

Decision No. C20-0648

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

PROCEEDING NO. 19A-0728E

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IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR THE VOLTAGE CONTROL FACILITIES ASSOCIATED WITH THE COLORADO ENERGY PLAN.

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PROCEEDING NO. 20A-0063E

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IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR THE GREENWOOD TO DENVER TERMINAL 230 KV TRANSMISSION PROJECT ASSOCIATED WITH THE COLORADO ENERGY PLAN, ASSOCIATED FINDINGS OF NOISE AND MAGNETIC FIELD REASONABLENESS, AND UPRATE PROJECTS.

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**DECISION APPROVING SETTLEMENT AGREEMENT  
IN PART, APPROVING VOLTAGE CONTROL AND  
GDT CPCNS, ADOPTING THE SEMI-ANNUAL  
REPORTING REQUIREMENTS SET FORTH IN THE  
SETTLEMENT AGREEMENT, ADOPTING THE  
CONFERRAL REQUIREMENTS SET FORTH IN THE  
SETTLEMENT AGREEMENT WITH MODIFICATIONS,  
FINDING THAT THE EXPECTED MAXIMUM MAGNETIC  
FIELD AND NOISE LEVELS ASSOCIATED WITH BOTH  
CPCNS ARE REASONABLE, REJECTING THE  
PRESUMPTION OF PRUDENCE, AND REQUIRING  
PUBLIC SERVICE TO IDENTIFY THE ACTUAL COSTS  
OF THE VOLTAGE CONTROL AND GDT PROJECTS  
IN A FUTURE RATE RECOVERY PROCEEDING**

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Mailed Date: September 10, 2020  
Adopted Date: August 26, 2020

## TABLE OF CONTENTS

I. BY THE COMMISSION .....	2
A. Statement .....	2
B. Background.....	3
1. Voltage Control and GDT CPCNs .....	3
2. Settlement Agreement and Consolidation.....	6
3. Testimony Regarding the Settlement Agreement. ....	9
C. Hearing and Statements of Position .....	11
1. OCC’s Arguments Against a Presumption of Prudence .....	12
2. Public Service’s Arguments Against a Presumption of Prudence .....	14
3. Staff’s Arguments Against a Presumption of Prudence.....	18
D. Discussion and Findings.....	21
II. ORDER.....	31
A. The Commission Orders That: .....	31
B. ADOPTED IN COMMISSIONERS’ WEEKLY MEETING August 26, 2020.....	32

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### **I. BY THE COMMISSION**

#### **A. Statement**

1. On May 26, 2020, Public Service Company of Colorado (Public Service or Company) and Staff of the Colorado Public Utilities Commission (Staff) (collectively the Settling Parties) entered into a Settlement Agreement. In the Settlement Agreement, the Settling Parties request that the Commission approve the following two Certificates of Public Convenience and Necessity (CPCNs) filed by Public Service: the CPCN application filed on December 20, 2019, in Proceeding No. 19A-0728E (Voltage Control CPCN) and the CPCN application filed on February 21, 2020, in Proceeding No. 20A-0063E (GDT CPCN). In addition, the Settling Parties seek a presumption of prudence of up to \$160.05 million for costs related to the two CPCNs.

2. The Colorado Office of Consumer Counsel (OCC) supports the approval of the two CPCNs but opposes the Settlement Agreement with its presumption of prudence.

3. We approve the Settlement Agreement in part. Specifically, we grant the Voltage Control and GDT CPCN applications based on the costs, contingencies, and portfolio concept set forth in the Settlement Agreement; adopt the semi-annual reporting requirements; adopt the conferral requirements set forth in the Settlement Agreement but modify the same such that the requirements also apply to the OCC; find that the expected maximum magnetic field and noise levels associated with both CPCNs are reasonable and require no further mitigation; reject the presumption of prudence; and order Public Service in its next base rate case following the date that such facilities go into service to specifically identify the actual costs for the Voltage Control and GDT projects, individually and in total, in at least as much detail as provided in this proceeding.

## **B. Background**

### **1. Voltage Control and GDT CPCNs**

4. The requested Voltage Control and GDT CPCNs both relate to transmission investments contemplated by Public Service's 2016 Electric Resource Plan (2016 ERP) and the Colorado Energy Plan (CEP) Portfolio.<sup>1</sup> Specifically, on August 27, 2018, the Commission issued a Decision granting Public Service's 2016 ERP and CEP Portfolio. Among other things, the Decision directs Public Service to file a CPCN for "the additional transmission investment identified in the 120-Day Report. . . that is part of the \$204 million total transmission investment associated with the CEP Portfolio."<sup>2</sup>

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<sup>1</sup> See Proceeding No. 16A-0396E, Decision No. C18-0761.

<sup>2</sup> *Id.* at ¶133.

5. In accordance with the August 27 Decision granting the 2016 ERP, Public Service filed its application for the Voltage Control CPCN on December 20, 2019, in Proceeding No. 19A-0728E. The Voltage Control CPCN application seeks Commission approval to install various voltage control facilities. Public Service asserts that these voltage control facilities are necessary to implement the CEP Portfolio by accommodating the early retirement of Comanche 1 and 2 and safely and reliably integrating the wind and solar generating facilities.<sup>3</sup> Public Service estimates that the total cost of the voltage control devices associated with the Voltage Control CPCN will be \$93.6 million.<sup>4</sup>

6. Staff and the OCC subsequently filed interventions as of right in Proceeding No. 19A-0728E on January 10, 2020, and January 21, 2020, respectively.

7. On January 29, 2020, the Commission deemed Public Service's Voltage Control CPCN application complete and referred the proceeding to an Administrative Law Judge (ALJ).

8. On April 17, 2020, Staff filed answer testimony opposing the Voltage Control CPCN. Among other things, Staff protested the fact that in the 120-Day Report filed in the 2016 ERP, Public Service estimated that the voltage control devices would cost only \$35 million, but in the Company's Voltage Control CPCN application, Public Service estimates the cost to be \$93.6 million—an increase of 167 percent.<sup>5</sup> Staff essentially argued that because Public Service provided insufficient information to support the voltage control facilities and the increased cost estimate, the Commission should reject the Voltage Control CPCN.<sup>6</sup>

9. The OCC did not file answer testimony in Proceeding No. 19A-0728E.

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<sup>3</sup> Proceeding No. 19A-0728E, Application at 6-7.

<sup>4</sup> *Id.* at 9.

<sup>5</sup> Proceeding No. 19A-0728E, Answer Testimony of Adam Gribb, at 11.

<sup>6</sup> *Id.* at 44-47.

10. Public Service filed rebuttal testimony supporting its Voltage Control CPCN application on May 6, 2020. Public Service provided additional information about its cost estimates, argued that the Company's overall projected transmission investment associated with the CEP Portfolio is currently approximately \$213.6 million, a figure only 4.7 percent above its \$204 million estimate in the 2016 ERP, and asserted that its proposed 20 percent contingency is reasonable.<sup>7</sup>

11. Regarding the GDT CPCN, Public Service filed the application in Proceeding No. 20A-0063E on February 21, 2020. As with the Voltage Control CPCN, Public Service's GDT CPCN application asserts that the transmission projects proposed in the GDT CPCN are needed to implement the 2016 ERP and CEP Portfolio.<sup>8</sup> In particular, in its application Public Service argued that with the additional generation facilities associated with Public Service's CEP Portfolio coming online, the transmission projects proposed in the GDT CPCN provide a necessary alternative transmission path into the Denver Metro load center. Without the additional transmission path, Public Service asserted that there is the potential for overloading on numerous lines during high generation dispatch conditions, particularly from the new renewable generation resources located near Public Service's Comanche and Missile Site Substations.<sup>9</sup> In the Application, Public Service estimated that the GDT Project will cost approximately \$51.9 million.<sup>10</sup> On March 17, 2020, Staff filed an intervention, and on March 25, 2020, the OCC followed with its own intervention.

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<sup>7</sup> Proceeding No. 19A-0728E, Rebuttal Testimony of Thomas Green, at 23-66.

<sup>8</sup> Proceeding No. 20A-0063E, Application at 2.

<sup>9</sup> *Id.* at 6.

<sup>10</sup> *Id.* at 2.

12. On April 1, 2020, the Commission deemed Public Service's GDT CPCN application complete and referred the proceeding to an ALJ.

## 2. Settlement Agreement and Consolidation

13. On May 26, 2020, the Settling Parties filed in both Proceeding Nos. 19A-0728E and 20A-0063E a Notice of Settlement and Joint Motion to Approve Settlement, Consolidate Proceedings, Hear Consolidated Proceeding *en banc*, Approve Procedural Schedule, and Shorten Response Time (Joint Motion).<sup>11</sup> In the Joint Motion, the Settling Parties specifically request the following: (1) to consolidate Proceeding Nos. 19A-0728E and 20A-0063E; (2) hear the consolidated proceeding *en banc*; (3) approve the procedural schedule set forth in the Joint Motion; (4) issue a decision on the Joint Motion on or before Wednesday, June 3, 2020; and (5) shorten the response time to the Joint Motion to Friday, May 29, 2020.<sup>12</sup> Ultimately, the Joint Motion requests that the Commission approve the Settlement Agreement without modification.

14. The OCC did not join in the Settlement Agreement and opposed the Joint Motion's request to consolidate Proceeding Nos. 19A-0728E and 20A-0063E.<sup>13</sup>

15. By Decision No. C20-0428-I (adopted June 3, 2020, mailed June 9, 2020), the Commission granted in part the Joint Motion. In particular, the Commission rescinded the referrals of Proceeding No. 19A-0728E and Proceeding No. 20A-0063E to ALJs, vacated the hearings and all procedural deadlines that the ALJs set in Proceeding No. 19A-0728E

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<sup>11</sup> In Proceeding No. 19A-0728E (the Voltage Control CPCN), the Settling Parties also filed on May 26, 2020, a Joint Motion and a Notice of Settlement, Joint Motion to Vacate Procedural Schedule and Stay Proceeding, and Request for Shortened Response Time of One Day (Joint Motion to Vacate). In the Joint Motion to Vacate, the Settling Parties requested that the schedule in Proceeding No. 19A-0728E, including the hearing scheduled for June 1 and 2, 2020, be vacated, the proceeding be stayed, and the response time to the Joint Motion to Vacate and Stay be shortened to May 27, 2020. (Proceeding No. 19A-0728E, Joint Motion to Vacate at 6). The ALJ granted the relief requested in the Joint Motion to Vacate in Decision No. R20-0403-I issued May 28, 2020 and Decision No. R20-0412-I issued June 1, 2020.

<sup>12</sup> Joint Motion at 14.

<sup>13</sup> See Proceeding No. 19A-0728E, OCC Response at 2-6.

and Proceeding No. 20A-0063E, consolidated Proceeding No. 19A-0728E and Proceeding No. 20A-0063E, set the consolidated proceeding for an *en banc* hearing, and established a procedural schedule.<sup>14</sup> Regarding the procedural schedule, the Commission ordered that the Settling Parties file testimony in support of the Settlement Agreement by June 10, 2020, the OCC file testimony in opposition to the Settlement Agreement by June 24, 2020, and that the Settling Parties file responsive testimony by July 8, 2020.<sup>15</sup> The Commission deferred ruling on the Joint Motion's ultimate request to approve the Settlement Agreement.<sup>16</sup> For purposes of this Decision, the consolidated Proceeding No. 19A-0728E and Proceeding No. 20A-0063E is referred to as the Consolidated Proceeding.

16. The Settlement Agreement calls for the Commission to approve both the Voltage Control CPCN and the GDT CPCN and to find that the expected maximum magnetic field and noise levels associated with both CPCNs are reasonable and require no further mitigation or prudent avoidance measures.<sup>17</sup>

17. In addition, the Settlement Agreement provides that the anticipated costs of both the Voltage Control CPCN and the GDT CPCN—as well as a 10 percent contingency range—are entitled to a presumption of prudence.<sup>18</sup> Specifically, the costs to be presumed prudent are \$93.6 million for the voltage control facilities, \$51.9 million for the transmission projects associated with the GDT CPCN, and a 10 percent contingency range for the two projects on a

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<sup>14</sup> Decision No. C20-0428 at 16-17.

<sup>15</sup> *Id.* at 15.

<sup>16</sup> *Id.* at 16.

<sup>17</sup> *Id.* at 7-9.

<sup>18</sup> *Id.* at 8-9.

combined, portfolio basis.<sup>19</sup> Thus, the total portfolio cost for both the Voltage Control CPCN and the GDT CPCN that would be presumed prudent is \$160.05 million<sup>20</sup>

18. Finally, the Settlement Agreement contains certain reporting and conferral requirements. In particular, the Settlement Agreement requires Public Service to file semi-annual reports describing how the projects associated with the Voltage Control CPCN and the GDT CPCN are progressing and whether there are any material changes to the projected costs and timelines.<sup>21</sup> Public Service must file the reports on August 1 and February 1 of each year, beginning with August 1, 2020, and concluding within six months after all projects are placed in service.<sup>22</sup> Regarding the conferral requirements, the Settlement Agreement requires that Public Service and Staff confer before Public Service files a future CPCN application for interconnection facilities related to the CEP Portfolio.<sup>23</sup> Public Service must preview the relief it plans to request in this future CPCN along with the associated supporting information and solicit feedback from Staff.<sup>24</sup> Additionally, Public Service will meet with Staff to discuss future transmission projects associated with the 120-Day Report in Public Service's next ERP, and Public Service will update Staff on its transmission planning efforts related to the clean energy targets set forth in § 40-2-125.5(3)(I), C.R.S.<sup>25</sup>

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<sup>19</sup> *Id.*

<sup>20</sup> \$93.6 million + \$51.9 million + a contingency of \$14.55 million = \$160.05 million.

<sup>21</sup> Decision No. C20-0428 at 9.

<sup>22</sup> *Id.*

<sup>23</sup> *Id.* at 10.

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*



### 3. Testimony Regarding the Settlement Agreement.

19. As Decision No. C20-0428-I requires, the Settling Parties both submitted testimony in support of the Settlement Agreement on June 10, 2020. The Settling Parties both recommend that the Commission approve the Settlement Agreement without modification.<sup>26</sup> In their testimony submitted in support of the Settlement Agreement, the Settling Parties essentially argue that the record demonstrates the reasonableness of the costs, the proposed portfolio approach, and that the anticipated magnetic field and noise levels of the projects are reasonable.

20. The OCC timely filed its Testimony in Opposition to the Settlement Agreement on June 24, 2020 (Opposition Testimony). In its Opposition Testimony, the OCC clarifies that it “supports the successful implementation of the CEPP and believes the [Voltage Control CPCN and the GDT CPCN] should be approved and granted.”<sup>27</sup> The OCC still opposes the Settlement Agreement, however, because it argues that Public Service should not receive a rebuttable presumption of prudence for costs of up to \$160.05 million.<sup>28</sup> The OCC “recommends that the Commission grant the CPCNs without a rebuttable presumption of prudence.”<sup>29</sup> OCC states that, under its position, Public Service can proceed to construct the transmission projects but will need to demonstrate in a future rate case that the actual costs it expends are reasonable and prudent.<sup>30</sup>

21. In general, the OCC argues that Public Service should have provided higher quality estimates and that the overall lack of transparency negatively impacts the ability to justify projects as prudent and in the public interest.<sup>31</sup> The OCC also argues that given the uncertainty of

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<sup>26</sup> Staff Testimony in Support of Settlement at 21; Public Service Testimony in Support of Settlement at 44.

<sup>27</sup> Opposition Testimony at 6.

<sup>28</sup> *Id.*

<sup>29</sup> *Id.* at 7.

<sup>30</sup> *Id.*

<sup>31</sup> *Id.* at 5.

the cost estimates and the fact that the estimated costs already include a risk reserve for several projects, the proposed contingency is inappropriate<sup>32</sup> The OCC further argues that allowing the contingency to “float” between the two CPCNs eliminates the incentive to reduce capital expenditures because if costs for one project are reduced, the other project could spend those funds.<sup>33</sup> In addition, the OCC challenges the manner in which the Settlement Agreement’s contingency was reached, claiming that the 10 percent contingency “is not reasonably based on evidence presented, rather it is a result of pure negotiation without any basis in fact.”<sup>34</sup> The OCC argues that the contingency should be rejected and the Commission should require Public Service to use existing regulatory avenues to bring forward any requests for additional funds.<sup>35</sup>

22. On July 8, 2020, Public Service filed Responsive Settlement Testimony (Responsive Testimony) from witnesses Brook Trammell and Thomas Green. Staff did not submit any Responsive Testimony. Public Service maintains that the Commission should approve the Settlement Agreement without modification.

23. In its Responsive Testimony, Public Service notes that “all three parties to these Consolidated Proceedings agree that construction of the Voltage Control Facilities and the GDT Project is in the public interest and that these projects are necessary to implement the [CEP Portfolio].”<sup>36</sup> Moreover, Public Service argues that OCC’s position seems to erroneously treat the 120-Day Report and the associated estimates as a “preliminary CPCN application.”<sup>37</sup> Public Service asks the Commission to “not lose sight of the fact that [Public Service

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<sup>32</sup> *Id.* at 28-29.

<sup>33</sup> *Id.* at 28.

<sup>34</sup> *Id.* at 30.

<sup>35</sup> *Id.* at 31.

<sup>36</sup> Responsive Testimony of Brooke Trammell at 15.

<sup>37</sup> *Id.* at 18.

has] provided ample evidentiary support for our cost estimates in the record in these [CPCN proceedings].”<sup>38</sup> Public Service also takes issue with the OCC’s assertion that the Company’s transmission planning processes are not transparent.<sup>39</sup>

**C. Hearing and Statements of Position**

24. Decision No. C20-0428-I set an *en banc* hearing for the Consolidated Proceeding for July 23, 2020. On July 21, 2020, the parties filed a Joint Notice of Waiver of Witness Cross-Examination (Joint Notice). In the Joint Notice, the parties stipulated and agreed to waive all witness cross-examination, including re-cross, at the Hearing.

25. In accordance with the Joint Notice, at the Hearing the parties made Ms. Brooke Trammell, Mr. Thomas Green, Mr. Adam Gribb, and Mr. Joseph Pereira available for Commissioner questioning. The Commission questioned each witness and allowed the respective party to ask re-direct questions.

26. At the Hearing, the parties clarified that the total portfolio cost of \$160.05 million also includes a “risk reserve” that is factored into Public Service’s estimated costs. Public Service asserts that this risk reserve is materially different from the contingency reserve in that the risk reserve accounts for “known unknowns” where the contingency accounts for “unknown unknowns.” This risk reserve level is \$8.3 million for the combined projects (or 6 percent of the portfolio cost).<sup>40</sup>

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<sup>38</sup> *Id.* at 17.

<sup>39</sup> *Id.* at 18.

<sup>40</sup> Hearing Transcript at 102.

27. At the conclusion of the Hearing, the Commission ordered that the parties submit statements of positions (SOPs) on August 3, 2020. As ordered, each party submitted an SOP on August 3, 2020.

28. The parties' SOPs clarify that the Consolidated Proceeding presents a single issue for the Commission to decide: whether the Commission should grant Public Service a presumption of prudence for actual construction costs up to \$160.05 million. For instance, Staff states that "[t]he only disputed issue is whether the Company should be granted a presumption of prudence for any actual construction costs that fall within a certain percentage of the combined cost estimate for the Voltage Control and GDT facilities."<sup>41</sup> Thus, we now turn to each party's respective arguments regarding the presumption of prudence.

#### 1. OCC's Arguments Against a Presumption of Prudence

29. The OCC asserts that because the estimated costs for the GDT CPCN and Voltage Control CPCN projects are uncertain, granting Public Service a presumption of prudence is premature and harms consumers.<sup>42</sup>

30. The OCC argues that granting a presumption of prudence before actual costs are known "significantly shifts the balance of protecting interests away from consumers and to the Company's favor."<sup>43</sup> The OCC argues that this is potentially harmful because shifting the burden of proof makes it nearly impossible for the OCC to challenge expenditures post hoc.<sup>44</sup> Rather than granting a presumption of prudence and shifting the burden, the OCC asserts that the

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<sup>41</sup> Staff's SOP at 1; *see also* OCC's SOP at 3-4; Public Service's SOP at 2.

<sup>42</sup> OCC's SOP at 5.

<sup>43</sup> *Id.*

<sup>44</sup> *Id.* at 8.

Commission should require Public Service “to provide robust testimony demonstrating that its actual costs were prudently incurred and reasonable in amount.”<sup>45</sup>

31. The OCC notes that a CPCN is not a cost recovery proceeding; rather, OCC argues that the purpose of a CPCN proceeding is to specifically approve the construction or acquisition of a facility.<sup>46</sup> The OCC maintains that granting a presumption of prudence is unnecessary in that the Company has sufficient certainty to move forward with the projects so long as the Commission approves the CPCNs.

32. The OCC also asserts that the Commission does not typically grant a presumption of prudence when granting CPCN applications and that Commission rules and statutes do not contemplate such a presumption. The OCC argues that the cost estimates that Commission Rule 3102 requires in a CPCN application are “far less robust” than what is provided in a recovery proceeding and are insufficient to determine reasonableness.<sup>47</sup> The OCC asserts that presumptions of prudence in regulatory applications are rare and states that, to its knowledge, this presumption has never applied in transmission planning.<sup>48</sup> The OCC acknowledges that this presumption of prudence has been granted in certain unopposed settlement agreements regarding CPCNs, but asserts that the Voltage Control CPCN and GDT CPCN exist in different contexts and entail different risks.<sup>49</sup> As for the CPCN cases that identify and approve a contingency amount, the OCC notes that these cases do not grant a presumption of prudence and that the

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<sup>45</sup> *Id.* at 7.

<sup>46</sup> *Id.* at 6.

<sup>47</sup> *Id.* at 8-9.

<sup>48</sup> *Id.* at 9.

<sup>49</sup> *Id.* at 10-11.

contingencies “simply provide reference for the Commission to understand cost issues rendering them different in character than if they were inferred to have meaning in cost-recovery.”<sup>50</sup>

33. The OCC also argues that granting a presumption of prudence in this instance is not in the public interest. The OCC asserts that the presumption and its resulting “soft cap” of \$160.05 million protect only the Company and provide no incentive to avoid scope creep and ensure that all expenditures are reasonable.<sup>51</sup> Moreover, the OCC asserts that the Commission does not need to grant a presumption of prudence in order to have a reference point for a future rate proceeding. The OCC states that the Commission “can establish a basis of reasonableness when granting the CPCN” and that—even without a presumption—nothing precludes Public Service from using the current cost estimates as a reference point in a future rate proceeding.<sup>52</sup>

## 2. Public Service’s Arguments Against a Presumption of Prudence

34. Public Service argues that the Settlement Agreement, including its provisions regarding the presumption of prudence, is in the public interest and should be approved without modification.<sup>53</sup> The Company argues that the Commission should grant the presumption of prudence because: (1) the presumption is in the public interest; and (2) the Company has sufficiently supported its cost estimates.<sup>54</sup> Public Service argues that the presumption of prudence “will enhance administrative efficiency and benefit customers by rightly placing the focus on prudence of costs in these detailed project-specific CPCN proceedings, while potentially avoiding the need to re-litigate the prudence of every dollar of these same project costs in a

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<sup>50</sup> *Id.* at 12.

<sup>51</sup> *Id.* at 13.

<sup>52</sup> *Id.* at 14.

<sup>53</sup> Public Service’s SOP at 2.

<sup>54</sup> *Id.* at 9-10.

future ratemaking proceeding.”<sup>55</sup> Public Service goes on to argue that “denying a presumption of prudence would undermine and negate the entire purpose of a CPCN proceeding.”<sup>56</sup>

35. Public Service first sets forth what a presumption of prudence means. Public Service asserts that a presumption of prudence is a burden-shifting exercise and that, at the CPCN stage, the presumption eliminates the requirement for the Company to immediately put forth every dollar of the projects as a re-litigated issue in a future cost recovery proceeding.<sup>57</sup> The presumption does not—Public Service argues—authorize or guarantee cost recovery as “[t]he Company will still bear the burden of showing, in a future cost recovery proceeding, what the actual costs are, and affirmatively proving that any costs incurred in excess of \$160.05 million were prudently incurred.”<sup>58</sup>

36. Regarding its costs estimates for the Voltage Control and GDT CPCNs, Public Service asserts that it has supported its cost estimates and contingency with detailed and unrebutted evidence that exceeds the regulatory requirements for CPCN applications.<sup>59</sup> In addition, Public Service also asserts that it presented detailed testimony explaining the processes used to develop its cost estimates.<sup>60</sup>

37. Public Service rebuts the OCC’s arguments regarding transparency and the changes in the cost estimates since the 120-Day Report.<sup>61</sup> Public Service argues that the Commission should reject the OCC’s use of the cost estimates in the 120-Day Report as a

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<sup>55</sup> *Id.* at 3-4.

<sup>56</sup> *Id.* at 4.

<sup>57</sup> *Id.* at 9.

<sup>58</sup> *Id.*

<sup>59</sup> *Id.* at 10.

<sup>60</sup> *Id.* at 11.

<sup>61</sup> *Id.* at 12.

yardstick to compare the CPCN cost estimates. The Company urges that it never intended the cost estimates in the 120-Day Report to serve as the final figures associated with the CEP Portfolio investments.<sup>62</sup> Rather, Public Service states that the appropriate analysis in a future cost recovery proceeding will be the actual costs incurred compared to the CPCN cost estimates. Public Service asserts that the OCC has failed to put forth any concrete evidence or independent expert analysis that questions the CPCN cost estimates.<sup>63</sup>

38. Regarding the public interest, Public Service argues that because a presumption of prudence is reasonable and supported by law, rule, and policy, it advances the public interest. Public Service cites *City of Boulder v. Colo. Pub. Utils. Comm'n*, 996 P.2d 1270, 1276 (Colo. 2000) for the proposition that § 40-5-101, C.R.S. “requires a utility to file for a CPCN prior to initiating a facility extension if the utility wants assurance that its investment will be recoverable through rates and charges to consumers.”<sup>64</sup> Public Service also notes that Rule 3102 sets forth the level of costs that must be included to support a CPCN application and asserts that the Company has gone above and beyond these requirements. Finally, Public Service cites Rule 3617 for the proposition that “A Commission decision specifically approving the components of a utility’s plan creates a presumption that utility actions consistent with that approval are prudent . . . . [i]n a proceeding concerning the utility’s request to recover the investments or expenses associated with new resources.”<sup>65</sup> Public Service reasons that because the Voltage Control and GDT projects are “indisputably associated with the resource acquisitions approved as part of the CEPP,” Rule 3617 supports a presumption of prudence.<sup>66</sup>

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<sup>62</sup> *Id.* at 14.

<sup>63</sup> *Id.* at 17.

<sup>64</sup> *Id.* at 18.

<sup>65</sup> *Id.* at 19.

<sup>66</sup> *Id.*



39. Public Service also argues that a presumption of prudence advances the public interest because it increases administrative efficiency. Public Service asserts that CPCN proceedings allow the parties to focus on narrow, fact-intensive questions, whereas ratemaking proceedings typically involve a litany of various issues, parties, and policy questions.<sup>67</sup> Given the opportunity in this proceeding to vet the Company's cost estimates, Public Service argues that OCC's suggestion that the costs should be reviewed again *de novo* in a future rate proceeding is nonsensical. Public Service states that "[i]t would also render the CPCN process and Rule 3617's prudence clause meaningless if costs are not evaluated until a rate case."<sup>68</sup> In addition, Public Service contests that without a presumption of prudence, "all parties would essentially have to start over in re-evaluating the costs when the Company introduces its project costs in a separate cost recovery proceeding."<sup>69</sup> Also, Public Service states that the presumption of prudence together with the reporting requirements of the Settlement Agreement increase transparency and incentivize the Company to avoid cost overruns that go beyond \$160.05 million.

40. Public Service next argues that granting a presumption of prudence sends constructive regulatory and policy signals.<sup>70</sup> Public Service asserts that a presumption of prudence helps assure the Company that its budgeted levels of spending are reasonable and appropriate and that the Company can and should move forward with the project. The presumption of prudence, together with the Settlement Agreement's reporting requirements will increase transparency and incentivize Public Service to avoid cost overruns.<sup>71</sup> Public Service

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<sup>67</sup> *Id.*

<sup>68</sup> *Id.* at 20.

<sup>69</sup> *Id.* at 21.

<sup>70</sup> *Id.*

<sup>71</sup> *Id.* at 22.

states that granting a presumption of prudence “provides constructive signals to the Company that the CEPP, and the reliable integration of the CEPP, are important and should be pursued.”<sup>72</sup>

41. Public Service asserts that the record establishes that the Settlement Agreement’s presumption of prudence for the estimated costs, including risk reserve and 10 percent contingency, is reasonable and in the public interest.<sup>73</sup> The Company states that it is a generally accepted practice across all industries to include a contingency in the cost estimate for large projects.<sup>74</sup> Public Service further states that “it has historically understood that obtaining a CPCN inherently meant that the costs of developing a certificated project (including contingency) were presumed to be prudent.”<sup>75</sup>

### 3. Staff’s Arguments Against a Presumption of Prudence

42. As with Public Service and consistent with the Settlement Agreement, Staff argues that the Commission should grant a presumption of prudence. Staff reasons that granting a presumption of prudence at the CPCN stage is more efficient, saves judicial resources and litigation costs, protects ratepayers from unreasonable cost overruns, and avoids giving Public Service a perverse incentive to inflate cost estimates. First, Staff argues that when a utility requests a presumption of prudence in its CPCN application and provides sufficiently developed cost estimates, it is generally more efficient for the Commission to consider project costs in the CPCN proceeding.<sup>76</sup> This is so, Staff argues, because compared to rate cases, the limited scope of CPCN proceedings allows the Commission to more easily scrutinize the budget projections for

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<sup>72</sup> *Id.* at 23.

<sup>73</sup> *Id.* at 28.

<sup>74</sup> *Id.* at 24.

<sup>75</sup> *Id.*

<sup>76</sup> Staff’s SOP at 2.

each individual project. By delineating in a CPCN proceeding the amount of expenditures that will be presumed prudent, Staff contests that the Commission also streamlines rate cases by avoiding relitigation of similar issues, which ultimately saves judicial resources and litigation costs.<sup>77</sup>

43. Staff also argues that the presumption of prudence protects ratepayers from cost overruns because the Company knows that expenses above the prudency amount will be closely scrutinized.<sup>78</sup> Similarly, Staff argues that disallowing a presumption of prudence would incentivize the Company to artificially inflate its construction cost estimates.<sup>79</sup> Staff asserts that the absence of a presumption of prudence would strongly incentivize the Company to “artificially inflate its cost estimates in order to make sure that the actual construction cost does not exceed the amount that was considered in its CPCN application.”<sup>80</sup>

44. Staff also rebuts the OCC’s arguments, asserting that “ratepayers are likely to end up worse off if the Commission accepts the OCC’s arguments.”<sup>81</sup> Staff reasons that if the Commission does not grant a presumption of prudence “all construction costs” will need to be litigated again. Staff argues that, given the relatively small contingency amount of \$14.55 million, the Commission and parties in a future rate case are unlikely to focus their attention on the Voltage Control and GDT CPCN projects.<sup>82</sup> Staff characterizes the 10 percent contingency and the presumption of prudence as a type of “early warning system” that will flag

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<sup>77</sup> *Id.* at 3.

<sup>78</sup> *Id.*

<sup>79</sup> *Id.* at 4.

<sup>80</sup> *Id.*

<sup>81</sup> *Id.* at 5.

<sup>82</sup> *Id.*

cost overruns in the Company's next rate case and require Public Service to explain why its actual costs exceeded the costs that the Commission deemed prudent in the CPCN.<sup>83</sup>

45. In addition, Staff disagrees with the OCC's position that the Commission has not granted a rebuttable presumption of prudence in transmission proceedings.<sup>84</sup> Staff states that in Proceeding No. 18A-0905E, the Commission accepted a settlement that granted a presumption of prudence for the Cheyenne Ridge transmission tie-line project.<sup>85</sup> Similarly, Staff notes that in Proceeding No. 11A-209E the Commission approved a settlement for a transmission voltage support project that held that all expenditures within 3 percent of the Company's initial budget would be deemed prudent.<sup>86</sup>

46. Staff goes on to argue that the instances in which the Commission has approved CPCNs with a contingency are analogous to granting a presumption of prudence. Staff asserts that "the Commission has repeatedly approved CPCN applications that included a construction contingency based on a certain percentage of the overall cost estimate."<sup>87</sup> Specifically, Staff cites Proceeding No. 18A-0860E the Shortgrass Switching Station CPCN—the first transmission CPCN filed as part of the CEP Portfolio—in which the parties agreed to a contingency of 30 percent. Staff goes on to argue:

Although the parties might not have referred to that contingency as a "presumption of prudence," it is difficult to see how the OCC, having consented to the contingency as part of the CPCN, could then turn around and argue that any spending that fell within the contingency range should not be presumed reasonable as part of a later rate case or cost recovery proceeding.<sup>88</sup>

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<sup>83</sup> *Id.* at 5-6.

<sup>84</sup> *Id.* at 7.

<sup>85</sup> *Id.*

<sup>86</sup> *Id.*

<sup>87</sup> *Id.* at 7-8

<sup>88</sup> *Id.* at 8.

47. Staff argues that it is “difficult to understand” why OCC consented to a 30 percent contingency in the Shortgrass Switching Station CPCN but vehemently opposes the 10 percent contingency proposed in the Settlement Agreement.<sup>89</sup>

48. Finally, Staff takes issue with the OCC’s position that the 10 percent contingency is not based on evidence but results purely from negotiation.<sup>90</sup> Staff asserts that it relied on the published estimating standards contained in the ASTM E2516-11 Standard Classification for Cost Estimate Classification System and that under these standards a contingency of 10 percent is appropriate for the Consolidated Proceeding.

#### **D. Discussion and Findings**

49. We approve the Voltage Control CPCN at an estimated cost of \$93.6 million, approve the GDT CPCN at an estimated cost \$51.9 million, and approve a 10 percent contingency on the total portfolio cost of the Voltage Control and GDT CPCNs (that is, a contingency of \$14.55 million for both CPCNs). In other words, we approve the Voltage Control and GDT CPCNs based on a total portfolio cost of \$160.05 million, including the 10 percent contingency. Similarly, we find that the expected maximum magnetic field and noise levels associated with both CPCNs are reasonable and require no further mitigation or prudent avoidance measures.

50. We note that the parties agree that the projects comprising the Voltage Control and GDT CPCNs are necessary and that both CPCN applications should be approved without additional mitigation or prudent avoidance measures for magnetic fields and noise levels.<sup>91</sup> Also,

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<sup>89</sup> *Id.* at 8-9.

<sup>90</sup> *Id.* at 9.

<sup>91</sup> Opposition Testimony at 6; *see also* Staff’s SOP at 1; OCC’s SOP at 3-4; and Public Service’s SOP at 2.

while the OCC argues that the costs estimates are too uncertain to establish a presumption of prudence, for purposes of granting the CPCN applications, the OCC has not put forth any evidence specifically challenging the estimated costs. Similarly, we reject the OCC's arguments that the contingency is inappropriate. We agree with Staff's position that a 10 percent contingency level is ultimately in line with industry standards and not the result of pure negotiation. Moreover, given the current stage of planning for the GDT and Voltage Control projects, the unrebutted cost estimates that Public Service has presented, and the fact that we are not granting a presumption of prudence, we find that a 10 percent contingency is appropriate for CPCN approval even given the included risk reserve and portfolio concept discussed below.

51. In addition, we adopt the semi-annual reporting requirements set forth in the Settlement Agreement as well as the conferral requirements. Provided, however, that conferral requirements are modified such that the requirements also include the OCC. For instance, Public Service will preview the relief it plans to request in its CEP Portfolio Transmission CPCN for interconnection facilities, discuss information it intends to provide with such filing, and solicit feedback from Staff *and the OCC*.<sup>92</sup> We appreciate the conferral and reporting requirements that the Settling Parties set forth in the Settlement Agreement as a means to further enhance transparency and accountability. We find that allowing the OCC to participate in the conferral processes that the Settling Parties already agreed to is reasonable and furthers the public interest.

52. We reject the presumption of prudence and order that: (1) the estimated costs and contingency levels established in this Consolidated Proceeding will be used as a reference point during Public Service's next base rate case; and (2) that Public Service will need to demonstrate at its next base rate case that all actual costs incurred are prudent and reasonable, regardless of

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<sup>92</sup> See Settlement Agreement at 8.

whether such costs are below the \$160.05 million estimate. Furthermore, we order Public Service in its next base rate case filing following the date that all facilities associated with the Voltage Control and GDT CPCNs are in service, to specifically identify the actual costs for the Voltage Control and GDT projects, individually and in total, in at least as much detail as provided in this Consolidated Proceeding.

53. In so ruling, we reject Public Service’s assertion that “denying a presumption of prudence would undermine and negate the entire purpose of a CPCN proceeding.”<sup>93</sup> In a CPCN proceeding, the Commission is called upon first and foremost to determine whether “the present or future public convenience and necessity require, or will require, the [proposed facilities].”<sup>94</sup> In other words, the purpose of a CPCN proceeding is not to award a presumption of prudence but to evaluate whether the proposed facilities are necessary.<sup>95</sup> In approving the CEP Portfolio in the 2016 ERP the Commission established that voltage control and transmission facilities are necessary, but deferred to these CPCN proceedings the specific facilities that are required.

54. Although a CPCN proceeding is not a cost-recovery proceeding, the anticipated cost to construct the proposed facilities is a relevant factor.<sup>96</sup> It does not follow, however, that failing to grant a presumption of prudence for the estimated cost would, as Public Service claims, “render the CPCN process . . . meaningless.”<sup>97</sup> Forecasting the costs of the facilities is a necessary component of the CPCN proceeding, but that does not mean this level of forecast costs

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<sup>93</sup> Public Service’s SOP at 4.

<sup>94</sup> § 40-5-101(1)(a), C.R.S.

<sup>95</sup> See, *Ohio & Colo. Smelting & Ref. Co. v. PUC*, 187 P. 1082 (1920); *Pub. Serv. Co. v. PUC*, 350 P.2d 543, cert. denied, 364 U.S. 820 (1960).

<sup>96</sup> See Rule 3102.

<sup>97</sup> Public Service’s SOP at 20.

should automatically receive a presumption that the final costs incurred to construct the facility are prudent. For example, regardless of how necessary and reasonable a proposed facility is, a utility could still incur imprudent construction expenses while remaining under the estimate given in the CPCN proceeding.<sup>98</sup>

55. Regarding the Settling Parties' arguments about the detailed cost estimates that Public Service provided, we disagree that detailed cost estimates justify a presumption of prudence. As set forth in Rule 3102, detailed cost estimates are required in every CPCN proceeding. These cost estimates help determine whether the proposed facilities are necessary. Indeed, the cost estimates and information explaining the processes used to develop the cost estimates that Public Service put forth in this Consolidated Proceeding contributed to our decision to approve the Voltage Control and GDT CPCNs based on a total portfolio cost of \$160.05 million. Nonetheless, the cost estimates and explanation of how the cost estimates were developed do not persuade us that we should presume that the Company's future expenditures will be prudent.<sup>99</sup> One issue is that although the 10 percent contingency level is not unreasonable for these projects, the combination of the 10 percent contingency, the 6 percent risk reserve, and the portfolio concept would mean that large variances in the costs of individual projects could still be presumed prudent. This is another factor supporting our decision to reject the presumption of prudence.

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<sup>98</sup> We agree with Public Service that a presumption of prudence is a burden-shifting exercise that does not guarantee cost recovery. As we explain below, however, we find that shifting the legal burden away from Public Service is unwarranted in this case.

<sup>99</sup> Regarding the parties' arguments about the changes in the cost estimates from the 120-Day Report, we accept Public Service's assertion that it never intended the cost estimates in the 120-Day Report to serve as the final figures associated with the CEP Portfolio investments, and we agree that in a future rate case the appropriate analysis will be the costs the Company actually incurred in the context of the cost estimates presented in this Consolidated Proceeding.



56. The Settling Parties also argue that we should grant a presumption of prudence to increase administrative efficiency, which is in the public interest. We are not persuaded that gains in administrative efficiency that would come from a presumption of prudence—if any—justify granting a presumption at this stage.

57. To begin, our decision to not grant a presumption of prudence here will not require parties to fully re-litigate at a future cost recovery proceeding the issues presented in this Consolidated Proceeding. For instance, much of the testimony and evidence submitted in the Consolidated Proceeding establishes the need for the Voltage Control CPCN and the GDT CPCN. By granting the CPCN applications, the Commission definitively determines that the projects set forth in this Consolidated Proceeding are necessary. Thus, it would be difficult for any party to argue in a future rate recovery proceeding that the various voltage control devices are unnecessary or that better alternatives exist for the GDT CPCN projects.

58. Even for the evidence and testimony regarding prudence of costs, the Settling Parties overstate their case for administrative efficiency. The evidence and testimony submitted in the Consolidated Proceeding goes to the reasonableness and accuracy of Public Service's cost estimates. In the future cost recovery proceeding, Public Service will submit evidence establishing its actual costs. Indeed, Public Service concedes that even with a presumption of prudence "[t]he Company will still bear the burden of showing, in a future cost recovery proceeding, what the actual costs are."<sup>100</sup> In short, at a future rate recovery proceeding Public Service must put forth its actual costs regardless of whether it has a presumption of prudence, and granting the CPCNs without a presumption of prudence will not, by itself, require the Company to litigate *de novo* the reasonableness and accuracy of its prior cost estimates.

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<sup>100</sup> Public Service's SOP at 9.

59. Moreover, parties will not need to “start over in re-evaluating the costs.”<sup>101</sup> Rather, the cost estimates and evidence presented in this proceeding—along with the positions of the parties—will serve as important reference points when Public Service eventually seeks cost recovery. The focus of the analysis at the future rate recovery proceeding will be whether Public Service prudently incurred costs when it constructed the previously approved facilities. If the overall final cost exceeds the cost level forecast in the CPCN proceeding, including contingency, the case will likely evaluate the prudence of the individual costs as well as an analysis of why the forecast was exceeded. However, if the final overall costs are at or below \$160.05 million, the focus of the analysis will be on the prudence of the individual costs.

60. The Settling Parties also argue that administrative efficiency favors granting a presumption of prudence at this stage because it will be more difficult for the Commission and parties to scrutinize these projects at a future rate case. The Settling Parties assert that granting a presumption of prudence in this proceeding will help streamline future rate cases. We are again unpersuaded. While parties will admittedly have more issues to evaluate in a future rate case, the parties will also be able to evaluate the costs Public Service actually incurred. Having evidence of the actual costs incurred will help clarify the evaluation because parties will be able to focus on prudence instead of debating the accuracy and refinement of cost estimates. There is a significant difference between vetting cost estimates and evaluating whether actual costs were prudently incurred.

61. As for the argument that parties are unlikely to focus on the costs of the Voltage Control and GDT projects at a future rate case, requiring Public Service to specifically identify the actual costs of the Voltage Control and GDT projects in its next rate case largely addresses

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<sup>101</sup> *Id.* at 21.

this concern. The cost estimates and contingency established in this Consolidated Proceeding will still serve as an “early warning system” in that parties will easily see whether Public Service exceeded \$160.05 million. As with the plan put forth by the Settling Parties, Public Service will be incentivized to keep its actual costs below \$160.05 million.<sup>102</sup> Further, parties can compare the individual costs presented in this proceeding with actual costs, so that the prudence of individual costs can be evaluated regardless of whether the \$160.05 million is exceeded.

62. In addition, \$160.05 million is a significant amount of money, even in the context of a rate case. Any potential administrative savings achieved through a presumption of prudence would likely be only a small fraction of the potential cost variances given the \$160.05 million project cost.

63. The Settling Parties also argue that granting a presumption of prudence at this stage is supported by law, rule, and policy. We find, however, that the Commission has discretion to decide on case-by-case basis whether to grant a presumption of prudence in a CPCN proceeding and that such a presumption is unwarranted here. As the Settling Parties note, there are several instances in which the Commission has approved unopposed settlement agreements that grant a presumption of prudence at the CPCN stage.<sup>103</sup> We agree with the OCC, however, that such uncontested settlement agreements are not binding precedent on how the parties or the Commission must act in other proceedings. Further, utilities have used several different approaches to establish cost certainty in past CPCN cases. For example, past CPCN approvals have included soft cost caps, hard cost caps, presumptions of prudence, and varying levels of

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<sup>102</sup> Staff similarly argues that disallowing a presumption of prudence incentivizes Public Service to artificially inflate its cost estimates. We find that keeping the burden of showing prudence on Public Service regardless of whether the Company’s costs exceed its estimate addresses this concern.

<sup>103</sup> Staff’s SOP at 7; Responsive Settlement Testimony of Brooke Trammell at 39.

contingency. The particular approach to be used in any given CPCN proceeding must be decided based on the circumstances of the case.

64. Staff also seems to argue that Commission precedent supports granting a presumption of prudence in this Consolidated Proceeding given the fact that “the Commission has repeatedly approved CPCN applications that included a construction contingency based on a certain percentage of the overall cost estimate.”<sup>104</sup> We disagree. Again, cost is relevant when determining the need for proposed facilities. For example, we might find that public convenience and necessity require a proposed facility if the estimated costs are \$100 million plus or minus 10 percent, but if the estimated costs are \$100 million plus/minus 40 percent we might look harder at alternative facilities.

65. Moreover, Staff’s argument that granting a CPCN with a contingency is analogous to approving a presumption of prudence runs counter to some of the decisions granting a CPCN with a contingency amount.<sup>105</sup> For instance, in Proceeding No. 17A-0146E, Public Service sought a CPCN for 25 miles of new transmission lines and two new substations (the Northern Greeley Area Transmission Plan Project).<sup>106</sup> The estimated cost of the Northern Greeley Area Transmission Plan Project was \$65 million plus or minus 30 percent.<sup>107</sup> In granting a CPCN for the Northern Greeley Area Transmission Plan Project with its 30 percent contingency, the ALJ held that “no amount of expenditures is deemed prudent at this stage.”<sup>108</sup> Likewise, in Proceeding No. 14A-0287E, Public Service sought a CPCN for approximately

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<sup>104</sup> Staff’s SOP at 7-8.

<sup>105</sup> These decisions also rebut Public Service’s assertion that it “historically understood” that approval of a CPCN inherently meant that associated costs were presumed prudent. (Public Service’s SOP at 24).

<sup>106</sup> Proceeding No. 17A-0146E, Decision No. R18-0153 issued March 1, 2018 at 1.

<sup>107</sup> *Id.* at 23.

<sup>108</sup> *Id.*

115 miles of transmission line at an estimated cost of \$178 million.<sup>109</sup> In granting the CPCN, the ALJ ordered the Company to revise its estimates to plus or minus 10 percent prior to commencement of construction but also held that “[n]o amount of expenditures is deemed prudent by this Recommended Decision.”<sup>110</sup>

66. For its part, Public Service argues that Rule 3617 supports a presumption of prudence because the Voltage Control and GDT projects are “indisputably associated with the resource acquisitions approved as part of the CEPP.”<sup>111</sup> Public Service goes on to state that if costs are not evaluated until a rate case, “[i]t would also render . . . Rule 3617’s prudency clause meaningless.”<sup>112</sup> Examining the full text of Rule 3617(d), however, we find that the transmission projects associated with the Voltage Control and GDT CPCNs do not squarely fall within Rule 3617. The CEP Portfolio was primarily focused on generation sources. While the CEP Portfolio analysis did include the transmission upgrades that the new generation would require, the Voltage Control and GDT facilities were not bid or evaluated in detail like the generation resources. Therefore, the general equipment proposals and high level cost estimates for the Voltage Control and GDT facilities as proposed in the 2016 ERP do not warrant the same treatment as generation resources under Rule 3617. Moreover, we are not convinced that the CPCNs set forth in this Consolidated Proceeding “are consistent with” the CEP Portfolio. As OCC’s testimony demonstrates, the Voltage Control and GDT projects solve the same problems identified in the CEP Portfolio but entail materially different approaches and estimated costs.<sup>113</sup> Accordingly, we reject the Company’s arguments regarding Rule 3617.

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<sup>109</sup> Proceeding No. 14A-0287E, Decision No. R14-1405 issued November 25, 2014 at 8-9.

<sup>110</sup> *Id.* at 50-51.

<sup>111</sup> Public Service’s SOP at 19.

<sup>112</sup> *Id.* at 20.

<sup>113</sup> OCC’s Opposition Testimony at 14, 19-20.

67. We similarly find Public Service’s reliance on *City of Boulder v. Colo. Pub. Utils. Comm’n*, 996 P.2d 1270, 1278 (Colo. 2000) to be misplaced. While the Colorado Supreme Court notes in *City of Boulder* that a utility must file for a CPCN if it “wants assurance that its investments will be recoverable,” the court did not find this means that such “assurance” should come in the form of a presumption of prudence.<sup>114</sup> Rather, reading the court’s analysis in its entire context illustrates our position here. The court went on to state that “[i]f ... a utility does not obtain prior approval, it has no vested right to recover for the cost of expanded facilities or service areas and therefore proceeds at its own risk.” This does not endow a CPCN applicant with a finding of a presumption of prudence, but merely advises such utilities that a CPCN is required in order to recover for the costs of the proposed construction.

68. Here, the Commission is granting the Voltage Control and GDT CPCNs. Even without a presumption of prudence, Public Service has assurance that it will recover all costs that it reasonably and prudently incurs to construct these approved projects. In other words, the Commission does not need to grant the CPCNs *and* a presumption of prudence in order to send constructive regulatory and policy signals to Public Service.<sup>115</sup> As with the other instances in which Public Service has obtained a CPCN without a presumption of prudence, the Company can rely on simply the CPCNs to move forward with the projects.<sup>116</sup>

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<sup>114</sup> Public Service’s SOP at 18.

<sup>115</sup> Public Service also argues that granting a presumption of prudence signals to the Company that the CEP Portfolio is important and should be pursued. (Public Service’s SOP at 23). To the extent that the Company needs another signal even after we approved the 2016 ERP, we find that the approval of the CPCNs on a case-by-case basis is sufficient.

<sup>116</sup> See, e.g., Proceeding No. 17A-0146E, Decision No. R18-0153 (the Northern Greeley Area Transmission Plan Project); Proceeding No. 14A-0287E, Decision No. R14-1405 (the Pawnee to Daniels Park 345 kV Transmission Project); Proceeding No. 18A-0860E, Decision No. C19-0175 issued February 19, 2019 (the Shortgrass Switching Station Project).

## **II. ORDER**

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

1. The Settlement Agreement filed May 26, 2020, between Public Service Company of Colorado (Public Service) and Staff of the Colorado Public Utilities Commission regarding the Certificate of Public Convenience and Necessity (CPCN) filed by Public Service on December 20, 2019, in Proceeding No. 19A-0728E (Voltage Control CPCN) and the CPCN application filed by Public Service on February 21, 2020, in Proceeding No. 20A-0063E (GDT CPCN) is approved in part.

2. Specifically, consistent with the discussion above, we grant the Voltage Control and GDT CPCN applications based on the costs, contingencies, and portfolio concept set forth in the Settlement Agreement; adopt the semi-annual reporting requirements; adopt the conferral requirements set forth in the Settlement Agreement but modify the same such that the requirements also apply to the Office of Consumer Counsel; find that the expected maximum magnetic field and noise levels associated with both CPCNs are reasonable and require no further mitigation; reject the presumption of prudence; and order Public Service in its next base rate case filing following the date that all facilities associated with the Voltage Control and GDT CPCNs are in service, to specifically identify the actual costs for the Voltage Control and GDT projects, individually and in total, in at least as much detail as provided in this proceeding.

3. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING  
August 26, 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