

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

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**IN THE MATTER OF THE APPLICATION )  
OF PUBLIC SERVICE COMPANY OF )  
COLORADO FOR AUTHORIZATION TO )  
REVISE THE DEPRECIATION AND )  
AMORTIZATION OF ELECTRIC UTILITY )  
PLANT, COMMON UTILITY PLANT AND )  
RETIRED GENERATING UNITS. )**

**PROCEEDING NO. 16A-0231E**

**UNANIMOUS COMPREHENSIVE SETTLEMENT AGREEMENT**

**November 10, 2016**

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## EXHIBITS

<b>Exhibit Identifier</b>	<b>Description</b>
Exhibit A	Depreciation Rates Resulting from Settlement Agreement
Exhibit B	Documents Supporting the Depreciation Rates Resulting from Settlement Agreement
Exhibit C	Changes in Annual Depreciation and Amortization Expense from the Company's Rebuttal Testimony to the Settlement Agreement
Confidential Exhibit D	Confidential Version of the American Metal Market scrap pricing for October 2014, 2015 and 2016
Public Version of Confidential Exhibit D	Public Version of the American Metal Market scrap pricing for October 2014, 2015 and 2016

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**UNANIMOUS COMPREHENSIVE SETTLEMENT AGREEMENT**

**I. INTRODUCTION AND IDENTIFICATION OF THE PARTIES**

This Settlement Agreement is a full and complete resolution of all issues raised in Proceeding No. 16A-0231E, Public Service Company of Colorado's ("Public Service" or the "Company") Application for a Colorado Public Utilities Commission ("Commission") decision approving proposed revised depreciation rates for its Electric and Common Utility Plant<sup>1</sup> and its proposed plan to amortize and recover the regulatory assets associated with 13 recently retired or soon-to-be retired electric generating plants, referred to herein as the "Retired Generating Units"<sup>2</sup>. All of the parties to this proceeding are joining the Settlement Agreement: Public Service, Commission Trial Staff ("Staff"),

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<sup>1</sup> Certain of the Company's intangible plant accounts are amortized and not depreciated through the use of approved depreciation rates. For those accounts, the Company is technically requesting the Commission's approval of proposed amortization periods. For ease of reference, the term "depreciation rates" is used in this Application and supporting testimony to refer to the Company's proposals regarding the depreciation and amortization of all Electric Utility and Common Utility plant accounts.

<sup>2</sup> At the time Public Service's Application was filed there were 13 Retired Generating Units, which included 11 generating facilities that have been retired – Cameo Units 1 and 2, Arapahoe Units 1 through 4, Cherokee Units 1 through 3, and Zuni Units 1 and 2 – and two additional facilities that are scheduled to be retired by December 31, 2017 – Valmont Unit 5 and the coal-related assets at Cherokee Unit 4. During the pendency of this proceeding, it was announced that Craig Unit 1, in which Public Service is a minority owner, is to be retired. See the Supplemental Direct Testimony of Scott B. Brockett, Hearing Exhibit ("Ex.") 105, Attachment SBB-3.

the Colorado Office of Consumer Counsel (“OCC”), the Colorado Energy Consumers (“CEC”), and Western Resource Advocates (“WRA”) (collectively the “Settling Parties”). As such, this Settlement Agreement is a comprehensive uncontested settlement that resolves all issues that have been raised or could have been raised in this proceeding.

## **II. BACKGROUND REGARDING PROCEEDING**

### **A. Proceeding Background**

On April 1, 2016, pursuant to C.R.S. § 40-4-112 and the provisions of the Settlement Agreement approved by the Commission in Decision No. C15-0292, issued March 31, 2015 in Public Service’s last Phase I electric rate case in Consolidated Proceeding Nos. 14AL-0660E and 14A-0680E, the Company submitted its Application for a Commission decision approving proposed revised depreciation rates for its Electric and Common Utility Plant, as set forth in Application’s Exhibit A, and its proposed plan to amortize and recover the regulatory assets associated with 13 Retired Generating Units.

In its direct case, the Company’s proposed changes to depreciation and amortization expense are based on the depreciation rates recommended by Mr. Watson and supported by his 2016 Depreciation Rate Study. The 2016 Depreciation Rate Study was based on the Company’s Electric and Common Utility Plant assets in existence as of September 30, 2015, and projected account balances for these assets as of January 1, 2018. The proposed depreciation rates for the Company’s production plant reflected in the 2016 Depreciation Rate Study incorporate the plant-by-plant decommissioning cost estimates reflected in the 2016 Decommissioning Cost Study sponsored by Company witness Mr. Kopp. As part of the 2016 Depreciation Rate

Study, and as specifically directed by the Company, Mr. Watson performed a depreciation reserve reallocation based on theoretical reserves encompassing all operating production units within a functional class as well as the estimated regulatory asset balances, including the cost of removal, attributable to the Retired Generating Units. The Company proposed to amortize the estimated regulatory asset balances, based upon the special regulatory asset accounting previously approved by the Commission, over a period of four years from 2018 through 2021.

As a result, in its direct case, the estimated change in the Company's annual depreciation and amortization expense, using the proposed depreciation rates and based on projected plant balances as of January 1, 2018, before allocation to the retail jurisdiction, was an increase of \$48.3 million. Based on January 1, 2018, regulatory asset balances, the estimated change to annual amortization expense for the Retired Generating Units, after the reserve reallocation and based on a four-year amortization period, was a decrease of \$1.8 million. Combining these amounts, the total estimated increase in annual depreciation and amortization expense resulting from the Company's proposals in this Application, based on January 1, 2018 balances, was \$46.5 million.

On September 20, 2016, the Company filed Supplemental Direct Testimony, to incorporate the announcement of the anticipated early retirement of Craig Unit 1, in which Public Service is a minority owner. After incorporating the revision related to Craig Unit 1, making minor corrections in the 2016 Depreciation Cost Study, and changing the proposed amortization period of the regulatory assets for the Retired Generating Units from four to five years, the Company's estimated overall increase in annual depreciation and amortization expense based on the resulting depreciation and

amortization rates and projected January 1, 2018, balances was \$44.3 million. This revised increase was \$2.2 million less than the annual increase of \$46.5 million reflected in the Company's Direct Testimony and Attachments, as corrected.

On October 3, 2016, OCC, WRA and CEC each filed Answer Testimony making various recommendations regarding the Company's proposed depreciation and amortization rates.<sup>3</sup> In response, on October 25, 2016, both WRA and CEC filed Cross-Answer Testimony<sup>4</sup>, and the Company filed Rebuttal Testimony modifying its proposal in Supplemental Direct Testimony in order to narrow the number of litigated issues. Specifically, the Company adopted, in part, the following four intervenor recommendations:

- Limit the shifting of depreciation reserve amounts through the reserve reallocation from the operating Steam Production units to the Retired Generating Units to \$78.6 million, or one-half of the amount reflected in the Company's Supplemental Direct Case;
- Extend the proposed amortization period for the regulatory assets associated with Retired Generating Units and Craig Unit 1, reflecting balances resulting after the above-mentioned reserve reallocation, from five years to six years;
- Lengthen the average service life for Electric and Common Account 391, Computer Equipment, from five to six years; and

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<sup>3</sup> See the Answer Testimony and Attachments of OCC witness James Garren, the Answer Testimony and Attachments of WRA witness Uday Varadarajan, and the Answer Testimony and Attachments of CEC witness Jacob Pous, respectively. Staff did not file Answer Testimony.

<sup>4</sup> WRA filed the Cross-Answer Testimony of Uday Varadarajan and CEC filed the Cross-Answer Testimony of Jacob Pous.

- Change the net salvage percentage for Electric and Common Account 392, Transportation Equipment, except for Account 392.3, Trailers, to positive 10 percent and Account 392.3, Trailers, to positive 20 percent.

As a result, in Rebuttal Testimony the Company requested a total increase in depreciation and amortization expense of \$42.8 million, which is \$1.5 million lower than the \$44.3 million increase proposed in the Supplemental Direct Case.

On November 4, 2016, the Settling Parties reached an agreement in principle regarding the Company's proposed depreciation rates and amortization periods, which is more fully described below. The Settling Parties recommend that the Commission approve the proposed depreciation rates and amortization periods that are reflected in Exhibit A to this Settlement Agreement.

## **B. Procedural Background**

On April 1, 2016, Public Service filed an Application for a Commission decision approving proposed revised depreciation rates for the Company's Electric and Common Utility Plant, as set forth in Exhibit A of the Application, and the Company's proposed plan to amortize and recover the regulatory assets associated with the Retired Generating Units. In support of this Application the Company filed the Direct Testimony and Attachments of Company witnesses Scott B. Brockett, Cathy Schwartz, Dane A. Watson and Jeffrey T. Kopp.

Staff and the OCC intervened by right on April 19, 2016 and April 8, 2016, respectively. CEC and WRA filed motions to intervene on April 14, 2016, and May 5, 2016, respectively. On May 11, 2016, by Minute Order, the Commission deemed the Application complete and referred the matter to an Administrative Law Judge ("ALJ"). In

Decision No. R16-0475-I, ALJ Robert I Garvey granted the interventions of CEC and WRA. In Decision No. R16-0556-I, ALJ Garvey adopted a procedural schedule, which was later modified in Decision Nos. R16-0818-I, R16-0854-I and R16-1011-I.

On September 20, 2016, Public Service filed the Supplemental Direct Testimony of Company witnesses Scott B. Brockett, Cathy Schwartz, Dane A. Watson and Jeffery T. Kopp.

On October 3, 2016, the following intervenors filed Answer Testimony: the OCC (Answer Testimony and Attachments of OCC witness James S. Garren); WRA (Answer Testimony and Attachments of WRA witness Uday Varadarajan), and CEC (Answer Testimony and Attachments of Jacob Pous).

On October 25, 2016, Public Service filed the Rebuttal Testimony of Company witnesses Scott B. Brockett, Cathy Schwartz, Dane A. Watson, Jeffery T. Kopp, Randy J. Larson and Patrick A. Wilson.

On October 28, 2016, Public Service, OCC and WRA filed corrections to pre-filed testimony as delineated under the procedural schedule.

On November 4, 2016, the date by which Settlement Agreements were to be filed under the procedural schedule, the Settling Parties reached an agreement in principle in this proceeding. As a result, Public Service filed an unopposed motion to modify the procedural schedule to allow for the Settlement Agreement to be filed by noon on November 10, 2016, and for the evidentiary hearing to be held on November 18, 2016. This unopposed motion was granted in Decision No. R16-01029-I.

### **III. TERMS OF SETTLEMENT**

The Settling Parties agree that the Commission should adopt the depreciation and amortization rates as reflected in Public Service's Rebuttal Testimony as modified below in this Settlement Agreement. The agreed upon depreciation rates and amortization periods as modified herein are reflected in Exhibit A of this Settlement Agreement. Exhibit B to this Settlement Agreement includes all supporting documents for the agreed upon depreciation and amortization rates.<sup>5</sup> The Settling Parties agree that the depreciation rates and amortization periods resulting from this Settlement Agreement are reasonable and should be incorporated in the Company's next Electric Phase I rate case, which is expected to be filed in the Second Quarter of 2017. Based on the Settlement Agreement, the total increase in annual depreciation and amortization expense, based on projected plant, depreciation reserve and regulatory asset balances as of January 1, 2018, is \$27.2 million. Exhibit C to this Settlement Agreement shows the changes in annual depreciation and amortization expense from the Company's Rebuttal Testimony to the Settlement Agreement.

#### **A. Net Salvage Percentages For Certain Mass Property Accounts**

The Settling Parties agree that the Company's proposed net salvage percentages for mass property accounts should be approved except for Federal Energy

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<sup>5</sup> Exhibit B includes the following updated appendices from the 2016 Depreciation Study: Appendix A-1, Steam Production; Appendix A-2, Hydro Production; Appendix A-3 Other Production; Appendix A-4, TD&G; Appendix A-5, Electric General Amortization (391-398); Appendix A-6, Common General Amortization (391-398); Appendix B, Comparison of Depreciation Rates and Annualized Depreciation Expense ; Appendix C, Comparison of Depreciation Parameters (ASL and Curves); Appendix D-1, Terminal Retirement Dates; Appendix F-1, Reserve Allocation – Production; Appendix F-1, Reserve Allocation – Non Production; Appendix G-1, Dismantling Costs – Steam Production; Appendix G-2, Dismantling Costs – Hydro Production; and Appendix G-3, Dismantling Costs – Other Production. It also includes an update to Attachment CS-4, Amortization Schedule for Retired Generating Units.

Regulatory Commission (“FERC”) Transmission Account 352, Structures and Improvements; Transmission Account 354, Towers and Fixtures; and Transmission Account 358, Underground Conductors & Devices. Specifically, the Settling Parties agree that for purposes of settlement, the net salvage ratios for these accounts that are set forth in Table 1, as proposed by OCC witness Mr. Garren,<sup>6</sup> should be approved:

<b>Table 1</b>	
<b>ACCOUNT</b>	<b>NET SALVAGE RATIO</b>
352	-5%
354	-20%
358	0%

**B. Average Service Lives for Certain Mass Property Accounts**

The Settling Parties agree that the Company’s proposed asset lives for mass property accounts should be approved except for FERC Transmission Account 352, Structures and Improvements; Transmission Account 353, Station Equipment; Transmission Account 354, Towers and Fixtures; Distribution Account 364, Poles, Towers and Fixtures; Distribution Account 373, Street Lighting and Signal Systems; and Electric and Common General Plant Account 390, Structure & Improvements. OCC recommended different curve/life combinations for FERC Accounts 352, 353, 354, 364 and 373. CEC recommended a different life for FERC Account 390. The Settling Parties agree that for purposes of settlement, for these FERC Accounts, the midpoints between the Company’s proposed average service lives for each of these accounts and

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<sup>6</sup> Hearing Ex. 200, Garren Answer at 38-40.

the OCC and CEC recommendations are reasonable and should be approved. A comparison these curve/life combinations is included in Table 2<sup>7</sup>:

<b>Table 2</b>			
<b><u>Account</u></b>	<b><u>Company Proposal</u></b> <sup>8</sup>	<b><u>OCC<sup>9</sup> or CEC<sup>10</sup> Proposal</u></b>	<b><u>Settlement Agreement</u></b>
352	85/S2	92/S1.5	88/S2
353	56/R2	60/R2.5	58/R2
354	76/R4	86/S2	81/R4
364	50/S0	57/R0.5	54/S0
373	35/R0.5	47/S0.5	41/R0.5
390	40	50	45

**C. Account 303 – Intangible Plant (Computer Software)**

Public Service proposed to amortize the cost of routine software<sup>11</sup> over five years. CEC recommends that routine software be amortized over seven years.<sup>12</sup> The Settling Parties agree that for purposes of settlement, routine software be amortized over seven years.

Further, with respect to the CEC recommendation regarding the correction of reserve amortization<sup>13</sup>, in its next electric Phase I rate case, which is expected to be filed in the second quarter of 2017, for Intangible Plant - Account 303, the Company will

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<sup>7</sup> Note that in Table 2, the recommendations for FERC Accounts 352, 353, 354, 364, and 373 are in terms of life/curve combination. The recommendation for FERC Account 390 is just in terms of life.

<sup>8</sup> Hearing Ex. 111, Watson Rebuttal, Attachment DAW-3.

<sup>9</sup> Hearing Ex. 200, Garren Answer at 23-32.

<sup>10</sup> Hearing Ex. 300, Pous Answer at 59.

<sup>11</sup> “Pursuant to the Commission’s Decision No. C03-0670 in the Company’s 2002 rate case in Proceeding 02S-315EG, the approved software system amortization periods are three, five, or ten years, depending on the type of system. Work station operating systems were assigned a three-year amortization period. Large base systems, such as Public Service’s billing system, were assigned the 10-year amortization period, while most other software systems are assigned a five-year amortization period.” Hearing Ex. 110, Schwartz Rebuttal, at 44.

<sup>12</sup> Hearing Ex. 300, Pous Answer at 56.

<sup>13</sup> Hearing Ex. 300, Pous Answer at 86-95

determine which asset(s) should be physically retired prior to setting the beginning balance in the 2018 rate case. With respect to the term “physically retired,” the FERC Uniform System of Accounts defines “property retired:” “as applied to electric plant, means property which has been removed, sold, abandoned, destroyed, or which for any cause has been withdrawn from service.” For software that is physically retired, the Company agrees that it will establish and support which portions and corresponding costs of the individual software assets have been replaced by later additions either fully or partially and will retire the portion that has been replaced and is no longer in use. The retired portions of the asset would include those portions replaced due to subsequent upgrades to current systems, replacement of current systems with new ones, or the removal of a system from our computer hardware assets.

Also, its next electric Phase I rate case, which is expected to be filed in the second quarter of 2017, for Intangible Plant - Account 303, the Company will present and provide supporting data for (1) the Company’s current accounting method for software, which amortizes software individually; and (2) a group method of accounting for the amortization of software. The Company and any intervenor in the next Electric Phase I rate case are free to advocate for their preferred accounting method for software in Intangible Plant - Account 303.

**D. Decommissioning Costs for Production Plant**

The Settling Parties agree that the Company’s estimated decommissioning costs for Production Plant, as set forth in the 2016 Decommissioning Cost Study sponsored by Mr. Kopp, should be approved except as modified below.

1. Decommissioning Contingency

The Company proposed that the contingency costs, which represent unspecified but expected additional costs to be incurred by Public Service during the execution of decommission and demolition activities, be set at 20 percent of direct costs.<sup>14</sup> CEC witness Mr. Pous recommended that the contingency be reduced to 10 percent.<sup>15</sup> The Settling Parties agree that for purposes of settlement, the midpoint of these two recommendations, or 15 percent, is reasonable and should be approved.

2. Indirect Costs

The Company proposed that the indirect costs, which represent costs expected to be incurred by Public Service during the decommissioning process in addition to the direct costs paid to a demolition contractor, be set at 15 percent of direct costs.<sup>16</sup> CEC witness Mr. Pous recommended that the indirect costs be reduced to 10 percent.<sup>17</sup> The Settling Parties agree that for purposes of settlement, 10 percent is reasonable and should be approved.

3. Scrap Value

Decommissioning costs include a credit for scrap value. Public Service proposed scrap metal prices based on October 2015 monthly average prices as reported by American Metal Market, which were the most recent values at the time the Decommissioning Study was prepared.<sup>18</sup> CEC witness Mr. Pous recommended that

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<sup>14</sup> Hearing Ex. 104, Kopp Direct at 37-43, Attachment JTK-1 at 35.

<sup>15</sup> Hearing Ex. 300, Pous Answer at 44-48.

<sup>16</sup> Hearing Ex. 104, Kopp Direct at 37-43, Attachment JTK-1 at 35.

<sup>17</sup> Hearing Ex. 300, Pous Answer at 44-48.

<sup>18</sup> Hearing Ex. 104, Kopp Direct at 44-47.

these values be updated to current values.<sup>19</sup> The Settling Parties agree that for purposes of settlement, the scrap pricing included in the decommissioning cost estimates will be the average of the heavy metal price composite values for October 2014, 2015, and 2016 after removal of transportation costs on a per ton basis. The result is an increase to the Company-proposed scrap values of approximately 40 percent, as compared to the October 2015 value alone. These values are set forth in Confidential Exhibit D.

**E. Retired Generating Units and Craig Unit 1 Regulatory Assets**

In its direct case, with respect to the Retired Generating Units, Public Service proposed to transfer through a reserve reallocation approximately \$157 million of depreciation reserve from the operating Steam Production generating units to the Retired Generating Units, thereby providing for the future recovery of this amount over the remaining lives of the operating Steam Production facilities, rather than through the amortization of the Retired Generating Units. In its Direct Testimony, Public Service proposed including Craig Unit 1 as one of the operating Steam Production units included in the reserve reallocation, but changed its position in Supplemental Direct Testimony to exclude Craig Unit 1 from the reserve reallocation altogether. WRA recommended that the reallocation of the depreciation reserve be modified to exclude the Retired Generating Units and to include Craig Unit 1, and that the amortization period for the regulatory assets associated with the Retired Generating Units be extended to 10 years. In Rebuttal Testimony, the Company proposed to modify the

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<sup>19</sup> Hearing Ex. 300, Pous Answer at 43-44.

reserve reallocation to reallocate only 50 percent of the \$157 million depreciation reserve from the Steam Production units to the regulatory assets. The Settling Parties agree that, for the purposes of settlement, none of the \$157 million of depreciation reserve will be reallocated to the regulatory asset for Retired Generating Units. The Settling Parties further agree on a seven-year amortization period for the resulting balances of the Retired Generating Units regulatory assets, as well as the Craig Unit 1 regulatory asset.

Currently, the Company's approved base rates allow it the opportunity to earn its Weighted Average Cost of Capital ("WACC") on the regulatory assets associated with the Retired Generating Units as discussed in the Company's Application. The Settling Parties agree not to oppose the principle that the Company has the opportunity to recover its prudently incurred costs associated with the regulatory assets for the Retired Generating Units and Craig Unit 1 and the opportunity to earn a return equal to its approved WACC on those regulatory assets until the Company's prudently incurred costs are fully recovered. Nothing in this Settlement Agreement binds a party's position with regard to the treatment of other regulatory assets, including regulatory assets associated with other facilities, in future proceedings.

**F. Approvals Requested**

The Settling Parties agree on the following requested approvals, which reflect the provisions of the Settlement Agreement explained above:

- Approval of the depreciation rates as reflected in Exhibit A of this Settlement Agreement.

- Approval of the reserve reallocation within the functional classes that is derived from the approval of the individual lives, curves, and net salvage rates and amounts. The regulatory assets for the Retired Generating Units are excluded from this reserve reallocation.
- Except as modified above, a determination that it is reasonable to use estimated decommissioning costs from periodically updated decommissioning studies – such as the study sponsored by Mr. Kopp in this proceeding – to derive the net salvage component of the Company’s depreciation rates for owned generating units.
- Approval of an effective date for these proposed depreciation rates as reflected in Exhibit A of this Settlement Agreement coincident with the date that new rates are implemented pursuant to the 2017 Rate Case.
- Approval of the amortization of the regulatory asset balances associated with the Retired Generating Units, as revised above, over seven (7) years for both accounting and ratemaking purposes.
- Approval to begin this amortization on the date that new rates are implemented pursuant to the 2017 Rate Case.
- Approval of a new 15-year amortization group for large backbone-type software systems and the inclusion of the Company’s new General Ledger and Work Asset Management software systems in this new amortization group.
- Approval to establish a regulatory asset to account for deferred accruals equal to the difference between (i) the depreciation expense for Craig Unit

1 as required under Generally Accepted Accounting Principles beginning on September 1, 2016, and (ii) the depreciation expense under regulatory accounting based on the current depreciation rates previously approved by the Commission -- consistent with the deferred accounting authorized for certain of the Retired Generating Units in Decision No. C09-1446 in Proceeding No. 09AL-299E and Decision No. C10-1328 in Proceeding No. 10M-245E.

- Approval to amortize and recover the resulting Craig Unit 1 deferred amounts over the same seven-year amortization period being proposed for the Retired Generating Units, commencing with the effective date of new general electric rates to be approved in the Company's upcoming 2017 electric rate case.

#### **IV. GENERAL PROVISIONS**

1. Each Settling Party understands and agrees that this Settlement Agreement represents a negotiated resolution of all issues that the Settling Party either raised or could have raised in this proceeding to which it is a Party. Each Settling Party understands that the Commission's approval of this Settlement Agreement shall constitute a determination that the Settlement Agreement represents a just, equitable, and reasonable resolution of these issues. Accordingly, the Settling Parties state that reaching resolution of these issues through this negotiated Settlement Agreement is in the public interest and that the results of the compromises and agreements reflected in the Settlement Agreement are just, reasonable, and in the public interest.

2. This Settlement Agreement is intended to be a comprehensive settlement resolving all issues raised by the parties in this proceeding. To the extent that an issue has not been addressed specifically in this Settlement Agreement, the Settling Parties agree that the Company's methodology to calculate depreciation and amortization rates as set forth in its Rebuttal Testimony and Attachments shall govern as it relates to the approval requested in this proceeding. However, parties to this Settlement are not barred from raising and may take any position with respect to such issues in future proceedings, including but not limited to future depreciation proceedings or future Phase 1 electric rate case subsequent to the Company's planned 2017 Phase 1 electric rate case filing except as provided in Section C of this Settlement Agreement. Exhibit A to this Settlement Agreement provides the depreciation rates as revised by this Settlement Agreement.

3. The Settling Parties agree to join in a motion that requests that the Commission approve this Settlement Agreement in total and without modification, and to support the Settlement Agreement in any subsequent pleadings or filings. Each Settling Party further agrees that in the event that it sponsors a witness to address the Settlement Agreement at any hearing that the Commission may hold to address it, the Settling Party's witness will testify in support of the Settlement Agreement and all of the terms and conditions of the Settlement Agreement. The Settling Parties agree to reasonably seek approval of this Settlement Agreement before the Commission against challenges that may be made by non-executing parties.

4. The Settling Parties agree that all pre-filed testimony and attachments or corrected testimony and corrected attachments, whichever applies, shall be admitted into evidence in this proceeding without cross-examination by the Settling Parties.

5. Except as expressly stated herein, nothing in this Settlement Agreement shall resolve any principle or establish any precedent or settled practice.

6. Nothing in this Settlement Agreement shall constitute an admission by any Settling Party of the correctness or general applicability of any principle, or any claim, defense, rule, or interpretation of law, allegation of fact, regulatory policy, or other principle underlying or thought to underlie this Settlement Agreement or any of its provisions in this or any other proceeding. As a consequence, no Settling Party in any future negotiations or proceedings whatsoever (other than any proceeding involving the honoring, enforcing, or construing of this Settlement Agreement in those proceedings specified in this Settlement Agreement, and only to the extent, so specified) shall be bound or prejudiced by any provision of the Settlement Agreement.

Without limiting the foregoing, resolution of this proceeding through this Settlement Agreement does not bind or limit any Settling Party from presenting arguments raised in this proceeding in future proceedings before the Commission, except as expressly provided for in Section E above.

7. The discussions among the Settling Parties that produced this Settlement Agreement have been conducted with the understanding, pursuant to Colorado law, that all offers of settlement, and discussions relating thereto, are and shall be privileged, inadmissible, and without prejudice to the position of any party. Such communications shall not be used in any manner in connection with this or any other proceeding.

8. This Settlement Agreement shall not become effective until the issuance of a final Commission decision approving the Settlement Agreement, which decision does not contain any modification of the terms and conditions of this Settlement Agreement that are unacceptable to any of the Settling Parties. In the event the Commission modifies this Settlement Agreement in a manner unacceptable to any Settling Party, that Settling Party shall have the right to withdraw from this Settlement Agreement and proceed to hearing on any issue(s) that may be appropriately raised by that Settling Party in this proceeding. If any Settling Party elects to exercise such right, the withdrawing Settling Party shall notify the Settling Parties to this Settlement Agreement by e-mail within three business days of the Commission modification that the party is withdrawing from the Settlement Agreement and that the party desires to proceed to hearing. Such e-mail notice shall designate the precise issue or issues on which the party desires rehearing (the "Hearing Notice").

9. The withdrawal of a Settling Party shall not automatically terminate this Settlement Agreement as to any other Settling Party. However, within three (3) business days of the date of the Hearing Notice from the first withdrawing Settling Party, all Settling Parties shall confer to arrive at a comprehensive list of issues that shall proceed to hearing and a list of issues that remain settled as a result of the first Settling Party's withdrawal from this Settlement Agreement. Within five (5) business days of the date of the Hearing Notice, the Settling Parties shall file with the Commission in this proceeding a formal notice containing the list of issues that shall proceed to hearing and those issues that remain settled together with a proposed procedural schedule. The Settling Parties who proceed to hearing shall have and be entitled to exercise all rights with respect to the issues that are heard that they would otherwise have had in the absence of this Settlement Agreement.

10. All Parties have had the opportunity to participate in the drafting of this Settlement Agreement and the term sheet upon which it was based. There shall be no legal presumption that any specific Settling Party was the drafter of this Settlement Agreement.

11. 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.

Dated this 10<sup>th</sup> day of November 2016.

Respectfully submitted,

**PUBLIC SERVICE COMPANY OF COLORADO**

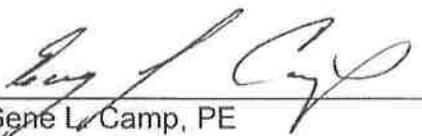
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