

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

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<b>IN THE MATTER OF THE APPLICATION )</b>	
<b>OF PUBLIC SERVICE COMPANY OF )</b>	
<b>COLORADO FOR DEFERRED )</b>	
<b>ACCOUNTING TREATMENT FOR )</b>	<b>PROCEEDING NO. 19A-0471E</b>
<b>ELECTRIC VEHICLE MAKE-READY )</b>	
<b>INFRASTRUCTURE PROJECTS )</b>	

**STIPULATION AND SETTLEMENT AGREEMENT**

**I. Introduction and Identification of Parties**

This Stipulation and Settlement Agreement (“Agreement” or “Settlement Agreement”) is entered into by Public Service Company of Colorado (“Public Service” or the “Company”), the Colorado Public Utilities Commission (“Commission”) Trial Staff (“Staff”), the Colorado Energy Office (“CEO”), Western Resource Advocates (“WRA”), and ChargePoint, Inc. (“ChargePoint”) (collectively, the “Settling Parties”). The Colorado Office of Consumer Counsel (“OCC”) and Colorado Energy Consumers (“CEC”) do not join, but also do not oppose this Settlement Agreement. As among the Settling Parties, this Settlement Agreement is a full and complete resolution of Public Service’s Application (“Application”) for deferred accounting treatment for the costs associated with the electric vehicle (“EV”) supply infrastructure component of EV make-ready infrastructure projects Public Service seeks to commence prior to the effective date of its upcoming Transportation Electrification Plan (“TEP”).

This Settlement Agreement is a comprehensive settlement among the Settling Parties, which proposes a resolution for all issues that the Settling Parties wish to raise in this Proceeding. As explained in its Application, Public Service is eager to commence

the Projects as soon as it can. The Settling Parties respectfully request that the Commission approve this Settlement Agreement at the earliest possible opportunity. For those Settling Parties for whom this Agreement is executed by counsel, such counsel states that (s)he has authority to execute this Agreement on behalf of his/her client.

## **II. Background**

### **A. Public Service's Application Filing**

1. On August 29, 2019, Public Service filed an Application seeking Commission approval for deferred accounting treatment in accordance with Generally Accepted Accounting Principles ("GAAP") for the costs associated with the electric vehicle ("EV") supply infrastructure component of EV make-ready infrastructure projects that Public Service seeks to commence prior to the effective date of its upcoming TEP that it must file on or before May 15, 2020 pursuant to C.R.S. § 40-5-107. In support of its Application, Public Service filed the Direct Testimony of Company witness Jack W. Ihle.

2. Through its Application, Public Service seeks deferred accounting treatment for four projects it identified and described in its Application that would support transportation electrification goals of the State of Colorado, City and County of Denver ("Denver"), Regional Transportation District ("RTD"), and the City of Lone Tree ("Lone Tree") (collectively, "Planned Projects"), as well as additional projects the Company has not yet identified but for which it anticipates demand considering the known interest of customers and communities in the Company's service territory in pursuing transportation electrification prior to its TEP planning horizon ("Additional Projects"). These Planned Projects and Additional Projects are collectively referred to as "the Projects." Public Service's Application explained that it expected that its total EV supply infrastructure cost

to support the projects, inclusive of capital expenditures and incremental O&M would not exceed \$9 million, and requested a deferral cap of up to \$9 million.

3. While Public Service is planning to install full make-ready infrastructure in connection with the Projects to satisfy the policy objectives in SB19-077, Public Service is only seeking deferred accounting treatment in connection with the portion of the projects concerning EV supply infrastructure as proposed in this Settlement Agreement. The line extension portion of the make-ready infrastructure is not included in the scope of the Company's Application or deferred accounting request. "EV supply infrastructure" includes new service panels, conduit, and wiring up to the charger stub. EV supply infrastructure does not include the line extension for EV charging.

4. Also in its Application, and due to the pressing customer and public demand for the Projects, Public Service requested a Commission decision on its Application by February 15, 2020.

#### **B. Procedural History Relevant to Settlement**

5. On August 30, 2019, the Commission issued a Notice of the Application.

6. On October 9, 2019, the Commission deemed the Application complete and referred the proceeding to an Administrative Law Judge ("ALJ").

7. Staff, OCC, and CEO each filed a timely notice of intervention by right. CEC, WRA, and ChargePoint each filed a timely motion to permissibly intervene, and these motions were granted by Decision No. R19-0921-I (mailed November 13, 2019).

8. Decision No. R19-0921-I also established a procedural schedule that contemplated, among other components: Answer Testimony filed January 8, 2020; Rebuttal/Cross-Answer Testimony filed January 31, 2020; a Settlement Agreement

deadline of February 7, 2020; an Evidentiary Hearing scheduled for February 19 and 20, 2020; and Statements of Position filed March 11, 2020.

9. By Decision R20-0014-I (mailed January 7, 2020), the ALJ granted Staff's Unopposed Motion to Modify Procedural Schedule, Modify Response Time to Discovery on Answer Testimony, and for a Waiver of Response time. Decision R20-0014-I also established a modified Answer Testimony deadline of January 17, 2020, Rebuttal/Cross-Answer Testimony deadline of February 7, 2020, and Settlement Agreements deadline of February 10, 2020.

10. Based on the filings to date and discovery conducted by the parties to this Proceeding, the Settling Parties, as well as OCC and CEC, engaged in settlement discussions. Through negotiation, discussion, and compromise, the Settling Parties have reached a consensus on all the settlement proposals and specific terms contained therein and have further agreed to consolidate these agreements into this Settlement Agreement. As stated, OCC and CEC do not join, but also do not oppose this Settlement Agreement.

11. On January 16, 2020, the Settling Parties filed a Notice of Settlement in Principle and Unopposed Motion to Amend the Procedural Schedule and Request for Waiver of Response Time, which requested that the ALJ vacate the January 17, 2020 Answer Testimony date, stated that the Settling Parties would file this Settlement Agreement and a Motion to Approve Settlement Agreement by January 29, 2020, and requested that the Settling Parties be allowed to file Settlement Testimony in support of the Settlement Agreement by January 29, 2020. That motion also requested that the ALJ reserve February 19, 2020, or such earlier date as may be available and acceptable,

for a hearing on the Settlement, if the ALJ deems such necessary. By Decision No. R20-0043-I, the ALJ granted that motion.

12. The Settlement Agreement filed here represents a comprehensive agreement among all Settling Parties to resolve the issues in this Proceeding No. 19A-0471E that the Settling Parties wish to raise in this proceeding, and the Settling Parties agree that the Agreement is in the public interest

### **III. Settlement Terms**

The Settling Parties agree as follows:

13. As outlined herein, and for the limited purpose of guarding against challenges that Public Service is impermissibly seeking to recover prior period costs in the context of an electric rate review, the Settling Parties support the Commission's approval of deferred accounting for Public Service's capital depreciation expenses and incremental third-party operations and maintenance ("O&M") costs related to the following projects, if the projects are commenced (*i.e.*, when a work order is issued for a project that has been selected) prior to the effective date of Public Service's Transportation Electrification Plan: 1) the EV supply infrastructure projects identified in the Company's Application; and 2) additional EV supply infrastructure projects that the Company undertakes for non-residential customers ("Additional Projects") pursuant to the application process and criteria outlined below (collectively, the "Projects").

14. The total investment, inclusive of capital expenditures and O&M, associated with the Projects shall not exceed \$9 million.

15. Public Service may only defer the O&M and capital depreciation expenses associated with the Projects, up to an aggregate deferred amount for the Projects of \$1.5 million.

16. Public Service is authorized to create a regulatory asset for these costs in accordance with GAAP for such incurred costs. For the Projects, the depreciation expense associated with the Projects' capital and O&M will accrue in the regulatory asset from the time each project is placed in service until rates are effective as part of the next Phase I electric rate review following completion of all of the Projects. At such a time, the deferred account established here will be terminated and no additional funds will be added. The deferred accounting mechanism for the Projects under this Agreement will not be used to recover any forthcoming TEP investment.

17. The amortization period for the future recovery, if any, of these costs will be determined in that Phase I electric rate review and, in order to recover these costs in rates, Public Service bears the burden of demonstrating the prudence of the Projects with evidence in that proceeding, consistent with SB19-077 and § 40-5-107, C.R.S.,<sup>1</sup> as well

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<sup>1</sup> When considering transportation electrification programs and determining cost recovery for investments and other expenditures related to programs proposed by an electric public utility [for a Transportation Electrification Plan], the commission shall consider whether the investments and expenditures are:

- (a) Reasonably expected to improve the use of the electric grid, including improved integration of renewable energy;
- (b) Reasonably expected to increase access to the use of electricity as a transportation fuel;
- (c) Designed to ensure system safety and reliability;
- (d)(I) Reasonably expected to contribute to meeting air quality standards, improving air quality in communities most affected by emissions from the transportation sector, and reducing statewide emissions of greenhouse gases by forty percent below 2005 levels by 2030 and eighty percent below 2005 levels by 2050
- (e) Reasonably expected to stimulate innovation, competition, and increased consumer choices in electric vehicle charging and related infrastructure and services; attract private

as demonstrating the prudence of the costs incurred in connection with these Projects in that Phase I electric rate review where the costs will be considered for inclusion in base rates. In that Phase I electric rate review, the Company will also ensure and affirmatively demonstrate that the inclusion of all components of project recovery are not double-counted to the extent coincident with the rate review test period.

18. The Company agrees to provide transparency of the costs associated with the Projects when presented in the referenced rate case. This means that the Company will provide information in such a way that the impacts of the Projects on the rate case can be identified and isolated in the revenue requirement model.

19. The approval of deferred accounting for the Projects does not constitute an approval, or presumption thereof, of the costs Public Service expects to incur. Public Service affirmatively bears the burden of demonstrating whether the Company incurred them prudently. In addition, nothing precludes a future examination to determine from whom the Company should recover them. The amounts deferred shall not incur any carrying cost or interest. The decision in this proceeding shall not serve as precedent for whether, and the conditions and circumstances under which the Company can implement a deferred account. Finally, the decision in this proceeding does not decide any other issue related to the development or cost recovery of EV supply infrastructure, including,

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capital investments; and utilize high-quality jobs and skilled worker training programs as defined in section 8-83-303;

(f) Transparent, incorporating public reporting requirements to inform design and commission policy; and

(g) Reasonably expected to provide access for low-income customers, in the totality of the utility's transportation electrification programs, which may include community-based and multi-family charging infrastructure, car share programs, and electrification of public transit, while giving due consideration to the affect on low-income customers.

§ 40-5-107(2), C.R.S (Senate Bill 19-077).

but not limited to, any issue to be decided concerning Senate Bill 19-077 in Public Service's upcoming Transportation Electrification Plan proceeding or any other Commission proceeding.

20. The suggested order language at the top of page 11 of the Company's Application is no longer applicable.

21. The Settling Parties hereby stipulate and agree that the Commission should grant Public Service's Application in this Proceeding as modified by the Settlement.

22. The Settling Parties state that all issues that each of them wish to raise in this proceeding have been resolved by this Settlement Agreement. The Settling Parties hereby submit testimony in support of the settlement, waive any cross examination of each other's witnesses, and respectfully request the Commission accept this Settlement Agreement and issue an order approving the Company's Application as modified by the Settlement at the earliest possible opportunity.

**A. Project Application Process for Additional Projects**

23. For the Additional Projects, where Public Service has not yet identified the customer participants, Public Service will develop and initiate a process that extends through at least one round of applications to determine which projects are selected. Public Service will evaluate how the proposed projects meet the considerations highlighted in SB 19-077 and will target Spring of 2020 for the initial application period. During an application round, customers will have at least 30 days from the date of solicitation to develop and submit their applications. The Company will seek to coordinate the timeline for this application process with other funding opportunities that may be available to customers.

24. Public Service's customer project application will include questions regarding project details, including reasons for seeking EV supply infrastructure, goals that the project will support, number of charging ports supported, types of charging supported (L2, DCFC), anticipated charging behavior (charging time, frequency), estimated electricity usage, potential for load growth associated with the project over time, and willingness to consent to data reporting requirements established in this Settlement Agreement. Public Service's customer project application will include additional questions to assess how the applicant's proposed project could meet the considerations of SB 19-077. This information will be used in the Company's evaluation and support the Company's reporting, described below. The questions will encompass the following topics, as applicable to the applicants:

- a. How the project could minimize overall costs and maximize overall benefits;
- b. How the project could facilitate the electrification of public transit and other vehicle fleets;
- c. How the project could improve the use of the electric grid, including improved integration of renewable energy;
- d. How the project could increase awareness of the benefits of transportation electrification and encourage greater adoption of electric vehicles;
- e. How the project could increase access to the use of electricity as a transportation fuel;
- f. How the project could contribute to meeting air quality standards, improving air quality in communities most affected by emissions from the

transportation sector, and reducing statewide emissions of greenhouse gases;

- g. How the project could stimulate innovation, competition, and increased consumer choices, attract private capital investment, and utilize high quality jobs and skilled worker training programs and skilled worker training programs;
- h. How the project could increase transparency, including willingness to share information for public reporting; and
- i. How the project could provide access for low-income customers.

25. Customers completing Public Service's project application must indicate willingness to agree with the following requirements:

- a. the customer's willingness to participate in education, outreach, and/or advisory services offered by the Company;
- b. the customer plans and can provide demonstrated support of its ability to commence the project in 2020 or Q1 2021;
- c. the customer plans and can provide demonstrated support of its ability to utilize the EV supply infrastructure within six months of its in-service date;
- d. the customer intends to comply with the Company's safety and technical specifications; and
- e. the customer's willingness to agree to the Company's terms and conditions prior to construction.

26. As part of the application process, customers will be required to provide support of their ability to maintain and install the necessary charging equipment to utilize

the EV supply infrastructure, and the Company will evaluate and consider this information in determining whether to proceed with an Additional Project.

27. Public Service will give the Settling Parties the opportunity to review the customer application form prior to the initial application period and provide input that Public Service may or may not incorporate in the application form. The final project application shall be filed in this proceeding when complete.

**B. Education and Outreach / Advisory Services**

28. Through its relationship with customers receiving EV supply infrastructure for the Projects, Public Service will provide vendor-neutral education and advisory services, prior to construction, including but not limited to informing participating customers about available rate designs, programs, or charging operations that encourage EV charging that supports the beneficial operation of the electric grid while reducing customer fueling costs and emissions.

**C. Reporting on Projects Subject to Deferred Accounting**

29. The below reporting requirements may require data aggregation and appropriate consideration of customers' data privacy rights, in compliance with Commission Rules. To the extent customer consent is obtained and the information subject to the reporting requirements below is not otherwise confidential, the Company will file the reports on a public basis. However, the Settling Parties acknowledge and agree that to the extent either confidential or highly confidential protection of the reports is required, the Company shall comply with applicable Commission Rules in preparing and filing the reports.

30. For the Additional Projects, Public Service will provide a report, summarizing its project selection process, no later than 60 days after project selection and customer contracting has been completed. The report will include information on the number of applicants, an overview of the applications received, a description of the Company's evaluation and selection process, a description of the projects selected (name of applicant, description of project, estimated budget, estimated avoided emissions), and a discussion on how the selected projects meet the considerations highlighted in SB19-077. The Settling Parties understand that the information in this report may not be available at the time of the TEP filing, but Public Service and other parties may seek to introduce the report into the record of the upcoming TEP proceeding at a later date. Parties are free to take any positions on the report, on substantive or procedural grounds.

31. Public Service will report the following information regarding all Projects encompassed by the Settlement, to the extent practical, no later than May 15, 2021, and if impractical as of that time, will provide an update on the status of the report and estimated date for completion:

- a. Capital and O&M incurred providing EV supply infrastructure to customers;
- b. Costs that Public Service is deferring;
- c. General descriptions of individual projects;
- d. The status of the individual EV supply infrastructure projects, including forecasted Company budgets, actual Company expenditures, and estimated completion dates;
- e. Other publicly-sourced funding of the Projects, such as state or municipal funds, to the extent this information is publicly available;

- f. The number of charging ports and vehicles served;
- g. Rate schedule that participating customers choose for EV charging stations installed in association with the Projects;
- h. Aggregate electric revenues from the customers for the Projects;
- i. Customer charging behavior, including kWh, kW, and when the charging is occurring; and
- j. A discussion of the potential grid impacts and benefits of the Projects.

32. The Transportation Electrification Plan proceeding will determine any ongoing reporting requirements, including whether such reporting requirements should be considered for replacing or supplementing this reporting requirement, in connection with the Projects.

33. These reports will be filed in the docket for this Proceeding, 19A-0471E.

34. In its TEP application, the Company will provide the following information regarding this Application: A description of how the Company's experience with the initial projects in this proceeding helped to "inform and improve its comprehensive TEP" and "provide the Company with valuable information, experience, and partnerships as the Company begins developing its comprehensive TEP" (per Public Service's Application, at 2 and 4).

#### **IV. Implementation**

35. Except as modified in this Settlement Agreement, the Settling Parties agree to the proposals contained in the Company's Application, as originally filed on August 29, 2019. Commission approval of this Settlement Agreement shall constitute Commission approval of all such aspects of the proposals as filed by the Company.

36. The Settling Parties agree that the Commission should issue a decision approving the Settlement Agreement at the earliest possible opportunity.

## **V. General Provisions**

37. This Settlement Agreement is made for settlement purposes only. Nothing in this Settlement Agreement is intended to have precedential effect or bind the Settling Parties with respect to positions they may take in any Transportation Electrification Plan proceeding, any future Phase I or Phase II rate review, or any other proceeding regarding any of the issues addressed in this Settlement Agreement. No Settling Party concedes the validity or correctness of any regulatory principle or methodology directly or indirectly incorporated in this Settlement Agreement. Furthermore, this Settlement Agreement does not constitute agreement, by any Settling Party, that any principle or methodology contained within or used to reach this Settlement Agreement may be applied to any situation other than the above-captioned Proceeding, except as expressly set forth herein.

38. Each Settling Party understands and agrees that this Settlement Agreement represents a negotiated resolution of all issues the Settling Party either raised or could have raised in this Proceeding. The Settling Parties agree the provisions of this Stipulation and Settlement Agreement, as well as the negotiation process undertaken to reach this Settlement Agreement, are just, reasonable, and consistent with and not contrary to the public interest, and should be approved and authorized by the Commission.

39. The discussions among the Settling Parties, as well as OCC and CEC, that produced this Settlement Agreement have been conducted in accordance with Rule 408 of the Colorado Rules of Evidence ("CRE").

40. Nothing in this Settlement Agreement shall constitute a waiver by any Settling Party with respect to any matter not specifically addressed in this Settlement Agreement. In the event this Settlement Agreement becomes null and void or in the event the Commission does not approve this Settlement Agreement, it, as well as the negotiations or discussions undertaken in conjunction with the Settlement Agreement, shall remain inadmissible into evidence in these or any other proceedings in accordance with Rule 408 of the Colorado Rules of Evidence.

41. The Settling Parties will support all aspects of the Settlement Agreement embodied in this document in any hearing conducted to determine whether the Commission should approve this Settlement Agreement, and/or in any other hearing, proceeding, or judicial review relating to this Settlement Agreement or the implementation or enforcement of its terms and conditions. Each Settling Party also agrees that, except as expressly provided in this Settlement Agreement, it will take no action in any administrative or judicial proceeding, or otherwise, which would have the effect, directly or indirectly, of contravening the provisions or purposes of this Settlement Agreement. However, each Settling Party expressly reserves the right to advocate positions different from those stated in this Settlement Agreement in any proceeding other than one necessary to obtain approval of, or to implement or enforce, this Settlement Agreement or its terms and conditions.

42. Approval by the Commission of this Settlement Agreement shall constitute a determination that this resolution of the matters in this Proceeding represents a just, equitable and reasonable resolution of issues that were contested among the parties in this Proceeding. The Settling Parties state that reaching agreement as set forth herein

by means of a negotiated settlement rather than through a formal adversarial process is in the public interest and that the results of the compromises and settlements reflected in this Settlement Agreement are in the public interest.

43. The Settling Parties do not believe any waiver or variance of Commission rules is required to effectuate this Settlement Agreement but agree jointly to apply to the Commission for a waiver of compliance with any requirements of the Commission's Rules and Regulations if necessary to permit all provisions of this Settlement Agreement to be approved, carried out, and effectuated.

44. This Settlement Agreement is an integrated agreement that may not be altered by the unilateral determination of any Settling Party. There are no terms, representations or agreements among the parties which are not set forth in this Settlement Agreement.

45. This Settlement Agreement shall not become effective until the Commission issues a final decision addressing the Settlement Agreement. In the event the Commission modifies this Settlement Agreement in a manner unacceptable to any Settling Party, that Settling Party may withdraw from the Settlement Agreement and shall so notify the Commission and the other Settling Parties in writing within ten (10) days of the date of the Commission order. In the event a Settling Party exercises its right to withdraw from the Settlement Agreement, this Settlement Agreement shall be null and void and of no effect in this or any other proceeding.

46. There shall be no legal presumption that any specific Settling Party was the drafter of this Agreement.

47. This Settlement Agreement may be executed in counterparts, all of which when taken together shall constitute the entire Agreement with respect to the issues addressed by this Settlement Agreement. This Settlement Agreement may be executed and delivered electronically and the Settling Parties agree that such electronic execution and delivery, whether executed in counterparts or collectively, shall have the same force and effect as delivery of an original document with original signatures, and that each Settling Party may use such facsimile signatures as evidence of the execution and delivery of this Settlement Agreement by the Settling Parties to the same extent that an original signature could be used.

Dated this 29th day of January, 2020.

Agreed on behalf of:

**PUBLIC SERVICE COMPANY OF COLORADO**

By:   
Brooke A. Trammell  
Regional Vice President,  
Rates and Regulatory Affairs  
Xcel Energy Services Inc.

Approved as to form:

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Agreed on behalf of:


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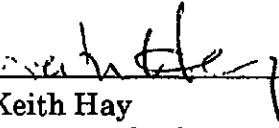
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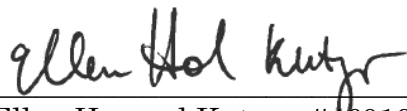
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WESTERN RESOURCE ADVOCATES

A handwritten signature in black ink, reading "ellen holt kutzer". The signature is written in a cursive, flowing style. Below the signature is a horizontal line.

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