

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

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**IN THE MATTER OF THE APPLICATION)
OF PUBLIC SERVICE COMPANY OF)
COLORADO FOR APPROVAL OF ITS)
STEAM REGULATORY AND RESOURCE)
PLAN)**

PROCEEDING NO. 22A-0382ST

UNANIMOUS AND COMPREHENSIVE SETTLEMENT AGREEMENT

This Settlement Agreement is a full and complete resolution of Public Service Company of Colorado’s (“Public Service” or the “Company”) Application for Approval of its Steam Regulatory and Resource Plan filed on September 1, 2022. Along with Public Service, this Settlement Agreement is joined by Commission Trial Staff (“Staff”), the Colorado Energy Office (“CEO”) and the City and County of Denver (“Denver”). Public Service, Staff, CEO and Denver, which comprise all of the parties in this proceeding, shall be referred to herein collectively as the “Settling Parties” and individually as a “Settling Party.”¹ As there are no other parties to this proceeding, this Settlement Agreement is unopposed.

This Settlement Agreement is a unanimous comprehensive settlement, which proposes a resolution for all issues that have been raised or could have been raised in this proceeding.

¹ Colorado Energy Consumers (“CEC”) filed a timely motion for permissive intervention in this proceeding, which was granted by the Commission, but after notifying the parties that it would no longer be participating in this proceeding, was effectively dismissed as a party on July 17, 2024, pursuant to Decision No. R24-0479-I.

I. Background

A. The Company's Application and Engineering Study

1. This proceeding was commenced with the filing of the Company's Verified Application on September 1, 2022, in which the Company requested Commission approval of its Steam Regulatory and Resource Plan covering the years 2023 through 2030, as well as authorization to track and record in a deferred account the outside legal expenses of preparing and litigating the Application. The Company contemporaneously filed the supporting Direct Testimony and Attachments of four Company witnesses.² The Application included the results of an Engineering Study that the Company had agreed to complete as part of a comprehensive settlement approved in its last steam rate case in Proceeding No. 19AL-0063ST.

2. That Engineering Study involved a customer-by-customer assessment of the buildings in downtown Denver receiving steam service to determine the technical and economic options available for steam customers to switch from District Steam Service to alternative gas or electric boilers to serve their heating needs. The Company had engaged RMH Group to assist in evaluating individual steam customer facilities and options. The Engineering Study also included the Company's evaluation of resources necessary for it to reliably serve load with potential load losses from transitions of customers to another energy source – specifically, on-site boilers fueled by natural gas or electric resistance.

² Alexander G. Trowbridge, Manager of Regulatory Administration, Steven W. Wishart, Director of Regulatory Pricing and Analysis, Tim Brown, Director of the Steam and Chilled Water Businesses, and Sam B. Lidington, Project Manager.

3. Under the proposed Steam Regulatory and Resource Plan, the Company determined that it could and should continue to operate the Steam System using its existing steam production facilities through at least the year 2030, including the necessary maintenance to allow the Units 1 and 2 boilers at the Denver Steam Plant (“DSP”) to continue operating beyond their current depreciation retirement dates of 2025. The Commission issued its “Notice of Application Filed” in this proceeding on September 2, 2022.

4. Timely interventions were filed by the Staff, CEO, Denver and CEC. In their interventions, Staff, CEO and Denver all mentioned the potential for clean energy technologies, such as distributed heat pumps and district geo-exchange technologies, as a solution for steam customers that would also reduce the carbon dioxide emissions associated with heating and cooling buildings.

5. On October 19, 2022, the Commission issued Decision No. C22-0633-I granting CEO’s, Denver’s and CEC’s interventions and deeming the Company’s Application incomplete. The Commission found that it needed more information before it could deem the Application complete and directed the Company “to consult with the intervenors in this Proceeding to attempt to develop a consensus approach to developing information that will enable the Commission to determine whether air-source heat pumps, district geo-exchange, or other geothermal technologies are viable alternatives for the Steam System’s customers.”³

³ Decision No. C22-0633-I, at 7-8 (Oct. 19, 2022).

6. The Commission also directed the Company to develop and present an additional analysis of steam rates through 2030 assuming a 7.5 percent annual reduction of steam sales, which the Company completed and presented through the First Supplemental Direct Testimony of Steven W. Wishart filed on December 5, 2022.

B. The Additional Technologies Studies

7. In response to the Commission's request for more information on the additional technologies highlighted in Decision No. C22-0233, the Company initiated an informal collaborative process with the parties resulting in the development of a consensus approach to study the additional technologies. The Company filed a report with the Commission on December 5, 2022, presenting this consensus approach, which included preliminary scopes of work for two Additional Technologies Studies. The first study would address the feasibility and cost to adopt customer-sited air source heat pump or ground source heat pump technologies leveraging the study work already completed to support the Engineering Study. The second study would consider options, the feasibility, and cost of converting the Steam System (or portions of the System) to an ambient temperature district heating/cooling system ("Ambient Loop System") that includes the potential for geothermal or geo-exchange technologies such as customer-sited Water Source Heat Pumps. As envisioned, such an Ambient Loop System would conceivably serve existing steam service customers through the use of a community ground source heat exchanger that delivers geothermally tempered fluid to each customer facility.

8. In the December 5, 2022 Report, the Company requested an additional 90 days in which to refine the scope of work, identify one or more contractors to conduct the

additional studies, and report back to the Commission, which the Commission approved by Decision No. C22-0841-I, mailed December 29, 2022.

9. Through a subsequent report filed on March 29, 2023, the Company submitted its final proposed scope of work, timeline and budgeted costs for the Additional Technologies Studies, as well as identification of engineering consultants, RMH and Salas O'Brien, to complete the studies. The Company requested that the proceeding continue to be held in abeyance pending completion of the studies. In Decision No. C23-0265-I, the Commission approved the scopes of work, timelines and estimated costs and authorized the Company to move forward with the Additional Technologies Studies. The Commission further directed that the Company file supplemental direct testimony:

- discussing the findings of the studies and their significance in the context of 1) the existing Steam System and 2) the previously completed studies of the technical and financial viability of current steam customers migrating to on-site gas-fired and electric boilers;
- providing comparisons of the lifecycle costs (from both the customer and system perspectives) and payback periods for each of the five technology options (on-site electric boilers, on-site gas boilers, on-site air-source heat pumps, on-site ground-source heat pumps, and an ambient temperature district system with associated on-site heat pumps), with the required testimony on potential heat pump adoption incorporating the impacts of both federal and state subsidies and tax credits for each technology as appropriate; and
- providing an update to the Company's strategic vision for the future of the Steam System in light of the findings from the Additional Technologies studies, including, to the extent that the Company's strategic vision for the system anticipates conversion to an ambient temperature district system, a discussion of the potential for strategic growth of the system.

10. On May 6, 2024, the Company filed the Second Supplemental Direct Testimony and Attachments of three witnesses⁴ presenting the Additional Technologies Studies,⁵ discussing the results and conclusions from the studies, and otherwise responding to the topics the Commission directed be addressed in Decision No. C23-0265-I. In addition, although not requested by the Commission, the Company provided testimony reviewing changes in state and local policies impacting the Denver District Steam System (“Steam System”) since the Company’s direct filing⁶ and provided an update of the Company’s external engineering consultant and legal costs incurred associated with the Steam Regulatory and Resource Plan, including the costs of conducting and completing the Engineering Study and Additional Technologies Studies submitted in this proceeding.

C. Decision No. C24-0401-I And Subsequent Procedures

11. On June 11, 2024, the Commission issued Decision No. C24-0401-I deeming the Company’s Application in accordance with Rule 1303(c)(III) and referred the

⁴ Mr. Ryan A. Matley, Manager of Regulatory Administration, Mr. Joseph T. Schwark, Thermal Energy Sales and Development Specialist, and Ms. Grace K. Jones, Manager, Gas Strategic Planning. In his testimony, Mr. Matley adopted the Direct Testimony of Mr. Trowbridge, portions of the Direct Testimony of Mr. Wishart, as well as Mr. Wishart’s Supplemental Direct Testimony. In his testimony, Mr. Schwark adopted the Direct Testimony of Messrs. Brown and Lidington. In her testimony, Ms. Jones adopted the portions of the Direct Testimony of Mr. Wishart not adopted by Mr. Matley.

⁵ The term “Additional Technologies Studies,” as used throughout the Company’s Second Supplemental Direct Testimony, refers to the following two studies:

“Technical Feasibility of Applying Air and Water Source Heat Pumps to Steam Customer Segments” (December 22, 2023) conducted by RMH Group, Inc., provided as Hrg. Exh 108, Attachment JTS-4 to Second Supplemental Direct Testimony of Joesph T. Schwark (“RMH Denver Heat Pump Study”), and

“Denver District Steam and Chilled Water Systems Ambient Temperature Ground Loop Feasibility Study” (December 13, 2023) conducted by Salas O’Brien North, LLC, provided as Hrg. Exh. 108, Attachment JTS-5 (“Salas O’Brien Ambient Loop Study”).

⁶ These changes include regulations promulgated by both the Colorado Air Quality Control Commission in Regulation 28 and the City and County of Denver’s “Energize Denver” ordinances (Municipal Bill 21-1310) that may impact heating systems on the very building types that the steam system serves.

matter to an administrative law judge. In addition, the Commission directed that the Company file additional supplemental direct testimony providing information addressing certain estimated costs associated with upgrading the natural gas system to facilitate the conversion of steam customers to gas, as well as information on steam customers' building performance standard requirements as set forth in paragraph 18 of its decision. The Commission directed the filing of such additional information "in order to evaluate the appropriate baseline to use in assessing the incremental costs of the heat pump systems assessed in the two studies."

12. On June 18, 2024, Administrative Law Judge Melody Mirbaba ("ALJ") informally directed the parties to confer on a procedural schedule and for Public Service to file a proposed consensus procedural schedule by June 25, 2024. The Company conferred with the parties, obtained such a consensus, and filed an Unopposed Joint Motion for Adoption of a Procedural Schedule on June 25, 2024.

13. On July 9, 2024, the ALJ issued Interim Decision No. R24-0479-I scheduling a hearing for September 24, 2024, establishing a procedural schedule, and extending the statutory deadline for a final Commission decision to issue by an additional 130 days, as permitted by Section 40-6-109.5(1), C.R.S. The Interim Decision also dismissed CEC as a party unless CEC made a filing by July 22, 2024 demonstrating good cause to maintain its party status.⁷

14. On July 17, 2024, pursuant to the procedural schedule, the Company filed the Third Supplemental Direct Testimony and Attachments of two witnesses, Mr. Matley

⁷ CEC did not make such a filing and, therefore, is not a party to this proceeding.

and Ms. Jones, providing information responding to the Commission's questions as directed in Decision No. C24-0401-I.

15. Following the Company's filing of its Third Supplemental Direct Testimony and Attachments, the parties engaged in multiple settlement conferences and e-mail communications culminating in a unanimous agreement on certain principles of settlement which, pending the reduction of such principles to writing in a comprehensive Settlement Agreement, would resolve all issues raised or which could have been raised by the parties in this proceeding. This Settlement Agreement, which incorporates the agreed-to principles of settlement, is the result of those negotiations.

16. On August 6, 2024, Public Service filed on behalf of the Settling Parties a Notice of Comprehensive and Unanimous Settlement in Principle, Unopposed Joint Motion to Vacate Testimony Deadlines, and Request for Waiver of Response Time. In their Joint Motion, the Settling Parties requested that the Answer Testimony deadline of August 9, 2024 and the Rebuttal and Cross-Answer Testimony deadline of August 30, 2024 be vacated due to the filing of the Settlement Agreement and Joint Motion for Approval of Settlement Agreement, which the Settling Parties stated they planned to file on or before August 20, 2024.

17. By Interim Decision R24-0584-I, issued August 14, 2024, the ALJ granted the request set forth in the Joint Motion to vacate the answer testimony, rebuttal and cross-answer testimony deadlines, modified the deadline to file settlement agreements to August 20, 2024; modified the deadline to file settlement testimony to September 6, 2024, and clarified that the scheduled evidentiary hearing will address whether the anticipated settlement agreement should be approved.

II. Settlement Terms

18. In resolution of the issues raised or which could have been raised by the parties to this proceeding, the Settling Parties agree as follows.

A. Approval of the Company's 2024-2030 Steam Regulatory and Resource Plan

19. The Settling Parties agree that the Commission should enter an order approving the Company's Steam Regulatory and Resource Plan ("Plan"), as set forth in its Application and supported through its Direct Testimony and Attachments and its First, Second and Third Supplemental Direct Testimony and Attachments. The Plan provides for the continuation of the Steam System without adding additional steam production resources by maintaining its existing Denver Steam Plant Unit 1 and 2 boilers beyond their book depreciation lives through 2030, subject to the below-listed modifications contained in this Settlement.

B. The Company's Compliance With Commission Directives

20. The Settling Parties agree that the Company has complied with all of the Commission's requirements to present the results of studies examining alternatives to the Steam System. The Company has provided the Engineering Study as required from the 2019 steam rate case in Proceeding No. 19AL-0063T with information on each steam customer's options to convert from steam service to on-site electric resistance or natural gas boilers, along with supporting information. The Company has provided Additional Technologies Studies as required by Decision No. C23-0265-I in this proceeding to address the feasibility and cost of customer-sited air source heat pump or ground source heat pump technologies, as well as the feasibility and cost of converting the Steam

System (or portions of it) to an ambient temperature district heating/cooling system that includes the potential for geothermal or geo-exchange technologies as customer-sited water source heat pumps. Lastly, the Company has provided additional information as required by Decision No. C24-0401-I in this proceeding on certain estimated costs associated with upgrading the natural gas system to facilitate the conversion of steam customers to gas, as well as information on steam customers' State and Denver-specific building performance standard requirements. The Company's presentation of steam alternatives and related information is in compliance with all Commission directives.

C. Future Consideration of Alternatives to District Steam Service

21. Based on the information provided by the Company in this proceeding, the Settling Parties agree that the development of an ambient temperature system to serve downtown customers with customer-sited water source heat pumps offers a potential future path of alternatives to steam service. That development could provide heating and cooling needs to certain of the Company's Steam System customers, as well as other downtown Denver electric or natural gas customers. The Settling Parties believe that such a development should be considered by the Commission in the future as potentially supporting the State's and Denver's decarbonization policies and goals, including the state's economy-wide greenhouse gas emissions reduction targets in Section 25-7-102(2)(g)(I), C.R.S., as well as targets established for gas utilities by the Commission pursuant to Section 40-3.2-108(10), the City's Building Performance Policy,⁸ and the State's Building Performance Standard program.⁹

⁸ Denver Revised Municipal Code, Sec. 10, Article XIV.

⁹ Section 25-7-142, C.R.S.; 5 CCR 1001-32. (Air Quality Control Commission Regulation 28).

22. The Settling Parties agree that the Company should continue to explore options for the undertaking of pilots or demonstration projects to further assess the cost and feasibility of ambient temperature systems. The Settling Parties acknowledge that the Company is required by Section 40-4-121(3), C.R.S., to file an application for the Commission's review and approval proposing to undertake at least one pilot program, consisting of one or more pilot projects, to provide thermal energy service in its natural gas service area meeting certain requirements set forth in Section 40-4-121(3), C.R.S. Specific to that application, the Company commits to present its analysis and underlying data and conclusions regarding the pilot project to convert portions of the Company's Steam System in downtown Denver into an ambient temperature system ("the Denver Ambient Loop Project"). This commitment does not, and is not intended to, prejudice the Company's recommendations to the Commission of the particular thermal energy pilot project or projects to approve. Instead, it ensures that the Company has assessed undertaking as a pilot the Denver Ambient Loop Project, along with the Company's position and supporting information regarding its assessment. The intention is to provide the Commission and interested parties data to consider the Denver Ambient Loop Project among other pilot project alternatives. Nothing in this paragraph precludes the Company from pursuing the Denver Ambient Loop Project in a separate, future application for review and approval before the Commission.

D. Future Filing Requirements

23. The Company agrees to file its next Steam Resource Plan no later than November 1, 2028, covering the calendar years 2030 through 2034, or beyond. The Plan will discuss potential alternatives, including at a minimum: (1) a base case that reflects

continued operation of the Steam System (or portions of it); (2) a least-cost proposal to meet the energy needs of steam customers that supports the state's economy-wide greenhouse gas emissions reduction targets in Section 25-7-102(2)(g)(I), C.R.S.; and (3) a proposal that transitions the steam system and its customers away from steam service to a lower-carbon-emitting alternative energy service.¹⁰

24. If the Company proposes to transition the steam system and customers to an alternative energy service as part of its Steam Resource Plan, the Company's plan should establish clear expectations, timelines, and structures to move from concept to implementation. At a minimum, the Company should address the following issues as to such a transition:

a. Technical Assessment: An assessment of available technologies and the Company's preferred alternative(s) to provide lower-carbon-emitting utility service to steam customers, including the incorporation of updates or lessons learned related to any pilots or demonstration projects undertaken.

b. Regulatory Assessment: An assessment of the Company's options and preferred regulatory proposal(s) for the steam system, to include consideration of the potential consolidation of gas, electric, and/or steam services.

c. Cost Assessment: A review of cost projections related to the Company's proposals for the steam system, including for the Company's steam, electric,

¹⁰ An individual proposal submitted pursuant to this Paragraph 23 may meet the compliance obligation of more than one of the minimum proposal requirements. For instance, the requirement to provide the second proposal (i.e., the least-cost proposal) could potentially meet the requirement to provide the third proposal (i.e., the transition proposal).

and gas utilities, and the appropriate allocation of such costs among customers or groups of customers within each such utility.

d. **Customer Transition Assessment:** An assessment of the impact to steam customers for the proposed pathway(s) for the steam system, including proposed timelines and regulatory approaches to manage their transition.

e. **Carbon Emissions Assessment:** An assessment of the impact on overall carbon emissions forecasted to result from each alternative in the Company's proposal for the steam system.

E. Commitment to Host Workshops

25. Prior to the filing of its next Steam Resource Plan, but no earlier than May 1, 2026, the Company must commence the hosting of at a minimum of three technical workshops with interested entities to address its plans and proposals to comply with Paragraphs 23 and 24 of this Settlement, including updates on the consultants engaged and their scope of work. In these workshops, the Company will also provide status updates to discuss steam customer load and customer departures to steam system alternatives.

F. Deferred Accounting of Case Expenses

26. The Settling Parties agree the Commission should approve Public Service's request to defer expenses associated with preparing and litigating this proceeding, including engineering consultant costs, legal, and administrative costs ("Deferred Case Expenses"), into a regulatory asset without interest to be brought forward for recovery in a future proceeding.

27. At this time, the Settling Parties do not oppose the Company's intention to seek to recover its Deferred Case Expenses through a stand-alone advice letter filing outside of a rate case proceeding, where such an approach may assist in ensuring that the Company's current Steam System customers have cost responsibility for their equitable share of the Deferred Case Expenses before they depart the Steam System, and also assisting the Company in avoiding the need to propose a base rate increase through a rate case proceeding. During any such advice letter filing, the Settling Parties are free to take positions on it as they find appropriate based on the specific Company requests made in that proceeding.

III. General Provisions

28. Except as expressly set forth herein, nothing in this Settlement Agreement is intended to have precedential effect or bind the Settling Parties with respect to positions they may take in any other proceeding regarding any of the issues addressed in this Settlement Agreement. No Settling Party concedes the validity or correctness of any regulatory principle or methodology directly or indirectly incorporated in this Settlement Agreement. Furthermore, this Settlement Agreement does not constitute agreement, by any Settling Party, that any principle or methodology contained within or used to reach this Settlement Agreement may be applied to any situation other than the above-captioned proceeding, except as expressly set forth herein.

29. Each Settling Party understands and agrees that this Settlement Agreement represents a negotiated resolution of all issues the Settling Party either raised or could have raised in this proceeding. The Settling Parties agree the Settlement Agreement, as well as the negotiation process undertaken to reach this Settlement Agreement, are just,

reasonable, and consistent with and not contrary to the public interest and should be approved and authorized by the Commission.

30. The discussions among the Settling Parties that produced this Settlement Agreement have been conducted in accordance with Rule 408 of the Colorado Rules of Evidence ("CRE").

31. Nothing in this Settlement Agreement shall constitute a waiver by any Settling Party with respect to any matter not specifically addressed in this Settlement Agreement. In the event this Settlement Agreement becomes null and void or in the event the Commission does not approve this Settlement Agreement, it, as well as the negotiations or discussions undertaken in conjunction with the Settlement Agreement, shall remain inadmissible into evidence in these or any other proceedings in accordance with Rule 408 of the Colorado Rules of Evidence.

32. Nothing in this Settlement Agreement shall constitute a waiver by any Settling Party with respect to any matter not specifically addressed in this Settlement Agreement.

33. The Settling Parties will support all aspects of the Settlement Agreement embodied in this document in any hearing conducted to determine whether the Commission should approve this Settlement Agreement, and/or in any other hearing, proceeding, or judicial review relating to this Settlement Agreement or the implementation or enforcement of its terms and conditions. Each Settling Party also agrees that, except as expressly provided in this Settlement Agreement, it will take no action in any administrative or judicial proceeding, or otherwise, which would have the effect, directly or indirectly, of contravening the provisions or purposes of this Settlement Agreement.

However, each Settling Party expressly reserves the right to advocate positions different from those stated in this Settlement Agreement in any proceeding other than one necessary to obtain approval of, or to implement or enforce, this Settlement Agreement or its terms and conditions.

34. The Settling Parties do not believe any waiver or variance of Commission rules is required to effectuate this Settlement Agreement, but agree jointly to apply to the Commission for a waiver of compliance with any requirements of the Commission's Rules and Regulations if necessary to permit all provisions of this Settlement Agreement to be approved, carried out, and effectuated.

35. This Settlement Agreement is an integrated agreement that may not be altered by the unilateral determination of any Settling Party. There are no terms, representations or agreements among the parties which are not set forth in this Settlement Agreement (including attachments).

36. This Settlement Agreement shall not become effective until the Commission issues a final decision addressing the Settlement Agreement. In the event the Commission modifies this Settlement Agreement in a manner unacceptable to any Settling Party, that Settling Party may withdraw from the Settlement Agreement and shall so notify the Commission and the other Settling Parties in writing within ten (10) days of the date of the Commission order. In the event a Settling Party exercises its right to withdraw from the Settlement Agreement, this Settlement Agreement shall be null and void and of no effect in this or any other proceeding.

37. There shall be no legal presumption that any specific Settling Party was the drafter of this Settlement Agreement.

38. This Settlement Agreement may be executed in counterparts, all of which when taken together shall constitute the entire Settlement Agreement with respect to the issues addressed by this Settlement Agreement. This Settlement Agreement may be executed and delivered electronically and the Settling Parties agree that such electronic execution and delivery, whether executed in counterparts or collectively, shall have the same force and effect as delivery of an original document with original signatures, and that each Settling Party may use such facsimile signatures as evidence of the execution and delivery of this Settlement Agreement by the Settling Parties to the same extent that an original signature could be used.

Dated this 20th day of August, 2024.

Agreed on behalf of:

PUBLIC SERVICE COMPANY OF COLORADO

Approved as to form:

By: 

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CERTIFICATE OF SERVICE

I hereby certify that on August 20, 2024, the foregoing document “**UNANIMOUS AND COMPREHENSIVE SETTLEMENT AGREEMENT**” was filed with the Colorado Public Utilities Commission (“Commission”) through the Commission e-filing system and served on the parties to this proceeding in accordance with applicable law and as shown on the Commission e-filing system’s automatically populated Certificate of Service accompanying such filing.

By: /s/ Chris Luhiau