

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 18A-0194E

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR APPROVAL TO ACTIVATE THE HOME AREA NETWORK PURSUANT TO THE DECISION APPROVING THE SETTLEMENT AGREEMENT.

DECISION DENYING MOTION AND ORDERING A NEW APPLICATION

Mailed Date: April 27, 2021
Adopted Date: April 14, 2021

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I. BY THE COMMISSION

A. Statement

1. Through this Decision, the Commission addresses the Applications for Rehearing, Reargument, or Reconsideration of Decision No. C21-0176 (RRR) filed pursuant to § 40-6-114, C.R.S., on April 8, 2021 by Public Service Company of Colorado (Public Service or Company) and Mission:data Coalition (Mission:data).

2. Mission:data filed the motion that lead to the Decision challenged here on December 23, 2020. The motion asked the Commission to: 1) reopen Public Service's Advanced Grid Initiative and Security (AGIS) proceeding (16A-0588E) due to new technology functionalities in the meter that were not approved within the scope of the AGIS Certificate of Public Convenience and Necessity (CPCN); 2) reopen and join the Home Area Network (HAN) proceeding (18A-0194E) with the reopened AGIS proceeding (16A-0588E); 3) set a procedural schedule; 4) extend the deadline for filing responses to the instant motion by seven days; and 5) issue a decision temporarily prohibiting Public Service from deploying certain advanced meter computer software applications.

3. Through Decision Nos. C21-0176 and C21-0177, issued March 19, 2021, the Commission denied the motion filed by Mission:data to reopen, join proceedings, establish a procedural schedule, extend the deadline for filing Responses, and temporarily prohibiting Public Service from deploying certain advanced meter software applications. The Commission agreed that an investigation of the new technology investments is warranted and ordered the Company to file a new Application to amend its AGIS CPCN.

B. Issues Raised in Applications for RRR

1. Public Service

4. In its RRR, Public Service points out that Decision Nos. C21-0176 and C21-0177 do not provide a specific deadline for filing a new Application to amend the AGIS CPCN. The Company notes that although Public Service tentatively agreed to a May 1 filing within the Memorandum of Understanding (MOU) filed with Western Resource Advocates (WRA), given the passage of time from when the MOU was initially negotiated until the Commission's decision was released, a June 15, 2021 deadline would provide the Company the appropriate

amount of time to complete a comprehensive filing, including robust testimony, that thoroughly and accurately presents and analyzes the required components of the filing.

5. Public Service does not believe that a June 15, 2021 filing deadline would prejudice any party to Proceeding No. 16A-0588E or Proceeding No. 18A-0194E and the Company's proposed filing deadline is unopposed. The Company states in its RRR that it circulated its June 15, 2021 proposal to all parties to Proceeding No. 16A-0588E on March 29, 2021, and the following parties do not oppose a June 15, 2021 filing deadline: Staff of the Commission, the Office of Consumer Counsel, Colorado Energy Office, Colorado Energy Consumers, the City of Boulder, the Colorado Solar and Storage Association, Southwest Energy Efficiency Project, Energy Outreach Colorado, Mission:data, and WRA.

6. We agree with Public Service that the Commission should set a deadline for an application. The June 15th deadline is acceptable and the Commission appreciates that the Company communicated the proposed deadline with parties.

2. Mission:data

7. Mission:data argues in its RRR that Decision Nos. C21-0176 and C21-0177 include a problematic, overly-broad exception to the prohibition on using Distributed Intelligence (DI) software applications or "DI Apps." Mission:data believes the description of "base services" contradicts the meaning and intent of the Decision and inadvertently encourages, rather than limits, the use of DI capabilities. Mission:data seeks reconsideration of the Decision in order to clarify and correct the exception so that the intent of the Decision is maintained pending resolution of the new application.

8. Mission:data quotes Decision No. C21-0176 in Paragraph 50, "As described by the Joint Parties in the MOU, we direct Public Service to not 'turn on' or utilize the DI

functionality except as necessary to provide base services until the separate application is resolved,” with a footnote attached to “base services”. Mission:data argues the definition of “base services” provided in the MOU is extremely broad and should be removed, or alternatively, narrowed and corrected. If not corrected. Mission:data believes the prohibition on the use of the DI capabilities will be ineffective.

9. Mission:data provides several issues where the definition of “base services” may be problematic. They argue the last sentence of the exception effectively encourages the use of DI and exacerbates information asymmetry to the advantage of Public Service and to the disadvantage of customers and competitors. Mission:data further explains that not only does paragraph 50 allow Public Service to pursue, without Commission oversight, the development of highly-detailed load disaggregation algorithms that can identify individual devices and appliances being used in homes and buildings, but it simultaneously authorizes Public Service’s ability to asymmetrically gather this information without any obligation to provide the analytical insights to customers or distributed energy resources providers.

10. Mission:data also argues that the definition of “base services” creates another unnecessarily large and arguably infinite exception to the prohibition that the Commission otherwise wished to establish. Mission:data argues that exempting any use of DI technologies from the prohibition that involve “solutions that are focused on improving the reliability, safety or cost of delivering power,”¹ can be interpreted to include almost the entirety of Public Service’s activities.

¹ Mission:data RRR at p. 5.

11. Finally, Mission:data argues the inclusion of “HAN connectivity w/ kW & kWh reads”² seems to also broadly allow DI functions. The Company’s compliance with the Commission’s HAN order will be investigated in the new application proceeding. They note paragraph 50 that states, “The application should specifically address . . . customer access to the HAN”³ Mission:data believes if the definition of “base services” includes “HAN connectivity w/ kW & kWh reads” a prohibition on the use of DI functions is now eliminated with regard to HAN technology.

12. In its RRR, Mission:data provides three options for the Commission to clarify:

- a) Strike the following language from paragraph 50, “As described by the Joint Parties in the MOU,” and “except as necessary to provide base services until the separate application is resolved,” including footnote one. This is the best solution because it removes confusion and uncertainty, and the accompanying litigation, risk, and administrative inefficiency that is likely to occur. The intent and meaning of Discussion and Findings paragraphs 42, 43 and 46 and Ordering Paragraph 3 would thus become effective and clear.
- b) Substitute the following language in paragraph 50: “We direct Public Service to not ‘turn on’ or utilize the DI functionality except as necessary to provide the following services until the separate application is resolved: (i) all services that Public Service provides now with today’s metering and distribution grid infrastructure; (ii) IVVO functionality; (iii) the implementation of Commission orders issued after the granting of the AGIS CPCN that contemplate the use of more granular usage data and DI functionality.” ...
- c) Remove from the definition of “base services” in footnote one of the Decision the following: “HAN connectivity w/ kW & kWh reads”; “safety services such as detecting unusual power patterns; and grid facing solutions that are focused on improving the reliability, safety or cost of delivering power. These solutions could include potential applications such as power theft detection, power quality analysis, secondary equipment assurance, and transformer load management”; and, “[w]hile these base services may be dependent upon customer-side end use load disaggregation; the Company will not provide any load disaggregation information analysis to customers beyond the granularity of load disaggregation information available today until a resolution is reached regarding these matters beyond the base services identified above.” While not offering as much clarity as proposed solutions one and two above,

² *Id.*

³ *Id.* at p. 7.

this would eliminate the most damaging and confusing language from the definition of “base services” and help effectuate the Commission’s intent in its Decision.⁴

13. We agree with Mission:data that the decision’s references to ‘base services’ should be clarified and believe Mission:data’s second option offers the clearest path forward for all parties, including the Commission. Mission:data points out that substituting language in paragraph 50 as suggested in their second option will help clarify that Commission decisions issued after the granting of the AGIS CPCN contemplating the use of more granular usage data and DI functionality will not be delayed. They point out that two of those more recent decisions include usage information and billing consistent with the RE-TOU Settlement Agreement (i.e., displaying usage information for time-of-use periods) and those services necessary to support implementation of the Transportation Electrification Plan, including approved pilot programs. We agree with Mission:data that while implementation of those two decisions is not likely to be delayed due to the pending application to modify the AGIS CPCN and investigate HAN compliance, this second alternative makes it clear to the Company it is still responsible for implementation of existing Commission decisions.

14. We disagree with Mission:data that the term “base services’ should be removed and we retain the definition in the paragraph as described in the MOU as a footnote.

15. Paragraph 50 should now read:

As described by the Joint Parties in the MOU, we direct Public Service to not “turn on” or utilize the DI functionality except as necessary to provide base services until the separate application is resolved. We direct Public Service to not ‘turn on’ or utilize the DI functionality except as necessary to provide the following base services¹ until the separate application is resolved: (i) all services that Public Service provides now with today’s metering and distribution grid infrastructure; (ii) IVVO functionality; and (iii) the implementation of

⁴ *Id.* at pp. 8-9.

Commission orders issued after the granting of the AGIS CPCN that contemplate the use of more granular usage data and DI functionality.

II. ORDER

A. The Commission Orders That:

1. The Application for Rehearing, Reargument, or Reconsideration of Decision No. C21-0176, filed by Public Service Company of Colorado on April 8, 2021, is granted, consistent with the discussion above.

2. Public Service Company of Colorado is ordered to file an application to amend its Advanced Grid Initiative and Security Certificate of Public Convenience and Necessity by June 15, 2021.

3. The Application for Rehearing, Reargument, or Reconsideration of Decision No. C21-0176, filed by Mission:data Coalition on April 8, 2021, is granted, consistent with the discussion above.

4. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
April 14, 2021.**

(S E A L)



ATTEST: A TRUE COPY

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

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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JOHN GAVAN

MEGAN M. GILMAN

Commissioners