

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23D-0591E

IN THE MATTER OF THE COLORADO COMMUNICATION AND UTILITIES ALLIANCE,
THE TOWN OF MORRISON, AND THE CITIES OF ARVADA, AURORA, CENTENNIAL,
NORTHGLENN, AND WHEAT RIDGE'S PETITION FOR A DECLARATORY ORDER
REGARDING PUBLIC SERVICE COMPANY OF COLORADO'S CUSTOMER OWNED
LIGHTING TARIFF AND PAYMENT RESPONSIBILITY FOR STATE AND INTERSTATE
HIGHWAY STREETLIGHTING.

**COMMISSION DECISION DENYING EXCEPTIONS TO
RECOMMENDED DECISION NO. R25-0382 AND
PROVIDING CLARIFICATIONS**

Issued Date: October 16, 2025
Adopted Date: September 24, 2025

TABLE OF CONTENTS

I.	BY THE COMMISSION	2
A.	Statement	2
B.	Background.....	2
1.	Procedural History.....	2
2.	Recommended Decision.....	4
C.	Exceptions	6
1.	Public Service.....	6
2.	CDOT	9
D.	Findings and Conclusions.....	11
II.	ORDER.....	14
A.	The Commission Orders That:	14
B.	ADOPTED IN COMMISSIONERS' WEEKLY MEETING October 1, 2025.	15

I. BY THE COMMISSION**A. Statement**

1. By this Decision, the Commission denies the exceptions to Recommended Decision No. R25-0382 (“Recommended Decision”) filed on July 11, 2025, by Public Service Company of Colorado (“Public Service” or the “Company”) and the Colorado Department of Transportation (“CDOT”), respectively.

B. Background**1. Procedural History**

2. On December 4, 2023, the Colorado Communication and Utilities Alliance, the Town of Morrison, and the Cities of Arvada, Aurora, Centennial, Northglenn, and Wheat Ridge (the “Local Governments” or the “Petitioners”) filed a Petition for Declaratory Order (“Petition”) initiating this Proceeding. In the Petition, the Local Governments request that the Commission clarify certain provisions relating to the payment responsibility for interstate and state highway streetlighting. Specifically, the Local Governments argued that payment responsibility for streetlights on state and interstate highways located within municipal boundaries remain with CDOT unless certain conditions of transfer under the Public Service Customer Owned Lighting Tariff (“COL Tariff”) are met.

3. On December 19, 2023, Public Service and CDOT filed a Joint Motion to Stay the Commission’s Determination of Whether to Accept the Petition. Public Service and CDOT asked the Commission to stay its determination in order to provide them and other interested parties with sufficient opportunity to review and to file a response.

4. On December 21, 2023, Public Service filed a Notice of Intervention as of Right, Unopposed Alternative Motion for Permissive Intervention, and Request for Waiver of Response Time.

5. By Decision No. C23-0861-I, issued December 22, 2023, the Commission construed the Joint Motion to Stay the Commission's Determination of Whether to Accept or Deny the Petition as public comment, and set deadlines for the filing of any responses to the Petition addressing whether the Commission should accept or reject the Petition and replies to any responses.

6. CDOT, on December 29, 2023, filed a Notice of Intervention of Right and Alternate Motion for Permissive Intervention.

7. By Decision No. C24-0079-I, issued February 7, 2024, the Commission, among other things: accepted the Petition; acknowledged the Company as an intervenor of right and granted CDOT's permissive intervention; denied CDOT's Motion in Opposition to Local Governments' Petition for Declaratory Order and Partial Motion to Dismiss that was filed on January 3, 2024, and assigned the matter to an Administrative Law Judge ("ALJ"). The Commission further stated that "to the extent necessary, the ALJ assigned to this matter will determine which statutory interpretations are required by the Commission to clarify Public Service's ability to transfer payment responsibility, and whether it is appropriate for the Commission to opine on such interpretations in the context of [the] Petition."¹

8. By Decision No. R24-0585-I, issued August 14, 2024, the ALJ, among other things, waived the prohibition against filing replies and/or reply briefs codified in Rule 1400(e) of the

¹ Decision C24-0079-I at ¶ 25.

Rules of Practice and Procedure, 4 *Code of Colorado Regulations* 723-1, and set a briefing schedule for the merits of the Petition.

9. By Decision No. R24-0866-I, issued November 22, 2024, the ALJ, among other things, amended the briefing schedule in this Proceeding.

10. By Decision No. R24-0949-I, issued December 31, 2024, the ALJ denied CDOT's Motion for Summary Judgment.

11. On February 4, 2025, Public Service and CDOT filed their respective response briefs.

12. On March 6, 2025, the Local Governments filed a Response Brief.

13. The ALJ issued the Recommended Decision on May 21, 2025.

14. On June 5, 2025, by Decision No. C25-0440-I, the Commission granted the Unopposed Joint Motion for an Extension of Time to File Exceptions filed by Public Service and CDOT and extended the deadline to file exceptions to the Recommended Decision to July 11, 2025.

15. On July 11, 2025, Public Service and CDOT, respectively, filed exceptions to the Recommended Decision.

2. Recommended Decision

16. The Recommended Decision ultimately granted the Petition, in part, and denied the Company's request (made in its response brief) for a declaratory ruling that municipalities are responsible for paying electric charges for streetlighting on state and interstate highways.

17. The Recommended Decision addressed the declaratory relief requested in the Petition and as refined by Decision No. C24-0079-I. More specifically, the Recommended Decision stated it addressed concerns regarding the interpretation and application of

Public Service's COL Tariff in determining financial responsibility for streetlighting on state and interstate highways within municipal boundaries. The ALJ further clarified that its decision does not interpret or enforce the duties of CDOT or any other parties under Title 43, C.R.S., nor does it compel any entity to accept ownership or obligations under Commission-approved tariffs. The ALJ explained that while the § 43-2-135(1), C.R.S., ("Division of Authority Statute") may establish municipal obligations as a matter of transportation or local government law, it does not override the procedural and substantive requirements that utilities must follow under Commission-approved tariffs, which have the force and effect of law.²

18. The ALJ identified the central issue in this Proceeding as whether Public Service may lawfully reassign payment responsibility for streetlighting service located within municipal boundaries to local governments, consistent with the terms of its tariffs and applicable law. The ALJ found that the evidence in the records shows CDOT is currently paying for streetlighting service along state and interstate highways, including those portions located within municipal boundaries, and that Public Service has not effectuated any formal reassignment of payment obligations for at least some of that infrastructure. Similarly, the ALJ found there is no evidence that any municipality has affirmatively requested service under the SL Tariff, accepted ownership of the subject streetlights, or assumed maintenance responsibility for said streetlights, whether formally or by implication.³

19. The ALJ found that the Company's continued billing of CDOT for the streetlights, alongside the absence of franchise amendments, metering agreements, or municipal requests, supported a finding that no lawful transfer of payment responsibility has occurred under the COL

² Recommended Decision at ¶ 45.

³ *Id.* at ¶ 45.

Tariff. Moreover, the ALJ found persuasive the Petitioners' position that responsibility for electric service charges must continue to be governed by the Commission's approved tariffs, notwithstanding any possibly overlapping statutory language.⁴

20. Similarly, the ALJ stated that any obligations arising under the Division of Authority Statute are distinct from, and do not override, the procedural and substantive requirements of Commission-approved tariffs. The Recommended Decision held that while the Division of Authority Statute imposes a general legislative obligation on municipalities to provide street illumination, that obligation is separate from and does not displace the billing requirements set forth in Commission-regulated tariffs, and Public Service remains bound by its approved tariffs when assigning payment responsibility for streetlighting service.⁵

C. Exceptions

1. Public Service

21. Public Service argues the Recommended Decision applied the wrong tariff to the facts of this Proceeding. The Company asserts the Colo. PUC Electric Tariff, Public Street and Highway Lighting Service, Street Lighting Service ("SL Tariff"), which has been in effect in various schedules since before 1980, governs the terms, conditions, and rates by which Public Service bills municipalities and other customers for electricity and maintenance for Company-owned (not customer owned) streetlights, regardless of whether the streetlights are located on city streets, in unincorporated areas, or on state and interstate highways.⁶ The Company asserts the streetlights located on interstate and state highways within the boundaries of the petitioning municipalities are Company-owned and served under the SL Tariff.⁷

⁴ *Id.* at ¶¶ 52-53.

⁵ *Id.* at ¶ 45.

⁶ Public Service Exceptions at p 9.

⁷ *Id.* at pp. 9-10.

22. In contrast, Public Service asserts the COL Tariff provides lighting services to CDOT and municipalities for customer-owned streetlights and contains narrowly defined conditions under which CDOT may transfer payment responsibility. The Company therefore argues the ALJ erred in adopting the Petitioners' argument that the terms and conditions of the COL Tariff govern the determination in this Proceeding and disregarded the fact that the Company bills for streetlights within municipal boundaries under the long-standing SL Tariff, under which the petitioning municipalities are the customers of record.⁸

23. Public Service asserts the proper issue to be decided in this Proceeding is whether the Company has been lawfully serving and billing the petitioning municipalities for Company-owned streetlights located within municipal boundaries, consistent with the terms of its streetlighting tariffs and applicable law, in light of facts that show that the Local Governments have been billed for decades under the SL Tariff. The Company contends the Petitioners provided no credible facts proving any transfers of payment responsibility by Public Service or that the disputed streetlights billed under the SL Tariff are not owned by the Company.⁹

24. The Company also argues the Recommended Decision is mistaken in finding that "CDOT currently pays for streetlighting service along state and interstate highways, including portions located within municipal boundaries, and Public Service has not effectuated any formal reassignment of payment obligations for at least some such infrastructure."¹⁰ Public Service states there is no credible evidence that CDOT currently pays for streetlighting service along state and interstate highways, and argues again the disputed streetlights are Company-owned (as required

⁸ *Id.* at p. 27.

⁹ *Id.* at p. 14.

¹⁰ *Id.* at p. 16 (citing Recommended Decision at ¶ 48).

under the SL Tariff) and the Local Governments have been the customers of record for billing under the SL Tariff.

25. Next, the Company asserts that the Recommended Decision both failed to follow the Commission's directive in the referral order and to properly apply and interpret the Division of Authority Statute.¹¹ Specifically, the Company disagrees with Petitioners' argument that state and interstate highways (and C-470) that extend through a city are not "streets" within the meaning of "streets which are a part of the state highway system" pursuant to the Division of Authority Statute. Rather, the Company argues, because a "state highway" can run through a city or town, and the definition of "city street system" excludes any street that is part of the state highway system, the portions of state and interstate highways and C-470 that traverse through the municipalities are part of the "state highway system," and not city streets. Therefore, the Company asserts it is the responsibility of the petitioning municipalities to provide street illumination at their own expense along streets that are a part of the state highway system within their municipal boundaries.¹²

26. Finally, the Company warns that upholding the Recommended Decision will lead to a fundamentally unfair result, with other electric customers subsidizing the streetlighting payment. Additionally, the Company argues that even if the Commission rules that CDOT is responsible moving forward for paying for streetlights located along state and interstate highways and C-470 within municipal boundaries, Morrison and any other municipality that has consumed

¹¹ In accepting the Petition, the Commission stated that, "We expect that, to the extent necessary, the ALJ assigned to this matter will determine which statutory interpretations are required by the Commission to clarify Public Service's ability to transfer payment responsibility, and whether it is appropriate for the Commission to opine on such interpretations in the context of this Petition." Decision No. C24-0079-I at ¶ 25.

¹² *Id.* at pp. 21-22.

electric services for disputed streetlights (or other streetlights within their boundaries) but not paid for those services, should be required to pay their past due electric bills.¹³

2. CDOT

27. CDOT states that it joins Public Service's Exceptions in full.¹⁴ Additionally, CDOT asserts the Commission lacks subject matter jurisdiction to afford the complete relief requested in the Petition, largely because the Commission's ability to interpret and apply non-PUC statutes is limited. Applying *American Heritage Railways*,¹⁵ which CDOT attempts to distinguish in terms of applicability to the Division of Authority Statute, CDOT argues the Petition requests the Commission interpret and enforce numerous statutes that are neither necessary nor incidental to the Commission carrying out its authority.¹⁶

28. CDOT argues the Recommended Decision, by declining to apply the Division of Authority Statute, skipped the critical first step in the analysis required to afford complete relief in this Proceeding and instead the ALJ'S findings and conclusions are based solely on the provisions of the tariffs at issue. Therefore, CDOT contends that if the Commission were to adopt the Recommended Decision, the parties will be left with a result that cannot afford complete relief with respect to the issues raised in the Petition. CDOT argues the Recommended Decision's conclusions are incomplete because the ALJ did not interpret the Division of Authority Statute, provisions of the State Highway Law, or State Highway Act, nor can the Commission enforce the Division of Authority Statute, the State Highway Law, or the State Highway Act.¹⁷

¹³ *Id.* at pp. 25-26.

¹⁴ CDOT Exceptions at p. 3.

¹⁵ *Am. Heritage Railways, Inc. v. Colo. Pub. Utils. Comm'n*, 569 P.3d 61 (Colo. 2025).

¹⁶ CDOT Exceptions at pp. 4-5

¹⁷ *Id.* at pp. 6-8.

29. Moreover, CDOT argues the Recommended Decision's findings and conclusions are incompatible because the end result leaves CDOT in the position of (1) continuing to pay the costs of illumination for numerous street lights throughout the state of Colorado when it has no obligation to do so under the Division of Authority Statute until the Local Governments choose to follow the applicable tariff procedures, or (2) ending illumination of numerous street lights throughout the state of Colorado in locations where the Local Governments are obligated to pay for the costs of illumination, potentially leaving large portions of roadway in the dark.¹⁸

30. Alternatively, if the Commission determines it has jurisdiction to afford the parties complete relief in this Proceeding, it must first determine which non-PUC statutory provisions, if any, are necessary and incidental to the Commission carrying out its authority to interpret and enforce the tariffs at issue in this case, pursuant to *American Heritage Railways*. CDOT therefore asks the Commission to adopt an order that makes clear that CDOT is not involved with or bound by the adopted decision and that cities, cities and counties, and incorporated towns cannot assert the adopted decision as grounds to avoid their payment responsibilities for street illumination on state highways within their respective jurisdictional boundaries, including interstate highways.¹⁹

31. If the Commission upholds the Recommended Decision, CDOT requests that it modify the decision to affirmatively require cities, cities and counties, and incorporated towns to submit formal request for service under the SL Tariff for all streetlights within their respective jurisdictions, specifically including the lighting infrastructure located along the portions of state highways, which includes interstate highways, located within their respective jurisdictional boundaries.²⁰

¹⁸ *Id.* at pp. 7-8.

¹⁹ *Id.* at pp. 9-10.

²⁰ *Id.* at pp. 11-12.

D. Findings and Conclusions

32. We uphold the Recommended Decision in its entirety and affirm the ALJ's narrow finding that the transfer provisions under the COL Tariff have not been met. Based on the Petition's targeted request and the evidence provided by the parties, the ALJ appropriately limited the analysis to the interpretation and application of the COL Tariff and appropriately found that the provisions for a transfer of payment responsibility have not been satisfied.²¹ Specifically, the Recommended Decision states it addressed the relief as it concerns the interpretation and application of the COL Tariff in determining financial responsibility for streetlighting service on state and interstate highways located within municipal boundaries.

33. Based on the Petition's request and the documents contained in the record, the ALJ appropriately limited the analysis to the interpretation and application of the Company's COL Tariff. Public Service argues it is the SL Tariff that should serve as the basis for analysis because the SL tariff is the tariff under which the local governments are billed for service of state and interstate streetlights. However, despite assertions made in Public Service's filings, the Company fails to persuade us that this would be a more appropriate analysis. Rather, it appears that Public Service is unaware or does not have records of which entities are and have been paying for electricity service for the state and interstate highway streetlights in question. For example, in Discovery Request LG1-R-5, the Local Governments asked Public Service to "[p]roduce copies

²¹ "The Local Governments request a declaratory order from the Commission that state law and the terms and conditions of the COL Tariff require that payment responsibility for streetlighting on state and interstate highways remain the responsibility of CDOT unless 1) the state or interstate highway where the street light is located has been accepted into municipal street system; 2) the municipal customer has ownership of the street light or has otherwise agreed to the payment responsibility for that street light through a written agreement with CDOT; and 3) prior to that street light being transferred to the Street Light Service Tariff ("SL Tariff"), the transfer procedures of the COL Tariff are followed including a request from the municipal owner of the street light that the street light be transferred to the SL Tariff and payment of the then applicable construction allowance." Local Governments Petition for Declaratory Order at pp. 2-3.

of any documents related to or including billing records for electricity service for Interstate street lights within PSCo's service territory ... [and to] include as part of the response the tariff under which those Interstate street lights are served and the identity of the entity paying for those street lights." In its response, Public Service stated its "billing system and associated records do not include designations of whether or not each of the Company's street lights is located on an interstate highway."²² Similarly, in response to the Local Governments' request to "[p]roduce any agreements concerning the ownership, maintenance, or payment responsibility for Interstate street lights between PSCo and CDOT or PSCo and a Local Government," the Company stated it does not have other signed agreements with any entities regarding the ownership, maintenance, or payment responsibility for Interstate street lights."²³ Despite arguing that the SL Tariff has been in existence for a number of years and its assertions that the Local Governments are the customers of record under the SL Tariff for the streetlights in question, Public Service fails to provide any documentation substantiating this claim.

34. Moreover, evidence in the record demonstrates that CDOT has been paying the Company for electricity service for interstate streetlights under the COL Tariff. CDOT provided in discovery that "it pays PSCo for electric service for certain streetlights that are associated with non-metered (Flatrate) accounts in accordance with PSCo's Schedule COL Tariff."²⁴ CDOT further states this includes streetlights on state and interstate highways, including C-470.²⁵ Additionally, the Petition explains that the dispute between local governments and CDOT over payment responsibility has been ongoing for over a decade, and that in 2017, CDOT distributed a

²² PSCo Discovery Responses at pp. 26-27.

²³ PSCo Discovery Responses at p 30 (Discovery Request LG1-R-13).

²⁴ CDOT Discovery Responses at p. 3.

²⁵ CDOT Discovery Responses at p. 4; Exhibit A – Map of Streetlights under Current CDOT Payment Responsibility.

memo indicating it was paying illumination charges for state and interstate highway streetlights within the jurisdictional limits of local governments.

35. Since it appears unclear whether the municipalities have been historically charged for the streetlights in question under the SL Tariff, and because CDOT has, for years, claimed it pays for state and interstate streetlights under the COL Tariff, the ALJ's decision to limit the analysis to the COL Tariff was reasonable, was supported by the parties' filings, and was made in accordance with the posture of this Proceeding.

36. We also highlight that based on the questions raised in the Petition and the filings made in this Proceeding, the Recommended Decision appropriately does not enforce or implement the Division of Authority statute; it interprets a Commission-approved tariff for the narrow purpose of deciding the Petition. It does not preclude future appropriate filings to obtain further relief. The Recommended Decision does not prevent either CDOT or Public Service from seeking additional clarification on statutory obligations, including separately and in other venues. Further, the Recommended Decision, and our Decision here, do not prevent CDOT or Public Service from making appropriate filings to correct any deficiencies in Public Service's tariffs on file with the Commission.

37. Given the questions raised in this Proceeding, we offer two further clarifications. First, while the filed-rate doctrine governs this Proceeding—*i.e.*, the applicable Commission-approved tariffs have the force and effect of law and are the proper focus of the Commission in this circumstance—any conflicts with state law should be addressed through an appropriate filing to ensure the tariffs accord with state law.

38. Second, while we agree with the Recommended Decision's determination, based on this Proceeding's record, regarding whether CDOT or the Local Governments are paying

illumination charges for the streetlights in question, we are troubled by Public Service's continued assertion that the streetlights are Company-owned and are served under the SL Tariff, with municipalities being the customers of record. If both CDOT's documentation of the streetlights it pays to illuminate and Public Service's assertions are in fact accurate, it appears possible the streetlights are being served under two tariffs with two customers paying charges for the same streetlights. Based on the filings made here, it appears the dispute between CDOT and the Local Governments would be greatly assisted by Public Service further investigating this matter and cooperating with CDOT and the Local Governments to arrive at a shared understanding of the relevant facts.

II. ORDER

A. The Commission Orders That:

1. The exceptions filed by Public Service Company of Colorado on July 11, 2025, are denied, consistent with the discussion above.
2. The exceptions filed by the Colorado Department of Transportation on July 11, 2025, are denied, consistent with the discussion above.
3. The 20-day period provided for in § 40-6-114, C.R.S., within which to file an Application for Rehearing, Reargument, or Reconsideration, begins on the first day following the effective date of this Decision.

4. This Decision is effective immediately upon its Issued Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
October 1, 2025.**

(S E A L)



ATTEST: A TRUE COPY

Rebecca E. White,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ERIC BLANK

MEGAN M. GILMAN

TOM PLANT

Commissioners