

Decision No. C23-0030

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

PROCEEDING NO. 22AL-0555E

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IN THE MATTER OF ADVICE LETTER NO. 1912 - ELECTRIC FILED BY PUBLIC SERVICE COMPANY OF COLORADO TO REVISE ITS COLORADO P.U.C. NO. 8 - ELECTRIC TARIFF TO ALLOW THE COMPANY TO PASS THROUGH COSTS FROM THE MONETIZATION OF PRODUCTION TAX CREDITS ASSOCIATED WITH THE RUSH CREEK WIND PROJECT AND THE CHEYENNE RIDGE WIND PROJECT TO BE PASSED THROUGH THE ELECTRIC COMMODITY ADJUSTMENT, TO BECOME EFFECTIVE JANUARY 14, 2023.

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**COMMISSION DECISION SUSPENDING EFFECTIVE  
DATE OF TARIFF SHEETS, REFERRING THE MATTER  
TO AN ADMINISTRATIVE LAW JUDGE, AND  
ESTABLISHING NOTICE AND INTERVENTION PERIOD**

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Mailed Date: January 12, 2023

Adopted Date: January 11, 2023

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-0348G. 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 December 15, 2022, Public Service Company of Colorado (Public Service or Company) filed Advice Letter No. 1912-Electric with tariff sheets for its Electric Commodity Adjustment (ECA). Public Service seeks to modify the ECA tariff sheets to accommodate

transaction costs associated with the monetization of Production Tax Credits (PTCs) associated with the Company's Rush Creek Wind Project and Cheyenne Ridge Wind Project. Public Service states that the change in the ECA tariff is needed to bring the benefits of the tax credit transferability provision of the newly enacted Inflation Reduction Act of 2022 (IRA) to customers.

2. This Decision sets for hearing the tariff sheets filed under Advice Letter No. 1912-Electric and suspends their effective date to May 15, 2023.

3. We refer the matter to an Administrative Law Judge (ALJ).

4. 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 February 10, 2023.

## **B. Discussion**

5. In Advice Letter No. 1912-Electric, Public Service explains that the tax credit transferability provision of the IRA allows for the sale of its eligible tax credits, including PTCs, to an unrelated party. Public Service states that some of the PTCs generated by the Company are not utilized immediately; rather, they carry forward to be used against the Company's future tax liabilities. Such tax credits are accounted for as deferred tax assets (DTAs) and, generally speaking, the Company earns a return on the DTA.

6. Public Service states that by transferring PTCs to other taxpayers who can immediately utilize them means that the Company's PTC-driven DTAs will be mitigated and ultimately eliminated. In other words, by monetizing the PTCs, Public Service will be able to utilize those PTCs as soon as they are generated rather than deferring them for future use, which is what creates a DTA. The Company expects the savings to customers from the mitigation and

elimination of the DTAs will more than offset the associated transaction costs of the PTC monetization.

7. On December 16, 2022, Public Service filed an amended Advice Letter No. 1912-Electric for the purpose of correcting the proposed effective date of the ECA tariff sheets to January 15, 2023.

8. Staff of the Colorado Public Utilities Commission (Staff) filed a protest to Public Service's Advice Letter No. 1912-Electric on January 6, 2023. Staff asks the Commission to suspend the effective date of the modified ECA tariff sheet to afford it the ability to further investigate the Company's filing. Staff states it is generally supportive of PTC transfers and that the issue here is more about sufficient time to work collaboratively with Public Service regarding Staff's questions and concerns.

9. Staff raises the following questions and concerns about the adoption of the proposed change to Public Service's ECA tariff sheets:

- Whether all of the administrative and transaction costs of transferring PTCs should flow through the ECA and whether such costs should be capped?
- Whether there should be an incentive mechanism developed to provide an incentive for the Company to minimize the total costs and maximize the net benefits of the PTCs for ratepayers?
- Where the detailed information regarding the PTC-related transaction costs and benefits are reported?
- What information needs to be included in the reporting of such PTC-related transactions?
- Whether Public Service should be authorized to transfer all of the PTCs associated with the two wind facilities or whether such transfer and its associated transaction costs should be limited based on the Company's financial forecast and ability to utilize the PTCs as generated?

10. Staff states that it wants these concerns to be collaboratively addressed with the Public Service and any other interested parties and explains that the time needed to address these

concerns should not prevent the Company from pursuing PTC transferability actions that are in the interest of both the Company and its customers.

### **C. Conclusions and Findings**

11. Pursuant to § 40-6-111(1), C.R.S., the Commission may suspend tariff sheets for 120 days. Based on Staff's protest, we find good cause to suspend the tariff sheets submitted with Advice Letter No. 1912-Electric, as amended, for 120 days through May 15, 2023 and set the matter for hearing.

12. We refer this matter to an Administrative Law Judge (ALJ).

13. 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.

14. We agree with Staff that parties to this matter should strive to work collaboratively to address their questions and concerns regarding PTC transfers in order to secure the benefits to Public Service and its customers. Given these potential benefits, we further encourage the parties to address their questions and concerns as quickly as is reasonable so as not to prevent the Company from pursuing beneficial PTC transferability actions.

## **II. ORDER**

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

1. The proposed January 15, 2023 effective date of the tariff sheets filed with Advice Letter No. 1912-Electric filed by Public Service Company of Colorado (Public Service) on December 15, 2022, and as amended on December 16, 2022, is suspended until May 15, 2023, or until further order of the Commission.

2. The matter is referred to an Administrative Law Judge (ALJ). The ALJ shall set a hearing date, rule on interventions, and establish other procedures by separate decision(s).

3. 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 February 10, 2023 and shall serve a copy of the notice or motion on Public Service’s attorney of record.

4. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS’ WEEKLY MEETING  
January 11, 2023.**

(S E A L)



ATTEST: A TRUE COPY

G. Harris Adams,  
Interim Director

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

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JOHN GAVAN

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MEGAN M. GILMAN

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Commissioners