

Decision No. C24-0541

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

PROCEEDING NO. 24M-0317EG

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IN THE MATTER OF THE IMPLEMENTATION OF SENATE BILL 24-218 CONCERNING FUTURE ADVICE LETTER FILINGS BY PUBLIC SERVICE COMPANY OF COLORADO TO FUND DISTRIBUTION ACTIVITIES THROUGH DECEMBER 31, 2025.

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**COMMISSION DECISION OPENING PROCEEDING,  
ISSUING NOTICE, REQUESTING INTERESTED  
PERSONS TO FILE A NOTICE OF PARTICIPATION, AND  
REQUIRING TRIAL STAFF TO FILE COMMENTS AND  
PUBLIC SERVICE TO FILE RESPONSIVE COMMENTS**

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Issued Date: July 26, 2024

Adopted Date: July 17, 2024

TO THE PARTICIPANTS IN THIS PROCEEDING AND ALL INTERESTED PERSONS, FIRMS, OR CORPORATIONS:

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**I. BY THE COMMISSION**

**A. Statement**

1. By this Decision, the Commission opens this proceeding to address the proper implementation of the provisions in Senate Bill (“SB”) 24-218 concerning the future Advice Letter filings from Public Service Company of Colorado (“Public Service” or “the Company”) to enable it to recover the costs of the investments to be placed in service and the expenses incurred for certain distribution activities through December 31, 2025, as required in § 40-2-132.5(4)(d), C.R.S.

2. Consistent with the discussion below, we notice this proceeding and request interested persons file a Notice of Participation no later than August 14, 2024.<sup>1</sup> Trial Staff of the Colorado Public Utilities Commission (“Staff”) and any other interested person shall file initial comments no later than August 14, 2024, describing the relevant and necessary elements of the future advice letter filings to implement SB 24-218 prior to the establishment of a grid modernization adjustment clause pursuant to § 40-2-123.5(7), C.R.S. Public Service shall file responsive comments no later than September 4, 2024. The Commission will review the filed comments and may issue a written decision addressing the future advice letter filing and the related subsequent steps necessary to implement SB 24-218.

#### **B. Background and Discussion**

3. As enacted by SB 24-218, Public Service “shall upgrade the state’s electrical distribution systems as needed and in time to affordably and reliably support the achievement of the state’s beneficial and transportation electrification and decarbonization goals and support implementation of federal, state, regional, and local air quality and decarbonization targets, standards, plans, and regulations.”<sup>2</sup>

4. The statute has already required Public Service to file within 30 days of the statutory effective date an Advice Letter to begin the recovery of the costs associated with its forecasted investments to be placed in service and the expenses incurred for certain distribution system-related activities from the effective date of the statute, or May 22, 2024 (“First Advice Letter”).<sup>3</sup> The statute also required Public Service to include that such cost recovery begin no later

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<sup>1</sup> Notice to participate filings are not required for commenters, but assist the Commission in better identifying and contacting, if necessary, stakeholders intending to comment or follow this proceeding.

<sup>2</sup> § 40-2-123.5(4)(a), C.R.S.

<sup>3</sup> § 40-2-123.5(4)(d)(III), C.R.S.

than 60 days after the effective date of the statute, or July 21, 2024. SB 24-218 mandated that such cost recovery be implemented through the Company's Transmission Cost Adjustment ("TCA") or another existing adjustment clause.<sup>4</sup> SB 24-218 further required Public Service to identify in the First Advice Letter filing the revenue requirement for the relevant investments and expenses and a return at the Company's most recently approved weighted average cost of capital, for the period beginning on May 22, 2024 and ending on December 31, 2024.<sup>5</sup> TCA collections are capped in 2024 at a one-half percent retail rate impact on an annualized basis.<sup>6</sup>

5. Accordingly, on June 20, 2024, Public Service filed Advice Letter No. 1953-Electric in Proceeding No. 24AL-0282E to revise its TCA to increase revenues to the 2024 capped level effective July 21, 2024.

6. On July 10, 2024, Staff filed a protest, arguing that the tariff sheets filed with the First Advice Letter should be suspended and set for hearing. Staff raised concerns with a number of items including: the sufficiency of support given the lack of testimony; an apparent disconnect between capital additions and rate base; questions on the Company's calculation of the rate cap; questions regarding the revenue effect and total annual revenues collected; and concerns given that no rate calculations or billing determinations were provided concurrent with the filing.<sup>7</sup>

7. Through Decision No. C24-0516, issued July 17, 2024, the Commission ultimately determined it was appropriate to allow the TCA tariff sheets the Company filed with the First Advice Letter to go into effect by operation of law on July 21, 2024. At the same time, the Commission found that under typical Commission processes reviewing a Company advice letter

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<sup>4</sup> § 40-2-123.5(4)(d)(II), C.R.S.

<sup>5</sup> § 40-2-123.5(4)(d)(III), C.R.S.

<sup>6</sup> § 40-2-123.5(4)(d)(II)(A), C.R.S.

<sup>7</sup> Staff Protest, filed July 10, 2024, at 2.

filing the Commission “would likely agree with Staff that the Company’s proposed investment filing is inadequate and raises far more questions than answers, such that suspension and hearing would be appropriate.”<sup>8</sup> Despite this concern, however, the Commission agreed with the Company in that SB 24-218 recognizes a balance of proactive investment in the distribution system and timely cost recovery as critical to support the clean energy transition for this First Advice Letter filing.

8. By statute, Public Service is next required to file, no later than November 1, 2024, another advice letter to continue recovering the costs associated with its investments to be placed in service and the expenses incurred through December 31, 2025 (“Second Advice Letter”).<sup>9</sup> SB 24-218 requires Public Service to identify in that Second Advice Letter filing the revenue requirement for the relevant investments and expenses and a return at the Company’s most recently approved weighted average cost of capital, for the period beginning on January 1, 2025 and ending on December 31, 2025. The tariff sheets filed with the Second Advice Letter will have an effective date of January 1, 2025, and, for 2025, TCA collections are capped at a one and one-fourth percent retail rate impact on an annualized basis.<sup>10</sup>

9. As explained in Decision No. C24-0516 addressing the First Advice Letter, the concerns raised by Staff appear valid. In particular, we are concerned that, while TCA amounts collected through December 31, 2025 are subject to caps and true-up requirements, a clear picture on the breadth and scope of the full recovery of eligible costs incurred through December 31, 2025, is not yet known, nor is it clear how these investments advance the statutory clean energy goals given the inadequacies of the Company’s First Advice Letter filing.

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<sup>8</sup> See PUC Decision C24-516 at p. 4, ¶ 11.

<sup>9</sup> § 40-2-123.5(4)(d)(IV), C.R.S.

<sup>10</sup> § 40-2-123.5(4)(d)(II)(B), C.R.S.

While subject to separate review, concurrent with the updates in § 40-2-132.5(4)(d), C.R.S., SB 24-218 also includes § 40-2-132.5(5), C.R.S. requiring the Company file a distribution system plan filing with significant considerations for the Commission's review, approval, modification, or denial. We anticipate the Company will have increasing information on its anticipated planning leading up to the Second Advice Letter November 1, 2024 filing date. A more robust and informed filing is therefore likely possible in the coming months.

10. Given our directives across these statutes, we therefore open this proceeding given the unique cost recovery processes provided in § 40-2-132.5(4)(d), C.R.S., as implemented in SB 24-218. We seek input from Staff, Public Service, and other interested stakeholders addressing the relevant and necessary elements of the Second Advice Letter and of the two later advice letter filings for the true-ups for 2024 and 2025 in order to properly implement SB 24-218 prior to the establishment of a grid modernization adjustment clause pursuant to § 40-2-123.5(7), C.R.S. Particularly given the balance of interests in statute—including defined distribution activities, compliance with the advancement of certain clean energy goals outlined in the statute, set timelines for cost recovery to begin with the TCA, caps on collections through December 31, 2025, and true-up reconciliations—a pre-filing comment process can assist the Commission and its Staff to ensure that the Company's future advice letter filings are significantly more robust.

11. Staff shall provide a filing explaining the information it anticipates as necessary to ensure compliance with the statutory requirements and to otherwise implement the cost recovery provisions in SB 24-218 prior to the establishment of a grid modernization adjustment clause. The Company shall respond within three weeks of Staff's filing. Any interested stakeholders may respond or file comments as well. The Commission will review comments filed and may issue a

written decision addressing the anticipated November 1, 2024 filing, and the subsequent steps necessary to implement SB 24-218.

**II. ORDER**

**A. The Commission Orders That:**

1. This proceeding is opened for the purpose of receiving comments addressing the proper implementation of relevant provisions in Senate Bill 24-218 regarding the future advice letter filings from Public Service Company of Colorado pursuant to § 40-2-132.5(4)(d), C.R.S.

2. This Proceeding is designated as an Administrative Proceeding under Rule 1004(b) of the Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1.

3. Interested persons may file a notice indicating their intent to participate no later than August 21, 2024.

4. Trial Staff of the Colorado Public Utilities Commission shall file comments, consistent with the above, no later than no later than August 14, 2024.

5. Public Service Company of Colorado shall file responsive comments, consistent with the discussion above, no later than September 4, 2024.

6. Public comments may be provided at any time, but are requested prior to September 4, 2024.

7. This Decision is effective upon its Issued Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING  
July 17, 2024.**

(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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Commissioners