Decision No. R25-0501

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 24AL-0497E

IN THE MATTER OF ADVICE LETTER NO. 1970 - ELECTRIC FILED BY PUBLIC SERVICE COMPANY OF COLORADO TO REVISE ITS COLORADO P.U.C. NO. 8 - ELECTRIC TARIFF TO UPDATE THE FIXED SOLAR*REWARDS COMMUNITY SERVICE CREDIT, TO BECOME EFFECTIVE JANUARY 1, 2025.

RECOMMENDED DECISION ESTABLISHING BILLING CREDITS PAID TO SUBSCRIBERS OF COMMUNITY SOLAR GARDENS

Issued Date: July 7, 2025

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I. STATEMENT

1. On November 15, 2024, Public Service Company of Colorado ("Public Service" or the "Company") filed Advice Letter No. 1970 – Electric ("AL 1970") with tariff sheets establishing the billing credits paid to subscribers of Community Solar Gardens ("CSGs") effective January 1, 2025.

2. Public Service filed AL 1970 in accordance with Rule 3881(b) of the Colorado Public Utility Commission's (the "Commission" or "PUC") Rules Regulating Electric Utilities, 4 *Code of Colorado Regulations* ("CCR") 723-3. Because AL 1970 is Public Service's first for CSG billing credits since the Commission adopted new rules pursuant to House Bill ("HB") 23-1137, the tariff sheets filed with AL 1970 include nearly all CSG billing credit-related sheets in the Company's Colorado P.U.C. No. 8 - Electric Tariff (*i.e.*, Sheet Nos. 114 through 114H).

3. Public Service filed the tariff sheets without supporting Direct Testimony.[1]

4. On December 10, 2024, the Colorado Solar and Storage Association ("COSSA"), the Solar Energy Industries Association ("SEIA"), and the Coalition for Community Solar Access ("CCSA"), collectively the "Solar Parties," jointly filed a protest to AL 1970. The Solar Parties requested that that Commission suspend the effective date of the filed tariff sheets and hold a hearing.

5. On December 31, 2024, by Decision No. C24-0953, the Commission suspended the effective date of the tariff sheets filed with AL 1970, allowed interventions to be filed until January 31, 2025, and referred the matter to an Administrative Law Judge ("ALJ").

[1] The Direct Testimony of Public Service witness Neil Cowan was later filed as Hearing Exhibit 100 on April 23, 2025, in anticipation of the evidentiary hearing.

6. On January 28, 2025, the Solar Parties filed their Motion to Permissively Intervene. COSSA is a 501(c)(6) nonprofit trade organization established in 1989 (originally under the name of "Colorado Solar Energy Industries Association"). COSSA serves energy professionals, solar companies, energy storage providers, and renewable energy users in Colorado. SEIA is the national trade association for the U.S. solar energy industry, which employs more than 279,000 Americans. SEIA represents all organizations that promote, manufacture, install, and support the development of solar energy. CCSA is a 501(c)(6) nonprofit trade organization focused on supporting the community solar industry through legislative and regulatory efforts.

7. On January 31, 2025, Trial Staff of the Public Utility Commission ("Trial Staff") filed its Notice of Intervention as of Right, Entry of Appearance and Notice Pursuant to rule 1007(a) and Rule 1401, and Request for Hearing.

8. By Decision No. R25-0100-I, issued on February 25, 2025, the ALJ acknowledged the intervention of right by Staff and allowed the permissive intervention of the Solar Parties. A procedural schedule was also adopted that scheduled an evidentiary hearing for May 29, 2025.

9. In Decision No. R25-0100-I, the ALJ also found that additional time was necessary to issue a final Commission decision and extended the statutory deadline by an additional 130 days, pursuant to § 40-6-111(1), C.R.S. The resulting deadline for a final Commission decision to issue was extended to September 8, 2025.

10. On May 29, 2025, the above captioned proceeding was called and entries were made by Public Service, Staff and the Solar Parties.

11. Public Service offered the testimony of Neil Cowan, Staff offered the testimony of Dr. Nick Bongiardina, and the Solar Parties offered the testimony of Blake Elder. Hearing Exhibits Nos. 101 and attachments, 103, 107, 109, 110, 301 and attachments, 302, 303, 400 and

attachments, and 500 were offered and admitted into the record of the proceeding or administratively noticed. At the conclusion of the evidence the record was closed, and the matter was then taken under advisement.

12. On June 12, 2025, Statement of Position ("SOP") were filed by all parties to the proceeding.

13. In reaching this Recommended Decision, the ALJ has considered all arguments presented, including those arguments not specifically addressed in this Decision. Likewise, the ALJ has considered all evidence presented at the hearing, even if the evidence is not specifically addressed in this Decision.

14. Pursuant to § 40-6-109, C.R.S., the ALJ now transmits to the Commission the record of the hearing and a written recommended decision in this matter.

II. FINDING OF FACTS / POSITION OF PARTIES

A. House Bill 23-1137

15. House Bill 23-1137 amended § 40-2-127, C.R.S., to allow for billing credit amounts paid to subscribers of CSGs to take one of two forms: a bill credit amount that changes annually, or a bill credit amount that remains fixed starting at the time the subscriber organization applies for or bids capacity into a utility CSG program.

16. By Decision No. C24-0447, issued on June 25, 2024, in Proceeding No. 24R-0133E ("CSG Bill Credit Rulemaking"), the Commission adopted rules to implement these provisions from HB 23-1137.

17. Rule 3881(b) within the Commission's Rules Regulating Electric Utilities, 4 *Code of Colorado Regulations* 723-3, codified the practice by which annual tariff filings are used to establish CSG bill credits for each utility. When adopting modifications to Rule 3881(b), the

Commission clarified that each year, the utility's November 15 tariff filing will set forth the CSG billing credits applicable in the following year.[2] The bill credits that change annually will be updated based on estimated values of the total aggregate retail rates to be in effect in the coming year and the prevailing costs to the utility to deliver, integrate, and administer the CSGs. In addition to the annual bill credits, a fresh vintage of fixed bill credits to be made available in the following calendar year will also be set forth on the filed tariff sheets. The Commission explained that such utility tariff filings will be the primary way the utilities and the Commission will "consider the change of value to community solar garden customers of the fixed bill credit over time through rate adjustments or other mechanisms."[3] The Commission also stated that if there is a controversy the Commission must resolve, a hearing can support the establishment of just and reasonable rates.[4]

B. Public Service's Position

1. <u>Adjustment Mechanism</u>

18. Public Service argues that the Commission did not require an adjustment mechanism to the CSG fixed bill credit set forth on the tariff sheet filed with AL 1970 and therefore the tariff filing was not deficient.[5]

19. Public Service notes that the Commission in Decision No. C24-0447, the CSG Bill Credit Rulemaking, adopted a flexible advice letter process which allowed the Solar Parties the opportunity to file a protest in this Proceeding and propose their own adjustment mechanism. However, the "change in value" provision only requires the Commission to consider changes in

[2] Decision No. C24-0447 at ¶ 19, issued in Proceeding No. 24R-0133E on June 25, 2024.
[3] *Id.* at ¶ 21.
[4] *Id.* at ¶ 22.
[5] Public Service's SOP, at pp. 4-7.

value over time through "adjustments or other mechanisms," it does not provide a stated timeline for when or if the Commission must approve any actual adjustment mechanism.[6]

20. Additionally, Public Service argues that the Solar Parties did not propose an adjustment mechanism that could lead to a just and reasonable result or one that will further the public interest.[7]

2. Pre-2023 Vintage Year Fixed Bill Credit

21. Public Service has proposed to include vintages for 2023 through 2025, such that its SRCS tariff rates will have fixed bill credit rates for 2023 through 2025 vintage years in its direct testimony.

22. While Public Service has agreed to include fixed bill credit vintage years going back to 2023 in this Proceeding, it believes that the Commission should reject the Solar Parties' proposal to allow pre-2023 fixed bill credit vintages for 2020 and 2021 as the authorizing legislation of HB 23-1137 that required the creation of fixed bill credits was not enacted until 2023.

C. Solar Parties' Position

1. Adjustment Mechanism

23. The Solar Parties argue that both HB 23-1137 and Commission Rule 3881(b)(II) require the tariff sheets filed with AL 1970 to provide an adjustment mechanism to CSG fixed bill credits.

[6] *Id.* at pp. 4-5.
[7] *Id.* at p. 6.

24. The Solar Parties rely on the following language in support of this proposition:

> Section 40-2-127(5)(b)(II)(E), C.R.S.
> (E) By June 30, 2024, the Commission shall adopt rules to implement the fixed bill credit. The rules must consider the change of value to community solar garden customers of the fixed bill credit over time through rate adjustments or other mechanisms.

and paragraph 45 of Decision No. C24-0447 in the CSG Bill Credit Rulemaking

> 45. Notwithstanding the flexibility afforded by these adopted rules to the establishment of any vintage of fixed billing credits, we clarify that the annual tariff filings are not occasions for subscriber organizations and CSGs to reopen the fixed bill credits. Fixed bill credits are instead predetermined and not subject to changes after they have been set. In accordance with the plain language of the statute, fixed is fixed.

25. The Solar Parties aver that the Commission made it "clear" in the CSG Bill Credit Rulemaking that it "expects a fixed bill credit adjustment methodology to be adopted in this Proceeding."[8]

26. The Solar Parties argue for an adjustment mechanism that is linked to the Consumer Price Index ("CPI").

2. Pre-2023 Vintage Year Fixed Bill Credit

27. The Solar Parties further argue that Public Service should be ordered to adopt pre-2023 vintages of bill credits. The Solar Parties believe that this would be consistent with Rule 3881(b), which allows any CSG subscriber organization that has not reached commercial operation to elect to receive a fixed bill credit.

28. The Solar Parties believe that neither the Commission nor the Colorado General Assembly specified any limit on the earliest vintage for which a CSG subscriber organization or developer can choose the fixed bill credit for vintages before 2023.

[8] Solar Parties' SOP, at p. 5.

29. The Solar Parties aver that allowing for prior-year vintages better aligns with the statutory intent behind HB 23-1137, which is to maximize the predictability for CSG subscribers by allowing any CSG that has not yet reached commercial operation to receive a fixed bill credit.

D. Staff's Position

1. Adjustment Mechanism

30. Staff argue that the Commission is not required to institute an adjustment mechanism to the CSG fixed bill credit.

31. Staff states that the Commission declined to adopt the Solar Parties support for an adjustment mechanism in the CSG Bill Credit Rulemaking.

32. In the alternative, Staff presents an alternative to the Solar Parties adjustment mechanism.

2. Pre-2023 Vintage Year Fixed Bill Credit

33. Staff recommends that the Commission should allow Public Service to modify its Advice Letter to include fixed bill credit vintages beginning in 2023 as proposed in its direct testimony and complies with HB 23-1137.

34. Staff urges the Commission to reject the Solar Parties request for fixed bill credit vintages before 2023. Staff believe that the request does not align with Commission Decision No. C22-0272 issued by the Commission in Proceeding No. 21A-0166E and violates the *Ex Post Facto* clause of the Colorado Constitution.

35. Staff states that the *Ex Post Facto* clause of the Colorado Constitution bars the Colorado Legislature ("Legislature") from passing "retrospective laws", which are those that retroactively eliminate or impair vested rights under existing laws, create new obligations, impose

new duties, or attach a new disability with respect to past events.[9] The Legislature may establish retroactive laws if it expresses clear intent of retroactive application and the law can be applied retroactively without being retrospective, in violation of the *Ex Post Facto* clause. Staff states that there is no evidence of legislative intent to make HB 23-1137 retroactive.[10]

III. APPLICABLE LAW

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

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

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

[9] Staff's SOP, at p. 5 (citing Decision No. C22-0272 at ¶ 41, issued in Proceeding No. 21A-0166E on May 5, 2022).

[10] *Id.* at p. 6.

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

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

39. The Commission must exercise reasoned judgment in setting rates. Ratemaking is a legislative function (*City & Cnty. of Denver v. Pub. Utils. Comm'n*, 226 P.2d 1105 (Colo. 1954)) and not an exact science (*Pub. Utils. Comm'n v. Northwest Water Corp.*, 551 P.2d 266 (Colo. 1963)). As a consequence, the Commission "may set rates based on the evidence as a whole" and "need not base its decision on specific empirical support in the form of a study or data." *Colo. Off. of Consumer Couns. v. Colo. Pub. Utils. Comm'n*, 275 P.3d 656, 660 (Colo. 2012).

40. In the normal course of the proceeding, as the party that seeks Commission approval or authorization, Public Service bears the burden of proof with respect to the relief sought; and the burden of proof is preponderance of the evidence. Section 24-4-105(7), C.R.S.; § 13-25-127(1), C.R.S.; Rule 4 CCR 723-1-1500. The evidence must be "substantial evidence," which the Colorado Supreme Court has defined as:

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

City of Boulder v. Colo. Pub. Utils. Comm'n, 996 P.2d 1270, 1278 (Colo. 2000) (quoting *CF&I Steel, L.P. v. Pub. Utils. Comm'n*, 949 P.2d 577, 585 (Colo. 1997)). The preponderance standard requires the finder of fact to determine whether the existence of a *contested fact* is more probable

than its non-existence. *Swain v. Colo. Dep't of Revenue*, 717 P.2d 507 (Colo. App. 1985). A party has met this burden of proof when the evidence, on the whole and however slightly, tips in favor of that party.

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

IV. ISSUE

42. Should the tariff sheets filed with AL 1970 be approved thereby establishing the billing credits paid to subscribers of community solar gardens within Public Service's' service area?

V. DISCUSSION

A. Issues to be Resolved

43. The intervening parties do not take issue with the methodology used by Public Service to determine the CSG fixed-rate bill credit. The only issues in this Proceeding relate to aspects that Public Service determined were not required under HB 23-1137.

44. The Commission has an independent duty to determine matters that are within the public interest. *Caldwell v. Pub. Utils. Comm'n*, 692 P.2d 1085, 1089 (Colo. 1984). The ALJ

further finds that the parties have established by a preponderance of the evidence that the CSG fixed rate billing methodology is just, is reasonable, and should be accepted by the Commission.

45. This leaves only the issues of whether the fixed rate should include vintages prior to 2025 and whether this tariff filing should include an adjustment mechanism.

B. Pre-2023 Vintage Year Fixed Bill Credit

46. The *Ex Post Facto* Clause of the Colorado Constitution bars the General Assembly from passing "retrospective" laws.[11] This prohibition applies to this Commission's regulation of public utilities.[12] A law is unconstitutionally retrospective if its retroactive application eliminates or impairs vested rights under existing laws, creates a new obligation, imposes a new duty, or attaches a new disability with respect to past events.[13]

47. Courts apply a two-step inquiry when determining whether new laws can be applied retroactively. First, courts consider whether the lawmaking body intended retroactive application. If such an intent is found, the next step requires analysis of whether retroactive application is unconstitutional in violation of the *Ex Post Facto* clause in Colo. Const. art II, § 11.[14] Because laws are generally presumed prospective, to apply them retroactively, the Colorado General Assembly must intend that they be applied retroactively. Courts may find such intent even without express language from the Legislature or regulatory body.[15] For example, courts have relied on express legislative declarations that the changes were intended to clarify, and not alter existing law

[11] Colo. Const. art. II, § 11, provides that: "No *ex post facto* law, nor law impairing the obligation of contracts, or retrospective in its operation, or making any irrevocable grant of special privileges, franchises or immunities, shall be passed by the general assembly."

[12] *See e.g., Peoples Natural Gas Div. of Northern Natural Gas Co. v. Pub. Utils. Comm'n*, 590 P.2d 960 (Colo. 1979).

[13] *City of Colo. Springs v. Powell,* 156 P.3d 461, 465 (Colo. 2007); *City of Greenwood Village v. Petitioners for Proposed City of Centennial,* 3 P.3d 427, 442 (Colo. 2000).

[14] *City of Colo. Springs,* 156 P.3d at 465; *Abromeit v. Denver Career Serv. Bd.*, 140 P.3d 44, 50 (Colo. App. 2005), *cert. denied* August 14, 2006.

[15] *Abromeit*, 140 P.3d at 50.

as evidence of an intent to apply the changes retroactively.[16] Only after finding what the lawmaking body intended retroactivity is it appropriate to move to the next step in the analysis.[17]

48. The purpose of the prohibition against retrospective laws is to prevent the unfairness entailed in altering the legal consequences of events or transactions after the fact.[18] Thus, the second step in the analysis is to determine whether applying a law retroactively is unconstitutional (*i.e.,* retrospective). For a statute to be applied retroactively in a constitutional manner, it *must not* take away or impair vested rights, create new obligations, impose new duties or attach a new disability "in respect to transactions or considerations already past."[19] Procedural and remedial laws generally do not create or impair vested rights, because procedural and remedial laws relate to remedies or the procedure to enforce vested rights or liabilities, while substantive laws create, eliminate, or modify vested rights or liabilities.[20]

49. Here, the Solar Parties rely on Decision No. C24-0447 to argue that the fixed bill credit should apply to prior vintage years for 2020 and 2021, prior to the enactment of HB 23-1137.

50. The Solar Parties fail to address Public Service and Staff's argument that inclusion of the 2020 and 2021 vintage years would violate the *Ex Post Facto Clause* of the Colorado Constitution. They simply argue that "[n]either the Commission nor the Colorado General Assembly specified any limit on the earliest vintage for which a CSG subscriber organization or

[16] *Academy of Charter Schools v. Adams County School Dist. No. 12*, 32 P.3d. 456, 466 (Colo. 2001).
[17] *See e.g., City of Colo. Springs*, 156 P.3d at 465 (the Court did not address the second step in analysis after finding that the General Assembly did not intend legislation to be retroactive; thus, the amended statute was prospective and did not apply in determining the rights and liabilities at issue in cases that arose before the effective date of the act).
[18] *Peoples Natural Gas Div.,* 590 P.2d at 962.
[19] *Abromeit,* 140 P.3d at 51.
[20] *Id.*

developer can choose the fixed bill credit."[21] Although the Solar Parties contend that the statutory intent of HB 23-1137 is to maximize predictability for CSG subscribers by allowing a fixed bill credit, they do not identify any legislative intent that HB 23-1137 is intended to apply retroactively.

51. That is, the Solar Parties do not point to any language in HB 23-1137 or Decision No. C24-0447 that suggests a legislative intent for HB 23-1137 to be applied retroactively.

52. The request of the Solar Parties for the inclusion of fixed bill credit vintages prior to 2023 is denied.

C. Adjustment Mechanism

53. The remaining issue related to the vintage years beginning in 2023 is whether the Commission is required to adopt an adjustment mechanism.

54. Both Public Service and Staff witnesses testified that they do not believe an adjustment mechanism is required as HB 23-1137 only requires the Commission to "consider the change of value to community solar garden customers of the fixed bill credit over time through rate adjustments or other mechanism."

55. The Solar Parties argue that an adjustment mechanism is required in this Proceeding. They argue that the statutory language HB 23-1137, specifically § 40-2-127(5)(b)(II)(E), C.R.S., when read in concert with Decision No. C24-0447, makes clear that the Commission has an obligation to adopt a fixed bill credit adjustment methodology in this Proceeding.

56. The Solar Parties focus on the language in Decision No. C24-0447 that the annual tariff filing approach "will provide an opportunity each year for the utility or a protesting party

[21] Solar Parties' SOP, at p. 12; Hr. Ex. 300, Rev. 1, at p. 15:3-12.

such as COSSA/SEIA to pursue a change in the applicable bill credits."[22] They argue that this language indicates an adjustment mechanism requirement in the adopted Rule. However, this is not a Commission directive that "the fixed bill credit adjustment methodology should be determined each year in the annual advice letter filing" as the Solar Parties suggest.[23] In adopting its approach the Commission noted that "[t]he annual bill credit tariff filings are also flexible enough to accommodate multiple possible ways to establish the fixed bill credits in accordance with HB23-1137."[24] The Commission even identified potential means of considering the change in value over time that do not require an annual rate adjustment mechanism.[25] Additionally, the Commission expressed an intent to avoid "a prescriptive approach to addressing 'the change of value to community solar garden customers of the fixed bill credit.'"[26]

57. Neither § 40-2-127, C.R.S., Rule 3881, nor Decision No. C24-0447 suggest that a fixed bill credit adjustment methodology is required to be adopted each year in the annual advice letter filing and the ALJ declines to impose such a requirement where none exists.

58. The Commission did provide in Decision No. C24-0447 that, with regard to annual tariff rates, "if there is a controversy the Commission must resolve, a hearing can support the establishment of just and reasonable rates."[27] While the Solar Parties propose a CPI-based approach to determining an adjustment methodology, they fail to establish in this Proceeding that such an adjustment methodology would be just and reasonable.

[22] Decision No. C24-0447 at ¶ 45.
[23] Solar Parties' SOP, at p. 6.
[24] Decision No. C24-0447 at ¶ 44.
[25] Decision No. C24-0447 at ¶ 44.
[26] Decision No. C24-0447 at ¶ 44.
[27] Decision No. C24-0447 at ¶ 22.

59. The Solar Parties' proposed mechanism is intended to represent general cost inflation.[28] Both Public Service and Staff argue that there is a disconnect between the Solar Parties' CPI-based mechanism and Public Service's system costs reflected in the rates customers pay.[29] Indeed, Public Service's Time-Adjusted Rate of Return ("TARR") calculation, which it uses to produce the fixed bill credits is not reflected in the Solar Parties' proposed adjustment mechanism.[30]

60. Although neither Public Service nor Staff believe an adjustment mechanism should be adopted in this Proceeding, both argue against the Solar Parties CPI-based approach if the Commission finds an adjustment mechanism need be adopted. Staff notes that the Solar Parties' approach is not in the public interest because a CPI-based mechanism "is not tied to the Company's actual system costs and is calculated based on the price of consumer goods and services over time that are irrelevant to CSG billing credits."[31]

61. The ALJ is not convinced that the Solar Parties' approach, which does not consider actual system costs, would provide any additional certainty or predictability over the lifespan of a CSG project.

62. The ALJ finds that the Solar Parties have not established that their proposal is just and reasonable, therefore declines to further address the Solar Parties' CPI-based adjustment methodology. The ALJ further finds that the Commission is not required to adopt an adjustment mechanism for the fixed CSG billing credit in this Proceeding. Therefore, the ALJ concludes that it is also unnecessary to consider the adoption of Staff's alternative approach.

[28] Hr. Ex. 300, at pp. 19:20-20:1; Hr. Tr. (5/29/25) at p. 50:8-12.
[29] Public Service's SOP, at p. 5; Staff's SOP, at p. 9; Hr. Ex. 102, at pp. 12:1-13:2; Hr. Ex. 400, at pp. 13:1-14:4; Hr. Tr. (5/29/25) at pp. 60:22-61:4.
[30] Public Service's SOP, at p. 8; Hr. Ex. 101, at pp. 7:3-10, 10:15-18.
[31] Staff's SOP, at p. 9.

63. The request of the Solar Parties that AL 1970 be amended to include an adjustment mechanism is denied.

D. Conclusion

64. In accordance with the discussion above, and to ensure the prospective application and imposition of the CSG billing credits, Public Service shall file, no later than five business days after this Recommended Decision becomes a Commission Decision (if that is the case), an advice letter compliance tariff filing with tariff sheets identical to the tariff sheets filed with AL 1970 except for effect on not less than two business days' notice

VI. ORDER

The Commission Orders That:

1. The tariff sheets filed by Public Service Company of Colorado ("Public Service") with Advice Letter No. 1970 on November 15, 2024, are permanently suspended and shall not be further amended.

2. Public Service shall file an advice letter compliance filing consistent with the findings, conclusions, and directives in this Recommended Decision. Public Service shall file the compliance tariff sheets in a separate proceeding and on not less than two business days' notice. The advice letter and tariff sheets shall be filed as a new advice letter proceeding and shall comply with all applicable rules. In calculating the proposed effective date, the date the filing is received at the Commission is not included in the notice period and the entire notice period must expire prior to the effective date. The advice letter and tariff must comply in all substantive respects to this Decision in order to be filed as a compliance filing on shortened notice.

3. This Recommended Decision shall be effective on the day it becomes the Decision of the Colorado Public Utilities Commission (the "Commission"), if that is the case, and is entered as of the date above.

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

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

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

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

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

(S E A L)

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ROBERT I. GARVEY

Administrative Law Judge

ATTEST: A TRUE COPY

Rebecca E. White,
Director