Decision No. C23-0811

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23M-0053ALL

IN THE MATTER OF REPORTING AND INFORMATION REGARDING ELIGIBILITY FOR FEDERAL FUNDING UNDER THE INFRASTRUCTURE INVESTMENT AND JOBS ACT OF 2021 AND/OR THE INFLATION REDUCTION ACT OF 2022.

COMMISSION DECISION REQUIRING REPORTING, AND SETTING REPORTING AND COMMENT TIMELINES

Mailed Date: December 7, 2023
Adopted Date: November 22, 2023

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I. <u>BY THE COMMISSION</u>

A. Statement

1. On January 30, 2023, the Commission opened this miscellaneous proceeding regarding federal funding under the Infrastructure Investment and Jobs Act of 2021 (IIJA) and the Inflation Reduction Act of 2022 (IRA) to receive reporting from Colorado's regulated utilities, and to receive responsive comments from interested parties.

2. In the Commission's opening decision, Decision No. C23-0066, the Commission requested Colorado's regulated gas and electric utilities file responses to the following:

a. Outline primary opportunities they each currently have identified as available through the IIJA and IRA;

b. Whether the entity intends to pursue the top identified opportunities or others, and if there are significant obstacles anticipated in pursuit of funding;

c. A list of any ongoing proceedings in which a utility reasonably knows or anticipates the IIJA, or IRA funding is implicated;

d. For future filings and proceedings only, whether expedited or revised Commission processes are anticipated;

e. Process recommendations that could best facilitate state access to IIJA or IRA funding going forward; and

f. To what extent funding opportunities might implicate federal equity or environmental justice requirements.

B. Summary of Reporting from Utilities and other Stakeholders

3. Public Service Company of Colorado (Public Service), Black Hills Colorado Gas, Inc., d/b/a Black Hills Energy and Black Hills Colorado Electric, LLC d/b/a Black Hills Energy (collectively, Black Hills), Atmos Energy Corporation (Atmos), Tri-State Generation and Transmission Association (Tri-State), Colorado Natural Gas, Inc. (CNG), and Advanced Energy United (United) all filed initial comments by March 2, 2023. Lumen Technologies d/b/a CenturyLink QC (Lumen), Western Resource Advocates (WRA), Advanced Energy United, and the Colorado Energy Office (CEO) filed response comments by March 17, 2023.

1. Outline primary opportunities they each currently have identified as available through the IIJA and IRA

a. Public Service Company of Colorado

4. The primary opportunity Public Service identified as available through the IIJA and IRA is the extension of the existing tax credits for clean electricity generation and storage. Specifically, the IRA extended existing production and investment tax credits (PTC and ITC), and introduced a new investment tax credit for standalone energy storage. The IRA also gives flexibility for generation resources to claim either a PTC or ITC, plus the IRA allows for transferability of tax credits that Public Service notes provide them with the ability to transfer tax savings to third parties and reduce.

5. Public Service identified other IRA opportunities for homeowners to receive tax incentives, rebates for clean energy technologies and energy efficiency, and grant funding for state programs.

> *IRA Section 13301 – Energy Efficient Home Improvement Credits* provides a 30% tax credit for energy efficiency improvements to the building envelope and efficient heating and cooling equipment. Limits for each type of improvement and total per year: credit capped at $600 for efficient heating and cooling equipment; $600 for windows; $250 per door, $500 total for doors; $2,000 for heat pumps; $1,200 for qualified energy efficiency improvements to the building envelope, including insulation and air sealing. The IRA caps the total annual

credit at $1,200, with a separate annual $2,000 limit for heat pumps and a $150 credit for home energy audits.

IRA Section 50121 – Home Energy Efficiency Rebate Program provides $4.3 billion to the DOE to give to state energy offices to offer rebates to homeowners and aggregators for whole-house energy savings retrofits. States can provide rebates for energy efficiency retrofits up to $2,000 for retrofits reducing energy use by 20% or more and up to $4,000 for retrofits saving 35% or more. Maximum rebates are double for low-income homeowners ($4,000 and $8,000, respectively). Rebates are capped at 50% of total project costs if income exceeds 80% AMI and 80% for incomes below 80% AMI.

IRA Section 50122 – High-Efficiency Electric Home Rebate Program for Low to Moderate Income Households provides grants for state energy offices to offer point-of-sale rebates for homeowners to purchase high-efficiency electric home appliances. For incomes 80 to 150% of AMI, rebates cover 50% of the cost. For incomes below 80% AMI, rebates will cover 100% of the cost. The program includes a $14,000 cap per household, $8,000 cap for heat pumps, $1,750 for heat pump water heaters, and $4,000 for panel and electrical service upgrades. Other eligible rebates include electric stoves, clothes dryers, and insulation/air sealing measures.

IRA Section 13303 – Energy Efficient Commercial Buildings Deduction provides tax deductions for energy efficiency upgrades in commercial buildings. Tax deductions start at $0.50 per square foot at 25% and up to $1.00 per square foot at 50% energy savings.

IRA Section 13304 – Green and Resilient Retrofit Program provides tax credits to developers of new single and multi-family homes based on the Energy Star rating a home receives. Single-family homes can earn anywhere from $2,500-$5,000, and multi-family dwellings can receive anywhere from $500-$5,000 if projects meet prevailing wage requirements.

IRA Section 50123 – State-Based Home Efficiency Contractor Training Grants provides financial assistance to states to develop and implement a training and education program for contractors installing home energy efficiency and electrification improvements (including improvements in sections 50121 and 50122). States may use the funding to reduce the cost of training contractor employees, to provide testing and certification of contractors trained and educated under a state program, and to partner with non-profit organizations to develop and implement a state program.

6. Next, Public Service notes that the IRA established the Greenhouse Gas Reduction Fund grant program with $27 billion in annual funding for the Environmental Protection Agency (EPA) to provide grants to clean energy and energy efficiency projects. The legislation splits the total budget into three large buckets:

- $14 billion for a National Clean Investment Fund to provide funding to a few national non-profit clean financing institutions to partner with the private sector and make clean energy technologies accessible and affordable for communities.
- $6 billion Clean Communities Investment Accelerator will provide grants to non-profits. The non-profits will deliver funding and technical assistance to local community lenders that work in low-income and disadvantaged communities.
- $7 billion Solar for All will award up to 60 grants to states, territories, tribes, and municipalities to expand access to solar in low-income and disadvantaged communities.

7. Public Service finds that the IRA also includes tax credits for the purchase or lease of new or used electric vehicles and tax credits for residential electric vehicle charging equipment.

- Up to $7,500 tax credit for new electric vehicles depending on critical material sourcing, domestic assembly, retail price, and income.
- Removes the 200,000-vehicle sales cap.
- A $4,000 or 30 percent tax credit, whichever is less, for used EVs.

8. IRA tax credits may also help Public Service electrify its corporate and service vehicles fleet. The IRA includes tax credits for commercial electric vehicle charging equipment up to 30 percent of the total equipment cost and installation on a business property up to $100,000 per station.

9. Lastly, the IIJA created the National Electric Vehicle Infrastructure Program to support the build-out of a national public charging network.

b. Black Hills Energy

10. Black Hills states that the IRA and IIJA do not explicitly list utilities as recipients for many grants and projects and that utilities may play an ancillary role in administering many programs and offerings. Ultimately, Black Hills states that states or third parties will be the primary recipients of federal funding from the two pieces of legislation.

11. Black Hills does identify five opportunities available through the IIJA and IRA that apply to the utility:

- The Smart Grid Investment Matching Grant Program as a way to receive a matching grant to offset 50% of the total costs of AMI technologies in deploying smart grid practices. The Company notes that it is still evaluating whether to deploy smart meter technologies throughout its service territory.
- The Methane Emissions Reduction Program is an opportunity for Black Hills to receive funding for financial assistance in preparing and submitting GHG reports and monitoring and reducing methane and other GHG emissions.
- The Carbon Capture Demonstration Projects Program is an opportunity to demonstrate CCS at its electric generation facilities.
- Participation in the Regional Clean Hydrogen Hub. The Company is also generally aware of the H2 Matchmaker program that connects suppliers, end-users, and infrastructure partners to work collaboratively toward using clean hydrogen.
- Exploration of the Grid Resiliency and Innovation Partnership Program and submitted concept papers around the Company's focus areas, including Non-Expulsion Fuse Deployment, Wildfire Protection Retrofits, High Temperature Insulator Deployment, Smart Copper Conductor Replacement, Overhead to Underground Projects, and Vegetation Management activities.

c. Atmos Energy

12. Atmos identified the HOMES Rebate Program as the most relevant program to the Company in its initial comments. Atmos aims to analyze and pursue funding available to support the Company's demand-side management programs to benefit Atmos Energy customers.

d. Colorado Natural Gas

13. Colorado Natural Gas identified areas of possible interest concerning the IIJA and IRA, including energy efficiency, emissions reduction, and tax credits related to the production of renewable or responsibly sourced gas and green hydrogen.

e. Lumen

14. Lumen identified the middle mile program as part of the IIJA as a potential opportunity for the Company. The NTIA middle mile program provides 70 percent of the costs for applicable projects.

f. Tri-state Generation and Transmission

15. Tri-State is pursuing federal funding opportunities for which it may qualify, including grants, refinancing, low- and zero-percent interest loans, forgivable loans, and longer-term loans with more flexible security requirements.

2. Whether the entity intends to pursue the top identified opportunities or others, and if there are significant obstacles anticipated in pursuit of funding.

a. Public Service Company of Colorado

16. Public Service recognizes that the IIJA and IRA provide funding for priority policy objectives in the state, including clean transportation, electricity generation and transmission, energy efficiency, and beneficial electrification. Public Service specifically cites the production and investment tax credits to fund new generation and transmission infrastructure, tax credits and incentives for customers to install beneficial electrification and energy efficiency technologies, and electric vehicles and charging infrastructure. Public Services notes how funds in the IRA and IIJA differ, mainly because utility-eligible funds in the IIJA are competitive and support development and infrastructure deployment. In contrast, funds in the IRA provide tax credits to deploy clean energy infrastructure and technologies.

17. Public Service states that they alone cannot realize the benefits of the IRA and IIJA and will require cooperation amongst state agencies, customers, and communities to "leverage the maximum benefits and funding for the State of Colorado." For example, regarding electric vehicles, Public Service states that funding opportunities in the IRA and IIJA likely do not provide all the funding necessary to meet the State of Colorado's EV goal of 940,000 EVs by 2030.

18. Here is what the Company says it is already doing to leverage IRA and IIJA incentives:

- Public Service has already applied to the Colorado Energy Office to fund several initiatives.

- Public Service is developing "customer and trade awareness around the benefits of the IRA and IIJA" alongside demand-side management and beneficial electrification stakeholders.
- Public Service has "taken steps" to maximize production and investment tax credits in its Phase II Electric Resource Plan to reduce the costs of new clean energy investments.

19. Public Service states that it is premature to estimate how the Company can leverage IRA programs and incentives because the programs are still under development by federal agencies (as of March 2, 2023, when the Company filed its initial comments). However, the Company stated that it could immediately transfer tax credits from Cheyenne Ridge and Rush Creek wind projects to third parties and provide customers with $36 million in net benefits. The Company also states that while it is already committed to "working with host communities to support equitable transitions," the Company does recognize the additional financial incentives for building clean energy infrastructure in energy communities.

20. Public Service has already engaged with the CEO on funding for two programs within the IIJA: the Regional Clean Hydrogen Hubs program (H2Hubs) and Grid Resiliency and Innovation Partnership Program. Public Service is a partner in the Western Interstate Hydrogen Hub and received an "Encouraged" recommendation from the DOE (and submitted a final application in April 2023). Public Service also partnered with the CEO to submit a concept paper to the DOE seeking funding under the GRIP Program's Grid Resilience Utility and Industry Grants to reduce the cost of transmission expansion in the San Luis Valley. Public Service similarly partnered with the CEO to apply for funds under the GRIP Smart Grid Grants to support five years of wildfire mitigation activities, including advanced weather stations, cameras, advanced vegetation management, and hardware upgrades to reduce sparks.

21. Public Service has also partnered with Form Energy on a long-duration energy storage project in Colorado. The Company submitted its application with the DOE's Office of Clean Energy

Demonstrations in Q1 2023 to receive funding from the Long-Duration Energy Storage Demonstration Initiative and Joint Program. Xcel Energy was subsequently awarded in-part $70 million to deploy the Form energy battery in Colorado.

b. Black Hills Energy

22. Black Hills reemphasized that as a utility, it will not be the primary recipient of IRA and IIJA funds, such as demand-side management and weatherization programs, stating that "The Company, the Commission, and other state agencies will need to collaboratively work together to ensure these funds are properly distributed to utility customers as beneficiaries, while other agencies that are the direct recipients of funding are properly passing on benefits to Black Hills customers." Black Hills also states it has limited experience writing grant requests for federal funding and will need to consider internal constraints associated with grant writing, such as the availability of in-house resources. The Company notes it may need to consider additional resources to procure funding depending on the scope of the program and the likelihood of obtaining significant financing.

23. Lastly, Black Hills states that "Prior to engaging in procurement of funding, Black Hills needs to evaluate the regulatory constructs in each of the states it operates in to understand the Commission receptiveness for, and prudency concerns associated with, capital deployment that will ultimately result in increased rate base for the 50% unmatched costs of AMI metering." The Company notes the same regulatory considerations concerning the Carbon Capture Demonstration Projects Program that provides grants to offset 50 percent of the total costs associated with CCS projects that successfully capture 90 percent of CO2.

c. Atmos Energy

24. Atmos states that it is also looking for new projects that could qualify for tax credits in the IRA, such as investments in renewable natural gas. However, to date, the producers of renewable natural gas have made investments that are eligible for federal tax credits and not Atmos.

25. Atmos identified no significant obstacles in pursuing funding and intends to monitor funding availability for rebate programs as the State of Colorado distributes funds and develops processes for implementing the state programs.

d. Colorado Natural Gas

26. CNG has yet to determine what opportunities it intends to pursue.

e. Lumen

27. Lumen requested Federal funding for three middle-mile routes in Colorado through the NTIA middle-mile program. Lumen selected these three routes to improve connectivity in northeast, southeast, and central Colorado.

f. Tri-state Generation and Transmission

28. Tri-State notes that it is pursuing multiple funding opportunities through the IIJA and IRA, including grants, refinancing, and loans.

- Tri-State is an applicant or partner in three concept papers submitted to the DOE under the IIJA's Grid Resilience and Innovation Partnership (GRIP) program. Tri-State submitted a concept paper for funding three transmission projects under the Grid Resilience Grants program. The Company is also a member of the CEO coalition that submitted a concept paper to DOE's Grid Innovation Program to study an East-West DC tie and other transmission projects, such as new transmission capacity in the San Luis Valley. Lastly, Tri-State submitted a concept paper for funding a Distributed Energy Resource Management System (DERMS) under the Smart Grid Grants Program.
- Tri-State responded to DOE's request for information in June 2022 to advocate for various transmission system improvements and hardening projects under the IIJA's Formula Grants to States and Indian Tribes for

Preventing Outages and Enhancing the Resilience of the Electric Grid. The Colorado Energy Office administers the program.

- Tri-State intends to submit a concept paper for funding from the Energy Improvements in Rural and Remote Areas program to advance energy efficiency opportunities for energy-burdened consumers in rural areas.
- Tri-State was preparing to respond to a funding opportunity announcement for the Improving Cybersecurity Posture of Rural and Municipal Utilities and Rural and Municipal Utility Advanced Cybersecurity Grant and Technical Assistance Programs to seek funding to evaluate cybersecurity best practices and improve cybersecurity incident preparedness and incident response.
- Tri-State has been working to define the spectrum of projects and activities that may qualify for the USGA's Rural Business-Cooperative Service and Rural Utilities Service so that Tri-State can submit a robust application when the FOA is released. Tri-State has participated actively in USDA's rulemaking process, including submitting comments to underscore critical considerations that influence Tri-State's transition activities, the limitations on new investment resulting from stranded assets, and Tri-State's system-wide approach to transition investment.
- Tri-State is also evaluating potential funding opportunities that the Company anticipates will be available for projects that retool, repower, repurpose, or replace energy infrastructure that has ceased operations; or enable operating energy infrastructure to avoid, reduce, utilize or sequester air pollutants or anthropogenic emissions of greenhouse gases.

3. A list of any ongoing proceedings in which a utility reasonably knows or anticipates the IIJA, or IRA funding is implicated

a. Public Service Company of Colorado

29. Public Service does not foresee any near-term impacts on its regulatory proceedings. The Company stated that it had already addressed the effects of the IRA on the 2021 ERP & CEP through a consensus process in its Phase II Modeling Update filed on November 29, 2022, in Proceeding No. 21A-0141E. Further, the Company filed Supplemental Direct in the Coal Action Cost Recovery application to address the potential impact of low-interest financing to reduce the costs of early coal retirement.

b. Black Hills Energy

30. Black Hills expects bidders in Phase II of its Clean Energy Plan to consider the IIJA and IRA. Black Hills commits to maximizing the use of the IIJA and IRA when evaluating bids and will seek to utilize those funds to the maximum extent possible. Additionally, Black Hills' Beneficial Electrification Plan includes a Whole Home Electrification Pilot that "will leverage available federal funding and grants." Lastly, Black Hills notes that the Clean Heat Plan and Demand-Side Management Plan proceedings will likely implicate federal funding opportunities.

c. Atmos Energy

31. Atmos did not identify any ongoing proceedings in which the Company reasonably knows or anticipates applicable IIJA or IRA funding.

d. Colorado Natural Gas

32. CNG stated it is unaware of any IIJA or IRA funding that would implicate ongoing proceedings and does not anticipate expedited or revised Commission processes.

e. Lumen

33. Lumen did not address this specific question.

f. Tri-State Generation and Transmission

34. Tri-State states it has no pending proceedings in front of the Commission with federal funding implications.

4. For future filings and proceedings only, whether expedited or revised commission processes are anticipated

a. Public Service Company of Colorado

35. Public Service states it expects to file several applications in the next 12 months, including its 2024-2026 Transportation Electrification Plan (TEP), the 2024 Pueblo Just Transition

Plan, its next DSM Plan, and the Clean Heat Plan. In each proceeding, the Company commits to monitor and adapt its programs and recommendations based on the availability of grant funding, tax credits and incentives, and other state or federally-administered programs.

36. Public Service does not expect expedited treatment to be necessary for the TEP, Pueblo Just Transition, DSM, or Clean Heat proceedings. The Company states that if it does identify a need for an expedited proceeding or other atypical Commission action, it will inform the Commission as soon as possible.

b. Black Hills Energy

37. Black Hills notes that if the Company were to apply for grants that offset 50 percent of total project costs, such as in the AMI and CCS funding programs, the Company would need the Commission to expedite processes and regulatory certainty associated with the unmatched 50 percent of total project costs including the treatment. The Company also asks that the Commission expedite processes to determine the role of the Public Utilities Commission (PUC), state agencies, and utilities in the administration of programs where the utility is not the direct recipient of grants to ensure utility customers receive the benefits of these programs.

c. Atmos Energy

38. Atmos recommends that the Commission monitor activity regarding the distribution of funding for the HOMES Rebate Program and guide utilities on how to access funds to support DSM programs and further reduce the costs of those programs to customers.

d. Colorado Natural Gas

39. CNG stated it is unaware of any IIJA or IRA funding that would implicate future proceedings and does not anticipate expedited or revised Commission processes.

e. Lumen

40. Lumen did not address this specific question.

f. Tri-State Generation and Transmission

41. Tri-State did not address this specific question.

5. Process recommendations that could best facilitate state access to IIJA or IRA funding going forward

a. Public Service Company of Colorado

42. Public Service did not provide process recommendations to facilitate state access to IIJA or IRA funding.

b. Black Hills Energy

43. Black Hills recommends the Commission expedite treatment for projects that need funding. Further, Black Hills states, "The Commission should also complete its own internal analysis to understand which federal funding opportunities it intends to pursue in which states are the recipients. Once the Commission has determined which opportunities those may be, it can begin to consider how utilities may support those initiatives in which utility customers are the beneficiaries."

c. Atmos Energy

44. Atmos recommends that the Commission monitor activity regarding the distribution of funding for the HOMES Rebate Program and guide utilities on how to access funds to support DSM programs and further reduce the costs of those programs to customers.

d. Colorado Natural Gas

45. CNG recommends the Commission post links to federal funding opportunities on its website.

e. Lumen

46. Lumen did not address this specific question.

f. Tri-State Generation and Transmission

47. Tri-State did not address this specific question.

6. To what extent funding opportunities might implicate federal equity or environmental justice requirements

a. Public Service Company of Colorado

48. Regarding the Greenhouse Gas Reduction Fund administered by the EPA, Public Service anticipates working with non-profits representing underserved and marginalized communities to help them take advantage of available grant funding. The Company also stated that it could use Greenhouse Gas Reduction Fund grants to complement existing utility programs by helping non-profits apply for grants that require private cost share.

b. Black Hills Energy

49. Black Hills identified the ongoing proceeding to implement SB21-272 as an appropriate avenue to "explore the implications of the IIJA and IRA funding as it relates to equity or environmental Justice."

c. Atmos Energy

50. Atmos acknowledged the income-based requirements for eligibility in the IRA so that the benefits inure primarily to low- or moderate-income households.

d. Colorado Natural Gas

51. CNG has not yet determined how much funding opportunities may implicate federal equity or environmental justice requirements.

e. Lumen

52. Lumen did not address this specific question.

f. Tri-State Generation and Transmission

53. Tri-State did not address this specific question.

C. Response Comments

a. Western Resource Advocates

54. WRA filed response comments to recommend the Commission request electric and gas utilities to continue to provide updated reporting on at least a biannual basis over the lifespan of the IIJA and IRA. WRA recommends that the biannual reports include, at a minimum:

- A description of past IIJA or IRA applications submitted, the status of those applications, and Commission proceeding(s) implicated by each application
- A description of past IIJA concept papers submitted, if those concept papers did not result in an application, and a brief explanation of why a complete application was discouraged
- A description of prospective IIJA and IRA funding opportunities that the utility intends to pursue

55. WRA contends that reporting on a biannual basis should avoid duplication of information and allow utilities to present reasonably up-to-date information, given the various application deadlines are staggered depending on the applicable bucket of funding. Further, WRA notes that frequent reporting is a familiar requirement for utilities' regulatory and policy teams. And while reporting within specific dockets may also be appropriate, WRA recommends that this proceeding acts as a single repository to collect high-level information on the full scope of the IIJA and IRA funding pursued by the state's regulated utilities.

56. In response to the Commission's question about process recommendations that could best facilitate state access to IIJA or IRA funding as we advance, WRA believes biannual reporting can

provide a valuable opportunity for iterative learning and to improve future funding applications. WRA states:

> Insight into the types of projects that are being prioritized by the federal government will allow Colorado utilities to formulate more competitive concept papers and applications for future funding opportunities. This is likely a process already being conducted internally by each utility, but the Commission and stakeholders will necessarily have less transparency into factors that made a particular application successful, or not. As part of the description of prior applications or concept papers, the utilities should also describe the types of projects that were ultimately funded. This is particularly relevant if the successful application is one that was submitted by a different entity, as that will be information that this Commission and many stakeholders will be unable to track.

57. WRA also recommends that any federal funding supplements utility investment in areas like transportation electrification and building decarbonization. "WRA believes the Commission should implement a process to track ratepayer investment levels before and during the implementation of these programs to ensure federal investments provide additionality to existing utility programs."

b. Advanced Energy United

58. Advanced Energy United provided eight recommendations for the Commission in this proceeding.

- Track and review rate-recovered utility costs that may be offset by federal support and make relevant adjustments within the current or next general rate case or a project-specific application.
- Direct utilities to issue a Request for Information (RFI) from commercial, civic, and governmental regarding potential joint proposals for federal funding.
- Provide expedited expressions of Commission support for utility proposals where initial analysis shows alignment with authorized objectives and cost-effectiveness benchmarks;
- Encourage regulated utilities to re-issue requests for proposals (RFPs) conducted prior to August 2022, or to ask RFP respondents for updated bids.
- Require updated or forthcoming energy resource plans (ERPs) to account for post-IRA and -IIJA resource economics along with accelerated transportation and building electrification-related load growth.

- Require regulated utilities to submit updated analyses of the cost-effective demand-side management (DSM) potential in their service territory to reflect the energy efficiency and distributed energy resource (DER) incentives in the IRA, then submit new DSM and building electrification (BE) proposals – including programs that directly leverage and extend federal incentives – to achieve this potential.
- Require upcoming transmission and distribution system plans to account for accelerated transportation and building electrification, leverage federal funding for transmission planning, and include analysis and pursuit of federal funding opportunities in grid resilience and modernization.
- Require gas utilities to use updated electrification costs and non-pipeline alternatives analysis in Clean Heat Plans and gas extension cost equations.

c. Public Service Company of Colorado

59. Public Service's response comments focus mainly on the comments of Advanced Energy United. First, Public Service expressed caution with United's recommendation for the Commission to provide "expedited expressions of Commission support for utility proposals where initial analysis shows alignment with authorized objectives and cost-effectiveness benchmarks." Public Service states that if the Commission were to explore this route, it first should convene a broader discussion with interested stakeholders to discuss a framework that would encourage utilities to pursue federally funded opportunities and provide guidance on the process for cost recovery and how to reduce regulatory lag.

60. Public Service also disagrees with United's three recommendations around RFPs and existing utility plans:

- Encourage regulated utilities to re-issue requests for proposals (RFPs) conducted before August 2022 or ask RFP respondents for updated bids.
- Require updated or forthcoming energy resource plans (ERPs) to account for post-IRA and -IIJA resource economics, accelerated transportation, and building electrification-related load growth.
- Require utilities first to submit updated analyses of cost-effective DSM to reflect the impacts of the IRA and then submit new DSM plans.

61. First, Public Service refutes the idea of re-issuing all RFPs before August 2022, as the Company issues hundreds of RFPs a year and cannot go back on signed contracts. Next, Public Service does not think redoing its 2021 Electric Resource Plan is appropriate. The Company notes that "prior to issuing this [Phase II] RFP, the Company and stakeholders implemented language regarding the treatment of the Production and Investment Tax Credits." Lastly, Public Service states that its 2022 DSM Plan addressed the impacts of the IRA and should not need to submit updated analyses.

62. Public Service also requests the Commission deny United's recommendation that the Commission order utilities to issue RFIs to stakeholders regarding potential joint proposals for federal funding because the Company states it is "too vague, administratively burdensome and duplicative." Public Service notes that it is already engaging with community stakeholders and that a requirement to issue an RFI is duplicative. Public Service requests that United reach out to the Company or any other utilities if United is aware of "specific opportunities that its members would like to pursue but need utility support for."

d. Colorado Energy Office

63. CEO emphasizes that tax credits combined with rebates and financing opportunities in the IIJA and IRA can enhance existing utility incentives to meet emissions reduction targets at a reduced cost to customers:

- The Inflation Reduction Act extends the production and investment tax credit through 2024 and then transitions to technology-neutral production and investment tax credits through 2035. The Inflation Reduction Act also creates a 30% tax credit for standalone battery storage.
- Rebates and tax credits for low- and moderate-income households can benefit significantly from the IRA and IIJA due to the reduced costs of clean energy technologies. Clean energy projects that meet environmental justice goals can receive up to 20 percent bonus credits on top of other tax credits (10% for locating projects in energy communities and 10% for using domestic materials).

- Notably, CEO points out that the IRA allows tax-exempt entities, such as non-profits and local governments, to receive tax credits through direct payments.
- Clean energy rebates and tax credits are not a substitute for existing utility rebates.

64. CEO expects to receive roughly $250 million in state formula allocations under the IIJA and IRA. "While CEO is still assessing the full breadth of formula funding it will receive and does not yet know the timing for much of that funding, it expects that a total of approximately $250 million for weatherization, grid resilience, electrification, and support studies will flow through the Office."

65. CEO is also pursuing more than $1 billion in competitive awards to develop a hydrogen hub and invest in wildfire detection and mitigation, energy codes, and building performance.

66. CEO notes that including gas utilities is relevant within the context of the IRA and IIJA because programs in both pieces of legislation could impact gas utilities' demand forecasts. For example, the DOE announced in November 2022 that Colorado would receive $70 billion for the High Efficiency Electric Home Rebate Program and $70 billion for the Home Energy Performance-Based Whole Home Rebates program. Both programs incentivize energy efficiency and electrification of end-use appliances.

67. CEO agrees with the utilities that there are both direct and indirect opportunities for utilities available through the IIJA and IRA. For example, utilities can compete for funding for the Grid Resilience Grants and Smart Grid Grants in the IIJA directly and use those funds in alignment with the grants' goals. However, many of the funding opportunities do not directly benefit utilities, such as in the case of tax credits and rebates for clean energy technologies. CEO emphasizes that utility cooperation is critical to maximizing the benefits of the IRA and IIJA to customers, and that utilities must appropriately incorporate the impacts of incentives in planning or programs. "

68. CEO states:

> For example, several rebate and tax incentive provisions of the IRA (*e.g.,* sections 13301, 13303, 13304, 50121, and 50122) available to residential and commercial entities may reduce expenses for utility customers and increase customer participation in electric and gas utility DSM and Transportation Electrification Plan ("TEP") programs as customers seek to layer utility and federal incentives for building shell improvements, appliances, and EVs.

69. CEO further notes that the extension and expansion of the investment and production tax credits could lower bid offers by independent power producers in utility electric resource plan proceedings, leading to lower long-run customer costs.

70. Black Hills mentioned in its initial comments that the IIJA and IRA do not explicitly list utilities as recipients of numerous grants and programs. CEO responded by outlining multiple instances where utilities can apply for funding through the State of Colorado, the Federal Government, in partnership with CEO, or through federal loan programs. CEO recommends five categories of funding and tax credit opportunities through the IRA and IIJA that utilities should consider pursuing:

- *Resource Planning and Generating Resources*. CEO recommends that utility Electric Resource Plan filings detail how clean energy tax credits will reduce resource acquisition and customer costs. CEO states that while each utility noted that they expect bids to reflect the new tax credits for renewable energy, only Public Service Company of Colorado filed a proceeding to amend its Electric Commodity Adjustment tariff to allow for PTC transferability from existing wind facilities. CEO recommends that the Commission direct Black Hills to take similar action that will allow for PTC transferability from existing facilities to other third parties to reduce customer costs. CEO also recommends utilities pursue opportunities beyond tax credits to support resource planning efforts. For example, CEO highlighted the Energy Infrastructure Reinvestment Financing program through the IRA, which may be used by utilities and other owners of aging or defunct fossil infrastructure to refinance high-cost debt and equity, buy replacement power, or finance novel uses for infrastructure taken out of service. Public Service and Tri-State mentioned they are monitoring this DOE loan opportunity, but Black Hills did not in its filing.
- *Residential DSM and Beneficial Electrification*. CEO is actively working to improve coordination with utilities to design and implement three formula grant programs administered by CEO (HOMES, HEEHRA, and WAP). Additionally, tax credits are available to residential customers to upgrade their homes and vehicles.
    - Section 30D Tax Credit for New EVs provides a 30% tax credit up to $7,500 through 2032.

- Section 25E Tax Credit for Used EVs provides a 30% tax credit up to $4,000 through 2032.
- Section 25D Battery Storage provides a 30% tax credit through 2032, 26% in 2033, and 22% in 2034.
- Section 30C Home Electric Vehicle Charger Tax Credit Extension provides a 30% tax credit through 2032, up to $1,000.
- Section 45L New Energy Efficient Home Tax Credit provides up to $5,000 through 2032.
- Section 25C Residential EE Tax Credit offers 30% of the cost, up to $2,000 for heat pumps and up to $600 for water heating equipment and other HVAC.
- Section 48 Solar Investment Tax Credit Extension provides a 30% tax credit through 2032, 26% in 2033, and 22% in 2034.

- *Transportation Electrification*. CEO recommends that the Commission direct utilities to coordinate with their office, especially regarding installing charging stations through the NEVI funds that CEO will distribute through its DCFC Plazas program. Black Hills and Public Service commercial customers may be able to stack NEVI funds with the utilities' transportation electrification plan rebates.
- *Transmission and Resiliency Funds*. Electric utilities have partnered with CEO to apply for two competitive grants through the IIJA's Grid Resilience and Innovation Partnership Programs. Public Service partnered with CEO on a GRIP grant focusing on wildfire mitigation technologies and practices. Public Service, Tri-State, and Black Hills all partnered with CEO on a grant that could potentially reduce the cost of transmission expansion in the San Luis Valley. Lastly, CEO encourages electric utilities also to consider the following opportunities available through the IIJA either directly or through partnerships:
  - Section 40107: GRIP: Grid Resilience and Innovation Partnership Programs - Smart Grid Grants designed to increase the electric power system's flexibility, efficiency, and reliability.
  - Section 40103(b): GRIP: Grid Resilience and Innovation Partnership Programs - Grid Innovation Program supports projects that use innovative transmission, storage, and distribution infrastructure approaches to enhance grid resilience and reliability.
  - Section 50151: Loans for Transmission Facilities will be available for DOE to make direct loans for constructing and modifying transmission lines or other transmission facilities for projects in "National Interest Electric Transmission Corridors."
  - Section 50152: Grants to Facilitate the Siting of Interstate Electricity Transmission Lines would allow relevant siting authorities to receive grants to perform transmission project studies, examine alternative siting corridors, host negotiations with project backers and opponents, participate in federal

and state regulatory proceedings, and promote economic development in affected communities.

- *Clean Heat Planning*. CEO encouraged gas utilities to pursue opportunities to reduce methane emissions from their distribution systems through opportunities such as IIJA's *Section 60113 Methane Emissions Reduction Program*, which will provide $1.55 billion in funding to reduce methane emissions from petroleum and gas systems, including activities to inventory, track, monitor, and directly reduce methane emissions from eligible facilities. CEO notes that only Black Hills mentioned monitoring this opportunity, and CEO encouraged Public Service and CNG also to monitor this opportunity.

71. CEO has identified several types of recurring proceedings in which IIJA or IRA funding may impact plan costs and participation levels:

- *Electric Resource Plans*, where tax credits such as the ITC and PTC may lower costs for customers.
- *Clean Energy Plans* filed in conjunction with Electric Resource Plans, where tax credits such as the ITC and PTC may lower costs for customers.
- Beneficial Electrification Plans, where federal incentives may increase customer participation in utility programs.
- *Renewable Energy Standard Plans*, where federal incentives may increase customer participation in utility programs or tax credits may lower costs for customers.
- *DSM Strategic Issues Applications and DSM Plans*, where federal incentives may increase customer participation in utility programs (electric and gas).
- *Distribution System Plans*, where federal incentives may create additional opportunities for non-wires alternative investments.
- *Transportation Electrification Plans*, where federal grants and tax credits may increase customer participation in utility programs or lower costs for customers.
- *Clean Heat Plans*, where federal incentives may increase customer participation in utility programs and tax credits may lower costs of lower carbon technologies for customers.
- *Gas Infrastructure Plans*, where federal incentives may create additional opportunities for non-pipeline alternative investments.

72. CEO recommends the Commission direct utilities to include information in respective filings documenting any relevant direct or indirect impacts from the IIJA or IRA on the requested relief or to its customers. This would involve seeking federal opportunities that provide customers with cost

savings or bill reductions, coordination with state and local efforts funded by the IIJA or IRA, and customer education efforts that include IIJA or IRA incentives. CEO also recommends the Commission solicit biannual updates from electric and gas utilities in the instant proceeding seeking any updates since the initial March 2nd reporting. Finally, detailed reporting on these funding opportunities may also be appropriate in individual dockets currently being litigated or recently concluded. CEO states that requiring utility reporting of all IRA and IIJA funding efforts allows the Commission to better track efforts utilities are undertaking, even if reporting on specific opportunities is required elsewhere. CEO notes that Western Resource Advocates and Public Service support routine reporting generally and its corresponding transparency.

73. CEO makes several process recommendations for the Commission to consider so utilities can quickly access IIJA and IRA funding. CEO recommends the Commission require twice annual reporting from electric and gas utilities. Next, CEO recommends the Commission develop and release clear guidance and expectations of electric and gas utilities in this proceeding. CEO encourages the Commission to direct utilities to seek the maximum number of opportunities to provide cost savings or relief to customers through federal funding or financing. Similarly, CEO recommends the Commission determine that utilities pass the financial benefits from applicable tax credits, grants, and loan programs to their customers and that future Electric Resource Plans, Clean Heat Plans, DSM Plans, Beneficial Electrification Plans, and TEPs should account for these financial benefits.

74. CEO also supports United's recommendation that the costs of non-pipeline alternatives in Clean Heat Plans account for the impacts of federal legislation where appropriate. In addition to accounting for federal funding and financing opportunities in plans, CEO proposes that future Electric Resource Plans reflect the emissions assumptions included in the state's updated Greenhouse Gas Reduction Roadmap.

75. CEO notes that the Commission should give guidance on the relationship of federal funding opportunities to utility cost recovery. CEO recommends the Commission affirm that consumers who qualify for both utility and federal programs can stack incentives and that federal funding opportunities should be additive to utility funds, consistent with similar recommendations from Western Resource Advocates. CEO's understanding of federal legislation is that federal rebates and tax credits are not a substitute for utility rebates, given differences in eligibility, the process and timing of claiming federal tax incentives, the structure of the tax incentives themselves, and the legislative intent of the IRA and IIJA. Finally, CEO recommends that the Commission communicate that any reduced costs due to federal funding and financing, such as due to PTC or ITC provisions, should be passed through to customers to provide cost reductions to the greatest extent feasible. CEO encourages the Commission to consider developing emergency rules in response to the IIJA and IRA like the emergency rules the Commission developed in response to the 2009 American Recovery and Reinvestment Act, should it provide the best opportunity to communicate these expectations.

76. In addition to the recommendations above, CEO proposes several additional questions or considerations for the Commission to discuss with stakeholders in this proceeding:

- How to facilitate Commission approval, when needed, that aligns with IIJA or IRA application processes. CEO notes that while most utilities maintained that expedited or revised Commission processes are not necessary for future filings as a result of IIJA and IRA funding, Black Hills states that they will need expedited approval for the following: 1) utility cost recovery for required grant cost shares; and 2) instances where state agencies are the direct recipients and utilities are the beneficiaries, to ensure utility customers will receive the benefits from these programs. When a utility is applying for competitive funds, do they need to seek Commission approval before, after, or during the application process? Are utilities always required to seek Commission approval? CEO notes that whether utilities need to seek approval likely depends on the topic of the grant funding. CEO notes that such expedited approval will likely require rule changes or an emergency rulemaking similar to Docket No. 09R-0158EG, which the Commission opened in response to the passage of ARRA.

- When utility customers apply for rebates through IRA-funded programs or when utilities apply for federal funds, what cost and rate impact assumptions are relevant to consider, given the uncertainty in competitive applications or customer behavior?
- What reporting requirements should the Commission establish for biannual reporting by the utilities on their efforts to secure funding, including a standard report structure? WRA also recommended a common reporting structure.
- Whether the Commission should allow utilities to put temporary community transition funding into rates as utilities seek to finance the reuse and reinvestment in infrastructure that reduces emissions. Energy Innovation made a similar recommendation.
- Ways the Commission can streamline the energy interconnection process for new renewable energy projects, advanced manufacturing sites, and EV charging infrastructure. Both Energy Innovation and United made similar recommendations.

77. CEO also responded to recommendations from Advanced Energy United. United provided several process recommendations focused on the Commission requiring utilities to update cost and participation assumptions in past and future proceedings to account for IRA and IIJA opportunities. While CEO supports accounting for these cost and participation impacts in future filings, CEO does not support requiring utilities to update previously filed and approved plans, as this would impact existing contracts that utilities put in place and disrupt prior Commission orders or settlement agreements. In addition, while United proposed that utilities update cost-effective analyses in their DSM potential studies to reflect new federal energy efficiency and distributed energy resource incentives, CEO maintains that this analysis would be most beneficial to utilities in their subsequent DSM Strategic Issues filings.

78. With regards to equity, CEO notes that both the IRA and IIJA have requirements where grant applicants must discuss the impact of projects on the disadvantaged communities in the locations of their projects and demonstrate how at least 40 percent of the benefits of their projects will flow to the communities. The IRA also defines an energy community and establishes greater tax incentives for

projects located in energy communities. The IRA also creates new incentive programs with additional benefits for income-eligible households in the Home Owner Managing Energy Savings (HOMES) and High-Efficiency Electric Home Rebate Act (HEEHRA) rebate programs.

79. The Colorado Legislature defines disproportionately impacted communities, and the Commission is investigating the definition of DI communities in a miscellaneous proceeding. CEO states that state and federal overlapping requirements may create "reporting, prioritization, and practical challenges" and recommends that the Commission should allow both disproportionately impacted and disadvantaged communities to be eligible for programs, projects, incentives, and prioritized for engagement. For example, CEO in its Charge Ahead Colorado program offers an enhanced incentive for projects located in a community that meets or exceeds the 90th percentile of Colorado EnviroScreen scores, aligns with the Justice40 Initiative definition of a disadvantaged community, complies with Senate Bill 21-260, is designated a Transportation Equity Community, or is on Tribal land.

D. Findings and Conclusions

80. To maximize the benefits of the IRA/IIJA laws we therefore request that the utilities file report updates twice a year regarding federal funds that they are actively pursuing, and the funds ultimately received. These reports should include data showing the number of projects, types of projects, and the amount of funding provided. These reports will be due January 15 and June 15 of each year; with the exception that the first report is due February 2, 2024.

81. In each filing utilities shall discuss how they plan to capture and optimize the benefits from these laws. Please identify the maximum available incentive related to the area of work identified within the filing and why the planned level of funding being pursued or planned on being

pursued is most appropriate and most beneficial for ratepayers. The reports shall also contain information regarding:

- How utilities are adjusting their planning assumptions, predicted cost of assets, adoption rates of energy efficiency technologies, distributed energy resources, electric vehicles, and other electrification measures. Please provide a basis of the impacts on the base assumptions for each area. Also, if assumptions have not yet been adjusted to account for IRA/IIJA funding opportunities for either the utility, their customers, or other entities, please indicate the process and timing the utility is planning in order to reevaluate planning assumptions.
- Provide an assessment of internal utility organization resources and costs needed to maximize these benefits. Include the seniority level of staff, their departments and current average time commitment per month dedicated to pursuing IRA.IIJA funding opportunities.
- How utilities will provide assistance and marketing to customers to understand and access incentives available through the legislation, both tax incentives and utility rebates.
- How utilities will ensure low-income programs can benefit from the IRA/IIJA and ways in which the program might be modified to fully take advantage of federal incentives.
- How current PUC rules and procedures might be modified to take full advantage of those incentives both for the utility and for the customer.

II. <u>ORDER</u>

A. The Commission Orders That:

1. Public Service Company of Colorado (Public Service), Black Hills Colorado Gas, Inc., d/b/a Black Hills Energy and Black Hills Colorado Electric, LLC d/b/a Black Hills Energy (collectively, Black Hills), Atmos Energy Corporation (Atmos), Colorado Natural Gas, Inc. (CNG), Lumen d/b/a CenturyLink (Lumen) shall file initial reporting, consistent with the discussion above, no later than February 2, 2024.

2. Voluntary reporting may be provided by any interested entity or persons regarding funding opportunities, consistent with the discussion above, by February 2, 2024.

3. Responsive comments may be filed by February 23, 2024; *i.e.,* 15 business days after the initial reporting in this proceeding.

4. Whether additional reporting or information is requested, including through presentation at a Commissioners Information Meeting, may be considered and directed through future order.

5. The information requested in paragraph 81 shall be filed January 15 and June 15 of each year until otherwise ordered by the Commission. Responsive comments may be filed 15 business days after each reporting deadline.

6. This Decision is effective upon its Mailed Date.

B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING November 22, 2023.

(S E A L)

ATTEST: A TRUE COPY

Rebecca E White

Rebecca E. White,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ERIC BLANK

MEGAN M. GILMAN

TOM PLANT

Commissioners