

Decision No. C24-0831

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 24M-0317EG

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.

COMMISSION DECISION DENYING REQUEST FOR REHEARING, REARGUMENT, OR RECONSIDERATION, AND DENYING REQUEST TO RESPOND AS MOOT

Issued Date: November 15, 2024

Adopted Date: November 13, 2024

I. BY THE COMMISSION

A. Statement

1. By this Decision, the Commission denies the request for rehearing, reargument, or reconsideration (“RRR”) of Decision No. C24-0720 filed on October 17, 2024, by Public Service Company of Colorado (“Public Service” or the “Company”), and denies, as moot, the motion for leave to respond to the Company’s RRR filed on October 24, 2024 by Trial Staff of the Colorado Public Utilities Commission (“Staff”). As discussed below, continuing implementation of Senate Bill (“SB”) 24-218 is best addressed in substantive ongoing and future proceedings, including, to the extent appropriate, the recovery of Equipment to Advance Distribution Activities (“EADA”) costs, consistent with statute and Commission process.

B. Background and Discussion

2. Through Decision No. C24-0541, issued July 26, 2024, the Commission opened this Proceeding to receive comments addressing guidance for the implementation of the provisions

in SB 24-218 concerning the future advice letter filings from Public Service and the related subsequent steps (“Opening Decision”).

3. As discussed in the Opening Decision, SB 24-218, requires that 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.”¹

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”).² The statute also required Public Service to include that such cost recovery begin no later 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.³

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, 2024.⁴

¹ § 40-2-123.5(4)(a), C.R.S.

² § 40-2-123.5(4)(d)(III), C.R.S.

³ § 40-2-123.5(4)(d)(II), C.R.S.

⁴ TCA collections are capped in 2024 at a one-half percent retail rate impact on an annualized basis. § 40-2-123.5(4)(d)(II)(A), C.R.S.

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, arguing that the filing did not comport with typical Commission process or required support.

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, despite Staff's protest. 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. The First Advice Letter filing balanced statutorily set timeframes, but also ratepayer protections, which, as the Company recognized, include that the Commission has broad authority to continually ensure that the rates are just and reasonable, particularly given the cap and true-up reconciliation contemplated by law.

8. While it allowed the First Advice Letter to go into effect given the prescriptive statute, the Commission also opened this proceeding noting that 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").⁵ Given our directives across applicable statutes, we sought through this proceeding to provide guidance given the unique cost recovery processes provided in § 40-2-132.5(4)(d), C.R.S., as implemented in SB 24-218 recognizing tight timelines before the Second Advice Letter would be filed.

9. We therefore requested comments from Staff, Public Service, and other interested stakeholders addressing the relevant and necessary elements of the Second Advice Letter and of

⁵ § 40-2-123.5(4)(d)(IV), C.R.S.

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 (“GMAC”) pursuant to § 40-2-123.5(7), C.R.S. Particularly given the balance of interests in statute—including defined distribution activities, set timelines for cost recovery to begin with the TCA, caps on collections through December 31, 2025, and true-up reconciliations— we determined that a pre-filing comment process can assist the Commission and its Staff in anticipation of these future advice letter filings.

10. Following comments, the Commission issued Decision No. C24-0720, directing Public Service to provide additional information in the Second Advice Letter filing to adjust the Company’s TCA for effect January 1, 2025, as required by statute. The Commission also directed Public Service to remove the true-up provisions of the TCA tariff sheets and required the Company to file another TCA advice letter no later than April 1, 2025, to address true-up for 2024 expenditures on distribution activities for credits or charges assessed in the remainder of 2025.

11. The Commission further advised Public Service that it is expected to address the true-up for 2025 expenditures as a feature of the GMAC that the Company will put into effect on January 1, 2026, pursuant to the provisions in § 40-2-132.5(7), C.R.S., as part of the Company’s next Distribution System Plan (“DSP”) filing due in December of this year.

12. Lastly, the Commission directed the Company to work closely with Staff in its preparation of the forthcoming Second Advice Letter filing in order to mitigate potential protests to that advice letter. The Commission then closed this Proceeding.

13. Through RRR to Decision No. C24-0720, Public Service requests that the Commission address the topic of cost recovery for EADA under SB 24-218. Specifically, Public Service requests that the Commission clarify that the Company can continue to recover the

additional revenue requirements it incurs for qualifying EADA ordered from SB 24-218's effective date through December 31, 2025, through the TCA or the GMAC until such costs can be transferred to the Company's base rates through an electric rate case. Public Service proposes that it will include support for EADA in the Second Advice Letter.

14. Following the RRR filing, on October 24, 2024, Staff filed a motion for leave to respond to the RRR, claiming that the Company provides errors in law regarding interpretation of SB 24-218. Staff also points out that the Company now presents a novel recommendation that it failed to raise earlier in the proceeding.

15. While it does not provide its substantive arguments prior to the motion being addressed, Staff argues that the limited comment process here is insufficient to address the Company's latest argument after comments have concluded, particularly where there was no opportunity for discovery, witnesses, or cross-examination – or the facts of the filings themselves – and at the very least a response is needed.

16. On November 1, 2024, as required by SB24-218, the Company filed the Second Advice Letter initiating Proceeding No. 24AL-0483E.

C. Conclusions

17. Both in time and function, this proceeding has served its purpose in directing the upcoming Second Advice Letter filing that is now provided in a separate docket, and in setting in motion the importance of the DSP and future "true up" filings necessary in statute. It is in those other substantive ongoing proceedings where continued conferral with Staff and the potential parties will be necessary for the continuing implementation of SB 24-218, including, to the extent appropriate, addressing the EADA.

18. We agree with Staff's observations that novel issues raised in RRR are not best addressed in the context of this limited proceeding. We therefore deny the RRR, and deny Staff's request to respond as moot within the context of this proceeding. Ongoing implementation of SB 24-218 will include analysis and support in the separate dockets as laid out in our prior decision, including as parties work through any concerns with the Second Advice Letter filing that has already been submitted.

II. ORDER

A. The Commission Orders That:

1. Public Service Company of Colorado's request for rehearing, reargument, or reconsideration ("RRR") of Decision No. C24-0720, filed on October 17, 2024, is denied, consistent with the discussion above.

2. The Motion for Leave to Respond to RRR, filed by Trial Staff of the Colorado Public Utilities Commission on October 24, 2024, is denied as moot, consistent with the discussion above.

3. This Decision is effective upon its Issued Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
November 13, 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