

Decision No. R19-0470

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 18AL-0852E

IN THE MATTER OF ADVICE LETTER NO. 1785 FILED BY PUBLIC SERVICE COMPANY OF COLORADO TO IMPLEMENT A NEW DISTRIBUTION EXTENSION POLICY TO BECOME EFFECTIVE JANUARY 3, 2019.

PROCEEDING NO. 18AL-0862G

IN THE MATTER OF ADVICE LETTER NO. 938 FILED BY PUBLIC SERVICE COMPANY OF COLORADO TO IMPLEMENT A NEW DISTRIBUTION EXTENSION POLICY TO BECOME EFFECTIVE JANUARY 5, 2019.

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
ROBERT I. GARVEY
PERMANENTLY SUSPENDING TARIFFS;
APPROVING IN PART AND DENYING
PROPOSED LINE EXTENSION TARIFF**

Mailed Date: June 6, 2019

TABLE OF CONTENTS

I. STATEMENT.....	2
II. STAFF’S MOTION.....	4
III. FINDING OF FACTS/POSITION OF PARTIES.....	6
1. Positions of the Parties	7
a. Public Service	7
b. Staff.....	13
c. OCC	16
d. CEO.....	18
e. WRA	19
f. Home Builders	21
g. CEC.....	23

IV. APPLICABLE LAW	24
V. ISSUE	27
VI. DISCUSSION.....	27
A. <i>Off-Site Distribution Line Extension Credit</i>	27
B. <i>On-Site Distribution Extension</i>	29
C. <i>On-Site Residential Service Lateral Extensions</i>	32
D. <i>Standardized Per Lot Costs</i>	34
E. <i>Commercial Service Lateral Extension</i>	35
F. <i>Electric Vehicle Charging Stations</i>	35
G. <i>Indeterminate Service</i>	36
H. <i>On-Site Versus Off-Site Delineation</i>	38
I. <i>Additional Operational Enhancements Both Within and Outside the Context of the Tariff</i>	38
VII. ORDER.....	40
A. The Commission Orders That:	40

I. STATEMENT

1. On December 3, 2018, Public Service Company of Colorado (Public Service or Company) filed Advice Letter No. 1785-Electric in Proceeding No. 18AL-0852E with supporting testimony and attachments. The proposed effective date of the tariffs filed with Advice Letter No. 1785-Electric is January 3, 2019.

2. Advice Letter No. 1785-Electric proposes new Distribution Extension Policy tariffs to take effect on May 1, 2019.¹ Public Service states the new Distribution Extension Policy is intended to provide administrative efficiencies, increased transparency, and improved

¹ The Company requests the Commission suspend the new Distribution Extension Policy tariffs on or before January 3, 2019, for an effective date of May 1, 2019.

customer satisfaction, and includes new methodologies for determining customer cost responsibilities and appropriate Company investment in the distribution system infrastructure.

3. On December 5, 2018, Public Service filed Advice Letter No. 938-Gas in Proceeding No. 18AL-0862G with supporting testimony and attachments. The proposed effective date of the tariffs filed with Advice Letter No. 938-Gas is January 5, 2019.

4. Advice Letter No. 938-Gas proposes new Distribution Extension Policy tariffs to take effect on May 1, 2019.² Public Service states the new Distribution Extension Policy is intended to provide administrative efficiencies, increased transparency, and improved customer satisfaction, and includes new methodologies for determining customer cost responsibilities and appropriate Company investment in distribution system infrastructure.

5. On December 26, 2018, by Decision No. C18-1174, Proceeding Nos. 18AL-0852E and 18AL-0862G were consolidated and referred to an Administrative Law Judge (ALJ).

6. On February 7, 2019, by Decision No. R19-0148-I, an evidentiary hearing in this matter was scheduled for May 7 through 9, 2019.

7. On April 29, 2019, Staff of the Public Utilities Commission (Staff) filed a Motion to: (1) Strike Portions of the Company's Rebuttal Testimony; (2) Reject the Advice Letters; and (3) Shorten Response Time (Motion). Staff, in relevant part, requests that response time be shortened "to an appropriate deadline that both affords Public Service a reasonable opportunity

² The Company requests the Commission suspend the new Distribution Extension Policy tariffs on or before January 5, 2019, for an effective date of May 1, 2019.

to respond and the Commission an opportunity to rule on the [M]otion, even if it does so orally on the morning of May 7, 2019, the first day of hearing.”³

8. On April 30, 2019, by Decision R19-0380-I, response time to the Motion was shortened and the parties were advised that arguments on the Motion would be allowed prior to the start of the evidentiary hearing.

9. On May 3, 2019, Public Service filed its Response to Staff’s Motion.

10. On May 3, 2019, the Colorado Association of Home Builders (Home Builders) filed its Response to Staffs Motion.

11. On May 7, 2019, the Parties made arguments concerning the Motion filed by Staff on April 29, 2019. After arguments, the Motion was denied and the evidentiary was commenced. The evidentiary hearing lasted two days.

12. On May 16, 2019, Statements of Position (SOPs) were filed by all Parties.

II. STAFF’S MOTION

13. In its Motion, Staff argued that Public Service introduced “voluminous evidence” in its Rebuttal Testimony that should have been filed with its Direct Testimony. The late filing of this testimony did not afford Staff a “full and fair opportunity to evaluate” the evidence. Staff requested that portions of the testimony be stricken and the Advice Letters rejected without a hearing.

14. Public Service argued that Staff’s Motion was filed at an incorrect time in the proceeding with the purpose of forcing a rulemaking and attempted to place inappropriate limits on the scope of the Rebuttal Testimony.

³ Staff’s Motion, at p. 14.

15. The Home Builders supported Public Service arguing that Staff opened the door to the Rebuttal Testimony by their Answer Testimony.

16. In assessing the merits of the Motion it is noted that Public Service did not change its position on any issue or introduce a new concept. The skeleton of the originally filed Direct Testimony did not change, what was added was information to support that skeleton.

17. It must also be remembered that a tariff filing involves more of the Commission's quasi-legislative function as opposed to a straight forward adversarial proceeding, therefore the sufficiency of the testimony and exhibits filed with the proposed tariff must be viewed through that prism. In the opinion of the undersigned ALJ, the amount of information and justification provided in the filing of direct testimony for a tariff need not be voluminous, it must only meet the standard to provide the tariff, and some support for the proposed tariff. Failure to provide a complete explanation in direct testimony is a litigation strategy that runs the risk of having the tariff rejected for not allowing the full vetting of the proposed tariff. The undersigned ALJ believes that it is only if new or changed information is provided in rebuttal testimony should that testimony be stricken if there was found an unfair prejudice.

18. While denying the Motion it is noted and the ALJ wants to make it clear that by no means does he advocate for a bare minimum filing as was done by Public Service in the above captioned proceeding. The ALJ was alarmed and troubled by the direct testimony and lack of support provided for the proposed tariff. This bare minimum was best expressed by counsel for Home Builders, a party which fully supports the proposed tariff:

Look, I recognize, and I'm -- my clients are the beneficiaries of 2.75. And I read that case, and I thought, whoa, where is the support for this? I hope it's coming, because this is a rate case and the Commission is going to want to see it."

Hearing Transcript Vol. I, p.32, l. 16-2.

19. While Staff's Motion is denied in this Proceeding, the undersigned hopes that Public Service will provide additional support for future tariff filings.

III. FINDING OF FACTS/POSITION OF PARTIES

20. The Public Service line extension policies, with the exception of minor changes, have been in place for electric service since 1981 and for gas service since 1983. *Hearing Exhibit 818.*

21. Senate Bill (SB) 17-271 was signed into law on June 2, 2017 and later codified as § 40-5-101.5, C.R.S. It reads as follows:

- (1) Within one hundred eighty days after August 9, 2017, the commission shall open a nonadjudicatory proceeding to evaluate investor-owned utilities' current service extension policies for serving new load applications; except that gas-only, investor-owned utilities are not subject to the commission's nonadjudicatory proceeding. Based on the commission's evaluation, the commission shall issue a decision containing recommendations to investor-owned utilities for potential implementation.
- (2) In the commission's nonadjudicatory proceeding, the commission shall consider, without limitation, the following information from investor-owned utilities:
 - (a) The utilities' general load extension procedures used by the utility and requesting customers, including:
 - (I) The use of construction agreements, revenue assurance agreements, assignment of estimated costs, predevelopment system investment protocols, and options for cost and schedule transparency; and
 - (II) Potential system automation benefits to enhance clarity of the requirements and process;
 - (b) Equitable allocation of costs associated with an extension of facilities and any other factors affecting the cost of an extension of facilities; and
 - (c) Variables that affect time lines for construction and implementation of an extension of facilities.

- (3) Within ninety days after the conclusion of the non-adjudicatory proceeding, the commission may promulgate rules consistent with the findings of the non-adjudicatory proceeding

1. Positions of the Parties

a. Public Service

22. Public Service proposes implementing new distribution extension policies in its electric and gas tariffs. The proposed policies are intended “to improve customer satisfaction and understanding, as well as program functionality, and provide administrative efficiencies for customers and the Company in response to legislative directives and stakeholder feedback received before, during, and after the Commission’s non-adjudicatory proceeding.”⁴ Specifically, the Company proposes, among other things, “to unbundle its current construction and extension agreements into four separate agreements, which will align with the four different types of service extension work the Company performs.”⁵ These four separate agreements include: “(1) the Off-Site Distribution Line/Main Extension Agreement; (2) the On-Site Distribution Extension Agreement; (3) the Residential Service Lateral Agreement; and (4) the Commercial Service Lateral Agreement.”⁶ The Company summarizes each of its proposals in Table 1 of its SOP.⁷

23. Public Service states that there is an urgent need to implement its proposed policy changes. The Company specifically states that due to significant concerns regarding existing utility distribution extension policies, SB 17-271 directed the Commission:

to open a non-adjudicatory proceeding ‘within [180] days after August 9, 2017,’ to evaluate investor-owned utility service extension policies and to consider ‘the use of construction agreements, revenue assurance agreements, [and] assignment

⁴ Public Service at SOP, p. 1.

⁵ *Id.*

⁶ *Id.* at p. 13.

⁷ *Id.* at p. 2.

of estimated costs,' as well as potential system automation, options for cost and schedule transparency, equitable cost allocation, and variables that affect construction and implementation timelines.⁸

Public Service further states that SB 17-271 was enacted almost two years ago, and the Company's distribution extension tariffs have yet to change.

24. Public Service states that its proposed policy changes use "cost and allowance methodologies that are easier for customers and stakeholders to understand, align with industry best practices, improve upon operational enhancements the Company is already making, and minimize administrative burdens to Public Service, stakeholders, and customers."⁹ Put simply, the Company states that the "holistic" approach proposed "balances equitable costs, functionality, and reasonable rates" while also "meeting customer expectations."¹⁰

25. Public Service states that "growth will continue to pay its own way as it will not only cover its incremental costs but will also contribute to a continuing offset of the Company's overall revenue requirement."¹¹ The Company further states that because its "analysis conclusively demonstrates that new customers interconnecting to the system under the proposed policy will still provide a net benefit to existing customers, the proposed policy will thereby continue to ameliorate rate impacts on existing ratepayers, consistent with Commission rules."¹²

26. Off-Site Distribution Line/Main Extension: Public Service proposes replacing "the 10-year Open Extension Period for the calculation and payment of refunds" with the

⁸ *Id.* at pp. 3-4.

⁹ *Id.* at p. 9.

¹⁰ *Id.*

¹¹ *Id.* at p. 10.

¹² *Id.* at p. 12.

generation of “individual construction cost estimates, to which a one-time, upfront Off-Site Distribution Line/Main Extension Credit of 35 percent (electric) or 28 percent (gas) will be applied for permanent or indeterminate service applicants.”¹³ The Company states that these credit percentages reflect actual past refunds because they are “based on the net present value of average actual refunds issued for projects completed between 2001 and 2008 under the 10-year Open Extension Period.”¹⁴ Public Service asserts that the ten-year Open Extension Period “presents administrative, tax, and accounting burdens for customers” and the Company.¹⁵ A one-time, upfront credit, on the other hand, “reduces the administrative burden of tracking and issuing refunds, while also addressing stakeholder concerns about the need for more cost predictability and process efficiency.”¹⁶

27. Public Service states that the Off-Site Extension Credit is reasonable because “the Company demonstrated that the higher incremental capital costs to the Company from the upfront credit are *more than* offset by the additional incremental revenue generated by new customers.”¹⁷

28. On-Site Distribution Extension: Public Service proposes the following: (i) “for single-family or townhome lots that have an average of sixty feet or less of frontage, construction costs will be based on standardized per-lot cost values” and (ii) “[f]or all other non-standard projects, construction costs will be based on the Company’s cost estimate.”¹⁸ Public Service further proposes applying a construction allowance to projects receiving permanent service. To

¹³ *Id.* at p. 13.

¹⁴ *Id.* at p. 14.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.* at p. 15. (Emphasis in Original)

¹⁸ *Id.* at pp. 16 and 17.

determine this construction allowance, the Company proposes using the “times-revenue method,” which, put simply, is calculated by multiplying “2.75 times the customer’s annual bills, minus the cost of fuel.”¹⁹

29. Public Service states that the times-revenue methodology is reasonable. Specifically, the Company asserts that it is easier for customers and stakeholders to understand, “simpler, provides a more current reflection of the benefit of distribution system growth on the system, and is not subject to the regulatory lag issue” described in the Company’s Post-Hearing Statement of Position.²⁰ Public Service also contends that while the times-revenue method includes total annual non-fuel revenue, Mr. Trowbridge’s “analysis demonstrating that new customers continue to cover more than their incremental cost of their extension included only the ‘estimated base rate revenues from new customers’ and did not include any rider revenues.”²¹

30. Further, the Company states that the 2.75 times-revenue multiplier is reasonable, asserting that it “best balances a reasonable division between new and existing customers with respect to capital costs associated with connecting new customers to the system, while also ensuring that new customers pay their incremental costs.”²² Public Service also contends that it considered “the financial impacts of times-revenue multipliers between 1.5 and 3.5, including 2.75, across all customer classes” and concluded that “the 2.75 multiplier provides an appropriate

¹⁹ More specifically, (i) “for non-demand customers (e.g., all residential customers and some commercial and net metering customers)[, the construction allowance] is calculated by multiplying the average annualized customer bill less the applicable fuel rider by 2.75[.]” and (ii) “[f]or customers with a demand payment, the average annualized customer bill less the applicable fuel rider multiplied by 2.75 is further divided by average customer annualized generation and transmission demand to develop a dollar-per-kW (electric) or dollar-per-Dth (gas) Construction Allowance.” SOP, p. 17.

²⁰ SOP pp. 17-18.

²¹ *Id.* at p.20.

²² *Id.* at pp. 20-21.

balance between equitable cost recovery, functionality, and reasonable rates that is not offered by the current policies.”²³

31. Residential Service Lateral Extensions: Public Service intends to “promote [] consistency and predictability among customers” by “provid[ing] an upfront, 100-foot allowance at no charge to the applicant, and a per-foot charge for any length over 100 feet.”²⁴ Specifically, the Company contends that this proposal “establishe[s] a simple formula that will allow the vast majority of customers (approximately 95 percent of all residential service lateral requests) to calculate their own construction costs.”²⁵ Public Service also asserts that this proposal “supports the intent of Senate Bill 17-271” and “eliminates the need to calculate and collect a construction payment for every new home before connection, saving time for developers and reducing the Company’s administrative burden by streamlining or eliminating the upfront cost estimation and subsequent billing processes.”²⁶

32. Commercial Service Lateral Extensions: Public Service proposes no change from the current practice. Specifically, it states that “[b]ecause design requirements vary significantly within this category of extension, the Company will continue to provide individualized cost estimates, and the Commercial Service Lateral Credit will continue to be calculated using the average embedded cost methodology.”²⁷

²³ *Id.* at pp. 21-22.

²⁴ *Id.* at pp. 22-23.

²⁵ *Id.* at p. 23.

²⁶ *Id.* at pp. 23-24.

²⁷ *Id.* at p. 24.

33. Operational changes: the Company states that it “has made additional operational enhancements both within and outside the context of the tariff” as well as “several affirmative commitments to strengthen its operational efforts,” which are more specifically described in its Post-Hearing Statement of Position.²⁸

34. Electric vehicle (EV) charging stations: the Company proposes: “proposes to treat future EV charging station applicants like any other customer, namely that the applicable costs, credits, and allowances for EV charging station applicants will depend on the applicable distribution extension service that is requested rather than on special terms for EVs.”²⁹ Further, Public Service “does not object to [the] amended language” the Colorado Energy Office (CEO) proposes for tariff sheet R216.³⁰ *I*

35. Indeterminate service: the Company “proposes changing this service to remove real estate subdivisions and development of land for sale and changing the definition of High Density load to remove the reference to data centers in its electric distribution extension policy.”³¹ With respect to gas distribution extension, Public Service “proposes adding a provision to provide a construction allowance for non-LDC gas compressor stations.”³²

36. “The distinguishing characteristics between an Off-Site Distribution Line Extension and On-Site Distribution Line Extension in the proposed new policy[,]” Public Service does not oppose CEO’s proposed tariff language.³³

²⁸ *Id.* at pp. 25-26.

²⁹ *Id.* at p 26.

³⁰ *Id.*

³¹ *Id.* at p. 27.

³² *Id.* at pp. 27 and 28.

³³ *Id.* at p. 29.

b. Staff

37. Staff opposes “the Company’s proposals to modify how it determines construction allowances, off-site construction credits, and residential service lateral allowances.”³⁴ Staff further states that “[e]ven while rejecting the bulk of the Company’s line extension proposals, as Staff advocates, the Commission can still . . . address Senate Bill 17-271 in this proceeding.”³⁵ Staff also emphasizes that a Commission decision approving only a portion of the Company’s proposals “does not fail the directives or spirit of SB 17-271.”³⁶

38. Specifically, Staff contends that:

[e]verything the Commission needs to know about why it should reject the Company’s three specific proposals (*i.e.*, 2.75 times revenue, 35%/28% off-site distribution credits, and fixed one hundred foot service lateral allowance) to replace its [] current (and longstanding) line extension policies with those proposed by the Company appears in Tables AGT-R-5 and -6 of Company Witness Trowbridge’s Rebuttal Testimony.³⁷

39. Staff further asserts that during the evidentiary hearing, Mr. Trowbridge:

confirmed two important points: (1) the Company expects the exact same incremental customer revenue under the existing methodology versus the proposed methodology (as evidenced by the same values appearing across the four ‘Incremental Customer Rev.’ rows); and (2) the Company admits that, in comparison to the existing methodology, ratepayers will pay more (as evidenced by the ‘Benefit from New Cust’ value for ‘Existing Plcy’ column always being higher than in the ‘Proposed’ column).³⁸

40. Staff contends that Public Service has yet to quantify, or even identify, the benefits that would purportedly justify an increase for ratepayers under the Company’s proposals

³⁴ Staff’s SOP at p. 2.

³⁵ *Id.* at p. 3.

³⁶ *Id.* a p. 8.

³⁷ *Id.* at p. 17.

³⁸ *Id.* at pp. 17-18

in this proceeding. Table 1 in Staff's Statement of Position demonstrates "the annual reduction in revenue requirement (and thus, the increased cost to ratepayers) caused by the annual addition of new customers via a line extension."³⁹

41. Staff asserts that the Company's proposals to of a times revenue methodology using the 2.75 times revenue approach, improve neither transparency nor predictability and that "[r]atepayers should not be expected to pay more for the same amount of transparency."⁴⁰

42. Staff opposes the upfront credit of 35 percent and 28 percent for off-site distribution line extensions (electric) and off-site distribution main extensions (gas), respectively. Staff asserts that it will "give the Company an incentive to inflate construction cost estimates" and that it "does not ameliorate the rate impacts of line extensions to existing ratepayers" as it "would cause existing ratepayers to 'pay higher rates in order for the Company to recover these costs.'"⁴¹ Staff further contends that implementing an upfront credit is not "an appropriate remedy for the builders/developers impatience" regarding the current ten-year open extension period.⁴²

43. With respect to the Company's proposal concerning the Residential Service Lateral Construction Allowance, Staff contends that the "chief problem" is that the proposed policy "shifts a substantial amount of costs from the average residential line extension applicant to the Company (*i.e.*, its ratepayers)" and does so "without any discernable benefit for ratepayers."⁴³ Staff further asserts that "[t]he potential impact of this proposed change is highly

³⁹ *Id.* at p. 18.

⁴⁰ *Id.* at p. 20.

⁴¹ *Id.* at p. 22.

⁴² *Id.* at p. 23.

⁴³ *Id.* at pp. 23-24.

significant, because seventy percent of line extension applications are for service laterals, of which ninety-five percent of electric and ninety-six percent of gas ninety percent are less than 100 feet long.”⁴⁴

44. With respect to indeterminate service, Staff opposes the following proposals: (1) the removal of references to real estate subdivisions and development of lands for sale; (2) the removal of data centers from the definition of high density load; and (3) providing a construction allowance for non-LDC gas compressor stations, asserting that “the Company failed to identify a problem and, to the extent that it did, the Company failed to provide evidentiary support for its proposed modification.”⁴⁵

45. Staff supports the following aspects of the Company’s proposed line extension policies: (1) “standardizing service lateral construction costs for the purposes of providing cost estimates to line extension applicants if this policy were not tied to an increase in the service lateral construction allowance[;]” (2) “the “unbundling” of the extension agreement into four separate agreements as a means to improve standardization, predictability, and transparency[;]” (3) that “cost estimates for onsite distribution extension agreements may be based upon standardized per-lot costs for lots that have an average frontage of 60 feet or less[;]” and (4) “eliminate[ing] the five-year prove up period for electric vehicle (EV) charging stations and natural gas (vehicle NGV) fueling stations.”⁴⁶ Further, Staff supports the Company’s four line extension policy improvement commitments.

⁴⁴ *Id.* at p. 24.

⁴⁵ *Id.* at p. 26.

⁴⁶ *Id.* at pp. 26 and 27. (Footnote Omitted)

46. Additionally, Staff suggests that the Commission clarify the procedural requirements for addressing direct testimony submitted in advice letter proceedings that lack evidentiary support.⁴⁷

c. OCC

47. The OCC concurs with the Company's proposal for Off-Site Distribution Line Credits. They agree that "the proposed Off-Site Distribution Line Credit of 35% for electric service and the proposed Off-Site Distribution Main Credit of 28% for gas service is an appropriate resolution of the issues surrounding the current 10-year refund policy."⁴⁸ *OCC SOP*, p. 2.

48. The OCC agrees that "construction costs should be standardized and based upon a cost per foot or similar incremental unit to allow [] new customers to predict the construction costs that they will likely incur" and supports the Company's proposal to use "a standardized per lot [cost] for single family and townhome lots as part of the On-Site Distribution Extension."⁴⁹

49. The OCC opposes the Company's proposal to move from an average embedded cost methodology to a times-revenue-based method and the resulting in increased construction allowances for new customers at the expense of existing customers.⁵⁰

50. The OCC asserts that the Company "failed to meet its burden of proof to support its change in the methodology to determine construction allowances or the costs for construction."⁵¹ The OCC contends that Public Service did not "provide sufficient justification

⁴⁷ *Id.* at pp. 31-33.

⁴⁸ *OCC SOP* at p. 2.

⁴⁹ *Id.* at p. 2.

⁵⁰ *Id.* at p. 1.

⁵¹ *Id.* at p. 5.

for the use of this 2.75 multiplier.”⁵² While the Company showed the effects of using the 2.75 multiplier, it failed to “provide a factual basis to accept [its] proposal to use 2.75 as the correct factor.”⁵³ Further, while the Company presented evidence as to what other states are doing or have done, it “failed to meet its burden of demonstrating that the circumstances resulting in the adoption of other forms of revenue methodologies were known or similar to the circumstances at issue in these proceedings.”⁵⁴ The OCC also points to Ms. Applegate’s testimony on cross-examination stating that even if the Commission approves the embedded cost methodology, it would not stop growth and Public Service will continue to have some form of customer growth.⁵⁵

51. The OCC also states that SB 17-271, codified as § 40-5-101.5, C.R.S., does not mandate a change in the methodology to determine a construction allowance or the costs for construction and that the average embedded cost methodology produces equitable results.⁵⁶

52. The OCC opposes the rates proposed by the Company reflected “in Exhibit 800, on Original Sheets R226 and R227 and Exhibit 801, Original Sheets R86 and R87 to the extent they differ from the existing rates contained in Exhibit 805 (gas) reflected on First Revised Sheet R54 and Exhibit 806 (electric) contained on First Revised Sheet 189.”⁵⁷ The OCC specifically states that “the actual rates set for the Company’s electric and gas construction

⁵² *Id.* at p. 9.

⁵³ *Id.* at p. 9-10.

⁵⁴ *Id.* at p. 11.

⁵⁵ *Id.* at p. 10.

⁵⁶ *Id.* at pp. 15-16.

⁵⁷ *Id.* at p. 2.

allowances and construction costs and credits should be established in a rate case proceeding and be based upon a current class cost of service study or its equivalent.”⁵⁸

d. CEO

53. CEO supports the Company’s proposed distribution extension policy because it aligns with the State of Colorado’s EV Policy and it will improve access to line extensions for EV charging stations, thereby advancing Colorado’s larger EV policy goals.⁵⁹

54. CEO states that by providing a default permanent service designation for EV charging station applicants under the proposed policy, it creates certainty and clarity for these applicants as they are automatically eligible for an upfront construction allowance.⁶⁰ CEO specifically asserts that “[t]his proposed change benefits EV charging station applicants by decreasing the cost of installing charging stations, and it benefits all Public Service ratepayers by bringing in more revenue from electricity sales, offsetting the cost of providing electric service.”⁶¹ Further, CEO contends that “[e]ligibility for an upfront construction allowance has significant financial implications to EV charging station applicants who require a line extension, thus the proposed policy would have immediate positive effects on the financial viability of many EV charging station projects.”⁶²

55. CEO supports that the Company’s proposed “times revenue” methodology for calculating construction allowances, asserting that: (1) it “resolves issues identified in Senate

⁵⁸ *Id.* at p. 1.

⁵⁹ CEO SOP at pp. 5-7.

⁶⁰ *Id.* at p. 7.

⁶¹ *Id.* at pp. 7-8.

⁶² *Id.* at p. 9.

Bill 17-271 and the stakeholder proceeding”; and (2) it is “consistent with other states, uses a reasonable multiplier, and is easier for new customers to understand.”⁶³ CEO further states that it “supports the proposed construction allowances calculation methodology because EV charging station applicants will have an easier time understanding the amount, timing, and their eligibility for construction allowances going forward.”⁶⁴

56. CEO asserts that the proposed policy as it relates to EV charging applicants does not harm other ratepayers. CEO specifically contends that “[b]ecause the expected revenue associated with new EV charging stations exceeds the utility’s line extension costs, there will be a net benefit to ratepayers.”⁶⁵

57. CEO states that its concerns have been addressed by Public Service and that “the Company has demonstrated a willingness to work with the CEO and the larger EV charging station stakeholder community to identify ways to bring additional efficiencies to the line extension process that reduce the cost for applicants and administrative burden of the Company.”⁶⁶

e. WRA

58. Western Resource Advocates (WRA) states that “[t]he Company’s proposed Distribution Extension Policy removes several barriers to EV charging stations which exist in the current policy.”⁶⁷ For instance, under the proposed policy, EV charging applicants will “receive their construction allowances upfront, rather than receiving them in 20% increments over the

⁶³ *Id.* at p. 10. (Footnotes Omitted)

⁶⁴ *Id.* at p. 11.

⁶⁵ *Id.* at p.12.

⁶⁶ *Id.* at pp. 13-14.

⁶⁷ WRA SOP at p. 5.

course of five years[,]” and will be “eligible for a full construction allowance” like other permanent service customers.⁶⁸

59. WRA asserts that “[r]emoving barriers for EV charging station development can help support widespread EV adoption in the Company’s service territory.”⁶⁹ Specifically, WRA contends that eliminating differential treatment for EV charging applicants under the current policy provides “an important financial incentive to offset the high upfront costs of electric line extensions.”⁷⁰ WRA further contends that there are significant benefits to consumers and utilities from increased EV adoption and “policies that promote EV adoption and accessibility should be deemed to be in the public interest.”⁷¹

60. WRA states that replacing the ten-year open extension period for reimbursing offsite line extensions with the upfront, 35 percent offsite line extension credit is in the public interest. Specifically, “the upfront credit will provide cost certainty for developers, and help reduce the initial payment that customers are required to make for offsite line extensions, all while remaining revenue neutral to the 10-year open extension period in terms of net present value.”⁷² WRA asserts that the new policy also “decrease[s] the administrative burden on the Company, make it easier for developers to calculate their total line extension project costs in advance, and understand how the Company’s total costs are calculated.”⁷³ WRA further contends that the upfront credit “ensures ‘pioneer’ customers are compensated upfront for the contribution

⁶⁸ *Id.* at p. 5.

⁶⁹ *Id.* at p. 8.

⁷⁰ *Id.* at pp. 6-7.

⁷¹ *Id.* at p. 7.

⁷² *Id.* at pp. 7-8.

⁷³ *Id.* at p. 8.

their investment brings to the system, instead of forcing them to wait for subsequent ‘settlers’ to interconnect to their line.”⁷⁴

61. WRA supports Public Service’s proposal to shift from an average embedded cost methodology to a times revenue methodology.⁷⁵ WRA states that the proposed approach “strikes an appropriate balancing of costs and benefits between new and existing ratepayers.”⁷⁶ WRA also asserts that “it is incorrect to conclude that the revised policy will be a ‘detriment’ to remaining ratepayers simply because they will receive less of a financial benefit than they have historically received under the existing policy” and that the decision of whether to approve or reject the proposed methodology should not be “based solely on the amount of money that goes to existing ratepayers under the new policy as compared to the old policy.”⁷⁷

62. Further, WRA contends that the “times revenue” methodology “better accounts for the system benefits associated with line extension” than the average embedded cost methodology, adopting a “times revenue” approach will not improperly impact price signals, and the “time revenue” methodology will not result in deviation of funds.⁷⁸

f. Home Builders

63. Home Builders supports the Company’s proposals in their entirety, asserting that there is adequate support in the record to demonstrate that the proposed tariffs are just and reasonable and thus, should be adopted by the Commission. ⁷⁹*Home Builders SOP, p. 2.*

⁷⁴ *Id.* at p. 8.

⁷⁵ *Id.* at p. 10.

⁷⁶ *Id.* at p. 11.

⁷⁷ *Id.* at pp. 11-12.

⁷⁸ *Id.* at pp. 12-14.

⁷⁹ Home Builders’ SOP at p. 2.

64. Home Builders states that Public Service’s proposals – specifically, a 35 percent upfront credit, a standardized cost methodology for on-site distribution agreements, and a 100-foot allowance, plus a per foot cost above that distance – “will make administration of construction costs easier for the Company, and more predictable and simpler for builders to understand.”⁸⁰

65. Home Builders asserts that while the Company’s rate base will increase if its proposals are accepted, existing customers will not subsidize new customers. Specifically, Home Builders contends the data provided by Public Service in its rebuttal case establishes that “even with the increase in rate base that results from the Company’s proposals, existing customers continue to benefit from the addition of new customers.”⁸¹ Home Builders states that “[t]he increased rate base that results from the Company’s proposals is just and reasonable” and that “[t]he Company’s proposals do not run afoul of Commission Rules.”⁸²

66. Home Builders supports the proposed times revenue methodology. Home Builders specifically asserts that “[i]mplementing the proposed methodology moves the scale towards equality, but does not reach the point where line extension customers benefit more than existing customers” and that “[n]ew customers will still pay more in rates, on average, than the costs of the extensions.”⁸³

⁸⁰ *Id.* at p. 4.

⁸¹ *Id.* p. 5.

⁸² *Id.* at pp. 10-11.

⁸³ *Id.* at p. 10.

67. Home Builders also supports the Company's proposals regarding business practices as set forth in the direct testimony of Ms. Applegate, asserting that they are "an appropriate step to fix a broken process."⁸⁴

g. CEC

68. The Colorado Energy Consumers Group (CEC) opposes the Company's proposed times-revenue methodology for calculating line extension construction allowances, asserting that it "deviat[es] from bedrock principles of cost causation" and "lacks a system of checks and balances otherwise afforded by the CCOSS vetted thoroughly in Phase II rate cases."⁸⁵

69. CEC states Public Service's current methodology, "the embedded cost method, which utilizes the gross embedded distribution plant investment or average cost taken from the Company's most recent CCOSS[,] . . . aligns with principles of cost causation because the CCOSS functionalizes and allocates PSCo's investments to specific customer classes."⁸⁶

70. CEC further states that the Company's proposed "holistic" approach – namely, the times-revenue methodology – is "a slippery slope and opens the door to reliance on the Company's discretion without consequence."⁸⁷

71. CEC contends that "[i]n requiring existing customers to absorb some of the costs of new applicants, the proposed policy changes violate the fundamental cost-based rate principle."⁸⁸ CEC also asserts that "[t]here are no guarantees that the promised savings

⁸⁴ *Id.* at p. 12.

⁸⁵ CEC SOP at pp. 3-4.

⁸⁶ *Id.* at p. 5.

⁸⁷ *Id.* at p. 6.

⁸⁸ *Id.* at p. 6.

will materialize, and if they do, that the savings and benefits will inure to ratepayers and not shareholders” and thus, “the Company bears no risk if its new methodology fails to deliver the promised savings.”⁸⁹ Nor is there any “vehicle for challenging if the times-revenue approach method creates more concerns and problems than it fixes.”⁹⁰

72. Put simply, CEC states that “the Company has not satisfied its burden in proving that the times-revenue methodology is equitable to customers.”⁹¹

73. Additionally, CEC asserts that “if the Commission is inclined to entertain the Company’s proposal, it should only do so if the Company incorporates meaningful ratepayer protections.”⁹² CEC proposes certain such protections in its Post-Hearing Statement of Position.⁹³

IV. APPLICABLE LAW

74. The Commission has jurisdiction over this Complaint pursuant to § 40-1-103(1)(a)(I), C.R.S., and § 40-3-102, C.R.S. Section 40-1-103(1)(a)(I), C.R.S., states as follows:

The term “public utility,” when used in articles 1 to 7 of this title, includes every common carrier, pipeline corporation, gas corporation, electrical corporation, ... operating for the purpose of supplying the public for domestic, mechanical, or public uses and every corporation, or person declared by law to be affected with a public interest, and each of the preceding is hereby declared to be a public utility and to be subject to the jurisdiction, control, and regulation of the commission and to the provisions of articles 1 to 7 of this title

⁸⁹ *Id.* at p. 4.

⁹⁰ *Id.* at p. 11.

⁹¹ *Id.* at p. 8.

⁹² *Id.*

⁹³ *Id.* at p. 1.

75. Section 40-3-102, C.R.S., provides in relevant part that the power and authority is vested in the Commission and it is the Commission's duty to adopt rates, charges and regulations, as well as to govern and regulate all rates, charges, and tariffs of every public utility. It is also within the Commission's power and authority to correct abuses and prevent unjust discrimination and extortions in the rates, charges, and tariffs of public utilities in Colorado.

76. Under that jurisdictional charge, the Commission must ensure that all rates are just, reasonable, and non-discriminatory pursuant to § 40-3-101(1), C.R.S., which provides that:

All charges made, demanded, or received by any public utility for any rate, fare, product, or commodity furnished or to be furnished or any service rendered or to be rendered shall be just and reasonable. Every unjust or unreasonable charge made, demanded, or received for such rate, fare, product or commodity, or service is prohibited and declared unlawful.

77. The Commission must exercise reasoned judgment in setting rates. Ratemaking is a legislative function (*City and County of Denver v. Public Utilities Commission*, 129 Colo. 41, 226 P.2d 1105 (1954)) and not an exact science (*Public Utilities Commission v. Northwest Water Corporation*, 168 Colo. 154, 551 P.2d 266 (1963)). As a consequence, the Commission "may set rates based on the evidence as a whole" and "need not base its decision on specific empirical support in the form of a study or data." *Colorado Office of Consumer Counsel v. Colorado Public Utilities Commission*, 275 P.3d 656, 660 (Colo. 2012)

78. In the normal course of the proceeding, as the party that seeks Commission approval or authorization, Black Hills bears the burden of proof with respect to the relief sought; and the burden of proof is preponderance of the evidence. Section 24-4-105(7), C.R.S.; § 13-25-127(1), C.R.S.; Rule 4 *Code of Colorado Regulations* (CCR) 723-1-1500 of the

Commission's Rules of Practice and Procedure. The evidence must be "substantial evidence," which the Colorado Supreme Court has defined as:

such relevant evidence as a reasonable [person's] mind might accept as adequate to support a conclusion ... it must be enough to justify, if the trial were to a jury, a refusal to direct a verdict when the conclusion sought to be drawn from it is one of fact for the jury.

City of Boulder v. Colorado Public Utilities Commission, 996 P.2d 1270, 1278 (Colo. 2000) (quoting *CF&I Steel, L.P. v. Public Utilities Commission*, 949 P.2d 577, 585 (Colo. 1997)). The preponderance standard requires the finder of fact to determine whether the existence of a *contested fact* is more probable than its non-existence. *Swain v. Colorado Department of Revenue*, 717 P.2d 507 (Colo. App. 1985). A party has met this burden of proof when the evidence, on the whole and however slightly, tips in favor of that party.

79. The preponderance of the evidence standard is understood and applied most easily in cases in which: (a) there are disputed facts; and (b) the resolution of the dispositive issue, or of an important issue, depends on the facts as determined by the decision-maker.

80. The standard is understood and applied less easily in the context of a rate case because: (a) many of the thorniest and most controversial issues require policy-based decisions; (b) parties present facts to persuade the decision-maker to adopt a particular policy or approach (*i.e.*, regulatory principle) or to change an existing policy or approach (*i.e.*, regulatory principle) and, generally speaking, do not dispute facts *per se*; and (c) the Commission "may set rates based on the evidence as a whole" and "need not base its decision on specific empirical support in the form of a study or data." *Colorado Office of Consumer Counsel*, 275 P.3d at 660. For these reasons, the ALJ principally applied the reasonable basis standard when resolving issues in this proceeding.

81. The disputed issue in this proceeding centers on whether to maintain an existing Commission-adopted regulatory principle, method, or approach or to adopt a different regulatory principle, method, or approach.⁹⁴ In deciding these issues, the ALJ took the Commission-adopted principle or approach as the baseline or starting point and then assessed the evidence or policy rationale, or both, presented in support of the request to adopt a new or to change/modify a principle, method, or approach and that presented in support of applying the existing principle, method, or approach. In assessing a new/modified principle, method, or approach, the ALJ took into account the Commission's rationale for initially adopting the principle, method, or approach.

V. ISSUE

82. Should Public Service's proposed line extension tariff be approved?

VI. DISCUSSION

A. *Off-Site Distribution Line Extension Credit*

83. Under the current line extension policy, builder/applicants are eligible to receive a refund of construction payments for up to ten years whenever another applicant connects downstream of the original line extension.⁹⁵ *Hearing Exhibit 100, p. 22, l. 1-7*

84. There is no question that this method requires both Public Service and the builder/applicant to keep records and keep track of additional downstream applicants. It is the

⁹⁴ The different regulatory principle, method, or approach could be a modification of the existing principle, method, or approach or could be a new principle, method, or approach.

⁹⁵ In most cases when referring to aspects of an advice letter it shall be for both gas and electric unless noted otherwise.

undersigned's opinion that this provision is a main factor that led to the adoption of § 40-5-101.5, C.R.S.⁹⁶

85. The proposal contained in the proposed Advice letter calls for replacing the open extension period of ten years with upfront refunds of 35 percent for electric and 28 percent for gas. Public service established these percentages based on the net present value of actual refunds issued from 2001 through 2008.

86. All parties are in favor of this change with the exception of Staff.⁹⁷

87. Staff argues that if adopted, this provision would cause current ratepayers to pay higher rates in order to recover these costs.⁹⁸

88. Staff is correct that this would create, an initial, additional cost to ratepayers. But Staff fails to recognize that administrative costs will be reduced and at least in part offset this increase. The upfront payment is also based on the average that has been refunded, so this as Public Service argues is more of a timing issue as opposed to an increase to rate payers.⁹⁹

89. This proposal also addresses issues that concerned the Colorado Legislature such as timelines and cost transparency to builders. Staff's concern that Public Service will inflate construction costs is based on no evidence and is only supposition. This supposition is outweighed by ease and transparency of this provision.

⁹⁶ It's important to note that § 40-5-101.5, C.R.S., is not controlling or referenced other than as a persuasive authority that the Colorado Legislature viewed the line extension policy as one that should be reviewed. This proceeding is not the non-adjudicatory proceeding proposed in § 40-5-101.5, C.R.S.

⁹⁷ The CEC did not provide testimony but in its SOP, while not directly endorsing the upfront credits of 28 percent and 35 percent, does not directly reject the proposal.

⁹⁸ Staff's SOP at p. 22.

⁹⁹ It is true since the averages are being used that certain builders will receive a larger refund than they would over the current tariff, there are also builders who will receive less.

90. The provision contained in the proposed Advice letter calling for replacement of the open extension period of ten years with upfront refunds of 35 percent for electric and 28 percent for gas is approved. The current system shall remain in place for current active agreements.

B. On-Site Distribution Extension

91. The proposed tariffs deviate from the current tariff. Under the current tariff the construction allowance applies the gross embedded distribution plant investment (“average embedded cost”) taken from the Company’s Class Cost of Service Study (CCOSS) to calculate the applicable construction allowance. Embedded cost refers to the gross plant for specific categories of investment allocated to specific customer classes. *Hearing Exhibit 100, p. 30, l. 1-7.*

92. Public Service proposes a revenue based method to calculate the amount of the Construction Allowance. The revenue based method would calculate the revenue expected from a customer for new or added load and then multiply that amount by an approved factor. Public Service proposes that the construction allowances be based on a 2.75 multiplier times the estimate annual non-fuel revenue including base rates and general rate schedule adjustments, to determine a demand investment per kilowatt. *Id. at l.9-14.*

93. Public Service seeks to apply this new calculation to all types of extension requests (both gas and electric) with the exception of commercial service lateral credit or street light credit.

94. Public Service states that this methodology is “simpler, provides a more current reflection of the benefit of distribution system growth on the system, and is not subject to the

regulatory lag.” Public Service further argues the times revenue should be adopted because other jurisdictions have used this method with success.¹⁰⁰

95. CEO, WRA, and Home Builders support this new calculation for construction allowances. Each intervenor supports the proposal for a different reason.

96. Line Extension cost determination is a primary purpose of line extension considerations, to “ameliorate the rate and service impact upon existing customers.” Rule 3210(b)(IV) of the Rules Regulating Electric Utilities 4 CCR 723-3 and Rule 4210(b)(IV) of the Rules Regulating Gas Utilities and Pipeline Operators 4 CCR 723-4. In direct testimony, Public Service proposed a very large increase in the extension amount with little discussion of the underlying basis of these costs, or justification of the increase over the previous cost level. Public Service does not explain the huge disparity in line extension amounts between the current gross embedded methodology and the proposed times revenue method. Instead, the Company asserts that both the existing gross embedded plant and its proposed times revenue methodologies are acceptable. If, hypothetically, it was determined that the times revenue method is the proper way to calculate an equitable line extension amount, then it would not be reasonable to continue the gross embedded plant method for commercial customers as the Company proposes.

97. The economic analysis Mr. Trowbridge filed in rebuttal provides only summary level information and does not disclose the basis for the numbers or justification for the calculation methodology. Additional Trowbridge analysis provided in workpapers provides calculation formulas, but still does not present an adequate description of what is or is not included in the input numbers or how they were derived, and provides no explanation or

¹⁰⁰ Public Service SOP at pp.17-18.

information about why the proposed calculation methodology was used, particularly since these workpapers are presented without testimony. For example, when asked at hearing, Mr. Trowbridge represented that costs necessary to reinforce the existing upstream facilities to provide capacity for the new customers are included in his analysis, but this upstream reinforcement is not discussed in testimony or listed in workpapers.

98. Though Public Service requests the tariff adoption of a 2.75 multiplier as the primary basis for its construction allowance proposal, the Company does not establish the precise 2.75 level but instead put forth a range of possible levels in Trowbridge rebuttal, Tables AGT R5 and R6. The Company generally asserts that it used its judgment to select the 2.75 point, apparently chosen so that no rate class would see a decrease in the construction amount.¹⁰¹ Again, the Company provides very little information about how the various rate class levels were calculated and compared, or why no construction level decrease was appropriate. Public Service has an incentive to make profit on increased investments under its proposed increased construction allowances, and all the risk of increased costs falls on ratepayers, so any Company judgement must be adequately critiqued.

99. As another example where the Company did not adequately support its analysis, the proposed extension amounts result in a significantly higher increase in gas construction payment amounts compared to electric. In the Trowbridge rebuttal, Table AGT-R-6 for residential gas for the proposed 2.75 level results in a \$239 benefit for new customers, but the existing policy yields \$2,762 -- more than ten times more, but this increase is not justified or addressed by Public Service. The comparable electric Table AGT-R-5 indicates only \$6,423 for the proposed 2.75 level compared with \$7,578 under the existing policy.

¹⁰¹ Trowbridge Rebuttal P. 35 L6-8.

100. At a base level, the existing benefit to customers has been in place for 40 years and has been found to be just and reasonable. At no time does Public Service claim that the benefit to the customers has been a windfall for 40 years and that this new system is required to address this inequitable division. Rather, Public Service relies on claims that other jurisdictions use a similar method yet never explains or provides any comparison of the systems used in other jurisdictions. Public Service provided so little information about other jurisdictions' usage of a times revenue that in its SOP it quoted intervenors' testimony about other jurisdictions rather than testimony from one of its own witnesses. *See Public Service SOP at p. 20.*

101. Finally, as argued by CEC, there is no true-up provision or any ability to ascertain if these claimed savings will ever materialize. Public Service just asks us to trust them. If a radical departure from the manner of rates being determined is to be approved, it would be hoped there would be more safeguards or evidence than just trust.

102. The undersigned is well aware of the issues concerning the line extension tariff and the desire for more transparency. For such a drastic change in the contribution by ratepayers for line extensions there must be some basis for the change, not just a desire to change the current system. In this proceeding, Public Service had the burden to show not only that the new tariff would be transparent, but also that any extreme reallocation of costs be just and reasonable. From the initial thin direct testimony to the still incomplete rebuttal testimony, Public Service failed to meet its burden.

C. *On-Site Residential Service Lateral Extensions*

103. Under the current policy, the Company must individually estimate the cost of each service lateral, and then the applicant may deduct a service lateral construction allowance of

\$150 (electric) or \$283 (gas). Public Service proposes to provide an upfront, 100-foot allowance at no charge to the applicant, and a per-foot charge for any length over 100 feet.

104. Mr. Trowbridge described in Rebuttal that Public Service states that by updating to a fixed-length allowance and per-foot cost thereafter, the Company has established a simple formula that will allow the vast majority of customers (approximately 95 percent of all residential service lateral requests) to calculate their own construction costs.

105. Both Ms. Applegate and Mr. Trowbridge argue in Rebuttal that the Company selected the 100-foot allowance to benefit a significant percentage (approximately 95 percent) of customers. They further argue that this length-based allowance thus eliminates the need to calculate and collect a construction payment for every new home before connection, saving time for developers and reducing the Company's administrative burden by streamlining or eliminating the upfront cost estimation and subsequent billing processes

106. The undersigned agrees with Public Service that the fixed-length and fixed cost per foot residential service lateral allowance will balance functionality, reasonable rates, and equitable cost recovery. In addition, the undersigned agrees with Public Service and supporting parties that the simplified approach for service lateral allowance supports the intent of SB 17-271, and is consistent with feedback received during the non-adjudicatory proceeding regarding the need for improved clarity, consistency, and predictability.

107. However, as discussed above, Public Service has not met its burden to demonstrate that the increased level of funding associated with the times revenue approach is justified. Therefore the simplified approach, with a specific length of line at no cost and fixed cost per foot thereafter is approved, but the Company is directed to make a compliance filing with service lateral terms that result in the same overall costs that would result from the current

embedded cost approach. Though the 100-foot provision at no cost to the applicant has appeal in that it would cover 95 percent of connections, it may be necessary to adjust this length to meet the overall embedded cost requirements. It is found that the Company is in the best position to determine the appropriate balance between the fixed length and cost per foot amounts, as long as the overall resulting cost is equivalent to the current embedded cost approach. As a part of its compliance filing, Public Service shall include a thorough cost analysis demonstrating that its service lateral terms are equivalent to the level of costs generated by the current overall gross embedded cost methodology. Because this compliance filing may involve significant calculations, the Company will be ordered to make the compliance filing on 20 days' notice.

D. Standardized Per Lot Costs

108. Public Service proposes line extension costs based upon standardized per lot costs for any lots that have an average of 60 feet or less frontage or based upon the Company's estimate of the cost to construct and install facilities for larger lots. The Company proposes a construction allowance based on its proposed times revenue methodology.

109. Staff and OCC oppose the proposed construction allowance amounts that were generated by the times revenue methodology, asserting that the resulting rates are several times higher than current rates, and would result in existing customers bearing increased costs.¹⁰²

110. In rebuttal, Mr. Trowbridge provides testimony claiming that under the proposed times revenue approach, the revenue generated from the new customers would more than pay for the cost of the new facilities to serve them.

¹⁰² Neil Answer pp. 21-24, Haglund Answer pp. 35-36.

111. The undersigned agrees with the parties that the standardized per lot cost approach proposed by Public Service will greatly improve line extension efficiency and transparency. However, as discussed above, Public Service has not met its burden to demonstrate that the increased level of funding associated with the times revenue approach is justified. Therefore the standardized per lot costs methodology proposed by the Public Service is approved, but the Company is directed to make a compliance filing with construction allowance terms that result in the same overall costs that would result from the current embedded cost approach.

E. Commercial Service Lateral Extension

112. The Company is not proposing any change from the current practice. Ms. Applegate states in her direct testimony that because design requirements vary significantly within this category of extension, the Company will continue to provide individualized cost estimates, and the Commercial Service Lateral Credit will continue to be calculated using the average embedded cost methodology. The terminology will change from “Service Lateral Construction Allowance” to “Commercial Service Lateral Credit.” For electric service, this category of extension will apply only to those seeking overhead service, because applicants design and own the lateral when it is located underground

113. The undersigned agrees with the change in tariff language proposed by the Company.

F. Electric Vehicle Charging Stations

114. The Company proposes to modify its electric distribution extension policy to address certain matters related to EV charging stations as well as natural gas vehicles. Public Service proposes to treat future EV charging station applicants like any other customers, namely

that the applicable costs, credits, and allowances for EV charging station applicants will depend on the applicable distribution extension service that is requested rather than on special terms for EVs.

115. In his Answer Testimony, EOC witness Mr. Willis, offers amendments to Sheet R216 to further clarify that the Company will determine EV charging station eligibility for credits and allowances in the same manner as for other customers who receive permanent service.

116. Mr. Willis also recommends that Public Service dedicate at least one “front line” staff person to help EV charging station applicants and owners navigate the line extension process. Ms. Applegate responded in Rebuttal that the Company will provide the appropriate training to one or more representatives related to EV charging station development, but believes that a tariff requirement would be overly-restrictive and infringe on the Company’s needed staffing flexibility and operational prerogative.

117. The undersigned agrees with the parties that the changes to Permanent Service for EV charging stations results in a reasonable qualification for a construction allowance, and receipt of a full construction allowance immediately rather than a partial construction allowance awarded over multiple years. The undersigned agrees with CEO and WRA that this proposed change in upfront construction allowance eligibility for EV charging stations brings significant simplicity, transparency, and predictability to this customer group.

G. Indeterminate Service

118. Public Service proposes changing this criterion to remove real estate subdivisions, development of land for sale, and changing the definition of High Density load to remove the reference to data centers in its electric distribution extension policy. The Company also proposes

adding a provision to provide a construction allowance for non-LDC gas compressor stations for its gas distribution policies.

119. The Company notes in Ms. Applegate's Rebuttal that while these customers' service designations have not been updated in the tariff, Public Service has been permitted to offer construction allowances for real estate subdivision developers and development of land for sale upon receipt of a final, filed subdivision plat as of the Commission's February 7, 2014, Decision No. C14-0151 in Proceeding Nos. 13AL-0685G and 13AL-0695E. As a result, changing real estate subdivisions and development of land for sale from Indeterminate to Permanent service merely aligns their designation with established Commission decisions.

120. Ms. Applegate further explained in Rebuttal that Public Service seeks to remove data centers from the definition of high density load because data centers have been taking power from the Company consistently for over 10 – and sometimes 20 – years, demonstrating that their load on the Public Service system remains reliable and stable.

121. Finally, Ms. Applegate states that the Company's noted gas tariff already permits a construction allowance to LDC compressor stations such that the Company's proposal is intended to treat the same equipment in the same way, regardless of whether an LDC or non-LDC customer owns it. Moreover, the Company's service and extension agreements enable some flexibility in how to respond to equipment to the extent it varies in size or service needs.

122. Staff argues that the Company has not identified problems with the current treatment of these types of applicants under Indeterminate Service, nor has it provided convincing evidence to support the proposed changes.

123. Despite Staff's argument that Public Service has not identified problems with the current treatment of these types of applicants under Indeterminate Service, nor has it provided

convincing evidence to support the proposed changes, the undersigned is persuaded by Public Service's testimony that such changes are reasonable and will allow the Company greater flexibility in responding to service requests.

H. On-Site Versus Off-Site Delineation

124. CEO recommended and Public Service agreed to clarify the distinguishing characteristics between an Off-Site Distribution Line Extension and On-Site Distribution Line Extension in the proposed new policy. Public Service understands that CEO is providing proposed tariff language with its SOP, which Public Service does not oppose.

125. CEO provided clarifying language in Attachment A to its SOP. As Public Service does not oppose such changes to its tariff language, the undersigned agrees with CEO's changes.

I. Additional Operational Enhancements Both Within and Outside the Context of the Tariff

126. Ms. Applegate and Ms. Woolf propose in their Rebuttal, additional operational enhancements both within and outside the context of the tariff in response to both SB 17-21 and customer feedback from customers as well as through the non-adjudicatory stakeholder outreach proceeding.

127. Initial Preliminary Plat Cost Estimates: Public Service's proposed tariffs reflect the current practice of providing initial cost estimates based on plats.

128. 120-Day Construction Period: The Company proposes a 120-day construction timeframe in the proposed tariff and associated agreements, with more specifications around when the timeframe begins (when the customer is site ready, as explained in agreements), and when it will be tolled (circumstances of delay outside of the Company's control). If the

timeframe is not met because of Company action or inaction, the customer's construction payment will become interest bearing.

129. Customer Communication Protocol: Public Service's Customer Communication Protocol identifies the general responsibilities of the Company and customer, and establishes communication points throughout line extension design and construction.

130. Builder/Developer Representative: The Company has hired three Builder/Developer Representatives, who are serving as the primary contact and internal decision maker for large customers (*e.g.*, EV charging station applicants) and builders and developers. While the Company will consider filling these vacancies from other areas within Public Service, this should not be mandated because day-to-day hiring and workforce management are the province of management discretion.

131. Customer-Performed Trenching: The Company is amenable to continue allowing customers (or their builder/developer) to perform trenching for residential service laterals, but cannot allow customer-performed trenching for other types of extensions due to safety, reliability, and liability issues.

132. Reporting Obligations in the Quality of Service Plan (QSP): The Company has made several reporting commitments by way of the Gas QSP and is amenable to similar additions to the Electric QSP, including tracking and reporting timing of preliminary and final cost estimates, and timely completion of construction

133. SB 17-271 instructed the Commission to evaluate investor-owned utility service extension policies and to consider "the use of construction agreements, revenue assurance

agreements, [and] assignment of estimated costs,”¹⁰³ as well as potential system automation, options for cost and schedule transparency, equitable cost allocation, and variables that affect construction and implementation timelines.

134. Decision No. C18-1174¹⁰⁴ notes that that during Proceeding No. 18M-0082EG, stakeholders discussed the need for efficiencies and benefits to enhance clarity surrounding line extension requirements and process and to ensure an equitable allocation of costs. The Undersigned agrees with Public Service that these operational enhancements meet some of the goals set forth by statute and Commission direction, except for Reporting Obligations in the QSP. Public Service’s QSP requirements are currently before the Commission in Proceeding No. 18A-0918G, so the QSP reporting will not be addressed here.

VII. ORDER

A. The Commission Orders That:

1. The tariff sheets filed on December 3, 2018 with Advice Letter No. 1785-Electric in Proceeding No. 18AL-0852E are permanently suspended.

2. The tariff sheets filed on December 5, 2018 with Advice Letter No. 938-Gas in Proceeding No. 18AL-0862G are permanently suspended.

3. No more than 30 days after this Recommended Decision becomes the Decision of the Commission, if that is the case, Public Service Company of Colorado shall file new advice letters and tariffs consistent with the directives above. The advice letters and tariffs shall be filed as new advice letter proceedings and shall comply with all applicable rules. In calculating the

¹⁰³ SB 17-271 Section I, ¶ I.

¹⁰⁴ Decision No. C18-1174 was issued in Consolidated Proceeding Nos. 18AL-0852E and 18AL-0862G on December 26, 2018.

proposed effective date, the date the filing is received at the Commission is not included in the notice period and the entire notice period must expire prior to the effective date. The advice letters and tariffs must comply in all substantive respects to this Decision in order to be filed as a compliance filing on shortened notice, consistent with the discussion above.

4. This Recommended Decision shall be effective on the day it becomes the Decision of the Commission, if that is the case, and is entered as of the date above.

5. As provided by § 40-6-106, C.R.S., copies of this Recommended Decision shall be served upon the parties, who may file exceptions to it.

6. Response time to exceptions shall be shortened to seven days.

7. If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the recommended decision is stayed by the Commission upon its own motion, the recommended decision shall become the decision of the Commission and subject to the provisions of § 40-6-114, C.R.S.

8. If a party seeks to amend, modify, annul, or reverse a basic finding of fact in its exceptions, that party must request and pay for a transcript to be filed, or the parties may stipulate to portions of the transcript according to the procedure stated in § 40-6-113, C.R.S. If no transcript or stipulation is filed, the Commission is bound by the facts set out by the administrative law judge; and the parties cannot challenge these facts. This will limit what the Commission can review if exceptions are filed.

9. If exceptions to this Recommended Decision are filed, they shall not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be exceeded

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ROBERT I. GARVEY

Administrative Law Judge

ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean,
Director