Decision No. R25-0798

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 25AL-0146E

IN THE MATTER OF ADVICE LETTER NO. 1980 - ELECTRIC FILED BY PUBLIC SERVICE COMPANY OF COLORADO TO REVISE ITS COLORADO P.U.C. NO. 8 - ELECTRIC TARIFF TO INCREASE THE TRANSMISSION COST ADJUSTMENT RIDER, TO BECOME EFFECTIVE MAY 2, 2025.

RECOMMENDED DECISION PERMANENTLY SUSPENDING TARIFF SHEETS, REQUIRING FILING, AND CLOSING PROCEEDING

Issued Date: November 6, 2025

TABLE OF CONTENTS

I. STATEMENT

A. Procedural Background

1. On April 1, 2025, Public Service Company of Colorado ("Public Service" filed Advice Letter No. 1980 - Electric ("Advice Letter") to modify its Transmission Cost Adjustment ("TCA") for the purpose of reconciling revenue collections with eligible spending associated with distribution system-related activities and investments in 2024. The Advice Letter set a net annual revenue increase of $617,926, to be recovered May 2, 2025, through December 31, 2025, compared to the rates currently in effect.

2. On April 24, 2025, Trial Staff of the Colorado Public Utilities Commission ("Staff") filed a protest to the Advice Letter asking the Commission to set the matter for hearing and suspend the effective date of the tariff sheets filed with the Advice Letter.

3. On May 1, 2025, the Commission issued Decision No. C25-0341 that set the matter for hearing, thereby suspending the tariff sheets filed with CNG's Advice Letter No. 1980 for 120 days through August 30, 2025, established an intervention period through May 30, 2025, and referred the proceeding to an Administrative Law Judge ("ALJ"). The proceeding was subsequently assigned to the undersigned ALJ.

4. On May 30, 2025, Staff filed a Notice of Intervention.

5. On June 9, 2025, the ALJ issued Decision No. R25-0445-I that acknowledged the Notice of Intervention, scheduled a remote prehearing conference for June 20, 2025 at 1:30 p.m., and required the parties to confer regarding a procedural schedule and for Public Service to file a report of conferral by noon on June 18, 2025.

6. On June 16, 2025, Public Service filed the Conferral Report in which it reported that the parties had agreed to a schedule including a remote evidentiary hearing on September 9, 2025.

7. On June 17, 2025, the ALJ issued Decision No. R25-0458 that adopted the schedule proposed by the parties and scheduled the remote evidentiary hearing for September 9, 2025.

8. The parties filed their answer and rebuttal testimony on the deadlines set in Decision No. R25-0458.

9. On August 28, 2025, the parties filed an Unopposed Joint Motion to Vacate the Evidentiary Hearing and Request for Waiver of Response Time ("Unopposed Joint Motion"). In the Unopposed Joint Motion, the parties stated: (a) "the only remaining disputed issue in this case is the appropriate interpretation of the statutory retail rate impact cap under Colorado Senate Bill ('SB') 24-218 as applied to 2024 qualifying distribution costs recovered through the" Transmission Cost Adjustment – Distribution Cost;[1] and (b) that the issue "can be efficiently and appropriately resolved on the papers based on the ALJ's consideration of the prefiled testimony and attachments submitted in this proceeding and the parties' respective statements of position to be filed on October 10, 2025."[2] As the hearing would not provide any evidence relevant to the sole remaining disputed issue, the parties stated that vacating the hearing would "promote the efficient use of Commission and party resources."[3] The parties thus requested that the remote evidentiary hearing be vacated, and "stipulate[d] to the admission of the premarked hearing exhibits."[4]

[1] Unopposed Joint Motion at p. 2 (¶ 5).
[2] *Id*. at p. 2 (¶ 6).
[3] *Id*.
[4] *Id*. at 2 (¶ 5).

10. On September 3, 2025, the ALJ issued Decision No. R25-0641-I that granted the Unopposed Joint Motion.

11. On October 10, 2025, the parties each filed a Statement of Position ("SOP" or "SOPs").

B. Substantive Background

12. On May 22, 2024, Governor Polis signed Senate Bill ("SB") 24-218 ("the Bill") that created gird modernization adjustment clauses ("GMACs") for each "qualifying retail utility" to "recover, on an annual basis, projected distribution activities" defined as:

> (I) Capital investment and operations and maintenance expenses associated with equipment upgrades, repair and replacement programs, conductor replacements, conductor installations, pole repair and replacement, overhead rebuilds, inspection, modeling, asset data gathering, defect corrections, and major line rebuilds; and
>
> (II) Similar activities and investments, including information and operational technology investments, with the objective of enhancing the distribution system to meet state decarbonization goals and federal, state, regional, and local air quality and decarbonization targets, standards, plans, and regulations.[5]

SB 24-218 further directed that, before the creation of the GMACs, each qualifying retail utility is authorized to recover the cost of distribution investments forecasted to be placed into service in 2024 and 2025 through the TCA, subject to a "retail rate impact cap on an annualized basis" of 0.5 percent in 2024 and 1.25 percent in 2025.[6] The Bill also provided that distribution investments recovered through the TCA would be subject to a true-up process.[7] Public Service

[5] § 40-2-132.5(2)(h)(I)-(II), C.R.S.
[6] § 40-2-132.5(4)(d)(II), C.R.S.
[7] § 40-2-132.5(4)(d)(V), C.R.S.

refers to the recovery of distribution investments through the TCA as the TCA "Distribution rate" or "TCA-D."[8]

13. Public Service filed an advice letter on June 20, 2024 to update the TCA to begin recovery of 2024 TCA-D investments, which became Proceeding No. 24AL-0282E. Staff filed a Protest stating that the limited information provided in that filing was insufficient for the Commission to determine whether the requested rate increase resulted in TCA rates that were just, reasonable, and in the public interest.[9] The Commission stated that the filing was "not a typical advice letter filing" due to the "unique circumstances" created by the passage of Senate Bill 24-218.[10] The Commission further stated that "[u]nder typical process, we 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"[11] but that "[p]articularly given the cap and true-up process contemplated in the statute, balanced with the timing in statute to enable expenditures through the end of 2024, we find that suspension and hearing on this particular advice letter is not warranted."[12]

14. This proceeding is the "true-up process" referenced by the Commission.

II. PARTIES' POSITIONS

15. Both parties agree that the "retail rate impact cap" in § 40-2-132.5(4)(d)(I)-(II), C.R.S. is determined by applying the percentage cap specified in the statute to Public Service's retail revenues. As a result, the maximum distribution costs that Public Service can recover in

[8] Hearing Exhibit 103 at 4:1-5 (Rebuttal Testimony of Marci A. McKoane).
[9] Staff's Protest filed in Proceeding No. 24AL-0282E on July 10, 2024.
[10] Decision No. C24-0516 issued in Proceeding No. 24AL-0282E on July 17, 2024 at 4 (¶ 10).
[11] *Id*. at 4 (¶ 11).
[12] *Id*. at 5 (¶ 12).

2024 is 0.5 percent of retail revenues. In so doing, the statute limits the impact of the cost of distribution investments on retail customers.

16. The parties disagree about what retail revenues are used in the calculation of the cap. Public Service contends that all retail revenues must be employed because the statute does not place any qualifiers or limitations on the cap.[13] Staff disagrees, arguing that the revenues obtained from transmission customers must be excluded because they do not use the distribution system and thus do not pay distribution costs through base rates or the TCA-D.[14] Including the retail revenues obtained from transmission customers means that the customers who actually pay the TCA-D rider would see a retail rate impact of 0.52 percent.[15]

A. Public Service

17. As noted, Public Service argues that the retail revenues obtained from all customers must be used in calculating the "retail rate impact cap," including large commercial customers that take transmission-level service and thus neither use the distribution system nor pay for distribution costs. As Public Service's total 2024 retail electric revenues were $3,409,116,969, application of the 0.5 percent cap results in the recovery through the TCA-D of $17,045,585.[16] In contrast, Public Service's electric revenues from customers who are subject to the TCA-D (*i.e.*, all customers except large commercial customers who take transmission service), were $3,290,546,638.[17] The cap proposed by Public Service – $17,045,585 – is 0.52

[13] Public Service's SOP at 4-5; Hearing Exhibit 103 at 7:1-11 (Rebuttal Testimony of Marci A. McKoane).
[14] Staff's SOP at 5-6; Hearing Exhibit 200 at 12:7-19 (Answer Testimony of Eric Haglund).
[15] Staff's SOP at 6; Hearing Exhibit 200 at 13:1-12.
[16] Advice Letter, Attach. 3 at 2; Hearing Exhibit 101 at 13:3-13 (Direct Testimony of Marci A. McKoane).
[17] Hearing Exhibit 200 at 13:6-8 & Attachs. ERH-1, ERH-2. *See also* Hearing Exhibit 9:4-8 (Staff's calculation of $3,290,546,638 is "mathematically correct").

percent of the revenues from non-transmission customers who use and pay for the costs of the distribution system.[18]

18. Public Service argues that this application of the statute is consistent with its plain language, which does not include any qualifier or other limitation specifying that the cap is limited to distribution-only revenues or excludes transmission customers.[19] Public Service also asserts that its interpretation is consistent with "the clear purpose of the statutory cap provisions under SB 24-218 [] to simply set an overall cap on the amount of cost recovery afforded to the Company for distribution activities prior to the establishment of the GMAC."[20] Finally, Public Service contends that its interpretation is consistent with other statutory cost recovery mechanisms for the Transportation Electrification Programs ("TEPs"),[21] the Renewable Energy Standard ("RES"),[22] and the Clean Energy Plan ("CEP").[23] Public Service states that both § 40-1-103.3(6), C.R.S. (TEPs cost recovery mechanism) and § 40-2-132.5(4)(d)(I)-(II), C.R.S. "calculate[] the retail rate impact cap based on total retail revenue requirements."[24] The statutes creating the recovery riders for the RES and CEP cap the maximum retail rate impact at 2.0 and 0.5 percent "of the total electric bill annually for each customer," respectively.[25] Public Service contends that the RES and CEP cost recovery mechanisms show that "when the General

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[18] *Id*.

[19] Public Service's SOP at 4-5.

[20] *Id*. at 4. *See also id*. at 6 ("The policy intent behind SB 24-218 is clear: to ensure timely and predictable cost recovery for distribution system investments that support Colorado's decarbonization goals and grid modernization efforts").

[21] § 40-1-103.3(6), C.R.S. (the "retail rate impact cap from the development of electric vehicle infrastructure must not exceed one-half of one percent of the total annual revenue requirements of the utility.").

[22] § 40-2-142(1)(g), C.R.S. (maximum retail rate impact of "two percent of the total electric bill annually for each customer.").

[23] § 40-2-125.5(5), C.R.S. ("a maximum electric retail rate impact of one and one-half percent of the total electric bill annually for each customer for implementation of the approved clean energy plan activities.").

[24] Public Service's SOP at 5. *See also* Hearing Exhibit 103 at 8:18-9:3 (Rebuttal Testimony of Marci A. McKoane).

[25] Public Service's SOP at 5. *See also* Hearing Exhibit 103 at 9:15-10:7.

Assembly has intended to limit retail rate impact calculations to specific customer classes or bill components, it has done so explicitly."[26] However, "SB 24-218 contains no such qualifier or limitation on the retail rate impact for customers that would limit the total retail revenues that can be considered in calculating the statutory cap."[27]

B. Staff

19. Staff argues that the plain meaning of § 40-2-132.5(4)(d)(I)-(II), C.R.S. imposes "a maximum retail rate impact of 0.5 percent for the TCA-D portion of the TCA rider."[28] In practice, this means that "no customer or customer class should experience a rate impact greater than 0.5 percent as a result of the TCA-D rider."[29] Because large commercial customers that take transmission service do not pay for distribution costs through the TCA-D or otherwise, revenue collected from such customers cannot be included in the calculation of the "retail rate impact cap" in § 40-2-132.5(4)(d)(I)-(II), C.R.S. Including such revenue results in a rate increase for the customers that pay the distribution costs through the TCA-D of 0.52 percent, which exceeds the 0.5 percent cap in § 40-2-132.5(4)(d)(II)(a), C.R.S.[30]

III. QUESTION PRESENTED

20. Does the reference in § 40-2-132.5(4)(d)(II)(a), C.R.S. to a "one-half percent retail rate impact cap" apply to the increase in rates paid by customers or the increase in the total retail revenues collected by Public Service?

[26] Public Service's SOP at 5.
[27] Public Service's SOP at 6.
[28] Staff's SOP at 5; Hearing Exhibit 200 at 11:11-14 (Answer testimony of Eric Haglund).
[29] Staff's SOP at 5; Hearing Exhibit 200 at 11:14-16.
[30] Staff's SOP at 5; Hearing Exhibit 200 at 8:7-11.

IV. LEGAL STANDARD

A. Analytical Approach

21. In rendering this Decision, the ALJ has carefully reviewed and considered all the evidence introduced by the Parties during the hearing, including the testimony and hearing exhibits, even if this Decision does not specifically address all of the evidence presented, or every nuance of each party's position in each issue. Moreover, the ALJ has considered all the legal arguments set forth in the SOPs, even if the Decision does not explicitly address every legal argument. In rendering this Decision, the ALJ has weighed the evidence and evaluated the credibility of all the witnesses and hearing exhibits.[31]

B. Burden of Proof

22. Except as otherwise provided by statute, the Administrative Procedures Act imposes the burden of proof in administrative adjudicatory proceedings upon "the proponent of an order."[32] The party bearing the burden must prove their case by a preponderance of the evidence.[33] The evidence must be "substantial evidence," which is defined as "such relevant evidence as a reasonable [person's] mind might accept as adequate to support a conclusion ... it must be enough to justify, if the trial were to a jury, a refusal to direct a verdict when the conclusion sought to be drawn from it is one of fact for the jury."[34] This standard requires the finder of fact to determine whether the existence of a contested fact is more probable than its non-existence.[35]

[31] *See Durango Transportation, Inc. v. Colorado Public Utilities Comm'n.*, 122 P.3d 244, 252 (Colo. 2005); *RAM Broadcasting of Colo., Inc. v. Public Utilities Comm'n.*, 702 P.2d 746, 750 (Colo. 1985).

[32] § 24-4-105(7), C.R.S.

[33] Section 24-4-105(7), C.R.S.; § 13-25-127(1), C.R.S.; Rule 1500 of the Rules of Practice and Procedure, 4 CCR 723-1.

[34] *See*, *e.g.*, *City of Boulder v. PUC*, 996 P.2d 1270, 1278 (Colo. 2000) (quoting *CF&I Steel, L.P. v. PUC*, 949 P.2d 577, 585 (Colo. 1997)).

[35] *Swain v. Colorado Department of Revenue*, 717 P.2d 507 (Colo. App. 1985).

C. Statutory Interpretation

23. The goal of statutory interpretation is to give effect to the intent of the General Assembly. The language of the statute must be read and considered as a whole, and it should be construed to give consistent, harmonious, and sensible effect to all its parts.[36] Words and phrases must be read in context and given their plain and ordinary meaning in that context.[37] Resort to a definition in a "recognized dictionary" to determine the plain and ordinary meeting is permissible.[38] Where statutory language is unambiguous, resort to other rules of statutory interpretation is unnecessary and the language is applied as written.[39]

24. If the statutory language is ambiguous, however, additional tools of statutory construction are employed.[40] A statute is ambiguous if it is reasonably susceptible to multiple interpretations that lead to different results.[41] "The plainness or ambiguity of statutory language is determined by reference to the language itself, the specific context in which that language is used, and the broader context of the statute as a whole."[42] The additional tools used to construe the meaning of an ambiguous statute include canons of statutory construction, the consequences of a given construction, the end to be achieved by the statute, and the circumstances surrounding

[36] *Safehouse Prog. Alliance for Nonviolence, Inc. v. Qwest Corp.*, 174 P.3d 821, 826 (Colo. App. 2007).

[37] *In re Miranda*, 289 P.3d 957, 960 (Colo. 2012); *Klinger v. Adams Cnty. Sch. Dist. No. 50*, 130 P.3d 1027, 1031 (Colo. 2006). *See also Dep't of Transportation v. Amerco Real Est. Co.*, 380 P.3d 117, 121 ("While there will often be room for debate about the breadth of surrounding text to be considered in assessing whether particular language can have more than one reasonable understanding, and is therefore considered ambiguous, there can be little question that the meaning of words or phrases cannot be separated from the broader context in which they are used and the function they serve, according to accepted rules of grammar and syntax, in the very sentence in which they appear.").

[38] *Cowen v. People*, 431 P.3d 215, 218 (Colo. 2018) ("When determining the plain and ordinary meaning of words, we may consider a definition in a recognized dictionary.").

[39] *Foiles v. Whittman*, 233 P.3d 697, 699 (Colo. 2010).

[40] *Larrieu v. Best Buy Stores, L.P.*, 303 P.3d 558, 561 (Colo. 2013).

[41] *See A.M. v. A.C.*, 296 P.3d 1026, 1030 (Colo. 2013).

[42] *People v. Diaz*, 347 P.3d 621, 625 (Colo. 2015).

the statute's adoption.[43] One of the best guides is the context in which the statutory provisions appear.[44]

V. ANALYSIS

25. The ALJ agrees with Staff's interpretation of § 40-2-132.5(4)(d)(II), C.R.S., which specifies a "one-half percent retail rate impact cap." The plain meaning of the statutory language is that the cap is on the increase in the "rate" paid by the customers who pay distribution costs through the TCA-D, not on the increase in Public Service's overall retail revenues from every source. As a result, because large commercial transmission-level customers do not pay for distribution costs through the TCA-D and therefore experience no "rate impact" as a result of a change to the TCA-D, including the revenues received from such customers in the calculation of the retail rate impact is contrary to § 40-2-132.5(4)(d)(II), C.R.S. Instead, such revenues must be excluded from the calculation to ensure that the retail rate impact on the customers who pay the distribution costs is capped as required by § 40-2-132.5(4)(d)(II), C.R.S.

26. Such an outcome is not contrary to the intent of § 40-2-132.5(4)(d)(II), C.R.S. Public Service states that the General Assembly's intent in passing that statute was "to ensure timely and predictable cost recovery for distribution system investments that support Colorado's decarbonization goals and grid modernization efforts." While that may be true, the General Assembly also sought to limit the "retail rate impact" of those investments on ratepayers. The ALJ's interpretation achieves both purposes; it allows timely and predictable cost recovery for Public Service's distribution system investments in a way that limits the retail rate impact of those investments on ratepayers who pay for those investments. While Public Service prefers to

[43] *Bostelman v. People*, 162 P.3d 686, 690 (Colo. 2007); *Williams v. Kunau*, 147 P.3d 33, 36 (Colo. 2006).
[44] *St. Vrain Valley Sch. Dist. RE-1J v. A.R.L.*, 325 P.3d 1014, 1019 (Colo. 2014).

recover more of its investment through the TCA-D, the ALJ's interpretation ensures that the retail rate impact on an annualized basis is limited as required by the statute. As a result, the ALJ's interpretation is fully consistent with the intent of § 40-2-132.5(4)(d)(II), C.R.S.

27. Nor do the statutory cost recovery mechanisms for the TEPs,[45] the RES,[46] and the CEP[47] require the ALJ to adopt Public Service's interpretation of § 40-2-132.5(4)(d)(II), C.R.S. Section 40-1-103.3(6), C.R.S. (TEPS cost recovery mechanism) states that the "retail rate impact cap from the development of electric vehicle infrastructure must not exceed one-half of one percent ***of the total annual revenue requirements of the utility***." Section 40-2-132.5(4)(d)(II), C.R.S. includes no such language. As a result, it is simply inaccurate to state that the TEPs' cost recovery mechanism requires the retail rate impact cap in § 40-2-132.5(4)(d)(II), C.R.S. to be "calculated . . . based on total retail revenue requirements."[48]

28. Similarly, that §§ 40-2-125.5(5), 40-2-142(1)(g), C.R.S. expressly state that the percentage retail rate impacts specified therein are calculated based on "the total electric bill annually for each customer" is inapposite. Contrary to Public Service's argument, this language is expansive, not limiting. Regardless, the quoted language in these other statutes does not mean that the General Assembly intended the retail rate impact cap in § 40-2-132.5(4)(d)(II), C.R.S. to be calculated based on the total retail revenue, including that collected from large commercial customers who take transmission service and do not pay for distribution costs through the TCA-D or otherwise.

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[45] § 40-1-103.3(6), C.R.S. (the "retail rate impact cap from the development of electric vehicle infrastructure must not exceed one-half of one percent of the total annual revenue requirements of the utility.").

[46] § 40-2-142(1)(g), C.R.S. (maximum retail rate impact of "two percent of the total electric bill annually for each customer.").

[47] § 40-2-125.5(5), C.R.S. ("a maximum electric retail rate impact of one and one-half percent of the total electric bill annually for each customer for implementation of the approved clean energy plan activities.").

[48] Public Service's SOP at 5. *See also* Hearing Exhibit 103 at 8:18-9:3 (Rebuttal Testimony of Marci A. McKoane).

29. Accordingly, the ALJ concludes that Public Service has not carried its burden of proof with respect to the interpretation of § 40-2-132.5(4)(d)(II), C.R.S. The ALJ further concludes that Staff's interpretation of § 40-2-132.5(4)(d)(II), C.R.S. is correct. For this reason, and because Public Service agrees that Staff's calculation of the 2024 TCA-D revenue impact cap and the resulting true-up are mathematically correct,[49] Public Service must employ Staff's calculations.

VI. ORDER

A. The Commission Orders That:

30. For the reasons stated above, the effective date of Tariff Sheet Nos. 142, 142A, and 142B filed with Advice Letter No. 1980 – Electric by Public Service Company of Colorado ("Public Service") on April 1, 2025, is permanently suspended and shall not be further amended.

31. No later than five calendar days after this Recommended Decision becomes the Decision of the Commission, if that is the case, Public Service shall file a new advice letter and modified Tariff Sheet Nos. 142, 142A, and 142B on not less than two days' notice to place the compliance tariff sheets 142, 142A, and 142B of COLO. P.U.C. No. 8 electric Tariff into effect, consistent with the findings, discussion, and conclusions in this Decision. The advice letter and tariff shall be filed as a new advice letter proceeding and shall comply with all applicable Commission rules. In calculating the proposed effective date, the date the filing is received at the Commission is not included in the notice period and the entire notice period must expire prior to the effective date. The advice letter and tariffs must comply in all substantive respects to this Decision in order to be filed as a compliance filing on shortened notice.

32. Proceeding No. 25AL-0146E is closed.

[49] Hearing Exhibit 103 at 9:4-8 (Rebuttal Testimony of Marci A. McKoane).

33. This Recommended Decision shall be effective on the day it becomes the Decision of the Commission, if that is the case, and is entered as of the date above.

34. As provided by § 40-6-109, C.R.S., copies of this Recommended Decision shall be served upon the parties, who may file exceptions to it.

a. If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the decision is stayed by the Commission upon its own motion, the recommended decision shall become the decision of the Commission and subject to the provisions of § 40-6-114, C.R.S.

b. If a party seeks to amend, modify, annul, or reverse basic findings of fact in its exceptions, that party must request and pay for a transcript to be filed, or the parties may stipulate to portions of the transcript according to the procedure stated in § 40-6-113, C.R.S. If no transcript or stipulation is filed, the Commission is bound by the facts set out by the administrative law judge and the parties cannot challenge these facts. This will limit what the Commission can review if exceptions are filed.

35. If exceptions to this Decision are filed, they shall not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be exceeded.

36. Response time to any exceptions that may be filed is shortened to ten (10) days.

(S E A L)

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

CONOR F. FARLEY

____

Administrative Law Judge

ATTEST: A TRUE COPY

Rebecca E. White,
Director