

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 22A-0309EG

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR APPROVAL OF A NUMBER OF STRATEGIC ISSUES RELATING TO ITS ELECTRIC AND GAS DEMAND SIDE MANAGEMENT AND BENEFICIAL ELECTRIFICATION PLAN.

INTERIM COMMISSION DECISION: (1) DEEMING APPLICATION COMPLETE; (2) SETTING MATTER FOR HEARING *EN BANC*; (3) ESTABLISHING PARTIES; (4) SCHEDULING PREHEARING CONFERENCE; (5) REQUIRING PARTIES TO CONFER ON A PROCEDURAL SCHEDULE THAT INCLUDES SUPPLEMENTAL DIRECT TESTIMONY; AND (6) SETTING 10-DAY RESPONSE TIME TO OUTSTANDING MOTIONS

Mailed Date: September 6, 2022

Adopted Date: August 31, 2022

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I. BY THE COMMISSION

A. Statement

1. By this Decision, the Commission deems complete and sets for hearing before the Commission *en banc* the Application of Public Service Company of Colorado (Public Service or the Company) filed on July 1, 2022, which requests the Commission approve the proposals contained in the Company's Demand Side Management (DSM) and Beneficial Electric (BE) Strategic Issues application.

2. The Commission grants the requests for permissive intervention filed by the City and County of Denver (Denver), the City of Boulder (Boulder), Climax Molybdenum Company (Climax), the Colorado Energy Consumers (CEC), Natural Resources Defense Council and Sierra Club (collectively, the Conservation Coalition), the Colorado Renewable Energy Society (CRES), the Energy Efficiency Business Coalition (EEBC), Energy Outreach Colorado (EOC), the Southwest Energy Efficiency Project (SWEEP), and Western Resource Advocates (WRA). The Commission acknowledges the notices of intervention of right filed by Trial Staff of the

Commission (Staff), the Office of the Utility Consumer Advocate (UCA), and the Colorado Energy Office (CEO).

3. The Commission sets a prehearing conference for September 16, 2022 and requires Public Service to confer with the established parties and file a proposed procedural schedule no later than September 9, 2022. The proposed procedural schedule should address discovery processes and accommodate the filing of potential Supplemental Direct Testimony, responding to outstanding questions, if any, identified by the Commission through separate order.

B. Procedural History

4. On July 1, 2022, Public Service filed its Application and Direct Testimony requesting Commission approval of the proposals contained in the Company's DSM and BE Strategic Issues application. Public Service states this will be the fifth proceeding where the Commission, the Company, and interested parties have opportunity to examine the larger policy issues that will help shape the Company's next DSM Plan. Public Service states, however, this Strategic Issues proceeding will differ from prior cases because it also includes BE. Public Service states, at this point, a combined filing reduces the burden for parties, allows for a more holistic consideration of DSM, including issues that impact both the Company's natural gas and electric utility services, and is consistent with the allowance in recent Senate Bill 21-246, effective September 7, 2021, codified at § 40-3.2-109(6)(b), C.R.S., for combined BE and DSM Strategic Issues filings. Public Service states that, similar to previous Strategic Issues proceedings, this filing is designed to seek Commission re-examination and approval of the overall objectives and structure of Public Service's DSM initiatives to guide the Company in designing future DSM plans. Th Company states, however, this Proceeding differs for a number of reasons including the

addition of BE, a greater focus on gas DSM, more focused efforts to reduce carbon emissions, and changing needs of electric DSM.

5. Concurrent with its Application, Public Service filed a motion on July 1, 2022, requesting the Commission grant a waiver of the requirements in Rule 4754(g)(I) of the Commission's Rules Regulating Gas Utilities, 4 *Code of Colorado Regulations* (CCR) 723-4, associated with the structure of the incentive in the Company's natural gas DSM programs (Motion for Waiver).

6. The Commission issued a Notice of Application Filed on July 8, 2022. The Notice set a 30-day intervention period that ran through August 8, 2022.

7. On August 1, 2022, UCA filed a notice of intervention of right. On August 4, 2022, Staff filed a notice of intervention of right. On August 8, 2022, CEO filed a notice of intervention of right.

8. On July 22, 2022, Denver and CEC filed motions for permissive intervention.

9. On August 1, 2022, CRES filed a motion for permissive intervention.

10. On August 2, 2022, the Conservation Coalition filed a motion for permissive intervention.

11. On August 3, 2022, Boulder filed a motion for permissive intervention.

12. On August 5, 2022, EEBC, EOC, and SWEEP filed motions for permissive intervention.

13. On August 8, 2022, Climax and WRA filed motions for permissive intervention.

14. On August 24, 2022, UCA filed a motion requesting that the Commission order Public Service to file Supplemental Direct Testimony addressing certain issues relating to: (1) the

Company's outreach in income qualified and disproportionately impacted communities; and (2) the impact of the recently enacted federal Inflation Reduction Act of 2022 on the Company's proposed DSM and BE plans (Motion to Order Supplemental Direct Testimony).

C. Completeness

15. The Commission finds the Application contains all the information required by applicable Commission Rules and is therefore deemed complete for purposes of § 40-6-109.5, C.R.S.¹

D. *En Banc* Hearing

16. The Commission finds good cause to set the Application for hearing before the Commission *en banc*. The Application raises significant policy questions, as well as questions of statutory interpretation, that warrant an evidentiary hearing before the Commissioners.

E. Establishment of Parties

17. The Commission acknowledges the notices of intervention of right filed by UCA, Staff, and CEO.

18. Rule 1401(c) of the Commission's Rules of Practice and Procedure, 4 CCR 723-1, requires persons seeking permissive intervention to show the following, in pertinent 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.

¹ The Commission acknowledges the Application automatically deemed complete on August 22, 2022, for purposes of the statutory deadline for a final Commission decision pursuant to § 40-6-109.5, C.R.S.

19. 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.

1. Denver

20. Denver is a customer of Public Service and its citizens are customers of Public Service. Denver intends to address: (a) the proposed electric energy efficiency and demand savings targets; (b) the proposed electric and gas DSM budgets; (c) the Company's proposals related to BE, demand response, and demand management; and (d) the Company's approach to equity. Denver states its interests cannot be adequately represented by any other party in the proceeding.

21. We find Denver has adequately demonstrated that its pecuniary or tangible interests will be affected and would not otherwise be represented by other parties in this Proceeding. We therefore grant its motion to intervene.

2. Boulder

22. Boulder is a large customer of Public Service and its citizens and businesses are also customers of Public Service. Boulder plans on addressing: (a) the shift in focus of DSM to emissions reduction; (b) incentives for emissions reduction; (c) inclusion of the social cost of methane and other non-energy benefits in cost-benefit methodologies; (d) DSM and BE goals and budgets; (d) the BE plan; (f) the relationship of this application to the forthcoming Clean Heat Plan; (g) increased access to products and services for income-qualified and disproportionately impacted customers; and (h) natural gas savings goals.

23. We find Boulder has adequately demonstrated that its pecuniary or tangible interests will be affected and would not otherwise be represented by other parties in this Proceeding. We therefore grant its motion to intervene.

3. Climax

24. Climax states it is one of Public Service's largest customers and a long-time, substantial participant in Public Service's electric interruptible service option credit as well as and its gas interruptible transportation program, both of which are at issue in this application. Climax states the outcome in this decision will directly and substantially affect Climax's cost, and possibly its reliability, of electric and gas service that are necessary for mining and milling molybdenum.

25. We find Climax has adequately demonstrated that its pecuniary or tangible interests will be affected and would not otherwise be represented by other parties in this Proceeding. We therefore grant its motion to intervene.

4. CEC

26. CEC is an unincorporated association of corporate entities that operate facilities within Public Service's service territory and purchase electricity and related services from Public Service. CEC asserts that Public Service's DSM programs have a direct and substantial impact on the rates and charges imposed by Public Service for electricity and on the existence, continuation, and terms of various DSM programs. CEC states it has meaningfully participated and contributed to proceedings of similar nature over the past decade. CEC states its members are all large commercial and industrial electric customers with respectively unique service requirements. Therefore, it claims, no party or putative intervenor could adequately represent CEC's interests due to the unique service requirements and characteristics of each CEC member, and of CEC as a group. CEC intends to address: (1) whether proposed DSM and BE goals and budgets are reasonable, cost-effective, and in the public interest; (2) whether Public Service's incentive mechanisms are just and reasonable, and meaningfully drive behavior; and (3) other issues raised

by the application that may impact Public Service's Demand Side Management Cost Adjustment rate rider or Public Service's DSM and BE programs.

27. We find CEC has adequately demonstrated that its pecuniary or tangible interests will be affected and would not otherwise be represented by other parties in this Proceeding. We therefore grant its motion to intervene.

5. Conservation Coalition

28. The Conservation Coalition is a group of conservation organizations with unique and specific knowledge and experience concerning utility regulation in Colorado, as well as in numerous states around the country. For this Proceeding, the Natural Resources Defense Council and Sierra Club propose intervening as the "Conservation Coalition." The Conservation Coalition states they intend to address efficiency and demand response potential, the annual budget targets, low-income electric and gas program targets, how DSM will be utilized as a clean heat resource, and new winter-focused demand response programs. The Conservation Coalition asserts that it represents different interests than other intervenors CEO and CRES.

29. We find the Conservation Coalition has adequately demonstrated that its pecuniary or tangible interests will be affected and would not otherwise be represented by other parties in this Proceeding. We therefore grant its motion to intervene.

6. CRES

30. CRES is a nonprofit that advocates for energy efficiency and a carbon-neutral future for Colorado. CRES has more than 60 businesses and 700 individual members and works on behalf of consumers, small businesses, and communities throughout the state to promote the expeditious transition from fossil fuels to renewable energy. CRES states it has participated in previous Commission proceedings, including Public Service's recent electric resource plan and

clean energy plan, its previous DSM Strategic Issues proceeding, and others. CRES asserts no other party adequately represents its interests in this Proceeding because no other party represents the wide array of individuals and businesses singularly dedicated to the expeditious transition from fossil fuels to renewable energy of all types in electricity generation, acquisition, and distribution across Public Service's service area and the rest of the state.

31. We find CRES has adequately demonstrated that its pecuniary or tangible interests will be affected and would not otherwise be represented by other parties in this Proceeding. We therefore grant its motion to intervene.

7. EEBC

32. EEBC is a non-profit whose mission is to advocate for policies, programs, and business practices that will benefit and promote the market for energy efficiency technologies, products, and services in Colorado. EEBC has over 100 business members manufacturing, distributing, and selling products and services related to residential and commercial DSM technologies. EEBC has previously participated in Commission proceedings, such as Public Service's previous DSM plan and Strategic Issues proceedings.

33. We find EEBC has adequately demonstrated that its pecuniary or tangible interests will be affected and would not otherwise be represented by other parties in this Proceeding. We therefore grant its motion to intervene.

8. EOC

34. EOC's mission is ensuring that income-qualified Colorado households can meet their home energy needs. Pursuant to § 40-8.5-104, C.R.S., EOC collects and disburses low-income energy assistance funds, as well as voluntary contributions from utility customers pursuant to the Low-Income Energy Assistance Act. EOC thus asserts it has a specific interest in

advocating for income-qualified customers and has a tangible and pecuniary interest in ensuring that its services are not required for a growing number of Colorado citizens. EOC intends to address issues in Public Service's application that impact the measures EOC administers, directly or indirectly, and more broadly the provision of DSM and energy efficiency measures to income-qualified customers.

35. We find EOC has adequately demonstrated that its pecuniary or tangible interests will be affected and would not otherwise be represented by other parties in this Proceeding. We therefore grant its motion to intervene.

9. SWEEP

36. SWEEP is a non-profit whose mission is to advance energy efficiency and clean transportation, and to expand the economic and environmental benefits that energy efficiency and electric vehicles provide. SWEEP has participated in several past Commission proceedings, including all of Public Service's previous DSM Strategic Issues and DSM plan proceedings.

37. We find SWEEP has adequately demonstrated that its pecuniary or tangible interests will be affected and would not otherwise be represented by other parties in this Proceeding. We therefore grant its motion to intervene.

10. WRA

38. WRA is a nonprofit conservation organization and claims a tangible interest in protecting the environment through reduction of emissions from the electricity sector. WRA's intervention pleading identifies specific components of the Company's filing that it believes directly impact its interest in protecting the environment through reducing emissions from the electric utility, gas utility, and buildings sectors.

39. We find WRA has adequately demonstrated that its pecuniary or tangible interests will be affected and would not otherwise be represented by other parties in this Proceeding. We therefore grant its motion to intervene.

40. The following are parties to this Proceeding: Public Service, UCA, Staff, CEO, Denver, Boulder, Climax, CEC, Conservation Coalition, CRES, EEBC, EOC, SWEEP, and WRA. Intervenors are reminded to seek efficiencies through conferral where their respective positions align such that duplicative pleadings or positions can be provided concisely, and jointly, if possible.

F. Supplemental Direct Testimony

41. The Commission may by separate order direct Public Service to file Supplemental Direct Testimony responding to outstanding questions the Commission may identify. We request that parties accommodate a tentative date for filing Supplemental Direct Testimony in their proposed procedural schedule. The Commission will address UCA's Motion to Order Supplemental Direct Testimony through separate order.

G. Prehearing Conference and Conferral

42. The Commission schedules a prehearing conference **for September 16, 2022, from 2:00 p.m. to 4:00 p.m.** At the remote prehearing conference, an evidentiary hearing will be scheduled, and other procedural deadlines will be established.

43. 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.

44. We direct Public Service to confer with the parties to develop a proposed procedural schedule, including provisions for discovery and for the filing of Supplemental Direct Testimony,

consistent with the discussion above. Public Service shall file the proposed procedural schedule no later than **5:00 p.m. on September 9, 2022**. We advise parties that the Commission prefers the evidentiary hearing in this matter be conducted over consecutive days, concluding no later than **January 15, 2023**. Providing the Commission substantially approves the proposed schedule, the Commission may vacate the scheduled prehearing conference.

H. Response Time to Motion

45. The Commission establishes a **ten-day response time, from the effective date of this Decision**, for parties to file any responses to Public Service's Motion for Variance.

46. Parties are directed to address in their response whether the requests in this Motion are best addressed early in the Proceeding or if they should be considered as part of a future Commission decision after further testimony and evidence are presented.

II. ORDER

A. It Is Ordered That:

1. The Application of Public Service Company of Colorado (Public Service) for approval of its Demand Side Management and Beneficial Electrification Strategic Issues proposals, filed on July 1, 2022, is set for hearing *en banc*.

2. The application is deemed complete, consistent with the discussion above.

3. The notices of intervention filed by the Office of the Utility Consumer Advocate on August 1, 2022, by Trial Staff of the Commission on August 4, 2022, and by the Colorado Energy Office on August 8, 2022, are acknowledged.

4. The motion to intervene filed by the City and County of Denver on July 22, 2022, is granted.

5. The motion to intervene filed by the Colorado Energy Consumers on July 22, 2022, is granted.

6. The motion to intervene filed by the Colorado Renewable Energy Society on August 1, 2022, is granted.

7. The motion to intervene filed by Natural Resources Defense Council and Sierra Club (collectively, the Conservation Coalition) on August 2, 2022, is granted.

8. The motion to intervene filed by the City of Boulder on August 3, 2022, is granted.

9. The motion to intervene filed by Climax Molybdenum Company on August 8, 2022, is granted.

10. The motion to intervene filed by the Energy Efficiency Business Coalition on August 5, 2022, is granted.

11. The motion to intervene filed by Energy Outreach Colorado on August 5, 2022, is granted.

12. The motion to intervene filed by the Southwest Energy Efficiency Project on August 5, 2022, is granted.

13. The motion to intervene filed by Western Resource Advocates on August 8, 2022, is granted.

14. The parties to this Proceeding are: Public Service, Trial Staff of the Commission, the Office of the Utility Consumer Advocate, the Colorado Energy Office, the City and County of Denver, the City of Boulder, Climax Molybdenum Company, Colorado Energy Consumers, the Conservation Coalition, the Colorado Renewable Energy Society, the Energy Efficiency Business

Coalition, Energy Outreach Colorado, the Southwest Energy Efficiency Project, and Western Resource Advocates.

15. Public Service shall confer with the parties to develop a proposed procedural schedule, consistent with the discussion above. Public Service shall file the proposed procedural schedule no later than September 9, 2022.

16. A remote prehearing conference is scheduled as follows:

DATE: September 16, 2022

TIME : 2:00 p.m. to 4:00 p.m.

PLACE: Zoom Meeting

<https://us06web.zoom.us/j/82447340566?pwd=Sy9FRW5HMDIrVDg4NGk5d09BSW1PUT09>

17. The Commission establishes a ten-day response time, from the effective date of this Decision, for parties to file any responses to Public Service's motion, filed July 1, 2022, requesting the Commission grant a waiver of the requirements in Rule 4754(g)(I) of the Commission's Rules Regulating Gas Utilities, 4 *Code of Colorado Regulations* (CCR) 723-3, associated with the structure of the incentive in the Company's natural gas DSM programs.

18. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
August 31, 2022.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ERIC BLANK

JOHN GAVAN

MEGAN M. GILMAN

Commissioners