

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

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**IN THE MATTER OF ADVICE LETTER NO.)
150 FILED BY PUBLIC SERVICE COMPANY)
OF COLORADO TO PLACE INTO EFFECT)
NEW BASE RATES FOR ALL STEAM) PROCEEDING NO. 19AL-0063ST
SERVICE CUSTOMERS TO BECOME)
EFFECTIVE FEBRUARY 25, 2019)**

SETTLEMENT AGREEMENT

I. Introduction and Identification of Parties

This Settlement Agreement is a full and complete resolution of Public Service Company of Colorado’s (“Public Service” or the “Company”) Advice Letter No. 150 to place into effect new base rates for all Steam service customers. Along with Public Service, this Settlement Agreement is joined by Commission Trial Staff (“Staff”) as well as the City and County of Denver (“Denver”). Public Service, Staff and Denver shall be referred to herein collectively as the “Settling Parties” and individually as a “Settling Party.” While not joining the Settlement Agreement, Colorado Energy Consumers (“CEC”)¹ has had an opportunity to review it and has authorized the Settling Parties to represent that CEC does not oppose the Settlement Agreement. As there are no other parties to this proceeding, this Settlement Agreement is unopposed.

¹ For purposes of this proceeding, CEC’s membership includes constituent members of the Denver Metro Building Owners and Managers Association (“BOMA”) who are steam customers of Public Service. The identities of these participating BOMA members were set forth in a confidential filing by CEC on March 20, 2019.

This Settlement Agreement is a comprehensive uncontested settlement, which proposes a resolution for all issues that have been raised or could have been raised in this proceeding.

II. Background

On January 25, 2019, Public Service filed revised tariff sheets with Advice Letter No. 150 - Steam, proposing to place into effect revised base rates for all steam service customers designed to increase Public Service's annual base rate revenues by \$7,298,455, based on an overall annual revenue requirement of \$19,415,944, and to make certain clarifying and other changes to its tariff. The proposed effective date for the filed tariff sheets was February 25, 2019, but Public Service requested that the Commission suspend the filing for the maximum 210 days allowed by statute. Contemporaneously with its filing of Advice Letter No. 150 - Steam, Public Service filed the Direct Testimony and Attachments of seven witnesses.

The Company's revenue requirement of \$19,415,944 was determined using a historical test year consisting of the twelve months ended December 31, 2017 ("HTY") with adjustments, including the incremental revenue requirements associated with the installation of a new Reverse Osmosis Water Treatment System in 2018 ("RO Water Treatment System") and a new boiler at the Denver Steam Plant planned to go into service on October 1, 2019 ("DSP Unit 3 Boiler"). The Commission previously granted Public Service a Certificate of Public Convenience and Necessity ("CPCN") for the DSP

Unit 3 Boiler in Proceeding No. 14A-1190ST.² The revenue requirement included a proposed return on equity of 10.65 percent, a long-term cost of debt of 4.42 percent, and a 7.92 percent weighted average cost of capital based on a capital structure composed of 56.29 percent equity and 43.71 percent long-term debt.

In this case, the Company also presented new base rates, as well as proposals relating to rate review expenses, adjustments to depreciation and amortization expense, and Tax Cuts and Jobs Act (“TCJA”) tax savings accrued from January 1, 2018 through October 1, 2019. Public Service also proposed revisions to its steam tariff to: (i) eliminate Tariff Sheet No. 3, the “Rate Schedule Summation” sheet; (ii) change how the demand ratchet is calculated in circumstances where there is customer-caused steam loss; and (iii) add a provision for billing error and heat exchanger leak adjustments. The Company proposed other miscellaneous tariff changes of a clarifying or housekeeping nature.

Recognizing the significance of the proposed increase in rates and the resulting average bill impacts to its steam customers of approximately 39 percent, Public Service proposed a voluntary rate mitigation plan through which it would place the new base rates into effect on October 1, 2019, while also implementing a negative General Rate Schedule Adjustment (“GRSA”) for one year beginning October 1, 2019, with a subsequent adjustment of the GRSA to zero percent on October 1, 2020.

Finally, as described in the Direct Testimony of Michelle Moorman Applegate, Public Service requested deferred accounting treatment for certain engineering study costs, which Public Service would track and present to the Commission in a future

² Decision No. C16-0784, mailed August 23, 2016.

proceeding. Through this study and its ongoing evaluation of the Steam business, Public Service stated that it hoped to promote mutual collaboration on future energy alternatives.

III. Current Steam Rate Review Procedural Background

By Decision No. C19-0152 issued on February 8, 2019, the Commission, pursuant to its authority under C.R.S. § 40-6-111(1), suspended the effective date of the revised tariff sheets for a period of 120 days, or until June 25, 2019, and referred the matter to an administrative law judge to hold a hearing on the justness and reasonableness of Public Service's proposed rates and tariff changes. Decision No. C19-0152 also established an intervention deadline of March 11, 2019.

On February 20, 2019, Staff filed its Notice of Intervention as of Right, Entry of Appearance, Notice Pursuant to Rule 1007(a) and Rule 1401 and Request for Hearing (Intervention). By Decision No. R19-0191-I issued on February 21, 2019, Administrative Law Judge Steven H, Denman (the "ALJ") acknowledged Staff's intervention as of right.

On March 7, 2019, Denver timely filed its Motion to Intervene and, on March 11, 2019, CEC filed its Motion to Permissively Intervene and Response to Motion for Protective Order.

By Interim Decision No. C19-0191-I issued on February 21, 2019, the ALJ scheduled a prehearing conference for March 14, 2019 and further suspended the effective date of the revised tariff sheets an additional 90 days, or until September 23, 2019, thereby providing for the maximum 210-day suspension period permitted under C.R.S. § 40-6-111(1).

The prehearing conference was convened before the ALJ on March 14, 2019, and was attended by counsel for Public Service, Staff, Denver, and CEC. To memorialize his rulings made during the prehearing conference, the ALJ issued Interim Decision No. R19-0274-I on March 25, 2019, granting the interventions of Denver and CEC, establishing a procedural schedule for this proceeding, and scheduling an evidentiary hearing for May 29 and 30, 2019 (reserving May 31, 2019, if needed).

On April 11, 2019, in accordance with the procedural schedule established in Interim Decision No. R19-0274-I, Staff filed the Answer Testimony and Attachments of four witnesses addressing various issues raised by Public Service's January 25, 2019 advice letter filing and its Direct Testimony and Attachments. Neither Denver nor CEC filed answer testimony.

On April 25, 2019, also in accordance with the approved procedural schedule, Public Service filed the Rebuttal Testimony and Attachments of four of the same witnesses who submitted Direct Testimony and Attachments on January 25, 2019.³

After the filing of its Rebuttal Testimony and Attachments, Public Service approached Staff, and subsequently the other parties, to inquire whether there may be a path to compromise on the disputed issues between them as raised in the Company's and Staff's respective testimony filings. On May 8, 2019, the Company first circulated a written term sheet to each of the parties. Over the next several days there were

³ Based on the adjustments made by the Company in Rebuttal, and assuming the Commission approved the Company's full request to include post-HTY capital additions in rate base, the Company requested an increase of \$7,237,134 based on an overall annual revenue requirement of \$19,354,624, which included a proposed return on equity of 10.65 percent, a long-term cost of debt of 4.18 percent, and a 7.83 percent weighted average cost of capital based on a capital structure composed of 56.46 percent equity and 43.54 percent long-term debt.

numerous communications between one or more parties and a settlement in principle was reached between Staff and the Company on Tuesday, May 14, 2019, and the Company continued discussions (separately) with all parties. On May 16, Denver indicated that it would also be joining the settlement.

This Settlement Agreement, which incorporates the agreed-to principles of settlement, is the result of those negotiations.

IV. Settlement Terms

In resolution of the issues raised or which could have been raised by the parties to this proceeding, the Settling Parties agree as follows.

A. Revenue Requirement

As the starting point for developing the settlement rates included in this Settlement Agreement, the Settling Parties agreed to use the 2017 Historical Test Year Cost of Service Study (“2017 HTY”) presented by Mr. Steven P. Berman as Attachment No. SPB-1 to his Direct Testimony which uses a year-end rate base and incorporates the impacts of the reduction in the corporate federal income tax rate from 35 percent to 21 percent resulting from the TCJA. Attachment A is a schedule reconciling the results of the Settlement Agreement with the Company’s direct case, the 2017 HTY. As also shown on Attachment A, after the adjustments identified below, the resulting net base rate revenue requirement is \$18,748,354, which is a reduction of \$667,591 over the Company’s as filed direct case. In settlement of the various issues raised or which could have raised in this proceeding, the Settling Parties agree that an overall base rate revenue requirement of \$18,748,354 (“Settled Revenue Requirement”), reflecting an increase of \$6,630,865 over current annual base rate revenues, is just and reasonable. A Settlement Cost of Service Study is included as Attachment B.

B. Weighted-Average Cost of Capital, Capital Structure, and Return on Equity

After taking into account the positions of the Settling Parties (e.g., unique characteristics of the Steam business, including the risks associated with a declining customer base, sources of financing included in actual capital structures and various time periods, as well as the Settling Parties' commitment to work collaboratively on a Regulatory and Resource Plan), the Settling Parties have agreed that the Settled Revenue Requirement shall be based on a weighted average cost of capital of 7.19 percent premised on an actual capital structure consisting of 56.04 percent equity, which is based on the average of the twelve months ended March 31, 2019. For purposes of Allowance for Funds Used During Construction ("AFUDC"), the return on equity shall be 9.67 percent.

C. Depreciation and Amortization Expense

The Settling Parties agree to approval of the Company's proposed adjustments to depreciation and amortization expense reflected in the 2017 HTY. The Settling Parties further agree that the Commission should approve the revised depreciation rates proposed by the Company through the Direct Testimony and Attachments of Ms. Laurie J. Wold, as well as a terminal retirement date of 2044 for the DSP Unit 3 Boiler and a revised terminal retirement date of 2025 for both of the existing boilers (Units 1 and 2) at the Denver Steam Plant. In conjunction with the agreement regarding the treatment of accrued TCJA savings as set forth in Section IV.E. below, Public Service shall discontinue depreciation and amortization related to the Steam Business's remaining unrecovered investment in the Zuni Plant facilities effective October 1, 2019.

No depreciation or amortization expense related to the Zuni Plant investment was included in the 2017 HTY or reflected in the Settled Revenue Requirement.

D. Rate Review Expense

The Settling Parties agree that the \$215,758 of estimated rate review expenses, originally proposed by the Company to be amortized over a three-year period and recovered through an annual amortization expense in the 2017 HTY, is reasonable. In conjunction with the agreement set forth in Section IV.E. below providing for the accrued TCJA savings to be applied as full reimbursement of the Company's total actual rate review expenses, the amortization expense associated with rate review expenses has been eliminated from the 2017 HTY in calculating the Settled Revenue Requirement.

E. TCJA Tax Savings

With respect to application of the TCJA tax savings accrued from January 1, 2018 through the effective date of new rates in this proceeding on October 1, 2019, the Settling Parties agree to applying \$333,522 of the accrued TCJA savings to eliminate the remaining (unrecovered) net book balance of the Steam business's Zuni investment as of October 1, 2019, with the remaining estimated balance of \$563,121 applied first as full reimbursement for the Company's actual rate review expenses (whether more or less than the estimated \$215,758), with the remaining amount returned to customers through the Steam Cost Adjustment ("SCA"). The TCJA amount applied to the SCA will be credited to the Deferred Steam Cost balance in the first reasonable SCA application filed after a final Commission decision approving this Settlement Agreement.

F. Rate Design and Rates

The Settling Parties agree to the approval and implementation of the Company's proposed rate design and derivation of revised rates, as detailed in the Direct Testimony and Attachments of Steven J. Wishart, with an adjustment to the consumption charge from \$14.115 to \$13.314 to reflect the Settled Revenue Requirement. The settled rates and associated estimated average bill impacts are reflected in Attachment C hereto. The resulting settled rates are as set forth on Sheet No. 3 of the *pro forma* tariff sheets included in Attachment D hereto ("Settlement Tariff Sheets"). The new rates on the Schedule of Charges for Rendering Service, Sheet No. 4, are also agreed to by the Settling Parties.

G. Rate Mitigation Plan

The Settling Parties agree to the following two-stepped rate mitigation approach effective October 1, 2019 to mitigate the overall estimated rate impact of the settled rates to customers:

1. Step One: For the period October 1, 2019 through September 30, 2020, that new rates are in effect, a negative GRSA of 10.61 percent shall be implemented to reduce annual base rate revenues to be generated by the settled rates by \$1,989,259, or 30 percent, of the annual revenue increase reflected by the Settled Revenue Requirement.

2. Step Two: Effective on and after October 1, 2020, the negative GRSA would terminate and be replaced with a zero percent GRSA, and the approved and implemented base rates would continue in effect on that date without further mitigation. The Settling Parties acknowledge, however, that a

GRSA other than zero percent may be required as a result of the true-up provided for in Section IV.H. below.

H. True-Up – Step Two of the Rate Mitigation Plan

The Settling Parties agree that Step Two of the Rate Mitigation Plan set forth in Section IV.G. above will be subject to a true-up, either positive or negative, to reflect the final actual costs, including AFUDC, of the DSP Unit 3 Boiler. The Settling Parties agree that the Company will submit for review and inspection by the Settling Parties a detailed breakdown of the actual costs on or before July 1, 2020.

I. Engineering Study

The Settling Parties agree that the Company will undertake an engineering study, as detailed in Ms. Applegate's Rebuttal Testimony. The Settling Parties further agree to deferred accounting treatment and the establishment of a regulatory asset for the third-party engineering firm costs incurred by the Company associated with the engineering study. The Settling Parties agree that no Commission decision regarding recovery of the regulatory asset is sought in this proceeding. The Company shall present the engineering study findings and conclusions as part of the Regulatory and Resource Plan described in Section IV.J. below.

J. Regulatory and Resource Plan

The Settling Parties agree that the Company will develop a Regulatory and Resource Plan for the Steam business and will file it with the Commission on or before

May 1, 2022. The Settling Parties further agree that the Plan will include, at a minimum, the following components and scope:⁴

- Engineering Study results;
- Life of Steam system assets necessary to provide reliable service, including DSP Units 1 and 2;
- Load profiles and assets necessary to support load;
- Reliability;
- Any regulatory proposals to stabilize rates; and
- Long-term plan for steam operations, addressing the needs for the period 2023 through 2030 and/or later.

K. Other

In regard to the Commission's instructions to the ALJ in Paragraph 14 of Decision No. C19-0152 in this proceeding, each of the Settling Parties represent that they have investigated whether the costs proposed to be recovered through the Company's steam rates are consistent with previous Commission direction in earlier proceedings related to the replacement of the Zuni Station and the various steam rate proceedings since 2012 and have satisfied themselves that the variances in costs included in the Settled Revenue Requirement discussed above are reasonable.

⁴ The proposed engineering study would include an evaluation of each of the Company's individual customer's steam facilities. This study will inform, and almost certainly lead to changes in, the scope of the Regulatory and Resource Plan described above due to the valuable information that the Company expects to obtain during the scope of this process.

V. Implementation

The Settling Parties acknowledge that the effect of this Settlement Agreement is to modify the tariff sheets that Public Service filed on January 25, 2019 with Advice Letter No. 150 - Steam. Pursuant to Decision No. R19-0191-I, the tariff sheets filed with Advice Letter No. 150 - Steam are scheduled to become effective on September 23, 2019. The Settling Parties agree that the Commission should issue a decision permanently suspending the tariff sheets filed with Advice Letter No. 150 - Steam before such date and, in lieu of the rates and other tariff changes originally proposed by the Company as set forth in the tariff sheets filed with Advice Letter No. 150 - Steam, the Company shall make a compliance advice letter filing on not less than two business days' notice to place into effect, on October 1, 2019, the Settlement rates and tariff sheets in substantially the same form as the Settlement Tariff Sheets contained in Attachment D hereto.

VI. General Provisions

A. This Settlement Agreement is made for settlement purposes only. Nothing in this Settlement Agreement is intended to have precedential effect or bind the Settling Parties with respect to positions they may take in any future Phase I or Phase II rate review regarding any of the issues addressed in this agreement. No Settling Party concedes the validity or correctness of any regulatory principle or methodology directly or indirectly incorporated in this Settlement Agreement. Furthermore, this Settlement Agreement does not constitute agreement, by any Settling Party, that any principle or methodology contained within or used to reach this Settlement Agreement may be

applied to any situation other than the above-captioned proceeding, except as expressly set forth herein.

B. Each Settling Party understands and agrees that this Settlement Agreement represents a negotiated resolution of all issues the Settling Party either raised or could have raised in this proceeding. The Settling Parties agree the Settlement Agreement, as well as the negotiation process undertaken to reach this Settlement Agreement, are just, reasonable, and consistent with and not contrary to the public interest and should be approved and authorized by the Commission.

C. The discussions among the Settling Parties that produced this Settlement Agreement have been conducted in accordance with Rule 408 of the Colorado Rules of Evidence (“CRE”).

D. Nothing in this Settlement Agreement shall constitute a waiver by any Settling Party with respect to any matter not specifically addressed in this Settlement Agreement. In the event this Settlement Agreement becomes null and void or in the event the Commission does not approve this Settlement Agreement, it, as well as the negotiations or discussions undertaken in conjunction with the Settlement Agreement, shall remain inadmissible into evidence in these or any other proceedings in accordance with Rule 408 of the Colorado Rules of Evidence.

E. The Settling Parties will support all aspects of the Settlement Agreement embodied in this document in any hearing conducted to determine whether the Commission should approve this Settlement Agreement, and/or in any other hearing, proceeding, or judicial review relating to this Settlement Agreement or the implementation or enforcement of its terms and conditions. Each Settling Party also

agrees that, except as expressly provided in this Settlement Agreement, it will take no action in any administrative or judicial proceeding, or otherwise, which would have the effect, directly or indirectly, of contravening the provisions or purposes of this Settlement Agreement. However, each Settling Party expressly reserves the right to advocate positions different from those stated in this Settlement Agreement in any proceeding other than one necessary to obtain approval of, or to implement or enforce, this Settlement Agreement or its terms and conditions.

F. The Settling Parties do not believe any waiver or variance of Commission rules is required to effectuate this Settlement Agreement, but agree jointly to apply to the Commission for a waiver of compliance with any requirements of the Commission's Rules and Regulations if necessary to permit all provisions of this Settlement Agreement to be approved, carried out, and effectuated.

G. This Settlement Agreement is an integrated agreement that may not be altered by the unilateral determination of any Settling Party. There are no terms, representations or agreements among the parties which are not set forth in this Settlement Agreement (including attachments).

H. This Settlement Agreement shall not become effective until the Commission issues a final decision addressing the Settlement Agreement. In the event the Commission modifies this Settlement Agreement in a manner unacceptable to any Settling Party, that Settling Party may withdraw from the Settlement Agreement and shall so notify the Commission and the other Settling Parties in writing within ten (10) days of the date of the Commission order. In the event a Settling Party exercises its

right to withdraw from the Settlement Agreement, this Settlement Agreement shall be null and void and of no effect in this or any other proceeding.

I. There shall be no legal presumption that any specific Settling Party was the drafter of this Settlement Agreement.

J. This Settlement Agreement may be executed in counterparts, all of which when taken together shall constitute the entire Settlement Agreement with respect to the issues addressed by this Settlement Agreement. This Settlement Agreement may be executed and delivered electronically and the Settling Parties agree that such electronic execution and delivery, whether executed in counterparts or collectively, shall have the same force and effect as delivery of an original document with original signatures, and that each Settling Party may use such facsimile signatures as evidence of the execution and delivery of this Settlement Agreement by the Settling Parties to the same extent that an original signature could be used.

Dated this 20th day of May, 2019.

Agreed on behalf of:

PUBLIC SERVICE COMPANY OF COLORADO

By: 
Brooke A. Trammell
Regional Vice President,
Rates and Regulatory Affairs
Xcel Energy Services Inc.

Approved as to form:

**ATTORNEYS FOR PUBLIC SERVICE
COMPANY OF COLORADO**

By: /s/ N. Wesley Hunt
N. Wesley Hunt, #52174
Lead Assistant General Counsel
Xcel Energy Services Inc.
1800 Larimer, Suite 1100
Denver, Colorado 80202-5533
Tel: 303-294-2556
Fax: 303-294-2988
E-mail: wesley.hunt@xcelenergy.com

and

Tana K. Simard-Pacheco
Principal Attorney
Xcel Energy Services Inc.
1800 Larimer, Suite 1100
Denver, Colorado 80202-5533
Tel: 303.571.2958
Fax: 303-294-2988
tana.k.simard-pacheco@xcelenergy.com

KRISTIN BRONSON
City Attorney for the City and County of
Denver

CHARLES T. SOLOMON #26873
Assistant City Attorney


JULIE SCHNEIDER #52466
Assistant City Attorney

By: /s/ Charles T. Solomon _____
Charles T. Solomon
Julie Schneider
201 West Colfax Ave., Dept. 1207
Denver, CO 80202
Telephone: 720-913-3286
Facsimile: 720-913-3180
E-Mail: charles.solomon@denvergov.org
E-Mail: julie.schneider@denvergov.org

**ATTORNEYS FOR THE CITY AND
COUNTY OF DENVER**

Agreed on behalf of:

TRIAL STAFF OF THE COMMISSION

By: 

Gene Camp, P.E.
Deputy Director – Fixed Utilities
1560 Broadway, Suite 250
Denver, CO 80202
gene.camp@state.co.us

Approved as to form:

OFFICE OF THE ATTORNEY
GENERAL

PHILLIP J. WEISER
Attorney General

By: /s/ Michael J. Santisi

Michael J. Santisi, #29673*
Senior Assistant Attorney General
Charlotte Powers, #47909
Aaron Neptune, #45162
Assistant Attorneys General
Revenue & Utilities Section
1300 Broadway, 8th Floor
Denver, Colorado 80203
michael.santisi@coag.gov
charlotte.powers@coag.gov
aaron.neptune@coag.gov

*Counsel of Record

COUNSEL FOR TRIAL STAFF OF THE
COMMISSION