

Decision No. C24-0650

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

PROCEEDING NO. 23A-0589EG

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IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR APPROVAL OF ITS COMBINED ELECTRIC AND NATURAL GAS DEMAND-SIDE MANAGEMENT AND BENEFICIAL ELECTRIFICATION PLAN FOR CALENDAR YEARS 2024-2026.

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**COMMISSION DECISION RESCINDING  
REFERRAL OF PROCEEDING**

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Issued Date: September 10, 2024

Adopted Date: September 4, 2024

**I. BY THE COMMISSION**

**A. Statement**

1. Through this Decision, the Commission orders to rescind the referral of this Proceeding pursuant to § 40-6-109(2)(a), C.R.S. The Commission will consider the remainder of this Proceeding *en banc*.

**B. Background**

2. On December 1, 2023, Public Service submitted the above-captioned Application with testimony and attachments. The Application asks the Commission to approve Public Service Company of Colorado's ("Public Service or the Company") combined electric and natural gas 2024-2026 Demand-Side Management ("DSM") and Beneficial Electrification ("BE") Plan ("DSM and BE Plan," or the "Plan").

3. On January 23, 2024, the Commission referred this matter for disposition to an administrative law judge (“ALJ”).<sup>1</sup>

4. On February 12, 2024, the ALJ extended the statutory deadline for a final Commission decision to September 24, 2024, per § 40-6-109.5(1), C.R.S., and granted the Company’s request to extend its current combined 2023 DSM and BE Plan that was approved in Proceeding No. 22A-0315EG (“2023 Plan”) until the Plan in this Proceeding becomes effective.<sup>2</sup>

5. The 2023 Plan’s electric EE portfolio targets 484 GWh of savings and includes a base budget of \$78 million with an additional 20 percent spending presumed prudent, for a total potential annual spend of \$93.6 million on electric EE.<sup>3</sup>

6. On May 30, 2024, the Company filed an Unopposed Motion to Approve Comprehensive Settlement Agreement (“Settlement Agreement”).

7. The ALJ held the evidentiary hearing as noticed on August 8, 2024.

8. Also on August 8, 2024, the Company entered a document indicating that its DSM business programs experienced higher than expected participation and expenditure (“Notice of Success”) and that Public Service paused processing of applications until it could “work with stakeholders on potential alternatives to address the budgetary constraints.”<sup>4</sup> That document was formally filed in Proceeding No. 22A-0315EG on July 31, 2024. On the date, Southwest Energy Efficiency Projects (“SWEEP”) and Energy Efficiency Business Coalition (“EEBC”) also entered a document in the instant Proceeding’s record, a Petition for Declaratory Order and Motion for an Injunction.<sup>5</sup>

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<sup>1</sup> Decision No. C24-0054-I (mailed January 23, 2024).

<sup>2</sup> Decision No. R24-0086-I at 10-14; 22-23 (mailed February 12, 2024).

<sup>3</sup> See August 8, 2024 Tr., 150: 10-14; Hearing Exhibit 147 at 4. Decision No. C23-0381, ¶ 19 (mailed June 8, 2023), in Proceeding No. 22A-0315EG.

<sup>4</sup> Hearing Exhibit 147 at 1-2.

<sup>5</sup> Hearing Exhibit 1201; That document was also formally filed on Proceeding No. 22A-0315EG.

9. Concurrently in the 2023 Plan Proceeding, the Commission addressed the Company's "Notice of Success" and corresponding Motion for Address Electric Energy Efficiency Budgetary Pressures For Calendar Year 2024, and Request for Waiver or Variance as Necessary ("Budget Motion") filed by Public Service on August 12, 2024 in Proceeding No. 22A-0315EG. The "Notice of Success" indicated that for the calendar year through June 30, 2024, the Company has spent approximately \$70 million on electric energy efficiency ("EE"), with estimated savings of 401 GWh. With the Company's current forecasted electric EE trajectory, it could spend approximately \$115.6 million, with estimated savings of 593.5 GWh. However, because this would exceed the Commission's authorized budget amount by approximately \$22 million, the Company took steps to cease expenditures.<sup>6</sup> Similarly, at hearing in the instant Proceeding, the Company indicated that the Company's current year EE programs have been highly successful.<sup>7</sup>

10. In its Budget Motion, the Company requested the Commission increase the approved budget for the Company's electric EE offerings to add an additional \$34.1 million to the 2023 electric EE Plan budget of \$92.9 million as applied to calendar year 2024. The Company stated that it reasonably expected that this preferred option would allow the Company to continue providing all of its cost-effective electric EE offerings to customers through the remainder of 2024. The Company also presented two alternative options for Commission consideration involving either approving a smaller increase in budget for 2024 or direction to the Company to endeavor to manage the electric EE program without a budget increase through Company flexibility to pay out current or future rebate applications no earlier than January 1, 2025. Numerous parties to that

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<sup>6</sup> The 2023 Plan's electric EE portfolio targets 484 GWh of savings and includes a base budget of \$78 million with an additional 20 percent spending presumed prudent, for a total potential annual spend of \$93.6 million on electric EE. *See* August 8, 2024 Tr., 150: 10-14; Hearing Exhibit 147 at 4. Decision No. C23-0381, ¶ 19 (mailed June 8, 2023), in Proceeding No. 22A-0315EG.

<sup>7</sup> August 8, 2024 Tr., 147: 10-24.

Proceeding, including Colorado Public Utilities Commission Trial Staff, the Colorado Office of the Utility Consumer Advocate, Colorado Energy Consumers, and Climax Molybdenum Company, objected to the Company's Budget Motion.

11. In that Proceeding, the Commission received additional information pursuant to Commission Decisions Nos. C24-0610 and C24-0593. Through these supplements, the Company indicated that the measures supporting indoor agricultural lighting were a driver of the increased forecasts and that on April 16, 2024, the Company removed indoor agricultural lighting from the Strategic Energy Management program, as the Company determined this market space no longer needed the long-term high touch engagement associated with that program.

12. Through decision issued in in Proceeding No. 22A-0315EG, discussed at the September 4, 2024 Commissioners' Weekly Meeting, the Commission denied the Company's Budget Motion. The Commission found that the instant Proceeding was a more appropriate forum to address the merits of any additional EE budget or any other appropriate solution for 2024.

### **C. Findings and Conclusions**

13. We find it necessary to rescind the referral of this Proceeding and consider the remaining of the Proceeding *en banc* to § 40-6-109(2), C.R.S. We find this necessary in order to address this Proceeding as expeditiously as possible in order to address both the merits of the Settlement Agreement, in addition to the concerns raised with the 2023 Plan raised in Proceeding No. 22A-0315EG. We find that this Proceeding is a more appropriate forum to address the Company's 2024 budget shortfall and that by rescinding the referral, the Commission will more expeditiously move towards resolution of the ongoing concerns.

14. We appreciate the efforts of the ALJ thus far in this Proceeding and applaud the progress made by the ALJ and the parties to get this Proceeding to this point.

## II. ORDER

### A. The Commission Orders That:

1. The referral of this Proceeding to an administrative law judge, ordered pursuant to Commission Decision No. C24-0054-I, is rescinded pursuant to § 40-6-109(2)(a), C.R.S. The Commission will consider the remainder of this Proceeding *en banc*.

2. This Decision is effective immediately.

### B. **ADOPTED IN COMMISSIONERS' WEEKLY MEETING September 4, 2024.**

(S E A L)



ATTEST: A TRUE COPY

*Rebecca E. White*

Rebecca E. White,  
Director

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

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