

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

PROCEEDING NO. 20AL-0191E

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IN THE MATTER OF ADVICE LETTER NO. 1825 – ELECTRIC FILED BY PUBLIC SERVICE COMPANY OF COLORADO TO REVISE ITS COLORADO P.U.C. NO. 8 – ELECTRIC TARIFF TO IMPLEMENT A COLORADO ENERGY PLAN ADJUSTMENT AND REDUCE THE RENEWABLE ENERGY STANDARD ADJUSTMENT TO BECOME EFFECTIVE JUNE 1, 2020.

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**INTERIM DECISION ADDRESSING INTERVENTIONS;  
ISSUING QUESTIONS; REQUIRING CONFERRAL; AND  
SETTING REMOTE PREHEARING CONFERENCE**

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Mailed Date: July 16, 2020

Adopted Date: July 8, 2020

**I. BY THE COMMISSION**

**A. Statement**

1. This Decision grants the permissive intervention request filed June 26, 2020 by Colorado Energy Consumers (CEC). We also recognize the timely interventions as of right filed by the Colorado Office of Consumer Counsel (OCC) and the Colorado Energy Office (CEO).

2. As discussed below and consistent with Decision No. C20-0410, issued May 29, 2020, in which we set the matter for hearing *en banc*, suspended the effective date of accompanying tariffs filed by Public Service Company of Colorado (Public Service or the Company) with Advice Letter No. 1825, and set the intervention period, we issue questions to the Company to examine specifically the proposed reduction of Renewable Energy Standard Adjustment (RESA) from two percent to one percent. Supplemental information is required to support the instant request within the scope of this proceeding and provide a basis for the Commission to consider whether to approve the tariffs filed with Advice Letter No. 1825. In

responding to the questions set forth in this Decision, Public Service shall identify a witness or witnesses who could answer follow-up questions at an evidentiary hearing, should one be necessary. To better understand whether the requested Advice Letter No. 1825 and the filed tariffs are in the public interest, we request that the Company provide any contextual or background information that may assist in analysis of the requested information, such that supplemental requests for additional information may not be required.

3. Public Service shall confer with the parties to this proceeding and propose a procedural schedule that includes a deadline for the Company to respond to the Commissioner questions listed in this decision. The proposed schedule shall be filed, jointly if possible, no later than August 7, 2020. A remote prehearing conference is scheduled for August 20, 2020, at 2:00 p.m., consistent with the discussion below.

**B. Discussion**

4. On May 1, 2020, Public Service filed Advice Letter No. 1825 with tariff sheets to implement a new rate adjustment mechanism called the Colorado Energy Plan Adjustment (CEPA) and to reduce the RESA from two percent to one percent. The proposed effective date of the tariffs filed with Advice Letter No. 1825 is June 1, 2020.

5. Public Service proposes to put into effect the CEPA to recover the regulatory asset established as a result of early retirement of two of the coal-fired generation units at the Comanche Generating Station. Public Service states that the early retirements of Comanche 1 (by the end of 2022) and Comanche 2 (by the end of 2025) are components of the Colorado Energy Plan Portfolio (CEPP) approved by the Commission in Decision No. C18-0761 in Proceeding No. 16A-0396E, Public Service's most recent Electric Resource Plan (ERP) proceeding.

6. Public Service further explains that in a related case, Proceeding No. 17A-0797E, the Company sought Commission approval to: (1) modify the depreciation schedules for Comanche 1 and Comanche 2 and establish a regulatory asset to account for the costs of the accelerated depreciation; and (2) reduce the RESA from two percent to one percent and implement the CEPA at one percent of retail revenue coincident with the RESA reduction.

7. Public Service acknowledges that the proposed June 1, 2020 effective date is earlier than the January 1, 2021 contemplated in Decision No. C18-0762 issued in Proceeding No. 17A-0797E. In support of the significantly earlier June 1, 2020 date, the Company provides two tables in Advice Letter No. 1825. One table shows the forecasted RESA deferred balance for the years 2020 through 2029 (RESA Table). The second table presents the “build-up” and amortization of the CEPP-related regulatory asset, including: (1) the annual and cumulative costs; (2) the annual CEPA collections; and (3) the annual return on the regulatory asset, net of tax benefits, calculated at the Company’s weighted average cost of capital.

8. Through Decision No. C20-0410, issued May 29, 2020, the Commission set this matter for hearing *en banc* and suspended the effective dates of the tariff pages filed with Advice Letter No. 1825 pursuant to § 40-6-111(1), C.R.S. The Commission also set the intervention period. The Commission further explained that, before addressing the tariffs filed with Advice Letter No. 1825, it is necessary to examine further the proposed reductions to the RESA surcharge.

9. The Commission noted that the Company’s request to reduce the RESA to one percent comes before the Commission has completed its review and possible modifications to the Commission Rules. The Commission stated that additional information in this proceeding will serve to support a finding that the proposed RESA reduction applicable to Public Service at this

time is in the public interest, notwithstanding the potential modifications in RESA-related general policies and rule revisions under review in Proceeding No. 19R-0096E.

10. Further, the Commission noted new statutory provisions in § 40-2-125.5, C.R.S., that implicate the RESA and future Commission determinations with respect to Public Service's forthcoming Clean Energy Plan filing expected in March 2021. For purposes of this proceeding, the Commission stated that additional information will help the Commission understand Public Service's expected need to use funds collected through the RESA in the near term given these statutory changes, as contemplated in the Advice Letter No. 1825 and tariff sheets.

11. Finally, the Commission noted that additional information would be requested to support the filings submitted, including for example the absence of "Total RESA Costs" starting in 2023.

12. The Commission's order made clear that the purpose of initiating a hearing is not to reconsider the merits of the proposed CEPA. The Commission included that it is also mindful that stakeholder support for the presentation and adoption of the CEP Portfolio rested on the premise that the amortization of the regulatory asset created for the early retirement of Comanche 1 and 2 using a bill surcharge of one percent (*i.e.*, the CEPA) would be simultaneously offset with a reduction of the RESA of the same amount.

13. The Commission therefore stated that, through separate decision, we would pose specific questions to Public Service regarding the proposed reduction of the RESA from two percent to one percent for the purposes of considerations of Advice Letter No. 1825 and the accompanying tariffs.

14. Interventions were permitted through June 26, 2020, with timely filings provided by OCC, CEO, and CEC.

**C. Interventions**

15. Two classes of parties may intervene in proceedings such as this: parties with a legally protected right that may be impacted by the proceeding (intervention of right), and parties with pecuniary or tangible interests that may be substantially impacted by the proceeding (permissive intervention).

16. Commission Rule 1401(c) of the Rules of Practice and Procedure 4 *Code of Colorado Regulations* (CCR) 723-1, requires persons seeking permissive to show the following, in part:

A motion to permissively intervene shall state the specific grounds relied upon for intervention; the claim or defense within the scope of the Commission's jurisdiction on which the requested intervention is based, including the specific interest that justifies intervention; and why the filer is positioned to represent that interest in a manner that will advance the just resolution of the proceeding. The motion must demonstrate that the subject proceeding may substantially affect the pecuniary or tangible interests of the movant (or those it may represent) and that the movant's interests would not otherwise be adequately represented.

17. Pursuant to Rule 1500, 4 CCR 723-1, the person seeking leave to intervene by permission bears the burden of proof with respect to the relief sought.

18. The OCC and CEO each filed notices of intervention by right. The OCC states it will address issues including, among others, benefits to ratepayers of reducing the RESA, impacts of pending rulemaking, and whether reducing the RESA is appropriate given the required Clean Energy Plan as part of the Company's next ERP. CEO states its continued interest in the underlying issues that have the potential to impact the funding for clean and renewable energy resources in Colorado, which it is statutorily charged to promote.

19. No action is necessary on these interventions by right.<sup>1</sup> The OCC and CEO are parties to this proceeding.

20. In addition, CEC filed a request to permissively intervene timely on June 26, 2020. CEC represents industrial and commercial customers of Public Service, and states it was an active participant in the Company's 2016 ERP and a signatory to the CEPP in that proceeding. CEC states its interest in ensuring the terms of the stipulated agreement, which included early retirement of the two Comanche coal-fired generating units as well as the RESA reduction to one percent that is the focus of this proceeding. Among its interests, CEC further states that it has a pecuniary and tangible interest in paying just and reasonable rates, and that programmatic offerings to large commercial and industrial customers may be available from RESA funds in the future.

21. We find that CEC meets the requirements of Rule 1401 for permissive intervention and grant the requested intervention. Public Service, OCC, CEO, and CEC are parties to this proceeding.

**D. Questions on the Proposed RESA Reduction**

22. Consistent with Decision No. C20-0410, we find it necessary to request additional information from Public Service to support Advice Letter No. 1825 and the concurrently filed tariff sheets.<sup>2</sup> The questions set forth below focus exclusively on the proposed reduction in the RESA from two percent to one percent. The questions fall within the types of questions described in Decision No. C20-0410 and are intended only to address whether approval of the tariffs filed with

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<sup>1</sup> See Rule 1401(b), 4 CCR 723-1.

<sup>2</sup> The focus of this proceeding remains on whether the proposed tariffs filed with Advice Letter No. 1825 are in the public interest and should be approved. At the same time, the Commission recognizes that it is continuing its ongoing rulemaking that addresses updating rules of general applicability, which include potential revisions to the RESA. The Commission will provide additional processes, as necessary, in Proceeding No. 19R-0096E should prospective rules of general applicability regarding the RESA need further consideration and revision, as suggested by either the participants or Commission, given changed statutes or other factors.

Advice Letter No. 1825 is in the public interest. Public Service shall identify a witness or witnesses who could answer follow-up questions at an evidentiary hearing, should one be scheduled by the Commission.

23. In answering the questions below, if background information is available or would aid in understanding the response, we request Public Service to provide relevant, additional explanation or support to aid in our considerations. Complete information is encouraged; such that supplemental questions are not required.

24. With that instruction, the Commission requires additional information responding to the following ten questions, with certain subparts:

1. What costs are accounted for in the RESA as they are incurred? In responding to this question, we require Public Service to include the costs accounted for in the RESA, with details regarding the types and amounts of expenditures, to better understand how allocations are made and trends, if any, that result. Detailed RESA cost information shall be provided for 2019 and the two years subject to Public Service's most recently approved RES Compliance Plan,<sup>3</sup> *i.e.*, 2020, and 2021. Public Service shall also include its expectations regarding costs presently accounted for in the RESA going forward through the remaining years listed in the RESA Table.
2. What funds are accounted for in the RESA as they are collected?
  - a. In what situations are funds collected in the RESA transferred to the Electric Commodity Adjustment (ECA)?
3. What costs associated with clean energy resources are accounted for the in Electric Commodity Adjustment (ECA)?
  - a. In what situations are funds collected in the ECA transferred to the RESA?
4. With respect to the RESA Table, explain why there are no RESA costs beginning in 2023.
  - a. Explain why it is in the public interest for RESA rider collections to continue when there are no Total RESA Costs.

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<sup>3</sup> Proceeding No. 19A-0369E.

5. Public Service's typical filings showing estimates of RESA account data (Renewable Energy Standard Adjustment Estimate) include multiple columns and tables of data (*e.g.*, Tables 7-1 through 7-3 with workpapers such as contained Volume 2 of the Company's 2020-2021 RES Compliance Plan in Proceeding No. 19A-0396E). The RESA Table appears to present only five columns of such data.
- a. Provide the other columns of data corresponding to the data presented in the RESA Table in the standard presentation format used in a RES Compliance Plan filing.
  - b. In addition to the data requested above, provide the annual Total ECA Costs corresponding to the Total Renewable Costs each year listed in the RESA Table. For each year, explain whether Total ECA Costs exceed Total Renewable Costs.
  - c. Identify all years where Total Avoided Costs (*i.e.*, the sum of Unlocked Avoided Costs and Locked Avoided Costs) exceed Total RESA Costs and explain how the difference is accounted for.
  - d. Explain the meaning of positive values in the columns labeled Incremental Costs under the heading RESA Related Costs.
  - e. Explain the meaning of negative values in the columns labeled Incremental Costs under the heading RESA Related Costs.
  - f. Explain whether the revenue requirement collected through the ECA includes the full value of the Avoided Costs under the heading ECA Related Costs. Explain the accounting for any ECA collections in excess of Renewable Resource Total Costs.
  - g. Identify the components of RESA Program Costs. Identify the components of RESA Admin Costs. Explain whether RESA Program and Admin Costs are effectively recovered through the ECA if Total RESA Costs are fully offset by negative Incremental Costs.
  - h. Explain whether the Total RESA Costs shown in the RESA Table include the costs of implementing the Company's 2020-2021 RES Compliance Plan as modified by the Commission in Proceeding No. 19A-0369E.
  - i. Explain whether the Total RESA Costs shown in the RESA Table include the estimated costs of implementing the Company's RES Compliance Plans for years 2022 through 2029.
  - j. Explain the treatment of costs associated with the implementation of the Solar\*Rewards on-site solar programs for each of the years listed in the RESA Table (*e.g.*, incentives). Are incentives initially accounted for in the RESA or the ECA? Explain whether the costs of Solar\*Rewards incentives are effectively



recovered through the ECA if Total RESA Costs are fully offset by negative Incremental Costs.

- k. Please state the amount of CSG capacity corresponding to the CSG-related costs for each year listed in the RESA Table.
  - l. Explain the treatment of costs associated with the implementation of Solar\*Rewards Community (*i.e.*, community solar gardens) for each of the years listed in the RESA Table (*e.g.*, billing credits, standard offer payments, REC incentives). Specifically identify the costs of the billing credits paid to CSG subscribers for each of the years listed in the RESA Table. Are billing credits paid to CSG subscribers initially accounted for in the RESA or the ECA? Explain whether CSG billing credits are effectively recovered through the ECA if Total RESA Costs are fully offset by negative Incremental Costs.
6. Please identify the source of funds for the interest shown in the RESA Table.
    - a. Is the interest shown in the RESA Table statutorily required when given that no funds have been advanced by Public Service?
  7. With respect to Public Service's future ECA filings, provide the estimated RESA – Average Total Incremental Credit for each of the years listed in the RESA Table. Explain whether this credit corresponds to positive incremental costs of eligible energy.
  8. Compare the expected voluntary WindSource Revenue and Wholesale Customer RESA RJA Credits to the RESA Program Costs and RESA Admin Costs for each year listed in the RESA Table?
  9. Section 40-2-125.5(4)(a)(VIII) states:

If the minimum amounts of electricity from eligible energy resources set forth in section 40-2-124 (1)(c) are satisfied, a qualifying retail utility may propose to use up to one-half of the funds collected annually under section 40-2-124 (1)(g), as well as any accrued funds, to recover the incremental cost of clean energy resources and their directly related interconnection facilities. The utility may account for these funds in calculating the cost of the plan.

- a. Is the RESA Public Service's mechanism for collecting funds under § 40-2-124(1)(g)?
- b. Is the RESA the exclusive rate mechanism that Public Service uses to recover incremental costs of eligible energy resources?
- c. Is there a cap on the retail rate impact of avoided costs recovered through the ECA?

- d. Is the retail rate impact equal to the amount of funds collected by the RESA rider under § 40-2-124(1)(g)?
- e. Does Public Service use collections accounted for in the RESA to recover costs other than the incremental costs of eligible energy resources?
- f. Provide the Company's estimate of two percent of all its retail customers' bills annually for each of the years listed in the RESA Table.
- g. Identify each year listed in the RESA Table in which the estimated incremental costs recovered by the RESA exceed the Company's estimate of two percent of all its retail customers' bills as provided above.
- h. Is the retail rate impact under § 40-2-124(1)(g) expected to be one percent of retail customer bills as of the proposed effective date of the tariffs filed with Advice Letter No. 1825?
- i. Are the incremental costs recovered by the RESA expected to be one percent of retail customer bills as of the proposed effective date of the tariffs filed with Advice Letter No. 1825?
- j. How much of the Total RESA Revenue shown in the RESA Table is available to Public Service with respect to § 40-2-125.5(4)(a)(VIII)?
- k. If the Commission denied Public Service's request to reduce the RESA rider from two percent to one percent, how much of the Total RESA Revenue would be available to Public Service pursuant to § 40-2-125.5(4)(a)(VIII) in each year listed in the RESA Table?
- l. If the Commission reduced Public Service's RESA rider from two percent to zero, how much of the Total RESA Revenue would be available to Public Service pursuant to § 40-2-125.5(4)(a)(VIII) in each year listed in the RESA Table?
- m. What is the baseline for determining incremental costs pursuant to § 40-2-125.5(4)(a)(VIII)?
- n. Is the incremental cost identified in § 40-2-125.5(4)(a)(VIII) different than the incremental costs recovered by the RESA?
- o. Are annual revenues from WindSource available to Public Service pursuant to § 40-2-125.5(4)(a)(VIII)?
- p. Are annual revenues from Wholesale Customer RESA RJA Credits available to Public Service pursuant to § 40-2-125.5(4)(a)(VIII)?

- q. Are margins from the sales of Renewable Energy Credits (RECs) returned to ratepayers via the RESA available to Public Service pursuant to § 40-2-125.5(4)(a)(VIII)?
- r. Provide estimates of the “accrued funds” identified in § 40-2-125.5(4)(a)(VIII) for each year listed in the RESA Table.
- s. Are funds in the RESA rolling balance “accrued funds” as identified in § 40-2-125.5(4)(a)(VIII)?
- t. Do the avoided costs of eligible energy resources recovered by the ECA that are in excess of the total costs of eligible energy resources constitute “accrued funds” as identified in § 40-2-125.5(4)(a)(VIII)?
- u. Do “directly related interconnection facilities” qualify as “eligible energy resources” pursuant to § 40-2-124?

10. Section 40-2-125.5(5)(a)(I) states:

The commission shall establish 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 additional clean energy plan activities, consistent with this subsection (5). Nothing in this subsection (5)(a) supersedes subsection (3)(a)(i) of this section.

Section 40-2-125.5(5)(a)(II) states:

A qualifying retail utility shall collect revenues for the additional clean energy plan activities through a clean energy plan revenue rider assessed on a percentage basis on all retail customer bills, as deemed prudent by the commission. The revenue rider may be established as early as the year following approval of a clean energy plan by the commission, and the qualifying retail utility may propose a commencement date and level no greater than the maximum electric retail rate impact. The revenue rider shall afford the qualifying retail utility cost recovery treatment up to the maximum electric retail rate impact until the first rate case following the final implementation of the clean energy plan, at which time the remaining costs and savings associated with the clean energy plan will be incorporated into base rates. The qualifying retail utility may propose to adjust the level of the retail rate rider over time so long as it does not exceed the maximum retail rate impact and as deemed prudent by the commission. Nothing in this subsection (5) affects the commission's authority to evaluate the prudence of costs associated with approved clean energy plan activities.

- a. Please explain the coordination of the maximum electric retail rate impact pursuant to § 40-2-125.5(5) with the maximum electric retail rate impact pursuant to § 40-2-124(1)(g)?

- b. Does Public Service expect the eligible energy resources acquired by Public Service pursuant to a Clean Energy Plan filed under § 40-2-125.5 to have incremental costs subject to the cap on the retail rate impact pursuant to § 40-2-124(1)(g)? What is the Company's current estimate of the incremental costs of new eligible energy resources to be acquired pursuant to a Clean Energy Plan as compared to the RESA account deferred balance shown in the RESA Table?

**E. Prehearing Conference and Conferral**

25. In anticipation of a potential hearing, the Commission will schedule a remote prehearing conference per Rule 1409(a), 4 CCR 723-1, of the Commission's Rules of Practice and Procedure. At the remote prehearing conference, the Commission will consider how Public Service proposes to provide written answers to the questions set forth in this Decision and whether an evidentiary hearing should be scheduled. The Commission will establish procedural deadlines accordingly.<sup>4</sup> The parties are required to confer on a potential date for an evidentiary hearing and other procedural deadlines before the prehearing conference. As part of that conferral, the parties must discuss whether they are willing and able to hold the evidentiary hearing by video conference, if one is necessary.<sup>5</sup>

26. The Commission encourages the parties to report on whether there is consensus regarding the need for an evidentiary hearing and to submit a proposed hearing date and a proposed procedural schedule prior to the prehearing conference.<sup>6</sup> Provided the Commission substantially approves the proposed schedule, the Commission may vacate the prehearing conference.

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<sup>4</sup> This includes deadlines to file witness and exhibit lists, exhibits, post-hearing statements of position, settlement agreements and stipulations, and prehearing motions.

<sup>5</sup> Due to the COVID-19 global pandemic, the Commission's offices are not open to the public, and therefore no in-person hearings are being held. It is unknown when the Commission will be able to hold hearings in person, but the Commission has been holding evidentiary hearings by video conference.

<sup>6</sup> If the parties wish to preserve the ability to hold a hearing in-person if it becomes an option before the evidentiary hearing, the parties should ensure that Commission Hearing Room A is available for their proposed hearing dates. The parties may review the Commission's public calendar for this information, which they may find on the Commission's website. Also do not propose a hearing date on a Wednesday, particularly in the morning, due to the Commission's weekly meeting.

27. The remote prehearing conference will be held using the web-hosted video conferencing service, GoToMeeting. To minimize the potential that the video-conference hearing may be disrupted by non-participants, the link and meeting ID or access code will be provided to the parties by email before the hearing, and the parties will be prohibited from distributing that information to anyone not participating in the hearing.

28. Information and direction on using GoToMeeting to attend the hearing is provided in Attachment A to this Decision. The Commission strongly encourages the parties to test their ability to use GoToMeeting before the remote prehearing conference.

29. A party's failure to appear at the prehearing conference may result in decisions adverse to their interests. The Commission deems any party's failure to appear at the prehearing conference to be a waiver of that party's objection to the rulings made during the prehearing conference.

30. Public Service is therefore directed to confer with the parties on a proposed procedural schedule for the Commission's consideration of whether approval of the tariffs filed with Advice Letter No. 1825 is in the public interest. Parties shall provide, jointly if possible, a preferred procedural schedule no later than August 7, 2020, and a prehearing conference is scheduled for August 20, 2020, starting at 2:00 p.m., until concluded.

## **II. ORDER**

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

1. The motion to intervene filed by Colorado Energy Consumers (CEC) on June 26, 2020, is granted, consistent with the discussion above.

2. Public Service Company of Colorado (Public Service), the Colorado Office of Consumer Counsel, the Colorado Energy Office, and CEC are parties to this proceeding.

3. Public Service shall respond to the questions contained here in to further support its Advice Letter No. 1825 and concurrently filed tariffs.

4. Consistent with the discussion above, Public Service shall confer with the parties to this proceeding and file no later than August 7, 2020, a proposed procedural schedule, jointly, if possible, which contains a date certain for responding to the Commissioner's questions.

5. A remote prehearing conference is scheduled as follows:

DATE: August 20, 2020

TIME: 2:00 p.m. until concluded, but no later than 5:00 p.m.

METHOD: By video conference using GoToMeetings at link provided to parties by email

6. The parties may not distribute the GoToMeeting link, and access or ID code to non-participants.

7. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING  
July 8, 2020.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,  
Director

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

JEFFREY P. ACKERMANN

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JOHN GAVAN

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MEGAN M. GILMAN

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Commissioners