

Decision No. C23-0792-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23D-0547E

IN THE MATTER OF COLORADO ENERGY OFFICE'S PETITION FOR DECLARATORY ORDER TO CLARIFY PUBLIC SERVICE COMPANY OF COLORADO'S ADMINISTRATION OF THE INCOME-QUALIFIED ELECTRIC VEHICLE REBATE PROGRAM UNDER ITS 2021-2023 TRANSPORTATION ELECTRIFICATION PLAN(PROCEEDING NO. 20A-0204E).

**INTERIM COMMISSION DECISION ACCEPTING
PETITION FOR DECLARATORY ORDER, ISSUING
NOTICE, AND ESTABLISHING 14-DAY INTERVENTION
PERIOD**

Mailed Date: November 30, 2023

Adopted Date: November 22, 2023

TO THE PARTIES IN THIS MATTER AND ALL INTERESTED PERSONS, FIRMS, OR CORPORATIONS:

I. BY THE COMMISSION

A. Statement

1. By this Decision the Commission accepts and issues notice of the Petition for Declaratory Order (Petition) filed by the Colorado Energy Office (CEO) on November 3, 2023. The Petition requests a declaratory order from the Commission clarifying that Public Service Company of Colorado (Public Service or the Company) must change its administration of the income-qualified (IQ) electric vehicle rebate (IQ EV Rebate) program under its 2021-2023 Transportation Electrification Plan (TEP) (Proceeding No. 20A-0204E) to conform with the requirements of House Bill (HB) 23-1272.

2. CEO requests a declaratory order from the Commission clarifying that, consistent with the statutory requirements established by HB 23-1272, and specifically

§ 39-22-516.7(11), C.R.S., the Company must allow customers to access both the Public Service IQ EV Rebate and the state EV tax credit.

3. This Decision establishes a 14-day notice and intervention period for CEO's Petition. Interventions shall be due by **5:00 p.m. on December 14, 2023**.

4. This Decision also establishes a deadline for initial comments to the Petition of **December 14, 2023**, at 5:00 p.m. Any responsive comments to the Initial Comments shall be filed no later than **December 14, 2023**, at 5:00 p.m.

5. The Commission will consider this Proceeding *en banc*. The Commission will determine whether an evidentiary hearing is necessary after the Commission receives initial comments and responsive comments.

B. Background

6. In Proceeding No. 20A-0204E (Inaugural TEP Proceeding), the Commission approved a point-of-sale rebate program for IQ customers which is the IQ EV Rebate. The Rebate, capped at \$5 million over the three-year plan period, provides an upfront rebate of \$5,500 for new vehicles and \$3,000 for used vehicles. The Commission required in its Inaugural TEP Decision that the equity rebate be used in place of the existing state EV tax credit, so a customer who accesses the equity rebate cannot also access the state EV tax credit.¹

7. HB 23-1272 (effective May 11, 2023) modifies the state EV tax credit and states that a customer who purchases an EV is entitled to receive both a state EV tax credit and a rebate through a utility rebate program.² The Company contends that it cannot update its program

¹ Decision No. C21-0017, issued November 1, 2023, in Proceeding No. 20A-0204E, at ¶ 103.

² Section 39-22-516.7(11), C.R.S. "A purchaser who claims a tax credit under this section or who assigns a tax credit pursuant to subsection (2)(f) of this section is entitled to additionally receive any rebate that is part of an electric vehicle program pursuant to sections 40-3-116 and 40-5-107."

without violating the Commission's Decision No. C21-0017. Therefore, CEO requests that the Commission issue a declaratory order clarifying that the Company must allow customers to access both the Public Service IQ EV Rebate and the state EV tax credit, to conform with the requirements of HB 23-1272.

8. As support for the Petition, CEO states that § 40-6-112(1), C.R.S., allows for the Commission to amend or modify its own decisions upon notice to the utility affected and after opportunity to be heard. CEO believes it is appropriate and necessary for the Commission to modify Decision No. C21-0017 in Public Service's 2021-2023 Transportation Electrification Plan because it is inconsistent with current statutes. CEO argues that the General Assembly clearly intended to allow individuals to access a utility rebate as well as the state EV tax credit and the Commission should issue a declaratory order so that the Company's rebate offerings can align with the legislative intent of HB 22-1272.

9. CEO also requests that the Commission set a 14-day response time to this Petition and rule expeditiously on its merits. To that end, CEO suggests that the Commission set a concurrent deadline for interveners to file a response to this Petition. CEO represents that most parties to 20A-0204E, including Public Service, City of Boulder, the Colorado Office of the Utility Consumer Advocate, Southwest Energy Efficiency Project, Energy Outreach Colorado, the Environmental Justice Coalition, the City and County of Denver, and Tesla, support this Petition.

10. Staff of the Commission opposes the Petition and filed its Notice of Intervention and a request for hearing on November 15, 2023. Staff requests a hearing pursuant to Rule 4 CCR 723-1-1401(a), and states that it intends to raise and address numerous issues, including whether: (1) the new statutory language resulting from the passage of HB 23-1272 requires the

Commission to modify an almost three-year-old Commission Decision, which was made based on the evidence presented in that proceeding and the statutes in place at that time; and (2) whether it would be more expeditious for the Commission to address the new requirements of HB 23-1272 in Proceeding No. 23A-0242E, which is currently pending before the Commission and in which the issues of IQ EV Rebates and their “stackability” with the state EV tax credit have already been raised by parties to that proceeding.

C. Findings and Conclusions

11. The Commission may entertain a Petition for Declaratory Order to terminate a controversy or remove an uncertainty regarding any tariff, statute, or Commission rule, regulation, or order. Rule 4 CCR 723-1-1304(i)(II). If a petition meets those requirements, the Commission then exercises its discretion to accept or dismiss the petition.

12. We find that evaluating the questions presented in the Petition will remove uncertainty on how, if at all, new statutory requirements from HB 23-1272 affect Public Service’s current IQ EV Rebate offerings. We therefore accept the Petition and issue notice of the Petition to interested persons, firms, and corporations by service of this Decision.

13. The Petition is available for public inspection by accessing the Commission’s E-Filings System under Proceeding No. 23D-0547E at: [Colorado.gov/dora/puc](https://colorado.gov/dora/puc). **This Decision is the notice that CEO’s Petition for Declaratory Order regarding Public Service’s administration of the IQ EV Rebate program under its 2021-2023 Transportation Electrification Plan, has been filed with the Commission.**

14. This Decision establishes a 14-day notice and intervention period for CEO’s Petition. The Commission’s notice period for the Petition shall extend through and include

5:00 p.m. on December 14, 2023. The intervention period will run concurrent with the notice period. Interventions shall be due by **5:00 p.m. on December 14, 2023.**

15. The comment period will run concurrent with the notice period. Initial Comments to the Petition shall also be filed by **December 14, 2023**, at 5:00 p.m.

16. Any responsive comments to the Initial Comments shall be filed no later than **December 14, 2023**, at 5:00 p.m.

II. ORDER

A. It Is Ordered That:

1. The Petition for Declaratory Order (Petition) filed by the Colorado Energy Office on November 3, 2023, is accepted.

2. Service of this Decision will provide notice of the Petition to all interested persons, firms, and corporations.

3. The notice period for the Petition shall extend through and include **5:00 p.m. on December 14, 2023.**

4. Any person desiring to intervene or participate as a party in this Proceeding shall file a petition for leave to intervene or, pursuant to the Commission's Rules of Practice and Procedure, other appropriate pleadings to become a party by **5:00 p.m. on December 14, 2023.**

5. Alternatively, persons who do not wish to intervene or become a party, but desire to file comments, may send written comments on or before **5:00 p.m. on December 14, 2023**, addressed to the Public Utilities Commission, 1560 Broadway, Suite 250, Denver, Colorado 80202, or through the Commission's E- Filings System under Proceeding No. 23D-0371E at: [Colorado.gov/dora/puc](https://colorado.gov/dora/puc).

6. Initial Comments to the Petition shall be filed no later than **December 14, 2023**, at 5:00 p.m. Any responsive comments to the Initial Comments shall be filed no later than **December 14, 2023**, at 5:00 p.m.

7. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
November 22, 2023.**

(S E A L)



ATTEST: A TRUE COPY

Rebecca E. White,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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MEGAN M. GILMAN

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Commissioners