 25, 2019 by Public Service, accompanying Advice Letter No. 150-Steam with a proposed effective date of February 25, 2019, are permanently suspended and shall not become effective.

6. Public Service shall file compliance tariffs to implement the new step one rates and charges approved in this Decision, including the rate mitigation General Rate Schedule Adjustment (GRSA), on not less than two business days' notice, which are identical in principle to the draft tariffs in Attachment D to the Settlement Agreement, consistent with the findings and discussion in this Decision. Public Service shall make this filing within ten days after this Recommended Decision becomes the effective Decision of the Commission, or within ten days after the effective date of the Commission's final Decision, if applicable.

7. Public Service shall file compliance tariffs on not less than two business days' notice to implement a rate adjustment for actual rate case expenses, to be in effect on October 1, 2019, consistent with the findings and discussion in this Decision.

8. Public Service shall file Step Two compliance tariffs to remove the Step One GRSA rate mitigation, and to implement a true-up for actual DSP unit 3 and Reverse Osmosis water treatment costs, on 30 days' notice, to become effective on October 1, 2020, consistent with the findings and discussion in this Decision. Public Service shall provide a detailed breakdown of the actual costs to all Parties in this proceeding, and shall file the same with this Commission in this Proceeding, on or before July 1, 2020.

9. Public Service shall comply with the terms and provisions of the Settlement Agreement, which is attached to this Decision as Appendix A, and with this Decision.

10. The Parties shall abide by the terms of the Settlement Agreement and with this Decision.

11. Proceeding No. 19AL-0063ST shall remain open to receive compliance filings.

12. 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.

13. As provided by § 40-6-106, C.R.S., copies of this Recommended Decision shall be served upon the parties, who may file exceptions to it.

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

b. If a party seeks to amend, modify, annul, or reverse basic findings of fact in its exceptions, that party must request and pay for a transcript to be filed, or the parties may stipulate to portions of the transcript according to the 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.



14. If exceptions to this Recommended 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

STEVEN H. DENMAN

\_\_\_\_\_  
Administrative Law Judge

ATTEST: A TRUE COPY

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

Doug Dean,  
Director