

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

PROCEEDING NO. 22D-0461E

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IN THE MATTER OF THE VERIFIED PETITION OF TRIAL STAFF OF THE COMMISSION FOR A DECLARATORY ORDER REGARDING PUBLIC SERVICE COMPANY OF COLORADO'S DELAY IN DEPLOYING ADVANCED METERS FOR NET-METERED CUSTOMERS.

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**INTERIM COMMISSION SOLICITING INFORMATION  
FROM PUBLIC SERVICE COMPANY OF COLORADO**

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Mailed Date: December 6, 2022  
Adopted Date: November 9, 2022

**I. BY THE COMMISSION**

**A. Statement**

1. On October 25, 2022, Staff of the Colorado Public Utilities Commission filed a petition for a declaratory order asking the Commission to resolve an alleged uncertainty as to whether Public Service Company of Colorado (Public Service or Company) should be permitted to delay installing advanced meters (or “smart meters”) for approximately 30,000 customers who take service with net metering.

2. This Decision requests information from Public Service related to the allegations raised in Staff’s petition. Responses to the questions we pose to the Company are due 14 days from the effective date of this Decision.

**B. Staff’s Petition for a Declaratory Order**

3. In its petition, Staff asserts that Public Service is delaying the installation of advanced meters for net metered customers. The Company’s Net Metering Service tariff, Sheet

Nos. 112 through 112E in Colorado PUC No. 8 Electric, define net metered customers as those who take retail service under all of the Company's other rate schedules, with a "Retail Renewable Distributed Generation Resource that operates in parallel with the Company's system, that is no larger than one hundred and twenty percent (120%) of the average annual consumption of electricity by the Customer at that site, and that has a rated capacity that does not exceed the Customer's service entrance capacity."<sup>1</sup>

4. Staff states in the petition that the delay in advanced meter installations for net metered customers means "that there could be a significant disparity between the rates net-metered customers are paid for electricity generated during peak hours and the rates other customers are charged by the Company."<sup>2</sup> Staff explains that advanced meters are capable of tracking the time of customers' electricity use, which is a technical prerequisite to moving customers onto Public Service's time-of-use (TOU) rates.

5. Staff raises questions in the petition but does not appear to explicitly allege wrongdoing by Public Service. Staff states that "it is not clear whether the Company is permitted to delay its advanced meter rollout for net-metered customers" by § 40-3-106(1)(a), C.R.S.<sup>3</sup> Staff alleges that it is unclear whether the delay is permitted under previous settlements and Commission decisions, stating: "Although the settlements and Commission decisions in [previous] cases do not explicitly prohibit the Company from delaying advanced meter deployment for any particular subset of ratepayers (such as net-metered customers), those settlements and decisions also do not explicitly authorize such a delay."<sup>4</sup> Staff states that it is also not clear whether the delay is

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<sup>1</sup> Public Service COLO. PUC No. 8 Electric Tariff, Sheet No. 112 through 112E.

<sup>2</sup> Staff Petition, pp. 1-2.

<sup>3</sup> Staff Petition, p. 3.

<sup>4</sup> Staff Petition, p. 7.

“contrary to the public interest.”<sup>5</sup> Staff further asks the Commission “what remedy should be put in place if the Commission finds that the Company’s delay was not permitted.”<sup>6</sup>

6. Staff acknowledges in the petition that Public Service responded to concerns about the alleged delay earlier in the year, after *The Colorado Sun* published a related article on July 19, 2022.<sup>7</sup> The Company’s response came in the form of a notice filed on August 3, 2022 in Proceeding No. 21A-0279E (August Notice). Staff argues that Public Service did not explain in that notice why billing enhancements to address net metered customers were not made earlier, such as “during the two-year period between the decision approving its residential TOU rate and today.”<sup>8</sup> Staff further argues that net metered customers will have to wait at least seven months from the filing of the petition—and potentially up to 14 months—before they receive an advanced meter and are eligible to join a TOU rate.<sup>9</sup>

7. Staff also filed a procedural motion with its petition, requesting that the Commission: (1) consider the matter *en banc*; (2) establish an expedited procedural schedule, including a shortened notice and intervention period; and (3) waive response time to the motion.

8. On November 14, 2022, Public Service filed a notice of intervention by right in this Proceeding. Public Service states that determinations made by the Commission with respect to Staff’s petition would substantially affect the Company’s pecuniary and tangible interests and no

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<sup>5</sup> Staff Petition, p. 2.

<sup>6</sup> Staff Petition, p. 13.

<sup>7</sup> Michael Booth, “Xcel pays Colorado solar homeowners 8 cents for their extra electricity. Then charges neighbors 17 cents to use it,” *The Colorado Sun*, July 19, 2022, available at: <https://coloradosun.com/2022/07/19/xcel-solar-rates-time-of-use-smart-meters/>.

<sup>8</sup> Staff Petition, p. 6, further citing Decision No. R20-0642, Proceeding No. 19AL-0687E, issued on September 11, 2020.

<sup>9</sup> Staff Petition, p. 6.

other party could adequately represent those interests. The Company further states that the Commission's determinations regarding the relief being sought by Staff will have a direct pecuniary and tangible impact upon the Company's advanced meter deployment schedule, its customers, and its shareholders. Public Service states that the petition and the relief sought directly affect its Advanced Grid Intelligence and Security initiative and the schedule for implementing its Residential Energy Time-of-Use (RE-TOU) Service.<sup>10</sup>

**C. Additional Information from Public Service Related to Staff's Petition**

9. Subparagraph 1304(f)(III) of the Commission's Rules of Practice and Procedure, 4 *Colorado Code of Regulations* (CCR) 723-1 states that the Commission, at its discretion and prior to issuing notice, may dismiss or otherwise not accept any petition seeking a declaratory order.

10. Before we determine whether to accept Staff's petition or to address the matter through some other type of proceeding, and before we rule on Staff's procedural motion tied to its petition, we seek additional information from Public Service.

11. Specifically, we seek more information on the practical circumstances surrounding the alleged delay, the expected timing for the resolution of the alleged delay, and the Company's assessment of the procedural requirements for the Commission to address the alleged delay. We also seek to understand the apparent complexity behind using the new advanced meters to bill net metered customers.

12. We therefore seek answers from Public Service to the following questions:

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<sup>10</sup> Public Service COLO. PUC No. 8 Electric Tariff, Sheet Nos. 33 through 33E.

- a. In the August Notice, what does the Company mean when it says that customers with onsite solar systems and with bridge meters participating in the TOU rate “have been deferred”?<sup>11</sup>
- b. How does the Company intend to resolve a “deferral”?
- c. How many net metered customers “have been deferred”?
- d. What is the expected schedule for deploying advanced meters for the “deferred” net metered customers?
- e. What is the typical timeline for billing a net metered customer on TOU rates after an advanced meter is installed?
- f. Once billing on TOU rates begins for a net metered customer, will the Company apply the TOU provisions in Schedule NM?<sup>12</sup>
- g. How many customers with bridge meters participating in the TOU rate “have been deferred”?
- h. What is the expected schedule for deploying advanced meters for the “deferred” bridge meter customers?
- i. What is the typical timeline for billing a bridge meter customer on TOU rates after an advanced meter is installed?
- j. Why is a net metered customer a “more complex customer type”?<sup>13</sup>
- k. Why is a customer with a bridge meter participating in the TOU rate a “more complex customer type”?
- l. What are the “additional, complex system enhancements” and “additional software implementation” that net metered customers require?<sup>14</sup>
- m. What is the time frame for the implementation for such “additional, complex system enhancements”?
- n. Do the “Opt-In” provisions for Schedule RE-TOU apply to net metered customers once an advanced meter is installed?<sup>15</sup>
- o. How many production meters and load meters have been installed for net metered customers by calendar year since 2018?<sup>16</sup>
- p. Since the August Notice was filed, what communications has the Company provided to net metered customers regarding the timeline and their options to resolve the “deferral”?<sup>17</sup>
- q. Since the August Notice was filed, what communications has the Company provided to net metered customers that participated in the RE-TOU Trial regarding the timeline and their options to resolve the “deferral”?<sup>18</sup>

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<sup>11</sup> August Notice, p. 2.

<sup>12</sup> Public Service COLO. PUC No. 8 Electric Tariff, Sheet No. 112C.

<sup>13</sup> August Notice, p. 2.

<sup>14</sup> August Notice, p. 2.

<sup>15</sup> Public Service COLO. PUC No. 8 Electric Tariff, Sheet No. 33A.

<sup>16</sup> Public Service COLO. PUC No. 8 Electric Tariff, Sheet No. 33D.

<sup>17</sup> August Notice, p. 3.

<sup>18</sup> August Notice, p. 3.

- r. Are the customers who participated in the Company's RE-TOU Trial presently receiving service under the RE-TOU tariff currently in effect?<sup>19</sup>
- s. How many net metered customers have received bills under the TOU provisions in Schedule NM by each calendar year since 2018?<sup>20</sup>
- t. Is Public Service presently able to render bills to net metered customers pursuant to the TOU provisions in Schedule NM?
- u. Was Public Service able to render bills to net metered customers pursuant to the TOU provisions in Schedule NM beginning March 10, 2018?
- v. Does Staff's petition rely on any material facts that Public Service disputes?

13. Recognizing that we have yet to decide whether to accept the petition and commence a declaratory order proceeding, we invite Public Service to provide any additional information to help us understand the alleged delay, the expected timing for the resolution of the alleged delay, and the Company's assessment of the procedural requirements for us to address the alleged delay.

14. Responses to the questions set forth in this Decision and any additional information related to Staff's petition that Public Service wants to share with us are due 14 days after the effective date of this Decision.

15. We will review Staff's petition in light of the information provided by Public Service and render a separate decision whether to accept the petition or to take any different action in response to the allegations raised in Staff's petition. Likewise, we will rule on the motion Staff filed with its decision, as necessary, by a separate decision.

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<sup>19</sup> Public Service COLO. PUC No. 8 Electric Tariff, Sheet Nos. 33 and 33A.

<sup>20</sup> Public Service COLO. PUC No. 8 Electric Tariff, Sheet No. 112C.

**II. ORDER**

**A. It Is Ordered That:**

- 1. In accordance with the discussion above, a response to this Decision from Public Service Company of Colorado is due within 14 days of its effective date.
- 2. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING  
November 9, 2022.**

(S E A L)



ATTEST: A TRUE COPY

G. Harris Adams,  
Interim Director

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

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JOHN GAVAN

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Commissioners