

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23AL-0243E

IN THE MATTER OF ADVICE LETTER NO. 1923 - ELECTRIC FILED BY PUBLIC SERVICE COMPANY OF COLORADO TO REVISE ITS COLORADO P.U.C. NO. 8 - ELECTRIC TARIFF TO PLACE INTO EFFECT REVISED BASE RATES AND OTHER AFFECTED CHARGES FOR ALL ELECTRIC RATE SCHEDULES BY ELIMINATING THE GENERAL RATE SCHEDULE ADJUSTMENT (GRSA) AND GENERAL RATE SCHEDULE ADJUSTMENT - ENERGY (GRSA-E) AS WILL BE ESTABLISHED BY THE COMMISSION IN PROCEEDING NO. 22AL-0530E, TO INITIATE TIME-DIFFERENTIATED GENERATION AND TRANSMISSION DEMAND CHARGES FOR SECONDARY GENERAL SERVICE (SCHEDULE SG) AND SECONDARY GENERAL CRITICAL PEAK PRICING SERVICE (SCHEDULE SG-CPP), TO INTRODUCE NEW ELECTRIC VEHICLE RATE OPTIONS FOR CUSTOMERS TAKING SERVICE AT THE PRIMARY DISTRIBUTION LEVEL, TO ADJUST THE PRIMARY GENERAL CRITICAL PEAK PRICING AND SECONDARY PHOTOVOLTAIC TIME-OF-USE SERVICE SECTION TIME-DIFFERENTIATED DEMAND CHARGES, TO MAKE SEVERAL ADMINISTRATIVE REVISIONS, AND TO RECEIVE APPROVAL OF DEFERRED ACCOUNTING TREATMENT FOR RATE CASE EXPENSES, TO BECOME EFFECTIVE JUNE 15, 2023.

**COMMISSION DECISION GRANTING MOTION TO
RESPOND TO APPLICATION FOR REHEARING,
REARGUMENT, OR RECONSIDERATION, WAIVING
RESPONSE TIME TO MOTION, AND DENYING
APPLICATION FOR REHEARING, REARGUMENT, OR
RECONSIDERATION OF DECISION NO. C24-0225**

Mailed Date: May 29, 2024

Adopted Date: May 15, 2024

I. BY THE COMMISSION

A. Statement

1. By this Decision, the Commission denies the Application for Rehearing, Reargument, or Reconsideration (ARRR) to Decision No. C24-0225, filed on May 1, 2024, by Energy Outreach Colorado (EOC) pursuant to § 40-6-114, C.R.S. In doing so, the Commission

leaves undisturbed its prior determination in Decision No. C24-0225 to authorize use of the 4 Critical Peak – Average-Excess Demand (4CP-AED) methodology by Public Service Company of Colorado (Public Service or Company) for allocating the costs of transmission and distribution substations.

B. Background

2. On May 15, 2023, Public Service filed Advice Letter No. 1923-Electric with tariff sheets setting forth its base rates for retail electric utility service.

3. On February 23, 2024, the Commission issued Decision No. C24-0117 permanently suspending the effective date of the tariff sheets filed with Advice Letter No. 1923-Electric and ordering Public Service to file compliance tariffs with new base rates for retail electric utility service consistent with the findings, discussion, and conclusions in the Decision. Among other things, the Commission authorized Public Service to use the Probability of Dispatch – Peak Hours (POD-PH) cost allocation methodology for the Company’s production, transmission, and distribution substation costs.

4. On March 14, 2024, Colorado Energy Consumers (CEC), Federal Executive Agencies (FEA), Walmart, Inc. (Walmart), and Climax Company (Climax) each filed an Application for Rehearing, Reargument, or Reconsideration (ARRR) of Decision No. C24-0117, requesting the Commission reconsider its approval of POD-PH cost allocation for transmission and distribution substation costs and instead authorize use of the 4CP-AED methodology for these costs.

5. Through Decision No. C24-0225, issued April 11, 2024, the Commission granted the ARRRs filed by CEC, FEA, Walmart, and Climax. The Commission made the following findings and conclusions on this cost allocation issue:

We grant the requests of CEC, FEA, Climax, and Walmart on this issue and authorize Public Service to recalculate base rates using the 4CP-AED methodology for allocating the costs of transmission and distribution substations. Although the 4CP-AED allocator falls short in terms of the limited number of hours it relies upon for cost allocation, especially when viewed in the context of the dynamic changes occurring to Public Service's system in terms of generation resources and loads, the evidence in the record tends to support its adoption relative to the alternatives presented in this Proceeding when used to establish new base rates for each rate class overall. However, the approval of the 4CP-AED allocator for allocating the costs of transmission and distribution substations here does not signal a precedent for future electric rate cases submitted by Public Service. Instead, we expect Public Service to, in future rate proceedings, provide more clarity and analysis of the drivers of the costs for transmission and distribution substation investments, especially in light of the changes to the Company's system that were just beginning to be identified in this Proceeding.¹

6. On May 1, 2024, EOC filed its ARRR to Decision No. C24-0225, requesting the Commission reconsider its authorization of the 4CP-AED methodology. EOC requests the Commission authorize separate cost allocation methodologies for transmission and distribution substation costs by using POD-PH for distribution substation costs and 4CP-AED for transmission costs. EOC also urges that the Commission expressly direct Public Service to present comprehensive studies on the class contributions to both transmission costs and distribution substation costs in the Company's next Phase II rate case.

7. EOC supports this request by stating that FEA and Climax's experts testified during this Proceeding that the 4CP-AED methodology is not a good fit for distribution system investments. EOC contends the use of 4CP-AED results in a shift of \$12.3 million in revenue requirement to the Residential class. EOC also argues that 4CP-AED has a diminishing connection to modern system cost drivers. EOC calculates that using its recommended POD-PH for distribution substation costs would result in a \$2.9 million reduction in the Residential class cost allocation.

¹ Decision No. C24-0225 ¶ 13.

8. EOC maintains that the record in this Proceeding does not support an ideal allocator for transmission and distribution substation costs and thus urges that a broad allocator reflecting the variety of hours that contribute to peak hours is the appropriate approach. Additionally, EOC points to the testimony of its witness, Paul Chernick, stating “the critical loads on each piece of equipment are not coincident with the maximum load for the system or any particular customer class.”²

9. EOC also raises that certain Commissioners’ deliberations statements during the April 3, 2024, deliberation discussed a lack of evidence in the record to adopt 4CP-AED as more accurate than POD-PH for transmission and distribution costs. EOC contends these statements confirm the initial determination that the cost allocation methodology for transmission and distribution substations should be the same as that used for production assets.³

10. In its ARRR, EOC offers what it calls a “middle-of-the-road approach,”⁴ with transmission assets allocated using 4CP-AED and distribution substation costs allocated using POD-PH. Citing the Commission’s decision to authorize a different cost allocation for transmission and substations from that used for production assets, EOC advocates that the Commission should untie the cost allocation methodology for transmission costs from that of distribution substations. This, EOC contends, results in rates that are more just and reasonable.

11. EOC acknowledges the directive in Decision No. C24-0225 that, in future rate cases, Public Service provide more clarity and analysis of the cost drivers for transmission and distribution substation investments,⁵ but suggests the Commission modify this directive to require

² EOC ARRR (citing Hrng. Exh. 601 Rev. 1, Chernick Direct 18:18-22).

³ We note that individual commissioner statements made during oral deliberations are not binding on other commissioners; such statements are not considered part of the Commission’s final decision unless reflected in the Commission’s written order that is issued after the deliberations.

⁴ EOC ARRR at p. 9.

⁵ Decision No. C24-0225 at ¶ 13.

that Public Service provide in its next Phase II rate case comprehensive studies on the class contributions to both transmission and distribution substations, using advanced meter infrastructure (AMI) meter data and propose new allocators supported by the analysis.

12. On May 7, 2024, CEC filed its Motion for Leave to Respond, Request to Waive Response Time (Motion for Leave to Respond), and Response to Energy Outreach Colorado's ARRR (Response).

13. CEC filed its Motion for Leave to Respond pursuant to Rule 1506(b), of the Rules of Practice and Procedure, 4 *Code of Colorado Regulations* 723-1, which allows a motion for leave to respond to be filed under certain conditions, one of which is an attempt to introduce facts not in evidence. In the Motion for Leave to Respond, CEC maintains that EOC's proposal in its ARRR is a departure from the evidence in the record of this Proceeding and is being proposed for the first time on ARRR by EOC. CEC therefore requests the Commission grant its Motion for Leave to Respond and consider its Response in evaluating the ARRR. CEC requests the Commission waive remaining response time to the Motion for Leave to Respond and rule on the motion and the ARRR expeditiously. CEC states, because the rates resulting from this Proceeding are already in effect, resolving the ARRR quickly is warranted in order to avoid consumer confusion and to avoid a protracted dispute when the record in the case is already closed.

14. In its Response, CEC objects to EOC's request on ARRR that the Commission now modify its cost allocation methodology determinations. CEC argues that none the Parties, nor the Commission, have been able to review or consider the cost allocation strategy the EOC now proposes. CEC contends that EOC's ARRR requests that the Commission issue a ruling based on facts not in evidence, with a possible outcome of resulting rates that are not just or reasonable and lack any evidentiary basis.

15. CEC also contests in its Response that EOC's ARRR misrepresents the testimony of witnesses for Climax and FEA, noting that both Climax and FEA supported using 4CP-AED for substations in their post-hearing pleadings.

16. CEC further rejects as misleading EOC's characterization of the shift of \$12.3 million to Residential customers. CEC notes that the Commission's authorization of 4CP-AED is a continuation of the practice prior to this Proceeding and therefore the continued use of the 4CP-AED methodology prevents a shift of costs to commercial and industrial customer classes. CEC argues that following EOC's recommendation would result in an inappropriate cost shift to these customers and would undermine rate stability.

17. Finally, CEC contends that EOC's claimed "middle-of-the-road approach" ignores the balance the Commission has already established with regard to cost allocation methodologies across production, transmission, and distribution substations.

18. CEC indicates the following positions by the other Parties to this Proceeding regarding its Motion for Leave to Respond. Climax and Walmart support the motion; The Kroger Co. does not object to the motion. Public Service, the City and County of Denver, the Colorado Solar and Storage Association and the Solar Energy Industries Association, FEA, Southwest Energy Efficiency Project, Molson Coors Beverage Company, Trial Staff of the Commission, the City of Boulder, the Colorado Office of the Utility Consumer Advocate, and Western Resource Advocates take no position on the motion. EOC opposes the motion.

19. On May 13, 2024, EOC filed a Response to Motion for Leave to Respond, Request to Waive Response Time, and ARRR Response of Colorado Energy Consumer. In this response, EOC opposes CEC's Motion for Leave to Respond and the request to waive response time. EOC urges, if the Commission allows CEC to respond, then the Commission should reject CEC's

assertion that EOC's ARRR introduces a new allocation approach based on facts not in evidence. EOC contends both the POD-PH and 4CP-AED cost allocation methodologies were contemplated for generation, transmission, and distribution substation assets during the course of this Proceeding. EOC further contends the record demonstrates that other parties, and EOC's witness in particular, contemplated use of different cost allocation methodologies for these assets.

C. Findings and Conclusions

1. CEC's Request to Waive Response Time

20. We find good cause to waive remaining response time to CEC's Motion for Leave to Respond. We agree with CEC that time is of the essence to resolve this ARRR. The record is closed, and rates are in effect, so there is no reason to prolong the discussion on cost allocation methodologies beyond what is before the Commission at this time. Further, EOC has had opportunity to file a response, which we can consider when ruling upon CEC's Motion for Leave to Respond.

2. CEC's Motion for Leave to Respond

21. We find good cause to grant CEC's Motion for Leave to Respond. We find that CEC's request to respond to EOC's ARRR is warranted under the circumstances and that allowing this response will assist the Commission in resolving the issues raised in EOC's ARRR. The additional briefing provided through both CEC's Response and EOC's response in opposition provides the Commission a fuller picture of this allocation issue, aiding our decision.

3. EOC's Application for Rehearing, Reargument, or Reconsideration

22. In an ARRR, the challenging party must specify why the Commission's decision was "unlawful." § 40-6-114(1), C.R.S. The Commission may reverse a decision if, after

reconsideration, it appears the original decision was “unjust or unwarranted.” § 40-6-114(3), C.R.S.

23. Upon considering the arguments in EOC’s ARRR, we find no compelling grounds to revisit the well-reasoned and supported approach adopted in Decision No. C24-0225. Although EOC may prefer that the Commission adopts a different approach, it has not shown on this record that the approach authorized in Decision No. C24-0225 is unlawful, unjust, or unwarranted such that the Commission must now reverse its decision. Consequently, we deny EOC’s ARRR. At this point, the Commission has already deliberated on this allocation issue twice in this Proceeding and authorized a cost allocation methodology in Decision No. C24-0225 that we found resulted in just and reasonable rates. We share the practical concern put forth in CEC’s response that EOC’s advocacy through the ARRR process for this allocation methodology comes too late in this Proceeding to be properly considered or vetted by the Commission and parties, let alone be adequately supported by the record. Moreover, even considering in full EOC’s arguments in its ARRR, we see no cause to revisit our earlier allocation determination.

II. ORDER

A. The Commission Orders That:

1. The Application for Rehearing, Reargument, or Reconsideration to Decision No. C24-0225, filed by Energy Outreach Colorado on May 1, 2024, is denied consistent with the discussion above.

2. The Motion for Leave to Respond, filed by the Colorado Energy Consumers on May 7, 2024, is granted.

3. The Request for Waiver of Response Time to its Motion for Leave to Respond, filed by the Colorado Energy Consumers on May 7, 2024, is granted.

4. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
May 15, 2024.**

(S E A L)



ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Rebecca E. White".

Rebecca E. White,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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MEGAN M. GILMAN

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Commissioners