

Decision No. C22-0833

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 22AL-0530E

IN THE MATTER OF ADVICE LETTER NO. 1906 - ELECTRIC FILED BY PUBLIC SERVICE COMPANY OF COLORADO TO REVISE ITS COLORADO P.U.C. NO. 8 - ELECTRIC TARIFF TO INCREASE BASE RATE REVENUES, IMPLEMENT NEW BASE RATES FOR ALL ELECTRIC RATE SCHEDULES, AND MAKE OTHER TARIFF CHANGES, TO BECOME EFFECTIVE DECEMBER 31, 2022.

PROCEEDING NO. 22AL-0478E

IN THE MATTER OF ADVICE LETTER NO. 1902 - ELECTRIC FILED BY PUBLIC SERVICE COMPANY OF COLORADO TO REVISE ITS COLORADO P.U.C. NO. 8 - ELECTRIC TARIFF TO INCREASE THE TRANSMISSION COST ADJUSTMENT RIDER, TO BECOME EFFECTIVE JANUARY 1, 2023.

**COMMISSION DECISION
SUSPENDING EFFECTIVE DATE OF TARIFF SHEETS,
CONSOLIDATING PROCEEDINGS, AND
ESTABLISHING NOTICE AND INTERVENTION PERIOD**

Mailed Date: December 23, 2022
Adopted Date: December 21, 2022

IMPORTANT NOTICE: ANY PERSON DESIRING TO PARTICIPATE ONLY BY MAKING A STATEMENT MAY DO SO BY SUBMITTING A WRITTEN COMMENT THROUGH <https://puc.colorado.gov/> INDICATING PROCEEDING NO. 22AL-0530E OR 22AL-0478E. IF YOU DESIRE TO ASK QUESTIONS OF A WITNESS OR OTHERWISE PARTICIPATE AS A PARTY IN THIS MATTER, YOU MUST REQUEST PERMISSION FROM THE COMMISSION TO BE AN INTERVENOR (EVEN IF YOU HAVE ALREADY FILED AN OBJECTION). ANYONE DESIRING TO INTERVENE MUST CAREFULLY FOLLOW THE LAW AND COMMISSION RULES FOR BECOMING AN INTERVENOR. FOR FURTHER INFORMATION ON HOW TO INTERVENE, CALL (303) 894-2070 (PUC EXTERNAL AFFAIRS OFFICE).

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

1. On November 1, 2022, Public Service Company of Colorado (Public Service or Company) filed Advice Letter No. 1902-Electric with tariff sheets setting forth the applicable charge for its Transmission Cost Adjustment (TCA) for effect January 1, 2023.

2. On November 30, 2022, Public Service filed Advice Letter No. 1906-Electric with tariff sheets for its base rate schedules for electric utility service to Colorado customers.

3. This Decision sets for hearing the tariff sheets filed under Advice Letter Nos. 1902-Electric and 1906-Electric and suspends their effective date to May 1, 2023.

4. Consistent with the discussion below, we consolidate Proceeding Nos. 22AL-0478E and 22AL-0530E and designate 22AL-0530E as the primary proceeding.

5. A pleading to intervene in this matter may be filed by any person, firm, or corporation desiring to be a party and fully participate in this Proceeding no later than January 20, 2023.

6. The Commission will establish additional procedures for these consolidated matters by separate decision.

B. Discussion**1. Public Service Rate Case**

7. Through Advice Letter No. 1906-Electric filed in Proceeding No. 22AL-0530E, Public Service seeks a net annual increase in base rate revenue of approximately \$262.3 million. The net increase in base rates accounts for a roll-in of approximately \$40.8 of costs recovered

through the Company's TCA and approximately \$9.1 million of costs recovered annually through its Purchased Capacity Cost Adjustment.

8. Advice Letter No. 1906-Electric is accompanied by the Direct Testimony of 20 Public Service witnesses.

9. Public Service supports its proposed rate increases with a cost of service study (COSS) using a test year ending December 31, 2023, a 13-month average valuation of rate base, and a weighted average cost of capital (WACC) of 7.45 percent. The requested WACC comprises a capital structure with an equity component of 55.7 percent and an authorized return on equity (ROE) of 10.25 percent.

10. As explained in Advice Letter No. 1906-Electric and the Company's Direct Testimony, the proposed base rate increase is driven by three primary factors. The first primary driver is capital investment increases. Public Service states that distribution-related investments account for approximately \$1.1 billion (or 41 percent) of the plant additions driving the change in rate base since the Company's last base rate case in Proceeding No. 21AL-00317E. Public Service states that many of its distribution assets were installed or constructed in the 1950 and 1960s, and they are nearing the end of their service lives and must either be replaced or refurbished. Public Service also states that increased penetration of distributed energy resources (DERs) could result in greater wear on these aging facilities and can also prompt the need for changes to protection schemes and equipment. The Company further asserts that the growth in customers and additional electricity usage in some areas (*e.g.*, electric vehicles) has required new substations, larger transformers, and new feeders.

11. Public Service explains that its operation and maintenance (O&M) costs in the test year have also increased and are the second driver of the proposed increase in base rates. The

Company states that its labor costs are expected to rise due to a potentially higher wage increase effective June 1, 2023 under a new collective bargaining agreement. For non-bargaining employees, Public Service states that the Company incurred an average 4.0 percent base wage increase effective March 1, 2022, and anticipates another average 4.0 percent increase effective March 1, 2023.

12. The third driver is the proposed WACC. Public Service argues that rising interest rates are driving up the cost of both long-term and short-term debt necessary to finance the Company's business. Public Service also argues that the changes in Treasury Rates, interest rates, and other market conditions driving the need for a higher ROE. Public Service states that inflation is currently at its highest level seen in approximately 40 years and that interest rates have also increased significantly from pandemic-related lows seen in 2020, and are expected to continue to increase in direct response to the Federal Reserve's activities.

13. In addition to raising base rates, Public Service also seeks: (1) authorization to implement an Earning Sharing Adjustment (ESA) associated with its request to set rates using a test year ending December 31, 2023; (2) approval of various cost and revenue trackers and deferred accounts; (3) amortization of previously deferred costs; (4) a reset baseline for its Revenue Decoupling Adjustment (RDA); and (5) certain revisions related to its short-term sales margins from energy trading.

14. Public Service is currently charging electric customers a General Rate Schedule Adjustment (GRSA) of 10.9 percent. The requested increase in the GRSA in this case would raise the GRSA to 28.17 percent.

15. The estimated bill impact from the proposed increase in electric rates is 8.2 percent per average monthly bill for residential customers and 7.8 percent per average monthly bill for small commercial customers.

2. Public Service 2023 Transmission Cost Adjustment

16. Through Advice Letter No. 1902-Electric filed in Proceeding No. 22AL-0478E, Public Service seeks to increase its TCA rate for calendar year 2023. The advice letter states generically that purpose of the TCA is “to recover investments in transmission facilities not otherwise included in base rates in the manner prescribed by the Commission.”¹

17. Public Service explains in Advice Letter No. 1902-Electric that the annual 2023 TCA revenue requirement comprises a projected 13-month average net transmission plant not yet included in base rates and year-end 2022 transmission construction work in progress (CWIP). The Company states that the TCA builds year-upon-year between Phase I electric rate cases. The 2023 TCA will collect approximately \$17.8 million more than the 2022 TCA, or \$40 million. The increase in the TCA has a projected bill impact of \$0.51 per month for residential customers.

3. Protests and Related Filings.

18. The Colorado Office of the Utility Consumer Advocate (UCA) filed a protest to Public Service’s Advice Letter No. 1906-Electric on November 30, 2022. UCA requests that the tariff sheets filed with Advice Letter No. 1906-Electric be suspended and set for an evidentiary hearing.

¹ Public Service Advice Letter No. 1902-Electric, p. 1.

19. UCA states that it will examine whether the proposed overall revenue increase and resulting bill impacts are just, reasonable and in the public interest. UCA will examine inputs to the COSS provided by the Company as well as its use of: the proposed future test year; the proposed capital structure, return on equity, cost of debt and overall rate of return; the recovery of certain specific proposed costs, such as rate case expenses, pension expenses, trackers, and executive compensation. UCA also seeks to investigate further whether approval of the inflation adjustments, the Company's new cash working capital methodology, new information technology deferrals, and the earnings sharing mechanism proposal are just and reasonable.

20. On December 19, 2022, Trial Staff filed a protest to Advice Letter No. 1906-Electric. Trial Staff also requests that the Commission suspend the tariff sheets filed with Advice Letter No. 1906-Electric and set them for an evidentiary hearing.

21. Trial Staff emphasizes that Public Service last requested an increase to its electric base rates only about 18 months ago in Proceeding No. 21AL-0317E. Staff states that, in that proceeding, the Commission approved a Settlement Agreement that allowed the Company to increase base rates to levels designed to collect additional revenues of approximately \$298.8 million, or an increase of approximately 16.1 percent. Staff also reminds the Commission that, in the same recently concluded proceeding, the Commission also allowed the Company the opportunity to earn a 9.3 percent ROE and a 6.82 percent WACC.

22. Trial Staff raises many of the same concerns about Public Service base rate filing as raised by UCA in its protest. Trial Staff adds to that list: (1) the proposed treatment of the net gain on sale of the Zuni Tank Farm property; (2) the Company's request to reset the baseline and continue the trackers and deferrals of Pension Expenses, Property Tax, certain Advanced Grid Intelligence and Security deployment costs approved in Proceeding No. 16A-0588E, and the

Wildfire Mitigation Plan costs approved in Proceeding No. 20A-0300E; (3) the Company's proposal to recover certain Innovative Clean Energy costs approved for deferral in Proceeding No.15A-0847E and make-ready electric vehicle charging infrastructure costs approved for deferral in Proceeding No. 19A-0471E; (4) the proposed increase rates charged under its Charges for Rendering Services and Maintenance Charges for Street Lighting Service tariffs; and (5) the Company's request to reset the baseline of the Revenue Decoupling Mechanism. Trial Staff further states that it seeks to examine more closely the Company's proposal to transfer the recovery of transmission investment costs from the current TCA rider into base rates.

23. Earlier, on November 28, 2022, Trial Staff filed a protest to Public Service's Advice Letter No. 1902-Electric for the Company's TCA. In that protest, Trial Staff states that Public Service is requesting recovery of costs associated with transmission projects that are not extension or construction of transmission facilities and, as such, the costs for these transmission projects are not eligible for recovery through the TCA pursuant § 40-5-101(4), C.R.S. Staff requests that the Commission suspend the proposed tariff's effective date and set the matter for hearing.

24. Trial Staff specifically takes issues with the inclusion of "hundreds of small transmission projects designated as 'Replacement of Existing Facilities.'"² Trial Staff states that these projects are not "construction or expansion of transmission facilities" as required by statute but instead are capital projects associated with ongoing maintenance of the transmission system. Trial Staff argues that, based on a plain language reading of § 40-5-101(4)(a), C.R.S., the TCA is to be used for the recovery of costs a utility prudently incurs in planning, developing, and completing the construction or expansion of transmission facilities for which the utility has been

² Staff Protest to Public Service Advice Letter No. 1902-Electric, p. 2.

granted a certificate of public convenience and necessity, or for which the commission has determined that no certificate of public convenience and necessity is required, but is not a “catch-all to recover costs associated with the replacement of existing facilities.”³

25. Trial Staff further points to Decision No. C22-0438 issued on August 2, 2022 in Proceeding No. 22M-0005E that declined to grant the Company’s request for a finding that certain projects “will be conducted in the ordinary course of business.” According to Trial Staff, the Commission determined that Rule 3206 Reports are intended only for the construction or transmission facilities and are not the vehicle for the Commission to render an “ordinary course of business” finding for other types of transmission projects.

26. On November 29, 2022, Public Service filed a response to Trial Staff’s protest to the 2023 TCA. Public Service argues that Trial Staff has failed to demonstrate how any of the categories of work that it is contesting do not amount to “construction or extensions” and has also failed to point to a single project as not being consistent with “construction or extension” for purposes of cost recovery in the TCA. The Company further argues that Trial Staff’s interpretation of § 40-5-101(4), C.R.S., is inconsistent with longstanding Commission precedent as well as the TCA tariff language with regard to cost recovery of transmission investment.

27. Public Service points to Decision No. C07-1085 that it concludes allows for TCA recovery of “all incremental transmission costs.” Public Service states that the statute does not contemplate differentiating between transmission investment made within the ordinary course of business or incremental investments and that the only restriction placed on the recovery of costs is on facilities where the utility has been granted a Certificate of Public Convenience and Necessity

³ Staff Protest to Public Service Advice Letter No. 1902-Electric, p. 2.

(CPCN) or for which the Commission has determined that no CPCN is required. Public Service further argues that its approved TCA tariff further contemplates the recovery of “ongoing capital costs associated with transmission investment that are not being recovered through the Company’s base rates.”

28. Public Service warns that if the Commission were to suspend the Company’s TCA tariff as Trial Staff suggests and this proceeding were to become litigated, a substantial uncollected balance will accumulate and could negatively impact customers as a result of the implementation of the Company’s base rate proceeding in Proceeding No. 22AL-0530E, where new rates are expected to go into effect on September 7, 2023. In the alternative, Public Service states that if the matter is set for hearing, the Commission should elect not to suspend the effective date of the TCA rate increase and instead use a true-up correction to the TCA to reflect the outcome of this case at some future date

C. Conclusions and Findings

29. Pursuant to § 40-6-111(1), C.R.S., the Commission may suspend tariff sheets for 120 days. We find good cause to suspend the tariff sheets submitted with Advice Letter Nos. 1902-Electric and 1906-Electric for 120 days through May 1, 2023 and set the matter for hearing. Trial Staff and UCA provide a reasonable list of issues that are necessary for us to further examine regarding Public Service’s proposed increases in electric base rates. Suspension of the 2023 TCA is also reasonable in this instance, because Trial Staff raises allegations that Public Service may be inappropriately recovering costs through the TCA outside of base rate cases.

30. We further find good cause to consolidate Proceeding Nos. 22AL-0478E and 22AL-0530E pursuant to Rule 1402 of the Commission’s Rules of Practice and Procedure, 4 *Code*

of *Colorado Regulations* 723-1. Rule 1402 governs and establishes the standard for granting consolidation. In relevant part, that Rule states: “The Commission may ... consolidate proceedings where the issues are substantially similar and the rights of the parties will not be prejudiced.” Whether to consolidate proceedings lies in the Commission’s sound discretion. We find that consolidation will not prejudice parties in the two proceedings. Further, we find that consolidation will result in significant litigation and administrative efficiencies and will conserve the resources of the Commission and parties to the proceedings. Finally, and foremost, consolidation eliminates confusion about the proceeding in which a particular issue will be addressed.

31. The Company’s TCA was established and continued in Phase I electric rate cases.⁴ The TCA also lacks a comprehensive review process separate from a base rate proceeding; transmission investment prudence is instead assessed in a Phase I electric rate case when past TCA revenue requirements roll into base rates.⁵ As acknowledged by Public Service, the instant Phase I rate case includes a request to move approximately \$40 million in TCA costs to base rates.⁶ We further conclude that the ongoing implementation of a TCA is a factor that can potentially weigh into our decisions in an electric Phase I rate case, such the selection of the test year, the valuation of rate base, and the rate of return (*i.e.*, WACC).

32. A pleading to intervene may be filed by any person, firm, or corporation desiring to be a party and fully participate in this proceeding, as ordered below. The filing of any other document protesting the tariff sheets shall not allow participation as an intervenor in this matter.

⁴ Decision No. C15-0292, issued on March 31, 2015, Proceeding Nos. 14AL-0660E and 14A-0680E.

⁵ Decision No. C22-0270, issued on June 2, 2022, Proceeding No. 21A-0096E.

⁶ Public Service Advice Letter No. 1906-Electric, p. 2.

33. Further procedures for this consolidated matter will be addressed by separate decisions.

II. ORDER

A. The Commission Orders That:

1. The proposed January 1, 2023 effective date of the tariff sheets filed with Advice Letter No. 1902-Electric filed by Public Service Company of Colorado (Public Service) on November 1, 2022, is suspended until May 1, 2023, or until further order of the Commission.

2. The proposed January 1, 2023 effective date of the tariff sheets filed with Advice Letter No. 1906-Electric filed by Public Service on November 30, 2022, is suspended until May 1, 2023, or until further order of the Commission.

3. Consistent with the discussion above, Proceeding Nos. 22AL-0478E and 22AL-0530E are consolidated for all purposes. Proceeding No. 22AL-0530E shall serve as the primary proceeding and its caption shall appear first.

4. The parties in each proceeding shall be parties in the consolidated proceeding.

5. All proceeding numbers and captions in the consolidated proceeding shall be listed on all future filings as shown above on this Decision.

6. Any person, firm, or corporation, including any who have previously filed a document protesting the proposed tariff pages, who desire to intervene and participate as a party in this proceeding shall file a motion to intervene with the Commission no later than January 20, 2023 and shall serve a copy of the notice or motion on Public Service's attorney of record.

7. The Commission will establish additional procedures for these consolidated matters by separate decision.

8. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
December 21, 2022.**

(S E A L)



ATTEST: A TRUE COPY

G. Harris Adams,
Interim Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ERIC BLANK

JOHN GAVAN

MEGAN M. GILMAN

Commissioners