

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 24R-0168EG

IN THE MATTER OF THE PROPOSED AMENDMENTS TO THE COMMISSION'S RULES REGULATING ELECTRIC UTILITIES, 4 CODE OF COLORADO REGULATIONS 723-3, AND ITS RULES REGULATING GAS UTILITIES, 4 CODE OF COLORADO REGULATIONS 723-4, TO IMPLEMENT CERTAIN PROVISIONS IN SENATE BILL 23-291 ADDRESSING TARIFF FILINGS, RATE TREND REPORTS, COSTS PROHIBITED FROM RATES, AND BASE RATE PROCEEDINGS.

**COMMISSION DECISION GRANTING APPLICATION
FOR REHEARING, REARGUMENT, OR
RECONSIDERATION OF DECISION NO. C25-0376**

Issued Date: July 18, 2025

Adopted Date: July 2, 2025

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I. BY THE COMMISSION**A. Statement**

1. This matter comes before the Commission for consideration of the Application for Rehearing, Reargument, or Reconsideration of Decision No. C25-0376, filed by Public Service Company of Colorado (“Public Service” or the “Company”) on June 5, 2025 (“Application for RRR”).

2. Through Decision No. C25-0376, the Commission adopted amendments to the Rules Regulating Electric Utilities, 4 *Code of Colorado Regulations* (“CCR”) 723-3 (“Electric Rules”), Rules Regulating Gas Utilities, 4 CCR 723-4 (“Gas Rules”), and Rules of Practice and Procedure, 4 CCR 723-1 (“Practice and Procedure Rules”). The amendments implement certain statutory provisions enacted by Senate Bill (“SB”) 23-291, specifically, § 40-3-102.5(1)(a), C.R.S., requiring the Commission to promulgate rules to limit the amount of rate case expenses that a utility may recover from its customers; § 40-3-102.5(1)(b), C.R.S., requiring the filing of certain information with a utility’s base rate tariff filing made to the Commission; § 40-3-102.5(2)(a), C.R.S., requiring the filing of rate trend reports when an electric or gas utility seeks to increase a rate or charge; and § 40-3-114, C.R.S., addressing certain costs prohibited from recovery in utility rates.

3. By this Decision, the Commission grants Public Service’s Application for RRR. The final adopted rules are shown in legislative (*i.e.*, strikeout/underline) format in Attachments A, C, and E to this Decision and in final format in Attachments B, D, and F to this Decision. The rule redlines are to the currently effective rules.

B. Background

4. The Commission initiated this matter on April 30, 2024, by issuing a Notice of Proposed Rulemaking (“NOPR”) and referred the matter to an administrative law judge (“ALJ”) for disposition. The NOPR was published in the May 10, 2024 edition of *The Colorado Register* and on the Commission’s website.

5. The purpose of commencing this rulemaking was to amend the Electric Rules, Gas Rules, and Practice and Procedure Rules to implement certain statutory provisions enacted by SB 23-291. The statutory authority for adoption of these rules is found, generally, at § 40-2-108, C.R.S. (authorizing the Commission to promulgate rules necessary to administer and enforce title 40 of the Colorado Revised Statutes) and, specifically, in SB 23-291, as codified at § 40-3-102.5, C.R.S. (addressing rate case expenses for investor-owned utilities and information to be filed with a request for rate increase) and § 40-3-114, C.R.S. (specifying costs prohibited from recovery from customers). The Commission also has general authority to adopt these rules pursuant to § 40-3-111, C.R.S. (directing the Commission to determine just and reasonable rates for public utilities).

6. Public hearings were conducted by the ALJ on the proposed rules on June 3, 2024, and November 19, 2024. The ALJ also solicited and received several rounds of written comments from rulemaking participants.

7. On March 28, 2025, the ALJ issued Decision No. R25-0215, recommending adoption of the amendments to the Electric Rules, Gas Rules, and Practice and Procedure Rules set forth in the attachments to the decision.

8. On April 17, 2025, the following rulemaking participants filed exceptions to Decision No. R25-0215, pursuant to § 40-6-109(2), C.R.S., in which they challenge portions of

the decision and request clarifications or modifications to the recommended rule amendments: Atmos Energy Corporation; the Energy and Policy Institute; Public Service; and the Office of the Utility Consumer Advocate.

9. On May 1, 2025, the following rulemaking participants filed responses to the exceptions: Atmos Energy Corporation; Black Hills Colorado Electric, LLC and Black Hills Colorado Gas, Inc., doing business as Black Hills Energy; and Public Service.

10. On May 16, 2025, the Commission issued Decision No. C25-0376, granting, in part, and denying, in part the exceptions to Decision No. R25-0215. The Commission adopted rule amendments as shown in the attachments to the decision.

11. On June 5, 2025, Public Service filed its Application for RRR, pursuant to § 40-6-114, C.R.S., requesting reconsideration of certain rules adopted by the Commission in Decision No. C25-0376.

12. The Commission deliberated on Public Service's Application for RRR at its July 2, 2025 Commissioners' Weekly Meeting, resulting in this Decision.¹

C. Discussion, Findings, and Conclusions

13. Pursuant to § 40-6-114, C.R.S., a party may apply for RRR of a Commission decision. The party must specify in its application the grounds upon which it considers the decision unlawful. The Commission may then reverse, change, or modify its decision if it appears the original decision is in any respect unjust or unwarranted. Any decision that reverses, changes, or modifies the original decision may then be subject to the same RRR provisions. Below, we address the issues raised in Public Service's Application for RRR.

¹ By Decision No. C25-0502, issued July 3, 2025, the Commission granted Public Service's RRR Application for the sole purpose of tolling the 30-day statutory time limit in § 40-6-114(1), C.R.S., for the Commission to act upon such application so that it would not be denied by operation of law. The Commission stated such tolling was necessary to allow it sufficient time to prepare and issue its written decision memorializing the July 2, 2025 deliberation.

a. Deletion of Rule 3352/4352

14. In Decision No. C25-0376, the Commission adopted certain disclosure and other requirements in Rule 3352/4352. The Commission reasoned that these requirements were warranted, even at a cost of time and expense to the utility, to ensure that this information is timely filed in rate case proceedings so as to better inform the Commission's decision-making. The Commission found that, consistent with § 40-3-102.5(1)(a)(IV), C.R.S., it is reasonable to require that certain specified information be disclosed by utilities through filings in base rate proceedings, particularly when timely access to this information should be available to the parties to prepare their positions and adjudicate the rate case. The Commission said that it further relied on the set of potential disclosures set forth in the NOPR that was based on pre-rulemaking stakeholder feedback, including suggestions from members of Commission staff who intervene in rate cases, and on our own attempts to secure this information through directives to file Supplemental Direct Testimony or requests for data made during the course of evidentiary hearings.

15. In its Application for RRR, Public Service requests the Commission reconsider, and not adopt, these requirements. Public Service contends the requirements are difficult to interpret and comply with and that they seek information that does not exist and/or that will likely increase the time and cost to prepare and litigate base rate proceedings. Public Service further argues that many of the required disclosures are extraneous to the matters at issue in base rate proceedings, particularly those with a historical test year. Public Service also challenges that there is insufficient record evidence to support adoption of these requirements in this rulemaking and that to do so would run counter to the requirements of the State Administrative Procedure Act, § 24-4-101.5, *et seq.*, and the statutory intent of SB 23-291.

16. Public Service argues that the reasoning in the ALJ's Recommended Decision No. R25-0215 for declining to adopt the requirements originally proposed in the NOPR was sound and should have been upheld. Public Service states it continues to agree with the ALJ's findings in that decision that the rule proponents had not produced supporting evidence for these rules as well as the ALJ's conclusion that the rules could increase rate case costs, contrary to the intent of SB 23-291. Public Service urges that the better approach, which the ALJ had found, is to adopt practices on procedural schedules, discovery, technical conferences, and standard disclosures in each individual rate case.

17. Public Service also challenges that the requirements in Rule 3352/4352 to file 10-year forecasts upfront in rate case are unreasonable. Public Service objects that the costs to produce these forecasts would outweigh the benefits and further that such outputs may not be of much use to the Commission or parties, reasoning that significant uncertainty would exist in the latter half of the forecasted period and would likely bear little resemblance to ultimate plans or investment once the Company reached those years.

18. The Commission grants Public Service's Application for RRR on this issue and will not adopt Rule 3352/4352. After considering Public Service's arguments on RRR regarding both the substance of the requirements and their adoption within this particular rulemaking, we find good cause to reconsider adoption of these rules through this rulemaking. We will, for now, utilize the approach recommended by the ALJ and endorsed by Public Service of continuing to request individual materials in proceedings on a case-by-case basis.

19. Because we grant Public Service's Application for RRR on this issue and agree to strike these rule changes entirely, we do not take up Public Service's alternative requests for rule-by-rule modifications.

b. Miscellaneous Proceeding for Long-Term Rate Models

20. In its Application for RRR, Public Service suggests, as an alternative to the forecasts required in Rule 3352/4352, that the Commission instead require rate-regulated electric and gas utilities to file a long-term rate forecast annually in a miscellaneous docket opened by the Commission. Public Service suggests the Commission could ask subject utilities to file forecasts in the same manner as Public Service has done in other filings. Public Service explains that the utility filings submitted annually into the repository proceeding would allow the utility to work with Trial Staff in base rate proceedings and other cases to ensure that the long-term rate model meets the Commission's expectations and is updated at appropriate intervals.

21. The Commission grants Public Service's Application for RRR on this issue. We see merit to the Company's alternative proposal and have interest in pursuing this, as a first recourse. For instance, at the July 2, 2025 Commissioners' Weekly Meeting, Chairman Eric Blank discussed how Colorado utilities plan to depreciate increasing levels of capital spending over 40 to 50 years and how such costs are then reflected in base rates even when a base rate proceeding focuses on a historical test year. He concluded that it is necessary for the Commission to gain a basic understanding of the longer-term rate impacts of investments and rates.

22. Accordingly, we request that Commission staff develop a proposal for the Commissioners and bring that back to a future Commissioners' Weekly Meeting, potentially to open a miscellaneous proceeding.

c. Modification to Rule 3351/4351

23. Paragraph 3351/4351(b) requires that a utility provide disaggregated data for both individual employees and outside vendors who conducted activities during the test year period that are prohibited for recovery.

24. Public Service asks the Commission to modify this rule so as to clarify that the information addressing prohibit costs be provided in base rate proceedings. Specifically, Public Service requests that the term “base” be added before the rule reference to “rate case” in those new rule provisions.²

25. The Commission grants Public Service’s Application for RRR on this issue. We agree it is reasonable to clarify that the information addressing prohibited costs be provided in base rate proceedings as the demonstration required for prohibited costs applies only to base rate proceedings. Therefore, the term “base” should be added before the rule reference to “rate case” in the two instances within paragraph 3341/4351(b).

II. ORDER

A. The Commission Orders That:

1. The Application for Rehearing, Reargument, or Reconsideration of Decision No. C25-0376, filed by Public Service Company of Colorado (“Public Service” or the “Company”) on June 5, 2025, is granted, consistent with the discussion above.

2. The Rules Regulating Electric Utilities, 4 *Code of Colorado Regulations* (“CCR”) 723-3, the Rules Regulating Gas Utilities, 4 CCR 723-4, and the Rules of Practice and Procedure, 4 CCR 723-1, contained in in legislative format in Attachments A, C, and E to this Decision and in final format in Attachments B, D, and F to this Decision, are adopted. The rule redlines are to the currently effective rules. These attachments are publicly available through the Commission’s E-Filings system at:

https://www.dora.state.co.us/pls/efi/EFI.Show_Docket?p_session_id=&p_docket_id=24R-0168EG

² Public Service Application for RRR at p. 3.

3. Subject to the filing of a further application for rehearing, reargument, or reconsideration, the opinion of the Attorney General of the State of Colorado shall be obtained regarding constitutionality and legality of the rules as finally adopted.

4. A copy of the final, adopted rules shall be filed with the Office of the Secretary of State. The rules shall be effective 20 days after publication in *The Colorado Register* by the Office of the Secretary of State.

5. The 20-day period provided for in § 40-6-114, C.R.S., within which to file an Application for Rehearing, Reargument, or Reconsideration, begins on the first day following the effective date of this Decision.

6. This Decision is effective immediately upon its Issued Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
JULY 2, 2025.**

(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